

Response

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

from 22 to 24 October 2012

The Government of the United Kingdom has requested the publication of this response. The report of the CPT on its October 2012 visit to the United Kingdom is set out in document CPT/Inf (2013) 14.

Strasbourg, 18 July 2013

**RESPONSE OF THE UNITED KINGDOM
GOVERNMENT**

TO THE OBSERVATIONS OF

**THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE AND INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT (CPT)**

FOLLOWING ITS VISIT TO THE UNITED KINGDOM

FROM 22 OCTOBER TO 24 OCTOBER 2012

INTRODUCTION

1) This is the response of the Government of the United Kingdom to the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following the Committee's visit to the United Kingdom from 22 to 24 October 2012.

2) The response follows in sequence the issues raised in the CPT's report. Extracts from the report relating to those issues are reproduced in bold typeface by paragraph.

CO-OPERATION BETWEEN THE CPT AND THE UNITED KINGDOM AUTHORITIES

3) The Government is pleased to note the Committee's comment that the level of cooperation from the authorities and from staff of the then UK Border Agency (now Home Office, Immigration Enforcement) in particular, was exemplary (paragraph 4).

4) The Government is also pleased to note that the delegation had access to all places of deprivation of liberty that it wished to visit and that the delegation received excellent cooperation from the managing and operational staff of the escort service provider Reliance Secure Task Management Ltd (now known as Tascor Services Ltd) (paragraph 4).

Comment

- the authorities are invited to consider making an explicit reference to the possibility for national or international monitoring bodies – such as the CPT - to observe removal operations to the country of destination, including the hand-over procedure to the local immigration authorities, when negotiating future readmission agreements. Specific arrangements should be made, on an ad hoc basis, as regards readmission agreements already in force (paragraph 6).

5) Independent observers from HM Inspectorate of Prisons and from Independent Monitoring Boards monitor a number removal flights from the UK. In these cases we aim to facilitate the observation of all aspects of the removal, including the hand-over to the local authorities. We are able to do this in the majority of cases. For some removals, however, we have been unable to persuade the authorities of the country concerned to allow the monitoring of this aspect of the process. We believe this would be in the interests of all concerned – including the authorities of the receiving country - and we will continue to request such access.

PRELIMINARY REMARKS

Comment

- a State's fundamental obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or inhuman or degrading treatment or punishment must be kept in mind in the context of deportation of foreign nationals by air (paragraph 9).

6) The UK has a proud record of offering sanctuary to those who need it, but people who do not have a genuine need for our protection must return to their home country. Each asylum and human rights claim is considered on its individual merits in accordance with our international obligations and taking full account of conditions in the country concerned as they impact on the individual. Those found to be in need of international protection are provided with it. Failed asylum seekers, illegal immigrants and foreign national prisoners of all nationalities who have been found by the Home Office and the independent appeals process not to be in need of international protection and have no legal basis of stay in the UK, are expected to return to their country of origin and may have their removal enforced if they do not leave voluntarily.

PREPARATION FOR REMOVAL

Recommendations

- more appropriate arrangements, offering more privacy, to be found for searching detainees at Brook House IRC (paragraph 15);

7) It is acknowledged that the area does not afford an appropriate level of privacy to detainees. The service provider has accepted this recommendation and will work toward providing a screened / curtained off searching area for chartered departures.

- measures to be taken to ensure that the use of control and restraint techniques by escorts during transfer is justified in each individual case by a risk assessment (paragraph 17);

8) Risk assessments should be completed and recorded in advance on all detainees subject to escort. Risk assessments will take proper account of security information, offending history, ability to abscond, clinical advice/concerns and the medical condition of the detainee. The risk assessment document will include input from the security department, healthcare and the Duty Manager as a minimum. The assessment should also consider whether handcuffs should be applied during the transit in a vehicle. The decision on whether to use handcuffs or not will be based on the individual risk assessment and the reasons for the decision will be clearly recorded. A copy of the risk assessments must be placed on the detainee transferable document.

