

Response of the Irish 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 Ireland

from 31 August to 9 September 1998

The Irish Government has requested the publication of the CPT's report on the visit to Ireland from 31 August to 9 September 1998 (see CPT/Inf (99) 15) and of its response. The Government's response is set out in this document.

PROGRESS REPORT TO CPT

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I INTRODUCTION

Governmentσ general response to the CPT report

1. Introduction

1. The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made its second visit to Ireland from 31 August to 9 September, 1998 in pursuance of Article 7 of the European Convention which established the CPT. As is normal practice for a periodic visit the CPT wrote in November, 1997 announcing that Ireland would receive a visit sometime in 1998. On 17 August, 1998 the CPT wrote announcing the start of the visit on 31 August for about ten days. On 27 August the CPT made known the preliminary list of places it wished to visit.

2. The details of the visit, including the composition of the delegation, places visited and the ΧΠΤσ recommendations, comments and requests for information are contained in its report to the Irish Government. This report was adopted by the CPT on 12 March, 1999 and sent to Ireland seeking an interim and a follow-up response on 8 April, 1999. This present progress report on the Χομμπττεεσ recommendations, requests for information and comments is the Irish Γοπερνμεντσ interim response as requested.

3. The information gathered by the CPT in relation to its visit, its report and its consultations with the authorities concerned are confidential. However, whenever requested to do so by the Government concerned the Committee is required to publish its report, together with any comments of the Government. In the interests of transparency and accountability the Government decided to ask the CPT to publish its report and the Γοπερνμεντσ response.

2. General response of the Government to the CPT report

4. The Government welcomes an independent report on how it treats people in custody by a body of such international standing as the CPT. It provides the Government with an opportunity to take stock of how it is performing in relation to international best practice in this area, to make a statement on its actions and plans to tackle issues identified as requiring attention, and to provide information to and enter into constructive dialogue with the CPT.

5. The CPT will naturally focus on issues which it sees as requiring attention. The body of this report will respond point by point to the concerns of the CPT in these areas. By looking only at areas where concerns are voiced, however, a misleading impression of the relationship between the Government and the CPT might be formed. To give a more balanced picture of this relationship it is worth considering briefly some of the positive comments made by the CPT. The Γοσπερνμεντο intention in highlighting these positive comments is not to distract attention from issues of real concern which are dealt with in considerable detail below. It is merely to draw attention to the fact that much good work is quietly ongoing day in day out, that improvements have been made and that some of this good work has been noticed and commented on by the CPT. Those who are involved in often difficult and thankless work may be encouraged by positive comments to continue with their good work.

6. At the outset the CPT described the degree of co-operation which prevailed during the visit as "exemplary" (paragraph 5 of the CPT report). Meetings with the Minister for Justice, Equality and Law Reform, Mr. John ΟΔονογηυε, T.D., with the Minister for Health and Children, Mr. Brian Cowen, T.D. and with certain of their senior officials were conducted in "a highly constructive spirit" (also paragraph 5 of the CPT report). The CPT also stated that it received "a very satisfactory reception at - and in particular rapid access to" all places visited, including locations which had received no advance notification of the ΧΠΠτο intention to visit (paragraph 7).

7. It is heartening to note the very positive comments on the reception of potential asylum seekers by the Garda Sοοchοn at Shannon Airport. There was marked improvement in comparison with the ΧΠΠτο 1993 visit. Written information on procedures was available in a variety of languages; there was access to telephones and a doctor for potential asylum seekers; immigration officers had received specialised training and its positive effects were clear to the CPT from talking to officers (paragraph 122). Potential asylum seekers are of course entitled to expect all of these facilities. It is heartening that an area pointed to as a cause for concern has now been addressed and the problems remedied. A similar improvement was noted by the CPT in relation to information about rights for those held in custody in Garda stations - now available in information notices in no less than nine languages in Garda stations visited (paragraph 25).

8. It is worth noting the observations of the CPT in relation to prison officers: "the great majority of prison officers were attempting to deal in a humane manner with the prisoners in their charge" (paragraph 36). While the Government expects no less of every officer and while it is conscious that the negative actions and attitudes of a few can tarnish the public perception of all, it is nonetheless glad that the work of officers, almost all of which is invisible to the general public, is noted. The CPT also commented positively on building works at Limerick Prison, recently completed, ongoing and planned (paragraphs 50-52), improvements in certain facilities in Mountjoy Prison (paragraph 55) and renovation work carried out in sections of Mountjoy Prison (paragraph 57).

9. The Central Mental Hospital is subject to a number of positive comments about "generally positive and tension-free" relations between staff and patients, (paragraph 96), patients who were well informed about and happy with their treatment, including medication (paragraph 100), a comprehensive seclusion policy with detailed registers (paragraph 105) and regular visits by an independent Inspector of Mental Hospitals (paragraph 110).

10. The Government acknowledges that in spite of these positive comments and ongoing developments there is still need for further action to improve the condition of those held in custody, whether in prisons, Garda stations or mental hospitals. The Government believes that the CPT performs an invaluable service as a catalyst for increased efforts by all concerned and, therefore, welcomes ongoing contacts with, and future visits by, the Committee.

11. The rest of this report follows the layout of the report of the ΧΠΠτο visit. No attempt will be made in this response to summarise the ΧΠΠτο report. Therefore, this response is best read with a copy of the ΧΠΠτο report to hand. Paragraph references are to the CPT report unless the contrary is indicated.

12. Recommendations, comments and requests for information are highlighted in bold in the CPT report. These pieces of text are reproduced in bold in this report in a slightly expanded and paraphrased form in some cases to facilitate reading and comprehension without too frequent reference to the CPT report. The Irish Government response follows the CPT text and is printed with normal emphasis.

II RESPONSE TO RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION ARISING FROM VISIT

A. Police (Garda Síochána) establishments

1. Preliminary remarks

- 1. The CPT would like to receive the comments of the Irish authorities on why the introduction of a power to extend the maximum period in custody of a criminal suspect to 168 hours (i.e. seven days) in the case of persons suspected of drug trafficking under the Criminal Justice (Drug Trafficking) Act, 1996 has been deemed necessary.** (paragraph 9)
 - The introduction of special detention periods in drug trafficking cases, as contained in the Criminal Justice (Drug Trafficking) Act, 1996, was considered necessary primarily for two reasons. The first is that the international nature of the organised drugs trade can require enquiries to be made from various other countries which in some cases would not be practical in the more usual periods of detention allowed under Irish law. The second was to cope with the problem of people suspected of attempting to import drugs having ingested them (what are often referred to as "stuffers and swallowers") where a considerable period might elapse before the drugs are excreted from the person's body. The Committee will already be aware that detention periods beyond the initial 48 hour period must be court authorised and that the court has to be satisfied that such further periods are necessary for the proper investigation of the offence and the investigation is being conducted diligently and expeditiously.
 - 3. The CPT would like to receive confirmation that the full range of safeguards set out in the Criminal Justice Act, 1984 and the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987, apply to persons held under the Criminal Justice (Drug Trafficking) Act, 1996.** (paragraph 10)
 - It is confirmed that the full range of safeguards set out in the 1984 Act and the 1987 Regulations apply, *mutatis mutandis*, to persons held under the Criminal Justice (Drug Trafficking) Act, 1996.
 - 5. The CPT would like to receive confirmation that the full range of safeguards set out in the 1987 regulations apply to all persons held under section 30 of the Offences Against the State Act, 1939, as amended by the Offences Against the State (Amendment) Act, 1998, which allows the Garda Síochána to request a judge to extend police custody of a person suspected of terrorist offences by a further 24 hours to an absolute maximum of 72 hours.** (paragraph 11)
 - It remains the case that the 1987 regulations apply to persons detained under section 30 of the Offences Against the State Act.
- #### 2. Ill-treatment
- 7. The persistence of allegations regarding the use of excessive force by police officers highlights the need for the Irish authorities to remain particularly vigilant in this area.** (paragraph 14)
 - The Government and the Garda Síochána fully share the view that no individual who comes in contact with the Garda Síochána should become the victim of police ill-treatment either at the time of first contact or subsequently and whether detained or not.
 - The Government affirms its commitment to preventing all such activities and, to this end, has put in place various legal, administrative and other arrangements to foster respect for the rights of those detained and, in particular, the right to be protected from all forms of physical and psychological abuse.
 - Notwithstanding the above, the Government also fully accepts that, on occasion, the behaviour of a very small proportion of those responsible for the care of detainees falls below established norms and standards in this regard. This acceptance, however, in no way detracts from the professionalism and dedication of the overwhelming majority of men and women who fulfil their duties with the utmost integrity and conscientiousness, often at great personal risk. In this connection the Government notes the sense of realism which underlies the comments contained in the CPT report:

"The CPT would add that it recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment." (paragraph 15)

That said, however, the Government is equally conscious of the absolute importance of ensuring that the recognised need to bring sometimes violent and dangerous situations under control must never be allowed to become an excuse for excess or ill-treatment. As stated by the CPT:

"However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers." (paragraph 15)

11. Where lapses in the care of detainees occur, for whatever reason and of whatever nature, the Government is fully committed to acknowledging, addressing and rectifying, where possible, these wrongs. To this end, the Government continues to ensure that there are rigorous, transparent and effective statutory and non-statutory mechanisms in place to deal with allegations of physical and psychological ill-treatment of persons detained in Garda custody.

12. In particular, the Garda Síochána Complaints Act, 1986 provides for a system of investigation and adjudication of complaints made by the public about the conduct of members of the Force. Moreover, where allegations are made of physical ill-treatment of persons amounting to a possible criminal act, provision is made for the referral of such allegations to the Director of Public Prosecutions for a decision on prosecution. This procedural system ensures that policing in Ireland occurs in accordance with law and that those making allegations are directed towards the existing corrective mechanisms.

13. It should also be noted that all persons enjoy the opportunity of seeking legal redress through the courts for suffering alleged ill-treatment, a right guaranteed by the Constitution.

14. With regard to the particular reference in paragraph 13 to allegations regarding the conduct of police officers based at Henry Street Garda Station in Limerick the Garda authorities deny the veracity of these allegations. They report that complaints were made to the Garda Síochána Complaints Board on behalf of the person to whom they presume the Committee are referring in the latter part of paragraph 13 but with no outcome as yet. They also refer to the fact that during the trial of the person in question no specific allegations of ill-treatment or abuse while in Garda custody were raised by the defence and, significantly, in sentencing the trial Judge made the following comments:

"We are now in the fourth week of this trial and Mr. -- has just pleaded guilty to the offence with which he was originally charged. In the course of the last three weeks many insinuations have been made against the Guards in the course of a long and detailed cross-examination on behalf of Mr -- . It should be pointed out that in the course of his detention Mr. -- visited hospital on no less than four occasions and was examined by no fewer than four doctors before he came to Dublin and was in presence of numerous ambulance men and other medical auxiliaries. At no stage did he make any complaint to any one of them regarding his treatment by the Garda. The Court is satisfied, having heard the evidence, that Mr. -- was treated whilst in custody, strictly in accordance with law and with the utmost professionalism despite the fact that at the particular time the Garda must have been under immense pressure. The Court was particularly unimpressed with the photographs taken of the accused leaving the hospital in Limerick and reject absolutely the implications which it was intended the Court should take therefrom. The Guards, in our view, as stated, acted with patience and professionalism during the questioning and detention of Mr. -- ."

15. In relation to the Committee's reference at paragraph 14 to allegations of physical ill-treatment of persons while in police custody attention must again be drawn to the fact that an independent complaints procedure and ultimately the Courts are there to deal with such allegations. In relation to the two particular cases instanced by the Committee in paragraph 14 the Garda authorities believe they have identified the first, i.e. the allegation of ill-treatment of a prisoner at Shannon Garda Station. In relation to this case the Garda authorities state that they are satisfied the arrested person received his injuries while resisting arrest and, in support of this belief, point out that one of the arresting police officers had himself to receive professional medical attention as a result of the incident. In relation to the second case referred to

by the Committee alleging assault in a Garda vehicle and at Pearse Street Garda Station the Garda authorities have reported that it is not possible for them to provide a clear and unequivocal response due to insufficient detail to identify the case. They state, however, that the custody records of all persons detained at Pearse Street Garda Station on the date in question have been checked and that there is no record of any complaints being made by persons in custody.

16. The Government fully acknowledges and accepts its responsibilities in ensuring that the behaviour of members of the Garda Síochána in the performance of their duties conforms to the expected norms of policing in democratic societies. In this regard, the Government is continually aware of the desirability of maintaining and enhancing guarantees of fair treatment for those detained in Garda custody.

17. Of particular note in this regard are the requirements on members of the Garda Síochána contained in both the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987 and the Garda Síochána Code. In the former case, the requirement to maintain a custody record for each person detained, thereby ensuring that the full history of a person's detention is available for inspection, represents a significant safeguard for detainees. Moreover, under the Garda Code, all Gardaí must ensure that they maintain the highest professional standards in relation to the care of detainees, including those mandated by the 1987 Regulations, on pain of disciplinary action.

18. In addition, a significant advance in relation to the protection of detainees' rights is a Government decision of 14 July, 1999, to introduce a generalised scheme for the audio/video recording of Garda interviews with detained persons in Garda stations, which promises a real and substantial guarantee to both interviewer and interviewee alike against allegations of abuse and/or ill-treatment.

19. The CPT recommends that members of the Garda Síochána be reminded of the following precepts. No more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers. (paragraph 15)

20. Members of the Garda Síochána are made fully aware on an ongoing basis of the precepts outlined above. The Garda Síochána Code (Volume 1) at Chapter 25.2, under the caption "Treatment of Persons in Custody", states:

"The treatment of persons in custody is governed by the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987. The text of the regulations together with notes on their provisions, including the instructions issued by the Commissioner as to their application should be studied closely, understood and strictly adhered to by each member of An Garda Síochána who has or may have responsibility for prisoners."

Furthermore, with particular reference to the degree of force, it states:

"It is an invariable rule that the degree of force to be used must always be moderated and proportioned to the circumstances of the case and no more force is to be used than is necessary to achieve the purpose."

21. Every member of the Garda Síochána issued with the Garda Code for personal reference and is made aware that any non-compliance with the directions

contained therein may render him or her liable to disciplinary proceedings. The proper treatment of persons in custody is the subject of lectures to student probationers and promotion courses at the Garda College and at in-service training schools throughout the country.

22. It is clear that exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. The CPT would like to be informed of whether any preventive measures have been taken with a view to providing support for members of the Garda Síochána who are exposed to such situations. (paragraph 15)

23. The availability of the Garda Welfare Service has been brought to the notice of all members of the Garda Síochána. Members involved in traumatic incidents, such as shootings, serious assaults, etc., will have the services of a Welfare Officer or a Peer Supporter. Currently, there are 4 Welfare Officers and 123 trained Peer Supporters available to members throughout the country.

24. **The CPT would like to receive further and better particulars regarding the nature of any reforms of the Garda Síochána Complaints Board which may be envisaged and on the timescale within which they may be introduced.** (paragraph 16)

25. Under section 13(3) of the Garda Síochána (Complaints) Act, 1986, the Complaints Board is mandated to keep under review the working of the system of investigation and adjudication of complaints and to make a report thereon to the Minister at least once in every three-year period. The latest such report - the Third Report - was submitted in December 1998 and deals with the six-year period 1993-98. The Third Report makes a number of wide-ranging recommendations in relation to the existing complaints procedure and, in the light of these recommendations and those of previous triennial reports, the Minister for Justice, Equality and Law Reform is currently conducting a review of the Act and its operation. This review involves consultation with a range of interested parties, including Garda management, the Director of Public Prosecutions, the Garda staff associations and the Complaints Board itself. A copy of the Third Report has been forwarded for the Committee's information.

26. In addition to proposals made by the Complaints Board itself, recommendations for change from various other quarters have been received, including the Garda staff associations and, of course, the CPT. The concerns of the Garda staff associations primarily relate to the incidence of vexatious and/or malicious complaints against members of the Garda Síochána. The staff associations suggest that special legislative provision be made to render the making of malicious complaints an overt criminal offence.

27. All the above matters are under consideration in the ongoing review and, once complete, the Minister for Justice, Equality and Law Reform intends to bring detailed proposals to Government for legislative change in the Act and procedural change in the Complaints Board, as appropriate, at an early date. A precise timescale is difficult to provide, but the Minister would hope to obtain approval in principle from the Government for legislative change by late 1999 or early 2000.

28. **The CPT would also like to receive the following information for the period 1996-1998:**

- the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;

- an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police.
(paragraph 17)

29. In relation to numbers of complaints and consequent disciplinary sanctions, the position is outlined in the table below.

Profile of Complaints	Year 1996	Year 1997	Year 1998
Complaints carried forward from previous year	475	388	517
Complaints reopened during year	1	1	6
Complaints received during year	1204	1291	1400
Total complaints requiring attention during year	1680	1680	1923
Complaints withdrawn or not proceeded with (prior to decision on admissibility)	41	60	78
Complaints deemed not admissible by Chief Executive	565	567	561
	606	627	639
Complaints requiring Complaints Board attention	1074	1053	1284

Complaints withdrawn or not proceeded with (after being deemed admissible)	225	155	192
Complaints deemed not admissible by Board	137	92	82
Complaints informally resolved	17	26	24
No offence or breach of discipline disclosed	269	231	244
Minor breach of discipline referred to Garda Commissioner, to be dealt with by way of advice, admonition or warning	33	24	28*
Breach of discipline referred to the Tribunal	5	8	27*
Total complaints processed by Complaints Board	686	536	596
Complaints carried forward to following year	388	517	688

* In one complaint, the Board formed the opinion that a minor breach of discipline had been disclosed against one member and referred another member to a Tribunal.

30. With regard to complaints referred to the Tribunal, the position is outlined in the table below.

Tribunal Cases	Year 1996	Year 1997	Year 1998
Cases referred to the Tribunal	5	8	27
Cases carried forward from previous years	17	8	13
Total cases requiring attention during year	22	16	40
Tribunal finding that member was not in breach of discipline	8	2	5
Cases struck out by the Tribunal	1	0	0
Tribunal finding that member was in breach of discipline	5	1	6
Cases processed to finalisation by the Tribunal	14	3	11
Cases carried forward to following year	8	13	29

31. With regard to the above, the following disciplinary sanctions were imposed:

- In 1996, of the five members found in breach of discipline, one was cautioned and fines ranging from IR €100 to IR €150 were imposed in the remaining four cases;
- In 1997, a fine of IR €150 was imposed on the one member found in breach of discipline; and
- In 1998, of the six members found in breach of discipline, one was dismissed, one was required to resign, one was reduced in rank, and fines of IR €200, IR €250 and IR €300 were imposed in the remaining three cases.

32. In relation to complaints referred to the Director of Public Prosecutions (DPP) to determine whether criminal proceedings should be brought against members of the Garda Síochána arising from allegations made in complaints, the following is the case:

- In 1996, the Complaints Board referred 137 complaints to the DPP. The Director directed prosecutions in 2 complaints during the year. One case was dealt with in 1996, resulting in the court finding the member involved not guilty. The other case had not yet been dealt with by year's end. One case in which the DPP had directed a

prosecution during 1995 came to court in 1996, which resulted in a dismissal of charges. Decisions on prosecution were awaited in 13 complaints at year end.

- In 1997, the Complaints Board referred 169 complaints to the DPP. The Director directed prosecutions in 3 complaints during the year. Two cases were dealt with in 1997, resulting in the charges being dismissed against the members involved. In relation to the other case, the Director withdrew the charge against the member involved following further investigations. One case in which the DPP had directed a prosecution during 1996 had not yet been dealt with by year's end. Decisions on prosecution were awaited in 21 complaints at year end.
- In 1998, the Complaints Board referred 196 complaints to the DPP. The Director directed prosecutions in 9 complaints during the year. Six cases were dealt with in 1998, resulting in a withdrawal of charges in one case; in the other five cases, no member was convicted. No cases in which the DPP had directed prosecution in previous years were dealt with by year's end. Decisions on prosecution were awaited in 21 complaints at year end.

33. The low number of cases in which the DPP directed prosecutions in comparison to the number of cases referred to the DPP needs to be considered against the legislative background. At the conclusion of investigations there is a requirement to refer all cases where offences are alleged to the DPP, regardless of whether the Garda investigating officer or the Board considers that there is insufficient evidence to warrant prosecution. The Board has stated publicly that it regards this procedure to be wasteful of resources and that only cases where it considers a *prima facie* case may exist should be sent to the DPP. It appears that the DPP has no objection to the legislation being so amended.

34. The Committee would like to receive detailed information about the practical measures which have been taken to implement the arrangements proposed by the Garda Commissioner concerning the more frequent monitoring of the performance of supervisory members responsible for the care of persons in custody. (paragraph 18)

35. In the Garda **Síochána**, the responsibilities of all ranks in this regard are set out. In particular, the responsibilities of Divisional Officers and District Officers within the context of formal and informal inspections are clearly defined, and emphasis is placed on the fact that senior officers should avail of the opportunity to make informal visits to other stations when engaged on formal inspections.

36. In response to the Report of the Committee on its 1993 visit, the Garda Commissioner issued instructions to all Divisional Officers throughout the country. Attention was drawn to the provisions of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987, and to Garda ethics relating to the detention of prisoners. The role of supervisors in relation to detained persons and the duties of members in charge of Garda stations were also re-emphasised, and it was stated that the need to enforce the regulations and safeguards relating to prisoners was to be regarded as the paramount consideration in all circumstances.

37. On a number of occasions since the Committee's 1993 Report, Divisional Officers throughout the country reported in relation to the monitoring by senior management of all members with responsibility in this area. The matter is also regularly addressed at the Garda Commissioner's conferences of Chief Superintendents, where the responsibilities of senior supervisory management are highlighted. The issue of human rights is now the subject of increased focus and awareness within the overall Garda training programmes and, to this end, Divisional Officers visit and supervise relevant courses.

38. Moreover, in October 1999 the Garda **Síochána** launched a "Human Rights Initiative 1999-2000" in response to the Council of Europe's special pan-European programme "Police and Human Rights 1997-2000". The Council of Europe programme was launched in December 1997 with the aim of creating an awareness of human rights within European police services and to challenge police authorities to initiate activities that promote the protection of human rights.

39. The Garda **Síochána** in conjunction with the Council of Europe, established a working group to examine the matter, which has now produced an action plan comprising a number of key elements, namely:

- the convening of a European conference entitled "Policing and Human Rights: Promoting Best Practice", with the aim of exploring and developing human rights in a policing context;
- the holding of a series of outreach discussion groups with various community groups, with the purpose of identifying areas of mutual concern regarding human rights and policing in the community;
- the establishment of a programme focusing on the further development of human rights training in the Garda **Síochána** for students, supervisors, trainers, managers and specialist groups.
- the publication of a revised code of professional police ethics for the Garda **Síochána**;

- the establishment of a Garda national human rights committee, to act as a forum to co-ordinate debate and discussion on human rights issues and initiatives on a long-term basis;
- the launch of a human rights awareness campaign, incorporating the production of posters, pamphlets, newsletters and other literature for distribution within the Force and to community groups;
- the carrying out of a human rights audit to proof all organisational policies, processes and procedures to ensure that they are in keeping with human rights legislation and charters; and
- the convening of a human rights week to commemorate the 50th anniversary of the signing of the European Convention of Human Rights.

The overarching aim of the above initiatives is to highlight and promote the fundamental nature of human rights in the policing of a developed liberal democracy and to articulate the key role of the Garda Síochána in the protection of human rights and the dignity of all persons.

40. The CPT would like to be informed of any progress which has been made towards the introduction of such a system of independent inspection of police establishments. (paragraph 19)

41. While the Government has no objections in principle to the introduction of a system of independent inspection of police establishments, there are some practical problems that would first need to be addressed. Given the demography of this country and the historical development of policing, there are a large number of Garda stations distributed throughout the country - approximately 700 in total - many of them serving small populations in terms of numbers. Approximately 175 of these stations would have cell facilities that would be used from time to time to detain arrested persons. However, generally speaking, persons arrested and detained for questioning under the various statutory powers available to the Garda Síochána would be detained in one of the larger stations, normally a District or Divisional Headquarters. However, even these stations are relatively small and have very few officers on duty in the station, particularly outside normal offices hours. Numbers of detainees at any one time would be small, and no dedicated "custody suite" or custody officers would be available unlike, it is understood, in those jurisdictions where a system of lay visiting of police custody facilities are available.

42. It is, therefore, felt that, given the present number of Garda stations where persons may be detained and the absence of dedicated custody facilities and staff, a similar system would be difficult to operate. However, various issues such as the need to provide improved physical facilities for the detention of persons who, under some recently enacted statutory provisions, may be detained at police stations for longer periods, and the need to provide upgraded dedicated interview facilities to enable audio/video recording of interviews, require that the question of reducing and centralising the number of stations at which persons may be detained be examined. The question of introducing a system of lay supervision of stations can be further examined in that context.

3. Safeguards against the ill-treatment of detained persons

43. The CPT invites the Irish authorities to take appropriate action with a view to introducing a right for arrested persons to have a lawyer present during interrogations. (paragraph 22)

44. The Irish Courts have consistently held that a person in custody has the right of access to a legal adviser. In the case of The People v. Doyle [1977] IR 336, the Court of Criminal Appeal stated that a detained person has a right of reasonable access to his legal advisers and a refusal of a request for reasonable access would render the detention illegal. The High Court subsequently held that this right of access was not effectively given unless he or she had the opportunity to consult with his or her legal advisers out of the hearing of the members of the Garda Síochána (The State v. Commissioner of the Garda Síochána, HC, 14 Dec., 1976).