- measures to be taken to increase the level of psychological support and counselling to detainees in order to better prepare them for their removal, as well as to ensure the presence of an interpreter throughout the whole removal process (including on board the aircraft) (paragraph 19);

9) Detention is normally used where there are reasonable grounds for believing that the person will abscond, as part of the fast-track process or to effect removal. In those cases where removal from the United Kingdom is the purpose of detention, the process to manage individuals' expectations begins when they are informed of the reason for their detention both verbally and in writing. With the exception of cases arriving at the border all detainees are always served with written directions for their removal at least 72 hours in advance of the proposed date and time of removal at the Immigration Removal Centre (IRC).

Preparation for chartered removals may also include a meeting managed by the service provider and also attended by the local Immigration Contact Management Team with those scheduled for removal with a description of the removal process.

All detainees are seen by a nurse within two hours of arrival in an IRC and all detainees are offered an appointment with a General Practitioner within 24 hours of arrival. IRCs also have visiting specialists including psychiatrists and psychologists and the medical advice from these specialists would be taken into account in reaching decisions about the care and treatment of detainees, including the issue of whether a person should continue to be detained and removed.

The Detention Centre Rules 2001 requires that detainees are able to maintain contact with family and friends and other contacts outside of the IRC. Recent changes in telephony have been reflected in detainees being able to retain their own mobile phones or, where this is not possible, having access to a replacement mobile phone. Access to the internet is also seen as an important part of detainees' preparation for removal and controlled access is now available in most IRCs.

Consideration will be given to the practicalities of providing an interpreter for specific charter flights.

- the handing over of a detainee from an IRC to Reliance overseas escort staff to be made subject without delay to the delivery of a "fit to fly" certificate issued by a medical doctor (paragraph 21).

10) We do not consider that it is necessary to positively assert in all cases that a person is fit to fly based on the reasonable assumption that this will be the case in the vast majority of instances. Medical examination in all instances is subject to consent and advice from medical practitioners and visiting

specialists is taken into account reaching decisions about the care and treatment of detainees, including continued detention and/or removal from the UK.

Comments

- more efforts should be made to reduce the very long time spent by detainees in coaches before boarding the aircraft (paragraph 17);

11) The amount of time detainees have to wait on coaches before boarding the aircraft is kept to the minimum amount of time possible, taking all relevant contingencies into account. The waiting times have previously been analysed and reduced by splitting the arrival times of coaches if more than one coach is collecting detainees at an IRC.

- the CPT trusts that measures have been taken to remedy the shortcoming observed in relation to one of the escort teams during the hand-over procedure carried out at Brook House IRC (paragraph 18);

12) Reliance (now Tascor) have reminded all staff involved in collections of detainees at an IRC that only the minimum number of escorts should be present to complete the hand over of detainees.

- the “passive handcuffing procedure” applied to a detainee who selfharmed at Brook House IRC appeared excessive for someone who was under constant and close surveillance by two experienced escorts (paragraph 20);

13) Every use of restraint is subject to an individual risk assessment. The risk assessment conducted by Reliance (now Tascor) would have taken into account the previous actions and behaviour of the detainee and the interests of both the detainee and staff on every move.

- only one of the paramedics wore a distinctive sign identifying his role (paragraph 22).

14) The medical service provider is implementing a procedure to ensure all medics can be easily identified.

EXECUTION OF THE REMOVAL

Recommendations

- the security arrangements for “surgeries” during the flight to be revised in the light of the remarks made in paragraph 27, taking into consideration the detainee’s individual risk assessment (paragraph 27).

15) Consideration will be given to examining the threshold of risk for each surgery.

Comments

- the need for the second rub-down search carried out at Stansted Airport is debatable, as detainees had been kept under close surveillance by their escort(s) throughout the whole journey (paragraph 24);

16) Those departing on Home Office charter flights are subject to the same security screening regulations as any other person departing from a United Kingdom airport. Detainees may be required to have a second rub down search as part of these mandatory security screening processes.