45. In The People (DPP) v. Healy [1990] 2 IR 73, the Supreme Court held that the right of a detained person to access to legal advice, whether requested by him or her personally or by another person *bona fide* acting on his or her behalf, was derived from, and protected by, the Constitution. The court also stated that the right to reasonable access meant a right to be immediately informed of the solicitor's arrival and to be given immediate access if requested (unless there are valid reasons not to do so). In his judgement, Finlay CJ declined to express a view on whether the detained person has a right to be informed of his right of access to a solicitor by the Garda Síochána or of any possible right of a detained person to have a solicitor present while he is being interrogated.

46. The Supreme Court in The People (DPP) v. Quilligan (No. 3) [1993] 2 IR 305 affirmed the decision in Healy and stated that a person detained under section 30 of the Offences Against the State Act, 1939 enjoyed a number of

protections, including that the person detained has, during his detention, a right to legal assistance, and the refusal to grant it to him when reasonably requested can make his detention unlawful. It is the case, however, that the Irish courts have not held that as a Constitutional right a person has a right to have a solicitor present during interrogations themselves.

47. This matter - and, indeed, the question of safeguards for persons in custody generally - has been kept under review, and a very significant recent development in this regard has been the decision on 14 July, 1999, by the Government to introduce on a phased basis over a 12-18 month period a nation-wide scheme of audio/video recording of Garda questioning of detained persons, to operate according to statutory regulations.

48. The Report of the Expert Group appointed to consider changes in the criminal law which were recommended in the Garda Strategic Management Initiative Report recommended that "positive consideration should be given to the introduction of video-recording of interviews in Garda custody or, to the extent that video-recording is not possible or in certain cases desirable, the establishment of a right of a suspect, subject to any necessary limitations, to have his or her solicitor present during questioning as distinct from the right to consult a solicitor". As indicated above, the approach which the Government has decided on is to proceed generally with the introduction of audio/video recording. The question of introducing a right to have a solicitor present during questioning will continue to be examined, particularly against the background of the proposed improvements in safeguards for persons in custody which have been outlined.

49. The Committee recommends that appropriate action be taken formally to guarantee the right of access to a lawyer for detained persons who do not have their own lawyer. (paragraph 23)

50. First, it should be noted that a right of reasonable access to a solicitor currently exists in law. In this regard, the Garda Síochána, for a considerable time, operated a practice, albeit informally, that the name of a solicitor is provided to an arrested person, in circumstances where the person does not know of a solicitor him/herself. In terms of formalising an access structure through creating panels of solicitors prepared to attend police stations, there are considerable administrative issues that bear on any such proposal, e.g., the availability of financial resources and the availability and willingness of solicitors to participate in such a scheme. While there are no plans to introduce a formal arrangement, the matter is the subject of continual review.

51. The CPT would like to be informed of the findings of the Committee established to review the operation of the Criminal Legal Aid Scheme. (paragraph 24)

52. In 1996 the Government established a Committee to review the operation of the Criminal Legal Aid Scheme and recommend how it could be improved to operate more effectively and to provide better value for money. While the question of providing legal aid for consultations between detained persons and lawyers at Garda stations was a matter of concern, the CPT's visit prompted the referral of the question to the Criminal Legal Aid Review Committee. An interim report from the Committee dealing with other issues is expected shortly. Its examination and review of the CPT's proposal is unlikely to be finalised until some time in the year 2000.

53. The CPT would appreciate being kept informed of developments in this area of electronic recording of police interrogations. (paragraph 26)

54. A pilot scheme on the use of audio and audio/video recording of Garda questioning of detained persons had been ongoing in six selected Garda stations. These pilot trials were overseen by a Steering Committee charged with the task of evaluating the scheme and reporting to the Minister for Justice, Equality and Law Reform on whether an effective and economic basis could be found for a national scheme of electronic recording. The Steering Committee was chaired by Mr Justice Esmond Smyth, President of the Circuit Court, and comprised representatives of the Garda Síochána, the Director of Public Prosecutions, the Chief State Solicitor, the General Council of the Bar of Ireland, the Incorporated Law Society of Ireland, the Department of Justice, Equality and Law Reform and an expert in electronic engineering.

55. The pilot trials had been in operation on a non-statutory basis only from their commencement until February 1997. However, due to a low percentage take-up rate of detainees agreeing to have their interviews recorded, the Steering Committee advised that it would be impossible to reach definitive conclusions, given the lack of a sufficient quantity of qualitative and quantitative data. As a consequence, and on the basis of a recommendation by the Committee, the Criminal Justice, 1984 (Electronic Recording of Interviews) Regulations, 1997 were introduced, making it mandatory that interviews in pilot trial stations be recorded, subject to the Garda Síochána having discretion to discontinue electronic recording where a suspect objected to continued recording.

56. With the regulations in place, the pilot scheme produced sufficient data on which a proper evaluation of its operation could be based. In this regard, the services of a research consultant were engaged for the purpose of carrying out the necessary statistical analysis of the data emanating from each of the pilot scheme Garda stations.

57. The Steering Committee duly presented a report to the Minister on 27 April, 1999, in which a nation-wide scheme of audio/video (as distinct from audio only) recording was recommended. This scheme, it was proposed, should operate in accordance with the provisions of the Criminal Justice Act, 1984 (Electronic Recording of Interviews) Regulations, 1997 and, consequently, should apply wherever persons are detained under section 4 of the Criminal Justice Act, 1984; section 30 of the Offences against the State Act, 1939, as amended; section 2 of the Criminal Justice (Drug Trafficking) Act, 1996; or section 2 of that Act as modified by section 4(3).

58. This proposal was subject to a recommendation from the Steering Committee that the 1997 regulations be amended to include a provision allowing for interruption and/or discontinuance of an audio/video recording where a member of the Garda Síochána not below the rank of Chief Superintendent believes, on reasonable grounds, that there is a real and substantial risk to the life of any person and that insistence upon the electronic recording of the interview gives rise to this risk. In this regard, the Steering Committee has concluded that, in a limited number of cases, there may be a real risk that, if a detainee is compelled to make a statement on tape, evidence vital to the prevention of loss of life may not be forthcoming. A copy of the Committee's report has been sent to the CPT.

59. The Minister accepted the recommendations of the Steering Committee in full and subsequently received the approval of Government on 14 July, 1999, for the introduction of a national scheme of audio/video recording of detained persons, as proposed, on a phased basis over a 12-18 month implementation period. It is anticipated that the national scheme will be fully operational by early 2001.

60. The Committee recommends that custody record-keeping practices at Finglas Garda Station be subject to closer supervision. (paragraph 27)

61. It is pleasing to note that, with one exception, the Committee found that Garda Síochána were diligently completing a single and comprehensive custody record for each person detained. However, the Committee did find a small number of lapses, which occurred at Finglas Garda Station, and these are acknowledged. The position is as follows.

62. A period from 1 August, 1998, to 9 September, 1998, was taken, and, of 200 custody records checked, only two were found to have no release times. One custody record showed a person arrested on 6 September, 1998, with the last entry as to how the prisoner was disposed of not recorded. Another prisoner was arrested on 3 August, 1998 with the same omission in record keeping.

63. There were 20 juveniles arrested in the same period for whom no entries were made in the custody records regarding parents being notified. From investigations, it has been found that all parents were, in fact, notified, and the omission to record this fact was an oversight on the part of members of the Garda Síochána concerned. In all cases, there is a record in the "Details of action/occurrence" column of the juvenile having been released into the custody of a parent or, where the parent showed no interest, the station patrol car leaving the juvenile home.

64. While these lapses did not and could not have had any detrimental effect on the well-being of the prisoners, it is, nevertheless, regretted, and steps have been taken to ensure that it is not repeated. In particular, instructions have been issued at senior management level that full details are to be inserted into the custody record and that all columns applicable to that prisoner are to be completed. Special reference has been made to instances where juveniles are concerned, and emphasis has been drawn to the additional requirements of notification of parents and recording of same on the custody record.

65. In addition, a Garda Síochána-wide directive was recently issued with a view to highlighting the need to record the full history of a person's detention in a Garda station. Regulation 23 of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987, provides for other matters to be recorded. In this regard, instructions were issued to the effect that matters such as the ending of a person's custody should be recorded, e.g. whether he is released, charged and brought to court or released on bail.

4. Conditions of detention in the police establishments visited

66. The CPT recommends that the Irish authorities:

- review the cleanliness and state of repair of cellular accommodation at Henry Street Divisional Headquarters in Limerick, and at Fitzgibbon Street and Finglas Garda Stations in Dublin;**
- take appropriate steps to ensure that the conditions of detention in all police establishments meet the requirements indicated in paragraph 29. (paragraph 30)**

67. The Garda Síochána code contains instructions in relation to the maintenance of cells in Garda stations. Responsibility is placed on the member in charge of a station to ensure that cells are maintained in a clean condition and that cell bedding, including mattresses and blankets, are clean, dry and fit for use. Divisional and District Officers are tasked with the responsibility, while on formal and informal inspections, of ensuring that these conditions prevail. Facilities for outdoor exercise, however, are not in place as yet.

68. There are 24 cells at Henry Street Station, utilised as set out hereunder:

- 12 cells in continuous use for the detaining of prisoners.
- 6 cells in part-time use for prisoners.
- 6 cells used as stores for property.

All cells in use are cleaned daily using antibacterial cleaning agents. Where cells are soiled by prisoners, the particular cell is locked up and not used until completely cleaned, either by the cleaner normally assigned to such work or by a contract cleaning firm. This is carried out immediately such an occurrence arises, and no cells are left in an unclean condition. Each cell is fitted with a fireproof mattress and blankets. The blankets are laundered regularly and are always kept in a clean condition.

69. In addition, the cell block is under constant inspection by supervisors, and any issue regarding the hygiene condition of the cells is addressed immediately. All cells were painted in 1996 with specified painting compound. The cell block is in the process of being upgraded, and new lighting has been installed, together with new secure doors. Moreover, a new ventilation and smoke alarm system was recently installed, and further work, including painting and decorating, is planned. The cell block at Henry Street had only just, in fact, been steam cleaned by a contract cleaning company in the days prior to the visit by the Committee.

70. It is acknowledged that the cellular accommodation at Fitzgibbon Street Garda Station, Dublin is in need of renovation. This upgrading is to be costed by the Office of Public Works in the near future, at which stage further consideration will be given to the matter. In the meantime, cleaning and supervisory arrangements such as that outlined in the case of Henry Street Garda Station apply.

71. The cellular accommodation at Finglas Garda Station, Dublin is not scheduled for any refurbishment works at the moment. However, there are plans for the Office of Public Works to review the state of accommodation at this station in the near future. At present, the cells in Finglas Garda Station are in a clean state, and arrangements are in place to have graffiti removed from the walls. This particular aspect is under constant review by senior management in that area. At all times, cells are kept clean.

B. Prison Establishments

1. Preliminary remarks

1. The CPT would like to be informed whether the new Prison Rules have now been brought into force and, should that not be the case, recommends that this be done without delay. (paragraph 31)

2. The new Prison Rules have not yet been brought into force. However, work is ongoing to develop a single consolidated regulation to replace thirty existing separate regulations. Resources have now been allocated to this task, but following fresh consideration of the issue it became clear that more fundamental work than had been anticipated was required in relation to the existing draft rules. It is now hoped to have the regulations made by the Minister for Justice, Equality and Law Reform in the first quarter of 2000 and in force as soon as practicable thereafter.

3. The CPT would like to receive further information about the progress being made towards the creation of a new Prisons Authority. (paragraph 32)

4. In December, 1998 the Chairman of the Prisons Authority Interim Board was appointed and in April, 1999 the Interim Board itself was appointed. It comprises a Chairman and eleven other members from a diverse range of backgrounds. The Board will prepare for the Μινιστερος approval:

- guidelines in relation to the management, administration and business of the prison service,
- a statement on the steps involved in the transition to the statutory Prisons Authority including the senior management structure for the Authority,
- a strategy statement and business plan, including annual budgets and key objectives and targets for the prison service.

The Board will also monitor and report to the Minister for Justice, Equality and Law Reform on the performance generally of the prison service.

5. In July, 1999 the Director General of the Interim Prisons Authority was appointed. He will be an ex-officio member of the Interim Board, as will the Deputy Director General when appointed. Shortly after taking up appointment the Director General secured sanction for a transition team to assist him and the Board in establishing the new Authority. Work has commenced on the preparation of a Prison Service Bill, which will place the new prison service on a statutory basis. It is hoped that the Prison Service Bill will be enacted during 2000.

2. Ill-treatment

6. The CPT would like to be kept informed of the progress made in respect to delegation of greater responsibility and accountability to Governors in respect of staff in the context of dealing with any ill-treatment of prisoners. (paragraph 39)

7. Allegations of ill-treatment arise by and large out of incidents of confrontation between prisoners and staff where minimum force is legitimately used in accordance with control and restraint techniques. Where allegations of assault or ill-treatment are made, the Garda Síochána are called to investigate. A prisoner may also make a complaint to the Visiting Committee, to the chaplain, to the Minister, to the prison doctor and he/she also has access to the Courts. There is free access by prisoners to these avenues of complaint.

8. The handling of allegations of ill-treatment is a sensitive area of administration. On the one hand, it is beyond dispute that all such allegations must be investigated fully and in accordance with best practice so as to ensure amongst other things that the disadvantages inherent in the χομπλαιναντσ status as a convicted prisoner do not militate against him or her. On the other hand of course, staff are equally entitled to fair procedure and to protection from mischievous complaints.

9. In relation to complaints of ill-treatment it is open to a Governor to use the Disciplinary Code 1996 to charge any officer with an offence relating to prisoners, where he is satisfied that the officer has a case to answer. As has already been noted in the CPT report the Code specifies certain acts by prison officers against prisoners as breaches of discipline under the Code, viz. sections 8 and 11 of the First Schedule as follows:

"8. Improper relations with prisoners or former prisoners, that is to say-....

(b) using obscene, abusive or insulting words to, or indulging in obscene, abusive or insulting behaviour towards, a prisoner,"

"11. Unlawful or unnecessary exercise of authority, that is to say -

(a) deliberately and unnecessarily acting in a manner calculated or likely to provoke a prisoner, or

(b) using force unnecessarily in dealing with a prisoner or, where the application of force to a prisoner is necessary, using undue force."

10. While the conduct of disciplinary hearings is a matter for Governors, the power to impose penalties remains vested in the Minister and the power to dismiss is the sole prerogative of the Government. It is not accepted that the vesting in the Minister (and the Government in the case of dismissals) of the power to impose penalties on prison staff is, *per se*, a hindrance to the disciplinary process. In each case taken under the Disciplinary Code, the penalty is recommended by the Governor and the Minister can confirm, reject or vary this penalty. To date, the practice has been that the Minister, after considering the case, has agreed with the Γοαρννορσ recommendations. No complaints have been made to the effect that the Γοαρννορσ disciplinary powers provided for under the Disciplinary Code have been diminished by the Μινιστερσ role. Indeed, the involvement of the Minister can be seen as adding to the fairness and transparency of the disciplinary procedure since the Minister provides, and is seen to provide, another perspective on the disciplinary process under the Disciplinary Code.

11. Insofar as the Γοαρννμεντσ role in the dismissal process is concerned the position is that prison officers, as civil servants, can only be dismissed by decision of the Government. (Probationers can be dismissed by the Minister.) The issue of delegation of powers generally to Governors will be considered in the context of the legislation required to establish an independent Prisons Authority.

12. The statement of the Deputy Governor in Mountjoy ("we recognise and know the rogue officers in the system"), does not imply that ill-treatment of inmates by certain prisoners is ignored or condoned in Mountjoy or Limerick Prisons. Indeed, the Department is satisfied that there is no systematic or intentional abuse of prisoners and that such ill-treatment would not be tolerated by Governors, senior staff or the Prison Officers Association. The point being made by the Deputy Governor was that there are a number of officers whose attitude to prisoners is not appropriate in the view of management. In the absence of clear evidence of a breach of discipline by such officers such attitudes are not sufficient to commence an action under the Disciplinary Code. Therefore, in the case of those few officers being referred to, reassignment to duties not involving contact with prisoners is the only appropriate response.

13. The fact that there was probable wrongdoing by some staff in Limerick Prison in 1992, that these officers continue to work in the prison and that no effective action has been taken against them were dealt with in detail in the Γοαρννμεντσ response to the ΧΠΤσ report in 1993. The Government in its 1993 response acknowledged probable wrongdoing by some staff in Limerick Prison in respect of a series of incidents which took place in April, 1992. The response explained why no effective action could be taken against the officers concerned. An investigation was carried out by a Departmental official who interviewed both officers and prisoners. The official gave a guarantee of confidentiality to all those whom he interviewed and on the basis of this investigation made a confidential report to the Minister. Annexed to this report were notes of the confidential interviews he had conducted. This led to a situation where those officers could not be charged without releasing to them the report to the Minister thus compromising the confidentiality guarantees already given.

14. The CPT considers that it would be highly questionable for a prison officer who is the subject of a complaint to be empowered to prevent an adjudicator from holding an oral hearing with the prisoner who has lodged that complaint. Moreover, the CPT wonders whether the Disciplinary Code as adopted is not sufficiently comprehensive as to obviate the need for additional, non-statutory provisions for processing certain (but not other) types of disciplinary complaints. It would like to receive the comments of the Irish authorities on these matters. (paragraph 40)

15. Agreement to the introduction of the Prison (Disciplinary Code for Officers) Rules, 1996 was reached between the official and staff sides through the mechanism of the Conciliation and Arbitration (C&A) Scheme. This is the normal means whereby agreement on matters affecting the conditions of prison officers is reached. Throughout the discussions leading up to the agreement the issue of calling prisoners as witnesses in disciplinary actions against prison officers proved to be very sensitive. The introduction of the Code was finally agreed on the basis, *inter alia*, that the issue of allegations made by prisoners against prison officers would be dealt with by way of circular to be issued to all staff in the prison service.

16. The circular was necessary as the Code itself does not specifically provide that a prisoner may directly charge an officer with an offence. The Code is drafted in such a way as to presume that only an officer makes the allegation. The most typical situation is that a superior officer complains about a prison οφφιχερσ performance of his duty. Because of this, the main point of the circular is the appointment of an appropriate superior officer by the Governor to act on behalf of the prisoner concerned in prosecuting a charge against an officer under the Disciplinary Code. Legal advice is to the effect that this procedure would not be contrary to the 1996 Rules.

17. The draft circular indicates the ways in which prisoners can raise complaints against staff, viz. in writing to the Governor; to the Visiting Committee; to the Department of Justice, Equality and Law Reform; to his/her solicitor; and/or to an Garda

Siochán in this context it is obvious that not all complaints (for example a complaint of assault by a prisoner) should be appropriately dealt with, in the first instance, by way of the Disciplinary Code. In such cases the Garda Síochána would be asked to investigate and the normal criminal investigative process would ensue. The disciplinary process would not proceed until any criminal process had been concluded. This policy is not a matter for the Code itself and had to be communicated by way of administrative circular.

18. The legal advice received in relation to the draft circular is to the effect that insofar as it was consistent with the Code, it was valid. It was, however, invalid in respect of one provision dealing with the calling of prisoners as witnesses. The draft circular provided that, in an oral hearing held under the disciplinary process, a prisoner who had made a complaint against an officer could only be called to give evidence at the request of the accused officer. Following this legal advice the invalid provision has been deleted and the circular, as revised, has now issued. The net effect is that prisoners can now be called as witnesses by the officer appointed by the Governor to act on behalf of a prisoner making a complaint against an officer under the Disciplinary Code, by the Governor hearing the case, as well as by the officer against whom the complaint is made.

19. **The CPT would like to receive further details regarding the content of control and restraint training.** (paragraph 42)

20. A confidential note on this subject has been forwarded to the CPT.

21. **The CPT would like to receive further information about the practical measures being taken to implement the recommendation that the selection process for new entrants to the prison service at prison officer level be redesigned and administered by trained assessors.** (paragraph 43)

22. As a result of recommendations made by personnel consultants a new selection process for the recruitment of prison officers was developed. This new selection system identifies potential recruits who display the key qualities and attributes required to be an effective and professional prison officer. The new process is administered by the Civil Service Commission, the body with responsibility for recruitment to the Irish Civil Service generally. Staff involved in the recruitment process, i.e. assessors/interviewers, are fully trained before the process begins. To date (mid-October) 352 persons have been recruited through the new selection system. Indications at this early stage indicate that the aim of the new system - the recruitment of candidates of the highest professional quality - has been achieved.

23. **The CPT recommends that concerted efforts be made to resolve the current impasse in providing interpersonal skills training.** (paragraph 44)

24. The value of interpersonal skills training is fully accepted. Since 1986, all recruits to the prison service undertake, as part of their basic induction training, a two-day course in communications and interpersonal skills. The primary aim of this course is effective communication between prison officer and prisoner. It deals with non-verbal forms of communication, eye contact, effective listening, ways of gaining respect working as a prison officer, advantages of two-way communication, and "no lose" ways of conflict resolution. Such interpersonal communication skills training has helped to resolve peacefully conflicts in prisons which might otherwise have led to physical confrontation.

25. It is, of course, accepted that officers should receive courses in interpersonal skills throughout their careers. The delivery of this training, however, is intertwined with the whole issue of overtime which is currently costing €33m per year in the prison service. The staffing and rostering system currently in place in the prison system is such that all in-service training has overtime implications. The overtime issue is now being addressed through a comprehensive Staffing and Operations Review (SORT), one of the objectives of which is to build provision for essential training into staff complements. This is a detailed and complex process involving critical appraisal of staffing and organisational matters at each prison which is scheduled to last until the year 2000. The CPT recommendation that concerted efforts be made to implement training is accepted and will be implemented in the context of this process. Indeed, training of staff at all levels in the prison service is a key priority of the service in the context of the transition to a Prisons Authority.

26. **The CPT would also like to receive the following information for the period 1996-1998:**

- **the number of complaints of ill-treatment by prison staff lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**

**- an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff.
(paragraph 45)**

27. Details of complaints of ill-treatment, cases referred to the Gardai and cases withdrawn or not pursued for the three years 1996-98 are given in the table below.

Year	Ill-treatment complaints *	Referrals to Gardai	Withdrawals / not pursued
1996	27	6	2
1997	18	6	6
1998	44	14	13

* Ill-treatment complained of ranged from not being allowed to see a medical orderly at night to verbal abuse or assault.

28. In no case was there sufficient evidence to sustain a charge of ill-treatment. In cases of allegations of assault the matter was referred to the Gardai but no prosecutions arose as a result. In some cases the complainant did not pursue the complaint; in other cases the Governor found that the complaint was unfounded and did not warrant a disciplinary hearing.

3. Conditions of detention

29. The Government welcomes the comments of the CPT in relation to renovation work undertaken at Mountjoy Prison and Limerick Prison and future plans for the renovation of Mountjoy. In particular, the CPT noted that the B block basement and the segregation unit had been renovated and equipped with integral sanitation, a new 60 bed medical unit had been built and a new 70 place $\omega\sigma\mu\epsilon\nu\sigma$ prison was nearing completion at the time of the CPT visit (paragraph 47). The $\omega\sigma\mu\epsilon\nu\sigma$ prison has since then been officially opened. The planned refurbishment of the four main cell blocks in Mountjoy as part of a four to five year rolling programme of work, including the provision of in-cell sanitation or 24 hour access to toilets for prisoners, on-block washing facilities and other on-block prisoner facilities was welcomed by the CPT also (paragraph 48). The CPT was particularly impressed with the new auditorium, the upgraded prisoner workshops on A and D blocks and the improved library facilities in Mountjoy Prison (paragraph 55).

30. The CPT noted 60 newly-renovated cells equipped with integral sanitation brought into operation in Limerick Prison in early 1998 and renovation works in the toilet and washing facilities in A and E blocks which have since been fully completed (paragraph 50). Plans to refurbish part of E block in Limerick Prison to provide a self-contained unit for 10 to 12 women prisoners currently held in C block, including integral sanitation, self-contained indoor and outdoor recreation facilities, education, training, visiting and medical facilities, improved cell interior finishes and fittings, screening from the male prison generally and general improvement of the buildings was noted by the CPT. In addition plans to demolish and replace the existing C block with a modern cell block for 70 to 80 male prisoners in predominantly single-occupancy cells with a comprehensive range of on-block prisoner facilities and the replacement of the existing temporary visiting facilities with a modern purpose designed unit were noted by the CPT (paragraph 51).

31. The Committee recommends that a very high priority be given to improving the regime activities offered to prisoners at Mountjoy and Limerick Prisons, and at all other prisons in Ireland where a similar situation obtains. (paragraph 62 and detailed comments at paragraphs 53-56)

32. The basic problem in Mountjoy is overcrowding. The long-term solution to this problem in relation to improving regime activities for prisoners is to reduce the numbers held and to undertake a refurbishment of the prison, both of which are planned to take place. In relation to women held in Mountjoy a new $\omega\sigma\mu\epsilon\nu\sigma$ prison opened in September, 1999 with modern facilities and the scope to provide a significantly enhanced regime. The general layout is spacious and facilities include areas designed for education, life skills, computer skills, physical education, library, work/training, chaplaincy, indoor and outdoor recreation and medical and counselling. The visitor waiting area includes a $\chi\eta\lambda\delta\rho\epsilon\nu\sigma$ play area and means of providing light refreshments for prison visits. It is intended that the refurbishment of Mountjoy Prison will also include enhanced education and work/training facilities.

33. The Psychology Service of the Department of Justice, Equality and Law Reform currently numbers seven psychologists with recruitment ongoing to increase this number to ten. The Report of the Group Established to Review the Psychology Service recommended that this staffing complement be increased to a total of twenty psychologists with appropriate administrative support. The service currently provides a generic therapeutic service to offenders and offending behaviour programmes. As staffing resources become available the therapeutic service and programmes will be introduced where they are not yet available and improved and developed where they already exist.