- the authorities are invited to reconsider their policy as regards leaving the door of the toilet slightly open when it is used by a detainee and not providing detainees with blankets and pillows during the flight; decisions in relation to these matters should be based on an individual risk assessment (paragraph 26);

17) Escorting staff are as discreet as possible with a detainee using the toilet. The door has to remain slightly ajar for security reasons. A foam insert is placed in the doorway to prevent it being closed but allows as much privacy as possible for the detainee. Pillows and blankets are not routinely provided for detainees. The provision will be subject to a detainee requesting one and a risk assessment.

- health care staff accompanying removal operations by charter flight should be systematically provided with a fully equipped emergency case (i.e. including a variety of emergency medical equipment, as well as the medication most commonly used in emergency situations) (paragraph 28);

18) A medical escort is present whenever Reliance (now Tascor) believes it is appropriate, based on the risk assessment and medical conditions. Individuals assessed as being likely to be non-compliant or violent are likely to be removed with a medical escort to assess the detainee’s health before/during/after any incident of restraint. The level of medical training of the ‘medical escort’ will be appropriate for the needs of the individual being

removed, i.e. a paramedic may be more appropriate than a doctor, or a First Person on Scene qualification may be sufficient in other circumstances.

- the presence on board of removal charter flights of a medical doctor (instead of a paramedic or a nurse) would be highly desirable (paragraph 28).

19) Where indicated by risk assessment and where appropriate a doctor will be provided.

HAND-OVER TO THE LOCAL AUTHORITIES AND DEBRIEFING-RELATED ISSUES

Recommendations

- debriefing sessions to be systemically organised after removal operations, both at team and senior levels, in the light of the remarks made in paragraph 31. This should be stipulated in the agreement between the UKBA and its contracting partners (paragraph 31).

20) A debriefing session takes place between the Senior security Officer, the Coach Commanders and the security team. Any issues or concerns arising from this debriefing session are raised with the Senior Charter Operations Manager. The security team have an overview of the entire charter process and escorts will have identified any operational issues with them during the flight.

Comments

- the form entitled “detainee feedback system” - which is part of the Reliance Service Improvement System - constitutes a clear attempt on the part of Reliance to offer a good service and should be circulated to detainees (paragraph 29);

21) The detainee feedback forms are always present with the coach commander who will provide a detainee with a form if requested. It is made clear to detainees that they can request a feedback form in the information booklet provided to detainees.

- the observations of the authorities on the fact that the “chartered removal events log” drawn up on arrival in Colombo by the SSO (and signed by the CIO) only partially reflected the chronology of events during the journey (paragraph 32).

22) The chartered removal events log is a Home Office, Immigration Enforcement (formerly UK Border Agency) form which logs a brief record of events prior to the return of the flight. Staff will be reminded to complete the form fully.

Requests for information

- a copy of the report drawn up by the Migration Delivery Officer (MDO) upon the arrival of the “Tetyra 8” removal flight, describing the hand-over procedure of detainees in Colombo on 24 October 2012 (paragraph 30);

23) This is enclosed.

- a copy of the “Tetyra 8” charter flight report and the “passive handcuff report” drawn up for detainee N° 57 (paragraph 32).

24) Copies of both reports have been handed to the Committee.

OTHER ISSUES RELATED TO THE CPT'S MANDATE

Use of force

Recommendations

- efforts to be made in order to accredit and implement at the earliest opportunity the revised training package for overseas escorts (paragraph 35).

25) The Home Office, Immigration Enforcement (formerly, the UK Border Agency) commissioned the National Offender Management Service (NOMS) to develop a bespoke training package to better meet the needs of escort officers removing individuals from the UK.

We have also recruited to an Independent Advisory Panel on Non-Compliance Management to advise on the quality and safety of the NOMS' training package. NOMS have been given a deadline of March 2013 to complete their work. The training must be safe and fit for purpose so we do not wish to set an artificial deadline for the Panel to complete their work.

Comments

- technical expertise should be sought not only from police and prison training centres, but also from training centres involved in developing control and restraint techniques used in mental health establishments (and, in particular, control and restraint techniques used vis-à-vis high-risk patients) (paragraph 35).