34. It would appear, however, that the CPT report in relation to education in Mountjoy Prison does not give a full picture of the current situation. It is stated that of the many thousand committals to Mountjoy only 180 prisoners took part in educational activities in 1997-98. In fact the figure of 180 refers to the number of prisoners taking part in education in a survey week in May, 1998. In the same week a further 67 prisoners were taking part in education in the Medical Care Unit and the Separation Unit giving a total of 247 participants in education in a single week. The turnover in prisoners would mean that many multiples of this number took part in education each year in Mountjoy. In the *ωομενοσ* prison, even before the new prison became available a very wide range of courses were on offer in the year 1997-98, with a relatively high participation rate by women prisoners.

35. In Limerick Prison some confusion also arose between the number of places provided in work training units and the number of people present at a given time. The number of prisoners attached to any work/training area can be affected by individuals attending education classes, visits, probation and welfare, doctor, dentist, optician, counselling, etc. Some vacancies in the number of spaces provided are, therefore, to be expected. The largest discrepancy found was in the fabric unit where only 12 individuals appeared to the CPT to attend while the official figure for places was 30. However, there are in fact two fabric units in Limerick and the average daily attendance for the month of September, 1998 for the two combined was 23 and the average for April, 1999 was 25.

36. The library at Limerick is staffed by a panel of officers, two of whom have received training in this area. However, during the time of the CPT visit the library officer was redeployed to staff short-term escorts to the local hospital or court. Since the beginning of 1999, the library officer is not on the redeployment list and the library facilities for prisoners is unhindered. In addition, in 1999 an allocation of *◆46,000* was made for the purchase of 3,300 new publications, including talking books, educational videos and CD ROM's as well as books. The purchase of publications is ongoing.

37. The CPT recommends that the Irish authorities develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding, taking into account the *ΧΙΤΤσ* remarks, in particular those which follow. While noting the ambitious scale of the action planned by the Irish authorities, the CPT considers it unlikely that providing additional accommodation will alone provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level. (paragraph 59)

38. While it is true that the Department of Justice, Equality and Law Reform is currently involved in the largest prison building programme in the history of the State the *Γωερονμεντοσ* approach to crime is far from uni-dimensional. Amongst the elements of this approach are a number of concerted efforts to reduce and prevent drug addiction, an increased emphasis on probation services, a National Crime Council and preventive and other measures aimed at children. A short description of actions under these headings follows.

39. Dr. Paul *ΟΜαηονψοσ* study "Mountjoy Prisoners - A Sociological and Criminological Profile", shows that for the *Στατεσ* largest committal prison, two out of three prisoners in the sample had used heroin. For a large majority of these prisoners heroin was the drug of first choice though they were, in fact, overwhelmingly poly drug users. Much is being done by the Government to improve the lot of the communities most affected by drug abuse, with a view to reducing the abuse itself and crime, particularly property crime, associated with this abuse.

40. Following on from Ministerial Task Force Reports on Measures to Reduce the Demand for Drugs, in 1996/97, a number of structures were established i.e. a Cabinet Committee on Social Inclusion and Drugs, an Interdepartmental Group on a National Drugs Strategy, the National Drugs Strategy Team, and thirteen Local Drugs Task Forces. To contribute to the formulation of national drugs policy and to ensure the effectiveness of these structures in providing a co-ordinated and integrated response to the drugs problem at national and local level, the Cabinet Committee approved the establishment of

three multi-agency initiatives, namely the National Drugs Strategy, the Young People's Facilities and Services Programme and the Integrated Services Process. The initiatives are aimed at tackling the drugs problem in areas which had been synonymous with marginalisation, unemployment, crime and social exclusion.

41. Following an external evaluation, in 1998, of the effectiveness of this initiative, the Government approved its continuation for at least a further two years. €10m has been allocated on an annual basis, to support the implementation of in excess of 200 projects proposed by Local Drugs Task Forces in their areas. In August, 1999, a further €15m over a two year period was allocated to support the development of new Service Development Plans by the Local Drugs Task Forces.

42. The Government launched the Integrated Service Process (ISP) in 1998, in four pilot areas to co-ordinate and improve the delivery of state services to disadvantaged urban areas. The ISP involves co-operation between statutory agencies, voluntary organisations and local communities, in developing a more focused and co-ordinated response to the needs of local communities.

43. The Government has also allocated a sum of €35m over the three years 1999-2001 under the Young People's Facilities and Services Programme, to assist in the development of preventative strategies in a targeted manner, through the development of youth, sport and recreational facilities and services in disadvantaged areas where a significant drug problem exists or has the potential to develop. The bulk of the money (€25m.) has been allocated to the thirteen Local Drugs Task Force Areas. However, specific funding of €7.2m has been allocated to a Children at Risk Programme, which is the responsibility of the Minister of State at the Department of Health and Children with special responsibility for children. This programme is important when one considers international research evidence that the earlier a boy is first convicted the greater the likelihood that he will re-offend many times and that he will have a long criminal career.

44. Arising from the report on the establishment of Drug Courts in Ireland by the Working Group on a Courts Commission, a Drug Courts Planning Committee was established. A Drug Court pilot project will be introduced over the coming months. Finally, in relation to drug abuse there are currently just under 4,000 individuals addicted to opiates who are on methadone replacement therapy, which helps to introduce stability into the lives of the addicts concerned and also helps to reduce crime by addicts to feed their addiction.

45. An expert group established in December, 1997 to review the future role, needs and management structure of the Probation and Welfare Service submitted an interim report in November, 1998 and a final report in July, 1999. Though the final report is still being considered, already 39 additional staff and the filling of 19.5 vacancies have been sanctioned for the Service. It is expected that the Courts will make greater use of community sanctions by referring an increased number of offenders on supervision to the Probation and Welfare Service, which, in itself, will make a significant contribution in curtailing the growth in the prison population. An increase in the number of programme planned releases from custody under the supervision of the service will also make an impact on the prison population, as well as reducing the level of recidivism.

46. The Στατες first ever National Crime Council was established in July, 1999, following the report of the National Crime Forum. The first key role of the Council will be to focus on crime prevention, with particular emphasis on the underlying causes of crime and the development of partnerships and practical approaches which will be effective at community level.

47. The Children Bill, 1999 published at the end of September, 1999 starts from the premise that the ultimate sanction of incarceration should only be brought into play when a wide range of community-based measures have been exhausted. The Bill sets out the roles and functions of all the various State agencies involved in the juvenile justice system taking into account modern thinking and best international practice on how to prevent and deal with juvenile delinquency and offenders. In particular it proposes to introduce the practice of restorative justice to the Irish juvenile justice system, through a court supervised family conference operated by the Probation and Welfare Service and through the conference which it is proposed to incorporate into the existing Garda Diversion Programme. The courts are also to be given the power to impose a suitable community sanction on a child offender under 16 years of age in cases where detention would have been deemed appropriate but no places were available. In addition the Bill will introduce measures to improve the prospects of reintegration into society of those children it is necessary to detain. The measures proposed provide an exceptional opportunity to turn young persons away from crime. The Bill is commencing its passage through the parliamentary process.

48. **The CPT recommends that every effort be made to ensure that the additional renovation work at Mountjoy and Limerick Prisons is completed as rapidly as possible; provision of new facilities for women inmates at Limerick**

Prison should be accorded a particularly high priority. The Committee would like to receive regularly-updated information on the progress of the work concerned. (paragraph 60)

49. It is intended to refurbish and modernise Mountjoy Prison. However, work will not commence until 2000 because of a very wide consultation process. It would be the intention to forward sketch plans of the work to the CPT in due course. It should be noted that the refurbishment programme planned consists of mainly single cells with a small number of triple cells (about 3) in each wing.

50. In relation to Limerick Prison the enhancement of the toilet and washing facilities in A and E blocks has been completed and they are fully operational. Work in that prison to refurbish part of E block to provide a self-contained unit to accommodate the 10-12 women prisoners currently held in C block, the demolition of C block and its replacement with a purpose-designed, modern cell block to accommodate 70 to 80 male prisoners and the replacement of the existing temporary facilities with a modern purpose-designed unit is at an advanced planning stage. A copy of the plans of the proposed developments have been sent on a confidential basis to the CPT. It is expected that work will commence in December, 1999. In relation to the $\Omega\mu\epsilon\nu\sigma$ Unit in Limerick it should be noted that the E block solution is seen as a short-term measure and longer-term plans for women in Limerick will be determined in 2000 in the context of the experiences of the new $\omega\omicron\mu\epsilon\nu\sigma$ prison at Mountjoy.

51. Every effort will be made to complete the works as soon as possible and the short and long-term facilities for women will be afforded the highest priority. The Committee will be supplied with progress reports.

52. The CPT recommends that the planned occupancy levels of cells measuring 10.65 m² at the new Cloverhill remand prison, in which it is intended to accommodate three persons, should be revised. No more than two prisoners should be accommodated within them. (paragraph 61)

53. The main custodial complex for remand prisoners (including prisoners returned for trial) at Cloverhill contains 68 single cells and 108 triple cells. In addition, there is an assessment unit for convicted offenders, which has 10 single cells and 12 triple cells. There is also a separate building within the complex which houses sentenced trustee prisoners in 13 double cells. The single cells are 8 m² and the double and triple cells are 10.4 m². Triple cells in the assessment unit are 11.18 m².

54. The medium-term objective in the prison service is that single cell occupancy would be available for all who wish to avail of it. To this end the design of future prisons will provide for single cells, with the exception of a small number of triple cells in larger blocks. The new Midlands Prison which is under construction at present also follows this model. However, the provision of three-person cells in the new Cloverhill remand prison is accounted for by five factors and these are dealt with below.

55. In the first place it was clear that overcrowding in the prison system generally and in Mountjoy, the $\Sigma\tau\alpha\tau\epsilon\sigma$ largest remand prison, in particular (referred to in the CPT report at paragraph 57), had to be tackled. The overcrowding was such that it was becoming difficult to keep unconvicted prisoners separate from convicted prisoners and significant numbers of prisoners were being released unsupervised well before the end of their sentences. Part of the solution was the building of a new remand prison.

56. Secondly, traditionally Ireland in comparison with other countries has one of the lowest proportions of unconvicted prisoners in its prison population. More significant, however, is the very low average period spent in prison by unconvicted prisoners. In particular a very high proportion of unconvicted persons spend only a few days in prison. If it becomes necessary in Cloverhill Prison to use three-person cells to full capacity it would be intended to use them for short-term unconvicted prisoners as much as possible.

57. Thirdly, there was a strong perception that crime committed by persons on bail pending trial was a significant problem, which the courts were not fully equipped to deal with. In late 1996 a substantial majority of citizens voted for a change in the Constitution to permit provision to be made by law for the refusal of bail by a court to a person charged with a serious offence where it was reasonably considered necessary to prevent the commission of a serious offence by that person. The Bail Act, 1997 changed the law in relation to bail in a number of respects, including giving effect to the constitutional amendment. The Act is not yet fully in operation. It is anticipated that the effect of the new legislation, when it is fully operational will be to increase the population of remand prisoners, though it is difficult to quantify in advance the actual impact. However, it was necessary when building Cloverhill Prison to provide spaces in advance for an increased population of unconvicted prisoners.

58. Fourthly, in order to provide new prison places with the shortest possible lead time an existing walled site was chosen adjacent to Wheatfield Prison. This constrained to some extent the size of the prison which could be built. Work began on this site in May 1997.

59. Fifthly, unless sufficient space is available in Cloverhill overcrowding of Mountjoy Prison will continue with negative repercussions for all prisoners in that establishment with little distinction between those detained for relatively short periods and those serving the longest sentences. Even with full use of all three-person cells Cloverhill will still provide a better environment than Mountjoy at present. In addition, extra space is required outside Mountjoy in the medium-term to allow a refurbishment of Mountjoy on a wing-by-wing basis.

60. It is important to reiterate that a set of five particular circumstances has led to the current proposed population density for Cloverhill Prison. However, the medium-term objective in the prison service is the provision of single cells for all those who wish to be alone.

4. Medical services

61. The CPT recommends that the Irish authorities take immediate steps to:

- provide at least the equivalent of the services of one full-time doctor for prisoners held in the male accommodation areas at Mountjoy Prison and increase the number of hours for which a doctor is present at Limerick Prison;

- secure the services of at least three full-time qualified nurses at Mountjoy Prison and at least one full-time qualified nurse at Limerick Prison; (paragraph 65)

- efforts be made to introduce qualified nursing staff into all prison establishments in Ireland. (paragraph 66).

62. Based on the recommendation of the Director of Prison Medical Services it is intended to undertake an overall review of the structure and organisation of medical services in all prisons, including Mountjoy and Limerick. In relation to Mountjoy in particular the inadequacy of present arrangements is acknowledged and a mediation process is presently in train aimed at resolving the existing impasse.

63. A programme of recruitment of qualified nurses to service all prisons has recently commenced and the initial group commenced duty in May, 1999. It is intended to recruit sufficient nurses as quickly as possible to ensure that health care is provided in all prisons by appropriately qualified staff.

64. The CPT recommends that the on-wing δοχτορσ rooms in C and E blocks in Limerick Prison be upgraded. (paragraph 67)

65. As part of the overall renovation programme planned for Limerick Prison new medical surgeries will be provided in C and E blocks.

66. The Committee recommends that decisive action be taken to ensure that an adequate quality of care is provided by the doctors employed to work in the male accommodation areas at Mountjoy Prison. (paragraph 71)

67. As indicated above the unsatisfactory situation in Mountjoy Prison vis-a-vis the lack of provision and accountability of medical services in the male areas of the prison is acknowledged. The Department of Justice, Equality and Law Reform has been engaged in a mediation process with the doctors involved for some time and it is hoped that this situation will be resolved in the near future.

68. The CPT recommends that the level of in-house psychiatric care in the male accommodation areas at Mountjoy Prison be further reinforced. In so doing, efforts ought to be made to enhance the continuity of care which is delivered to inmates (for example, by employing a smaller number of psychiatrists for longer periods of time). (paragraph 74)

69. For some time the Department of Justice, Equality and Law Reform has been engaged in negotiations with the Eastern Health Board (facilitated by the Department of Health and Children) with a view to improving both the quantity and co-

ordination of psychiatric services not only in Mountjoy Prison but in all of the prisons in the Dublin area. It is estimated that the equivalent of approximately 2.5 full-time psychiatrists will be required to adequately service both existing needs and those of the new prisons due to come on stream. The Department of Justice, Equality and Law Reform has been eager to conclude a service agreement with the Eastern Health Board (subject to Department of Finance sanction) for some time. Following further tripartite discussions, the Department of Health and Children has made additional revenue funding of €200,000 available to the Eastern Health Board to enable the appointment of one additional Consultant Forensic Psychiatrist to be based at the Central Mental Hospital (CMH) with a commitment to serve the needs of the Mountjoy Prison population. As well as providing a service for the Health Board general psychiatric service, the Central Mental Hospital also serves a national function offering specialist forensic psychiatric in-patient care to the prison service.

70. The sessional commitment of the post of Consultant Forensic Psychiatrist under the Eastern Health Board to be based at the CMH will be as follows:

Central Mental Hospital	- 5 sessions
Prison Service (Mountjoy Prison initially)	- 4 sessions
Risk Assessment Evaluations in the General Psychiatric Services	- 2 sessions.

The post has been approved by Comhairle na n-Ospidéal and the position was advertised by the Local Appointments Commission in July, 1999. The results of the selection process should be known by the end of November, 1999. It is the intention of the Department of Health and Children to facilitate the Eastern Health Board in the further enhancement of its Consultant Forensic Psychiatric services as resources permit. It would be intended that a smaller number of psychiatrists would spend a significant amount of their work time in the prisons thus improving continuity and co-ordination.

71. The CPT recommends that the provision of prison psychiatric services be reorganised as a matter of urgency. The aim should be to ensure that it is always possible to transfer mentally ill inmates to an appropriate psychiatric facility without delay. (paragraph 76)

72. In general the provision of specialist psychiatric services to the prison population is arranged between the prison authorities and the local health authority/health board providing health services in the catchment area where the prison is located. However, in practice to date, with the exception of the Eastern Health Board area, other prisons have had to make arrangements with individual psychiatrists to provide care. The Department of Health and Children and the Department of Justice, Equality and Law Reform are in agreement that there is a need for a more structured service. Preliminary steps have been taken in this regard with the provision of funding for an additional Consultant Forensic Psychiatrist.

73. Since May, 1999, qualified psychiatric nursing staff have been deployed in the hospital and it is the intention of the Eastern Health Board to employ additional nursing staff through open recruitment thereby increasing the number of registered psychiatric nurses to the service. A retraining programme for existing care officers is ongoing. A working group is also to be established by the Eastern Health Board to examine, review and report on the future direction and development of nursing and care services in the Central Mental Hospital.

74. The view of the Department of Health and Children, which is supported by the Inspectorate of Mental Hospitals, is that a properly structured psychiatric service should be provided to the prison population to relieve the demand for beds in the Central Mental Hospital. It is the understanding of the Department of Health and Children that prisoners with a wide range of psychiatric problems from serious to relatively minor mental disorders are transferred to the Central Mental Hospital subject to the availability of beds. The development of prison based psychiatric services would facilitate early treatment of relatively minor psychiatric conditions in prisons thus allowing serious psychiatric conditions to be treated through transfer, with less delay, to the Central Mental Hospital. There are currently no plans to increase the number of beds at the Central Mental Hospital.

75. The Department of Justice, Equality and Law Reform welcomes the support of the Department of Health and Children and the Inspectorate of Mental Hospitals for the provision of a properly structured psychiatric service for prisoners in the prison system. As such a system is not yet fully in place the Department of Justice, Equality and Law Reform will await the implementation of such a fully functioning system before coming to a definite conclusion on its impact. The Department is of the view, however, that given the severity and prevalence of psychiatric disorder within the prison population, prison based psychiatric care may not reduce significantly the clinically justified demand for beds for prisoners in psychiatric hospitals. In addition, the Department of Justice, Equality and Law Reform would draw an analogy between psychiatric care and treatment for physical illness. A prisoner requiring an operation is not treated in a special secure hospital, but in a

suitable general hospital. It is argued that this analogy would apply to many prisoners in need of hospital based psychiatric care.

76. While there is no legal impediment to the transfer of prisoners requiring psychiatric care to community psychiatric facilities operational practice has been for all prisoners to be referred to the Central Mental Hospital, irrespective of any arguable security needs. In recent years this has led to delays in admission due to that hospital being intermittently full. The Department of Health and Children and the Department of Justice, Equality and Law Reform are in agreement that this issue needs to be addressed.

77. There is agreement also between the Department of Health and Children and the Department of Justice, Equality and Law Reform on the need for improvements in the level of in-prison psychiatric care. The immediate challenge is to use that agreement to bring about suitable improvements at prison level.

5. Other issues of relevance to the XIII^o mandate

78. The CPT would like to receive detailed information about the role and functions which it is intended to attribute to the Prisons Inspectorate and to the reformed Visiting Committees. It would also like to be informed of the timescale within which the Irish authorities envisage that the Prisons Inspectorate will be operational. (paragraph 79)

79. Proposals in relation to the details of the proposed inspectorate are being worked on at the moment. As a general approach, the Inspectorate will report to the Minister/Parliament on the administration of the prison system. In devising precise proposals, regard will be had to the functions of prisons inspectorates in other jurisdictions. It is not possible to let the Committee have more precise details at this stage but further details can be supplied at a later stage when definitive proposals have emerged. Work has commenced on the preparation of a Prison Service Bill which it is intended, as well as placing the new prison service on a statutory basis, will also create a statutory Prisons Inspectorate and a statutory Parole Board. It is hoped that the Prison Service Bill will be enacted during 2000.

80. In relation to Visiting Committees, the Visiting Committees Act, 1925 has been amended by section 19(5) of the Criminal Justice (Miscellaneous Provisions) Act, 1997. This amendment has revoked the power of Visiting Committees to grant special privileges or impose special punishments on prisoners and to hold inquiries on oath into charges against prisoners in relation to breaches of prison discipline. Instead the Visiting Committee has been given power to hear appeals from prisoners against penalties imposed by a Governor of a prison. In addition a Visiting Committee *Χηαιρπερσονσ* Group held its inaugural meeting on 4 March, 1998. The group has met four times since their establishment to date, to share experience of general relevance to the Visiting Committees and in particular in relation to the treatment of prisoners in all institutions visited.

81. The Committee recommends that inmates facing disciplinary charges be formally guaranteed the following rights:

- to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;**
- to call witnesses on their own behalf and to cross-examine evidence given against them;**
- to be heard in mitigation of punishment, in cases where found guilty by the Governor;**
- to remain seated during adjudications and to have facilities to take notes;**
- to appeal to a higher authority against any sanctions imposed.** (paragraph 81)

82. The *Χομμιττεεσ* recommendations have been taken into account in the context of refining the published draft prison rules.

83. The CPT would like to receive the comments of the Irish authorities on efforts to provide an environment in which prisoners without drug problems do not develop them and those who have such problems are helped to overcome them. (paragraph 82)

84. The Government accepts the need to actively address the problem of drug abuse affecting prisoners. The Department of Justice, Equality and Law Reform and the Department of Health and Children have recently agreed an Action Plan

(copy sent to the CPT) outlining strategic targets and implementation dates with a view to addressing this problem in co-operation with the relevant statutory and other agencies in the general community. The objective is to provide equivalence of treatment for drug misusers inside and outside prison. A major prerequisite in relation to implementation is the reduction of the overcrowding in Mountjoy through the opening of the new Cloverhill remand prison, which has been delayed. While indicative dates for implementation of recommendations in the Action Plan have not been met the Plan remains in place to guide ongoing work.

85. The Department of Justice, Equality and Law Reform published a report entitled "Hepatitis B, Hepatitis C and HIV in Irish Prisoners : Prevalence and Risk" in August, 1999. The report was carried out for the Department by the Department of Community, Health and General Practice, Trinity College, Dublin. A copy has been sent to the CPT. This report should form a valuable input into efforts to tackle the drugs issue in prisons.

6. Special unit at Portlaoise Prison

86. In Portlaoise Prison the CPT visited six prisoners who had been involved in a hostage-taking incident in Mountjoy Prison in January, 1997. They were subject to a restricted regime described as "barrier-handling".

When the delegation raised its concerns regarding this situation during the talks held with the Irish authorities at the end of the visit, it was assured by the Minister for Justice, Equality and Law Reform that the regime would be reviewed "as a matter of urgency". **The CPT recommends that, in the context of that review, immediate measures be taken to bring the regime into conformity with the criteria set out in paragraph 89, and to place it on a firm legal basis.**

It also recommends that the practice of prison staff wearing riot gear in all day-to-day contacts with prisoners be discontinued forthwith. (paragraph 92)

If inmates continue to be held in the special unit at Portlaoise, **the Committee recommends that measures be taken to:**

- improve access to natural light in those cells where it is deficient;**
- ensure that prisoners have ready access to a lavatory at all times, including at night.** (paragraph 93)

87. The regime in the unit at Portlaoise had been a matter of considerable concern to management at Portlaoise Prison and a matter of acute sensitivity for prison officers and their association. Efforts which would lead to a resolution of the issue had been ongoing for some time. However, the existence of the XIIT σ written criticisms, which were considered by the parties at local level in a serious and reflective fashion, greatly assisted a concerted effort to ameliorate the conditions in the unit in question. On 31 May, 1999 the prison staff dealing face-to-face with the prisoners came on duty in normal prison uniform and this has continued to be the case to date. A small number of officers in riot gear remain on call from an area adjacent to but separate from the unit, and out of sight of the prisoners concerned. It should be noted that Governors, other senior prison staff, and staff in a range of non-discipline services have been meeting the prisoners face-to-face, in the absence of disciplined staff and with no handcuffs on the prisoners since the beginning of their detention in the unit in Portlaoise.

88. The following educational courses are timetabled for the unit each week: mathematics, history, science, sociology, English, geography, Spanish, auto-mechanics, music, Irish, photography, business studies, Chi Kung, physical education and computers. There are fourteen one-and-a-half-hour sessions and four forty-five minute sessions each week, in the morning, afternoon and early evening. There are no classes on Sunday but there is one session on Saturday. The prisoners concerned also have access to a sizeable exercise yard for seven and three-quarter hours each day, or ten hours if other prisoners are not using it. The yard is open to the air. On Sundays a priest attends the unit to say mass and all prisoners in the unit are permitted to attend.

89. Following more intense negotiations further easing of the regime was agreed on 10 November, 1999 and has been implemented as follows. The 6.30 p.m. lock up will be advanced to 7.30 p.m. , bringing it within half an hour of the lock up time in the main prison. One prisoner was transferred on a temporary basis to the Central Mental Hospital and since his return he is held with ordinary prisoners in the main prison enjoying the same regime. The remaining four prisoners will be permitted to associate together in a recreation hall and in the exercise yard. Visits to the main prison gymnasium at agreed times are now permitted in pairs, Monday-Friday for an hour or forty five minutes each day.

90. While the situation seen by the CPT has been notably improved a number of aspects alluded to by the CPT remain in place. Work/training is not provided, prisoners use in-cell slopping-out buckets from evening lockup to morning unlock (the slopping-out bucket is standard for all prisoners in Portlaoise at present), only two prisoners are permitted to associate

together on the landing at any one time (except when attending mass), and extra layers of mesh must remain on two of the cell windows for security reasons. Finally, prisoners in the unit continue to be handcuffed whenever in direct contact with prison officers.