26) Colleagues from the National Offender Management Service (NOMS) and (formerly, the UK Border Agency) Home Office, Immigration Enforcement visited Ashworth secure psychiatric hospital to learn if there were any parallels to our removals work or new techniques from which we could benefit. It was clear that the environment in the hospital is very different to the circumstances encountered by our escort officers and the techniques were either not transferable or were based on NOMS' control and restraint techniques.

27) The Independent Advisory Panel on Non-Compliance Management will wish to consider whether there is learning from other sectors which should inform NOMS package as part of their work.

Request for information

- as regards the death of Jimmy Mubenga, copies of both the Prisons and Probation Ombudsman's report and the inquest findings (paragraph 34).

28) The Prisons and Probation Ombudsman and the coroner have not reported yet. We can share a copy of both reports with the Committee in due course.

Role of national monitoring bodies

Requests for information

- more information on the role to be played in the future by Immigration Monitoring Boards in the context of "in-flight" monitoring of removal operations (paragraph 36).

29) Members of Independent Monitoring Boards have observed a number of removal flights in the last year or so as part of a pilot exercise. This exercise is being evaluated and decisions have yet to be made about the future arrangements for this type of monitoring.

Staff related issues

Comments

- the recruitment procedure of overseas escorts should include some form of psychological assessment (paragraph 38);

30) This is a long term measure which is under consideration by the service provider.

- it is essential that measures be taken in order to avoid professional exhaustion syndrome and the risks related to routine, and to ensure that staff maintain a certain emotional distance from the operational activities in which they are involved (paragraph 38);

31) This is also a long term measure which is under consideration by the service provider.

- care should be taken that escorts rotate regularly between long and short-haul missions or between overseas and national duties (contracts permitting) (paragraph 38).

32) A system is already in operation.

Complaint procedures

- updated information on the complaints made by persons subjected to a removal procedure by air in 2012 (nature of the allegation, results of the investigation, outcome of the procedure) (paragraph 40).

33) This has been interpreted as complaints of inappropriate use of force made against Reliance (now Tascor) escort staff during removal. The Detention Services Customer Service Unit has received thirty-nine complaints of inappropriate use of force made against Reliance (now Tascor) escort staff during 2012.

All were regarding alleged assault although some contained other issues such as not complying to set procedures.

Of the thirty-nine complaints received, twenty-six were found to be unsubstantiated, one partly substantiated and investigations are still ongoing for the remaining twelve. The complaint that was partly substantiated contained three allegations with one being upheld.

Allegations of assault and duty of care were not upheld but an allegation surrounding incorrect information provided by escorts to the detainee was upheld. This referred to arrangements on arrival which were incorrect.

The data on complaints is based on management information only and has not been subject to the detailed checks that apply for National Statistics publications. These figures are provisional and are subject to change.

Annexe

Copy of the report drawn up by the Migration Delivery Officer (MDO)
upon the arrival of the “Tetyra 8” removal flight, describing the hand-over procedure
of detainees in Colombo on 24 October 2012

(cf. paragraph 30 of the CPT’s report)



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29 October 2012

Dear Colleague,

Re: UKBA Charter Flight of Returnees – 23/24 October

A flight chartered by the UK Border Agency (UKBA) specifically for the return of Sri Lankan nationals who did not qualify for leave to enter or remain in the United Kingdom left London on 23 October 2012.

Prior negotiations had taken place in both London and Colombo between the UK and Sri Lankan governments under the 2004 bilateral readmission agreement in order to facilitate the re-documentation of the returnees, the necessary authorisations for the aircraft and the smooth arrival and processing of the returnees on arrival in Sri Lanka. The experience gained during five previous UKBA charter flights allowed all parties to review procedures ahead of the flight's arrival.

On arrival at the airport at 0700hrs the two officials from the British High Commission (BHC) liaised with officers from the Department of Immigration & Emigration (DIE), the police Criminal Investigation Department (CID), the State Intelligence Service (SIS), Airport Duty Manager and Sri Lankan Airlines to discuss reception procedures for the charter flight. An officer from Department of Health "Anti Malaria Campaign" approached the BHC officials with a letter issued by the Ministry of External Affairs (MEA) and addressed to the Controller General of DIE, informing them that the Department of Health was to carry out malaria tests of those who were arriving on the charter. The BHC officials explained to the health officer that the returnees are from the UK and could not see the relevance of a malaria test. It was agreed with the health officials that any returnees who had been in the UK for less than 3 months should undergo tests.