91. In May, 1998, a number of officials including a Governor and a psychologist visited prisons in Britain to explore how difficult prisoners were dealt with in different regimes. At the end of April, 1999, as part of the efforts to ameliorate conditions in the Portlaoise unit eight prison officers, an official from the $\sigma\phi\iota\chi\epsilon\rho\sigma$ trade union and the Head of Psychology visited a prison in Britain to study its regime. Since then the improvements referred to above have occurred. Work is continuing on the development of an appropriate regime for disruptive and violent prisoners. It is hoped that the ongoing monitoring and review of the regime in the unit in Portlaoise Prison will lead to further improvements in conditions there over time.

C. The Central Mental Hospital, Dundrum

1. Preliminary remarks

1. The Irish Government notes that the CPT regarded relations between staff and patients in the Central Mental Hospital as generally positive and tension-free (paragraph 96). This is the context for the issues which are raised and responded to below.

2. Staffing issues

2. The CPT considers that, in the interests of enhancing patient care, it would be highly desirable for the proportion of staff with specialised psychiatric nursing training at the Central Mental Hospital to continue to be increased, for such staff to be deployed throughout the establishment, and for co-operation between psychiatric nurses and care officers to be enhanced. (paragraph 98)

3. Since May, 1999 qualified psychiatric nursing staff have been deployed in the hospital and it is the intention of the Eastern Health Board to employ additional nursing staff through open recruitment thereby increasing the number of registered psychiatric nurses to the service. A retraining programme for existing care officers is also ongoing. A working group is also to be established by the Eastern Health Board to examine, review and report on the future direction and development of nursing and care services in the Central Mental Hospital and to examine, review and report on issues between nursing and care staff.

3. Treatment of patients

4. The Irish Government notes that the CPT felt that it was a credit to the Central Mental Hospital's health care team that all patients interviewed by the CPT at the hospital were well informed about, and happy with their treatment including medication (paragraph 100).

5. The CPT would like to receive a copy of the Eastern Health Board's capital plan, and trusts that the funds identified as necessary to provide a structured daily programme of therapeutic and rehabilitative facilities for patients will be made available at the earliest possible opportunity. (paragraph 99)

6. A copy of the Board's 1999 capital plan as submitted to the Department of Health and Children for consideration is attached as requested (see Appendix 2). The Department has made capital funding of $\text{€}400,000$ available in 1999 to the Eastern Health Board for the Central Mental Hospital. A range of rehabilitation programmes is provided for patients in the Central Mental Hospital and vocational officers have been appointed to run these services. The need to further develop these services is recognised by the Eastern Health Board and it is the intention to expand the range of programmes provided as part of the overall development of the Board's Forensic Psychiatry Service.

4. Patients' living conditions

7. The CPT recommends that urgent steps be taken to upgrade the quality of patient accommodation in the old building at the Central Mental Hospital, having regard to the criteria enunciated in paragraph 103; ensuring that all patients have ready access to a lavatory at all times should be regarded as a particularly high priority.

It also recommends that efforts be made to:

- provide patients with lockable space within which they can keep their belongings;**
- improve the decoration of patients' rooms throughout the establishment. (paragraph 104)**

8. The Eastern Health Board has included the cost of the complete refurbishment of the old building at the Central Mental Hospital including rewiring, plumbing, heating, sanitary facilities etc. in their schedule of priority mental health capital requirements for 1999. The Department of Health and Children has provided a capital grant of €400,000 in 1999 to enable this work to be put in train. The provision of adequate toilet facilities is a priority and the Department of Health and Children has requested the Eastern Health Board to include as much as possible of this element in the refurbishment.

5. Seclusion

9. The Government notes the CPT was pleased that the Central Mental Hospital had a comprehensive seclusion policy and that appropriately detailed seclusion registers were maintained. (paragraph 105)

10. The CPT recommends that the facilities used for seclusion in unit 1 at the Central Mental Hospital be upgraded and that the padded cell located in unit 4 be taken out of service. (paragraph 106)

11. It is intended to upgrade the seclusion facilities in unit 1 as part of the refurbishment plan. It is also the intention to take the padded cell in unit 4 out of service.

6. Safeguards in the context of involuntary placement

12. The CPT noted that at the Central Mental Hospital, a helpful information booklet was given to patients' relatives and friends. **The CPT recommends that such a brochure be produced and systematically issued to patients on admission. (paragraph 107)**

13. The CPT would like to be informed of whether it is intended to address this matter (a complaints procedure for patients within the Central Mental Hospital in addition to existing rights of complaint to the Inspector of Mental Hospitals, the Minister for Health and Children and the President of the High Court) under the new mental health legislation. (paragraph 108)

14. In July, 1998, in the pursuance of excellence in care delivery and to assist health boards and individual service providers in attaining this objective, the Inspector of Mental Hospitals through the Department of Health and Children formulated and circulated to all mental health service providers "Guidelines on Good Practice and Quality Assurance in Mental Health Services" (copy forwarded to CPT). The Guidelines included consideration of the patient, patients' relatives and the community and recommended the provision of a handbook, containing information on a patient's rights and other matters which should be made accessible to both patients and relatives. The Guidelines also highlighted the need to introduce an adequate complaints or dissatisfaction procedure which should be available to patients at all levels of care. Patients must be aware of its existence, informed of how to use it and encouraged to use it should they feel aggrieved or dissatisfied. The Inspector of Mental Hospitals has proposed the introduction and use of such guidelines to the management of the Central Mental Hospital and is monitoring the implementation of these guidelines on an ongoing basis.

15. New mental health legislation will also provide for a patient to make a complaint in relation to his or her care or treatment to the Inspector of Mental Hospitals. The Inspector will have full access to visit and interview a patient, if necessary.

16. The CPT invites the Irish authorities to review the restriction of telephone calls to or from a patient. Telephone calls to or from a patient are only allowed in exceptional circumstances, with the permission of the doctor in charge. (paragraph 109)

17. Patients in all psychiatric hospitals, except the Central Mental Hospital, have access to telephones. Patients in the Central Mental Hospital do not have access to telephone calls. Patients, however, may avail of a telephone under

supervision. Access to the telephone is a clinical decision and is based on the clinical condition of the patient, his or her behaviour in the hospital and is also subject to security conditions.

18. The CPT welcomes the existence of an independent inspectorate of mental hospitals and, henceforth, **would like to receive copies of the Inspector's annual reports.** (paragraph 110)

19. A copy of the Report of the Inspector of Mental Hospitals for the year ending 31 December, 1997 and the report for the year ending 31 December, 1998 have been forwarded to the CPT and arrangements have been made to provide the Committee with future publications of the Inspector's annual report.

20. **The CPT recommends that legislation introducing an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment be brought into force at the earliest possible opportunity. The Committee would also like to receive a copy of the new Mental Health Bill and to be informed of whether patients will be able themselves to request at reasonable intervals that the necessity for placement be considered by a judicial authority.** (paragraph 118)

21. In relation to the element of the CPT query concerning patients admitted involuntarily to the Central Mental Hospital under mental health legislation a new Mental Health Bill is currently being finalised and will be published before the end of the year. The Bill will include a provision that each decision to detain or to renew detention of a patient will be subject to review by an independent review body. The new legislation will also include a provision for an involuntarily admitted patient to appeal a decision of the review body to a court of civil law.

22. In relation to patients admitted involuntarily under criminal justice legislation, while existing legislation does not provide for a formal review mechanism, reviews are in fact undertaken by the Hospital authorities of persons found "guilty but insane" or "unfit to plead". As a result of such reviews some patients are granted periods of temporary release for rehabilitation purposes from time to time. There are, for example, a total of eleven cases at the present time of persons found "unfit to plead"; six are detained in the Central Mental Hospital, three in less secure psychiatric hospitals and the remaining two have been released into the community following review of their cases.

23. It is intended that the provision of a formal review mechanism, such as that being advocated by the CPT, will be addressed in the context of new criminal law (insanity) legislation which the Department of Justice, Equality and Law Reform is currently preparing. This legislation is separate to the Mental Health Bill being prepared by the Department of Health and Children. The new criminal law (insanity) legislation will contain extensive provisions dealing with fitness to plead at a criminal trial; it will contain a definition of criminal insanity and provide for a new verdict of "not guilty by reason of insanity" to replace the present "guilty but insane" verdict; it will introduce a new plea of "guilty but with diminished responsibility" in cases of murder.

24. In addition, the proposed criminal law (insanity) legislation will establish a new Mental Care Review Body which shall be independent in the exercise of its functions. It will review the cases of persons detained after verdicts of not guilty by reason of insanity or findings of unfitness to plead. In carrying out a review it will have regard to the welfare and safety of the person whose case is being reviewed and to the public interest. It will effectively replace the existing Advisory Committee procedure in respect of persons detained after verdicts of "not guilty by reason of insanity" and findings of "unfitness to plead".

25. The CPT states that their attention was drawn to the case of a patient admitted with a verdict of "guilty but insane" in 1990 who, in the opinion of psychiatrists at the Central Mental Hospital, has been completely sane for many years. Nonetheless, the Department of Justice, Equality and Law Reform has refused to countenance his discharge. This has led to suggestions that the Department may find it politically unpalatable to order the release of certain high-profile patients, even though they no longer require treatment at the Central Mental Hospital. (paragraph 115)

26. It is difficult to be precise as to the identity of the person being referred to. However, it is possible that it may be an individual committed to the Hospital in 1988, who was subsequently found "guilty but insane" in 1989. If that is the case, then the Government categorically rejects the suggestion that it may be politically unpalatable to release such persons.

27. In fact, since 1991, this person has had his case reviewed on no fewer than six occasions by an independent Advisory Committee established by the Minister to review and report on his continued detention. This Committee, consisting of a senior counsel, consultant psychiatrist and a general practitioner and chosen for their particular expertise and knowledge in this area, last reviewed his case in May, 1999. Following their deliberations, during which they interviewed the person

concerned and heard submissions from his legal representatives, they reported that, in their opinion, the applicant continued to suffer from a mental disorder. They further quoted the opinion of the Medical Director of the Central Mental Hospital, whom they had also interviewed, that "the applicant does not suffer from any mental illness but concedes that he continues to suffer from a mental disorder which he believes has abated in its severity and intensity over the period of the applicant's detention at the Central Mental Hospital".

28. The Committee further advised the Minister that they did not have appropriate evidence as yet to make a recommendation regarding what it perceived to be an appropriate release date for the applicant. In accordance with their recommendations, a revised parole programme was put in place incorporating a phased increase in work parole, group outings, and accompanied and unaccompanied outings. This programme is designed to provide objective evidence as to whether or not the person concerned continues to be a risk by reason of his continued mental disorder and is kept under continuous review.

7. Transfer of patients

29. The CPT recommends that urgent attention be given to resolving the problems associated with the transfer of patients to and from the Central Mental Hospital. (paragraph 119)

30. Where a patient who has been detained under section 208 of the Mental Treatment Act, 1945 is deemed to be suitable for transfer from the Central Mental Hospital by the relevant staff in that hospital, there can be problems where there is a conflict of clinical judgement with staff in the proposed recipient hospital. Efforts to assist the transfer of such patients are ongoing.

31. Patients sentenced under criminal law are released as soon as their sentence has expired and if appropriate, some are admitted to their local psychiatric facility. In relation to "unfit to plead" patients, it is a matter for the courts to decide on patient transfers from the Central Mental Hospital. In some cases charges are dropped and patients are admitted to the local psychiatric hospital. As stated above there are a total of twelve cases at the present time of persons found "unfit to plead"; seven are detained in the Central Mental Hospital, three in less secure psychiatric hospitals and the remaining two have been released into the community following review of their cases.

32. Independent advisory committees as described above have reviewed the cases of a number of "guilty but insane" cases since 1991. The release or transfer of "guilty but insane" patients is a matter for the Government.

33. Any improvement of prison forensic psychiatric services should reduce to some extent at least, the demand for patient transfers to the Central Mental Hospital underlining the importance of making significant improvements in this regard. The reduction in transfer demand should, therefore, also reduce somewhat delays encountered in transferring prisoners or patients to the Central Mental Hospital. However, it is not clear that the reduction in demand for places in the Central Mental Hospital can be as significant as the reduction in demand on psychiatric hospitals generally arising from improved community-based services.

D. Treatment of foreign nationals under aliens legislation

1. The Irish Government is pleased that the CPT noted a significant improvement in relation to the treatment of asylum seekers arising from their visit to Shannon airport in 1998, compared with the situation in 1993 on their previous visit. Potential asylum seekers were being provided with written information on the procedure applicable to them in a variety of languages. They could inform a person of their choice of their situation by phone and have access to a doctor. Immigration officers had received specialised training which was reflected in their clarity about the procedures which they applied. (paragraph 122)

2. Certain sections of the Refugee Act, 1996, which have yet to be brought into force provide powers to detain foreign nationals. **The CPT would like to be informed of whether the Irish authorities intend to introduce such powers.** Should that be the case **the Committee would like to receive detailed information about conditions under which such immigration detainees would be held (accommodation, programme of activities, etc.).** (paragraph 120)

3. Ireland does not operate a policy of detention of asylum seekers and persons are not detained on foot of making an application for asylum. While section 9 of the Refugee Act provides for detention in certain circumstances this section of

the Act is not in force. It is intended to bring this section into force with the other sections of that Act not yet in force early in 2000.