Flight ZT2512 arrived at Bandaranaike International Airport, Colombo at approximately 0915hrs on 24 October 2012 with 28 enforced returnees. The ethnic split of the returnees was 14 Tamil, 9 Sinhala and 5 Muslim. The gender split was 24 Males and 4 Females. The returnees were in possession of either their own national

passport or a Temporary Travel Document (TTD) issued by the Sri Lankan Department of Immigration and Emigration (DIE).

The returnees were seated in an area adjacent to the transit area, in a section specially cordoned off, waiting to be processed. They were allowed to use toilet facilities under the supervision of airport security staff, had access to water, and the Sri Lankan authorities made them tea/coffee on request. The interviews by the DIE officials were conducted in a different area this time, on the ground floor where tables and chairs were arranged. This area was considered to be more suitable with the quiet ambience for the interviewing process.

The two BHC officials, an Immigration Liaison Officer and the Returns Liaison Assistant, addressed the returnees and explained their role, what procedures the returnees were about to go through, and offered them words of reassurance about the process. The returnees were advised to bear with the Sri Lankan authorities whilst they undertook their procedures as the sooner these were completed, the sooner the returnees would be able to leave the airport. It was also explained that they would be reunited with their baggage and personal belongings and that the BHC officials would remain at the airport until the last one of them had been cleared. The returnees were also advised that there may be media present when they left the airport, after the Customs area, but they were not aware of any in attendance at the moment. None of the returnees appeared ill or distressed in any way. The medical officer asked for all those who had been in the UK for less than 3 months to raise their hands. None did and no screening for malaria was conducted.

Once the returnees had completed their interviews with DIE they were escorted either to the SIS office immediately adjacent to the area where they were seated, or they were taken to CID's ground floor interviewing facilities. Each returnee underwent an interview regarding their mode and route of travel to the UK, what they had been doing in the UK and checks to ascertain any criminal activity previously in Sri Lanka.

On completion of the SIS/CID interviews the returnees returned to the main seating area. As soon as they were handed their passports/travel documents which had been endorsed with an arrival stamp by DIE, they were allowed to proceed. The first batch of five returnees was allowed to proceed at 1300hrs.

Representatives from the International Organization for Migration (IOM) spoke individually to each returnee to hand over a travel grant in Sri Lankan Rupees equivalent to £50. This would enable the returnee to have the means to travel to their onward address within Sri Lanka and would also cover overnight accommodation where required. Each returnee provided contact details to the IOM, and they in turn provided each returnee with their contact details.

All of the returnees were given the RLA's business card and advised to contact them at the BHC if they had any questions or concerns. BHC officials accompanied all of the returnees to the baggage reclaim to oversee them collect their bags. All the bags were numbered with the returnees manifest number in order to ensure that each returnee collected the correct bags.

Having collected their baggage, the returnees proceeded through Customs to the exit. BHC officials watched each returnee go through the Customs control to ensure they were not stopped or harassed in any way. Some of the returnees returned to the Duty Free area to purchase goods before proceeding out of the airport. Customs officers agreed to allow two returnees to exit from through the staff exit as opposed to the normal passenger exit as they indicated that they did not want to be interviewed by waiting media. All twenty eight returnees completed the airport formalities smoothly with the last proceeding through Customs area just before 1600hrs. Many thanked the BHC officials for their assistance.

[REDACTED]

Returns Liaison Assistant (Migration)

On behalf of

[REDACTED]

Second Secretary (Migration)

This letter has been compiled by staff of the British High Commission in Colombo entirely from information obtained from sources indicated. The letter does not reflect the opinions of the author, or any policy of the Foreign and Commonwealth Office. The author has compiled this letter in response to a request from UKBA and further enquiries regarding its contents should be directed to UKBA.