4. Section 9(8) of the Refugee Act, 1996 lists six situations in which an immigration officer or a member of the Garda Síochána may detain an applicant for refugee status. The place of detention must be prescribed by regulations made by the Minister for Justice, Equality and Law Reform. It is intended that those detained will be held in nominated Garda stations or prisons/places of detention.

5. Section 9(9) of the Refugee Act states that the Minister for Justice, Equality and Law Reform shall make regulations providing for the treatment of persons detained under section 9(8). It is intended to apply the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987, to those detained in Garda stations. These are the same regulations as apply to those normally held in Garda stations. Section 14 of these regulations makes special provision for foreign nationals detained. They may inform their consul of their arrest and consular officers are entitled to visit their own nationals and nationals to whom they offer consular services, to correspond with them and arrange for their legal representation. In the case of refugees or those seeking asylum a consular officer is not to be notified of their arrest or given information or access to them except at the express request of the person concerned.

6. In relation to those detained in prison it is intended to apply the existing and any future prison rules applicable to prisoners generally. It is the intention to make special provision in the proposed new prison rules in relation to foreign nationals generally, and asylum seekers and those seeking refugee status in particular, in recognition of the difficulties which may be experienced by these categories in prison.

7. Section 10 of the Refugee Act requires an immigration officer or Garda detaining an applicant for refugee status to inform the person of his or her rights. These rights are: to be informed of the power under which he or she is being detained, to have access to a solicitor and interpreter for any consultation, that he or she shall be brought before a court as soon as practicable to determine whether he or she should be detained or released pending consideration of a declaration on their status; to leave the State on request and to have any necessary court order made as soon as practicable; to have the United Nations High Commissioner for Refugees and another person named by the person detained, informed of his or her detention, place of detention and any change of this place; and to exercise any of the aforesaid rights at a later date. The Garda Síochána are further required to inform the Refugee Applications Commissioner or the Refugee Appeals Tribunal of the person's detention so that his or her application may be heard before those of people not detained. It is intended to bring this section of the Act into force with the rest of the sections of the Act not yet in force early in 2000.

8. The position in relation to detention under aliens legislation is that, Ireland like every other country operates immigration controls, intended principally to deal with attempts to enter the State unlawfully, for example by tendering forged or fraudulent documents. In circumstances where it is not possible to return the person immediately on a flight later that day, and if the person has not applied for asylum, then the person is detained pending the making of arrangements for return. Typically a person will only be detained overnight until the next suitable flight. The places of detention for the purposes of the Aliens Order are set out in statute. All are named Garda stations or prisons/places of detention and existing rules apply to aliens detained therein.

9. Section 5 of the Immigration Act, 1999 which is now in force provides that a person may also be detained for failure to comply with a deportation order or notice made under the Act. The aggregate period of detention under this section may not exceed 8 weeks (certain periods of time are excluded by the Act in reckoning the 8 weeks). Where a person detained under this section institutes court proceedings challenging the validity of the deportation order concerned, the court may on application determine whether the person shall continue to be detained or shall be released and may make any such release subject to conditions.

10. An alien, or a person seeking refugee status may be detained because of alleged breaches of the criminal law or on conviction of such offences. The rules applicable to those detained in Garda stations and prisons generally would apply to the foreign nationals concerned. If necessary legal aid and interpretation facilities would be provided by the State in relation to criminal proceedings.

11. The CPT is concerned that those entrusted with handling asylum cases of those detained under aliens legislation should be provided with appropriate training and have access to objective and independent information about the human rights situation in other countries. (paragraph 121)

12. Those officials who process asylum claims have received training in refugee law, country of origin information and cultural issues, as have the Refugee Legal Service and the independent Appeal Authorities. A documentation and research

facility has been set up in the Refugee Applications Centre in Dublin, which opened in October, 1998. The facility was set up with guidance from the United Nations High Commission for Refugees. It is available to all staff and to members of the Refugee Legal Service, which is located in the same building. It is the intention to make the facility available shortly to legal practitioners engaged privately by asylum seekers.

13. In view of the potential gravity of the interests at stake, the CPT considers that all decisions involving the removal of a person from a Στατες territory should be appealable before another body of an independent nature prior to their implementation. (paragraph 121)

14. A foreign national may be deported by the Minister for Justice, Equality and Law Reform under and subject to section 3 of the Immigration Act, 1999, which is now in force. However, that section in its entirety and its powers are subject to the prohibition of *refoulement* under section 5 of the Refugee Act, 1996 (section 5 is now in force). In other words a foreign national who is seeking to stay in the State, but is not seeking asylum may not be expelled to a territory where the life or liberty of that person would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. If a case being considered by the Minister for deportation which has not come through the asylum procedures raises concerns in relation to *refoulement*, the Minister in practice seeks the advice and assistance of those skilled in dealing with asylum seekers and may refer the case to the statutory asylum determination process for review before making a decision. Section 3 of the Immigration Act, 1999 (now in force) provides a mechanism for each potential deportee to make representations in his or her case. In determining whether to make a deportation order the Minister must have regard to any representations received as well as a range of factors set out in section 3(6) of the Act which includes the age, duration of residence, family and domestic circumstances and employment record and prospects of the person concerned. The Μινιστερος decision on deportation is not appealable on its merits but may be subject to judicial review in the courts as to its legality.

15. The CPT considers that it would be highly desirable for the asylum determination procedure foreseen by the Refugee Act - and in particular the right to legal representation and right of appeal against a decision to refuse asylum - to be introduced without further delay. (paragraph 123)

16. It is intended to introduce the sections of the Refugee Act, 1996 not already in force as amended by the Immigration Act, 1999, early in 2000. These provisions set out comprehensive procedures for the hearing of requests for refugee status and independent appeals from recommendations in this regard. The amendments to the Act are essentially of a technical nature to make the Act workable. The main changes are:

- the Refugee Applications Commissioner will have a power of delegation, and
- the single five-member Refugee Appeals Board is to be replaced by a multi-member Refugee Appeals Tribunal, with each member sitting alone to determine appeals.

The Act also provides for the establishment of a Refugee Advisory Board, with representatives of refugee and asylum interests, relevant government departments and the Refugee Applications Commissioner. The Advisory Board will report to the Minister at least every two years on the operation of the legislation and asylum and refugee matters generally.

17. Pending the implementation of the Refugee Act, new procedures for processing asylum applications were put in place following extensive consultation with the United Nations High Commission for Refugees (UNHCR). The Department operates these procedures in a spirit of co-operation with UNHCR with a view to ensuring that no person deserving protection in the State is refused it. The procedures follow the philosophy of the Refugee Act and the UNHCR is on record as saying that "we believe that the revised document provides for a balanced administrative procedure pending the entry into force of the Refugee Act". The previous procedural arrangement ("Von Arnim") with the UNHCR was found to be legally binding by the courts and the Department regards the current procedural arrangements to be equally binding.

18. The procedures put in place do provide for an independent appeal at all stages of the process, that is, at the Dublin Convention stage, if an application is deemed to be manifestly unfounded, and following substantive consideration of a claim. Four independent Appeal Authorities have been appointed and are conducting appeal hearings.

19. Each applicant for asylum is given a copy of the procedures together with an information leaflet. These documents are currently available in 18 languages. A copy in English of both of these published documents has been sent to the CPT.

20. In relation to legal representation in the asylum process a form of financial assistance was made available by the Department of Justice, Equality and Law Reform as early as 1997. The current position is that agreement has been reached with the Legal Aid Board to provide a comprehensive legal aid service, to include legal advice and legal aid for asylum

seekers at all stages of the asylum process. The Refugee Legal Service, which began operations in February, 1999 is independent of the Department and is based in the Refugee Applications Centre.

21. An independent Monitoring Committee has been appointed for the Refugee Legal Service whose function will be to ensure that a quality Refugee Legal Service is provided in accordance with the arrangement agreed between the Legal Aid Board and the Department. The Monitoring Committee will also investigate complaints from customers of the service.

22. Prior to the setting up of the Refugee Legal Service the Department provided a fixed sum per case in legal aid for asylum seekers to present their cases to the Appeals Authority. This amount was paid to the legal representatives who were engaged independently by asylum seekers. The fee was the same as that paid by the Legal Aid Board under its private practitioner scheme for legal services provided for certain District Court family law cases. There are still a number of cases being finalised under this system during the changeover period.

23. During the period 1 January to 30 September, 1997, the Department provided financial assistance of €8,000 per month to the Legal Project of the Irish Refugee Council which was providing advice to asylum seekers at the first stage of the asylum process. The Irish Refugee Council withdrew at that stage.

APPENDIX 1

Further Information Sent to the CPT or Appended to this Report

1. Third Report of the Garda Síochána Complaints Board in Relation to the Operation of the Garda Síochána (Complaints) Act, 1986.

(Published copy sent to CPT - paragraph 16 of the CPT report and paragraph 25 of section A of this response refer.)

2. Steering Committee on Audio and Audio/Video Recording of Garda Questioning of Detained Persons - Pilot Scheme in Selected Garda Stations, Second Interim Report - March 1999.

(Limited publication to journalists and interested parties, copy sent to CPT - paragraph 26 of the CPT report and paragraph 56 of section A of this response refer.)

3. Control and Restraint Training.

(Sent on a confidential basis to the CPT - paragraph 42 of the CPT report and paragraph 20 of section B of this response refer.)

4. Plans of the proposed developments at Limerick Prison (five plans and schedule) (Sent on a confidential basis to the CPT - paragraph 60 of the CPT report and paragraph 42 of section B of this response refer.)

5. Drug Misuse and Drug Treatment in the Prison System - Draft Action Plan.

(Circulated to relevant authorities, copy sent to CPT - paragraph 82 of the CPT report and paragraph 73 of section B of this response refer.)

6. Hepatitis B, Hepatitis C and HIV in Irish Prisoners : Prevalence and Risk.

(Published report, copy sent to CPT - paragraph 82 of the CPT report and paragraph 83 of section B of this response refer.)

7. Mental Health Capital Requirements.

(Appears as Appendix 2 to this response - paragraph 99 of the CPT report and paragraph 6 of section C of this response refer.)

8. Guidelines on Good Practice and Quality Assurance in Mental Health Services.

(Published copy sent to CPT - paragraphs 106 and 108 of the CPT report and paragraph 14 of section C of this response refer.)

9. Report of the Inspector of Mental Hospitals for the year ending 31 December, 1997.

(Published copy sent to CPT - paragraph 110 of the CPT report and paragraphs 17 and 19 of section C of this response refer.)

9A. Report of the Inspector of Mental Hospitals for the year ending 31 December, 1998.

(Published copy sent to CPT - paragraph 110 of the CPT report and paragraphs 17 and 19 of section C of this response refer.)

10. Information Leaflet for Applicants for Refugee Status in Ireland, July 1998.

(Published copy in English sent to CPT - paragraph 123 of the CPT report and paragraph 19 of section D of this response refer.)

11. Procedures for Processing Asylum Claims in Ireland, July 1998.

(Published copy in English sent to CPT - paragraph 123 of the CPT report and paragraph 19 of section D of this response refer.)

APPENDIX 2

Eastern Health Board Mental Health Capital Requirements in 1999 (in priority order)

<i>Priority</i>	<i>Catchment Area</i>	<i>Capital Requirement</i>	<i>Cost</i> (<i>€</i> 000s)
1	2	Provision of Sector Headquarters / Day Hospital in the Dundrum area.	600
2	9	House in Naas for Patient Accommodation to alleviate pressure on Lakeview Unit	150
3	6	Mental Health Sector Headquarters and Day Hospital in the Blanchardstown region	400
4	Homeless Service	Complete Refurbishment of Mount Pleasant Hostel	100
5	7	Development of 62/63 Eccles Street (Mater Sector) as Mental Health Centre and Department of Psychiatry Professorial Unit	550
6	10	Provision of seclusion room and complete refurbishment of Avonmore and Glencree Wards	160
7	Central Mental Hospital	Complete refurbishment of old building including rewiring, plumbing, heating, etc.	400
<i>Total</i>			<i>2360</i>

The above list and prioritisation was compiled using the following criteria:-

(1) Planning for the Future (1984) document and our Board's priorities, which is centred on our policy of moving to a community service that is responsive to local needs.

(2) Issues raised and concerns expressed in the Inspector of Mental Hospitals report for the year ending 31 December, 1997.

(3) Guidelines on Good Practice and Quality Assurance in Mental Health Services published by the Department of Health and Children with particular reference to item No. 5 in the report - THE SETTING.

(4) The report of the Committee for the Prevention of Torture.

(5) The 3-5 year capital programme previously submitted to the Department of Finance.

(6) The views of Area Management Teams.

The above list does not include any capital developments associated with the development plans in:-

(a) St. Ita's Hospital

(b) St. Brendan's Hospital

(c) St. Loman's Hospital.
