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Response of the Icelandic 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 Iceland from 6 to 12 July 1993

The Icelandic authorities have decided to publish this document.

The CPT's report on its visit to Iceland (CPT/Inf (94) 8) has already been made public.

Strasbourg/Reykjavik, 20 October 1994

INTRODUCTION.

The following report presents the replies of the Icelandic Government to the recommendations, comments and requests for information made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its report of a visit to Iceland from 6 to 12 July, 1993.

In Appendix I of the report the CPT summarizes its recommendations, comments and requests for information. The replies relate to these in the order they are presented in the Appendix, and in the same order.

A. POLICE ESTABLISHMENTS

Before turning to individual points in CPT's report it should be mentioned that in Iceland a Chief of Police must be a lawyer with a minimum of three years' practical experience. The person responsible for police investigation of criminal cases is therefore always a lawyer. Chiefs of Police also have powers of prosecution in certain categories of cases, and their staff members with legal training also take part in criminal prosecution. Prosecution of criminal cases where an indictment has been issued by the Director of Public Prosecutions is also frequently entrusted to Chiefs of Police and to lawyers among their staffs.

The Icelandic Government fully appreciates the need to afford secure protection against misuse of police powers, but considers that this need not be best done by detailed, formal rules on interrogations and other investigative measures. Making stringent professional and moral demands of the members of the police profession may be more effective. Such professional and moral values are emphasized in police school, in the course of practical training, and by practice that evolves and is modified with time, and in particular with the arrangement of having persons with legal training in charge of investigations.

1. General information

Requests for information

- **The conclusions of the Committee set up within the Ministry of Justice to review the organization of the Icelandic police force (paragraph 9).**

The committee mentioned delivered its proposals to the Minister for Justice in the autumn of 1993 in the form of a Police Act Bill. The Ministry of Justice made some amendments to the bill, and it was submitted to the Althing in the amended form last winter. The Althing did not enact the bill. The plan is to submit the bill again to the Althing next autumn. The bill, which is only available in Icelandic, is enclosed in the amended form.

The bill is divided into nine chapters. Chapter I describes the role of police, etc.; Chapter II concerns police organization and supreme direction; Chapter III the duties of policemen and the performance thereof; Chapter IV the engagement of police personnel; Chapter V various aspects concerning terms of employment; Chapter VI costs; Chapter VII complaints against police; Chapter VIII the State Police School and, finally, Chapter IX contains miscellaneous provisions.

- **The legal provisions which would apply to psychological forms of ill-treatment by the police (paragraph 12).**

The legal provisions applying to psychological ill-treatment by police are sections

131, 132 and 134 of the Criminal Code.

- **Whether the Icelandic authorities envisage including an express prohibition of torture in Icelandic law (paragraph 12).**

In the opinion of the Icelandic authorities Icelandic law has adequate penal provisions applicable to torture, physical as well as psychological.

However, at the beginning of paragraph 12 of CPT's report it is correctly stated that torture is not explicitly prohibited by Icelandic legislation. Icelandic criminal statutes are, as a rule, formulated so as to declare certain conduct or acts punishable, and the consequences of a particular conduct or act may determine what penal statute is applied. For example a term corresponding to "murder" is not used in the Criminal Code, but instead section 211 begins with "Whoever deprives another person of his life". Nor does the Criminal Code use a term corresponding to "rape", but section 194 specifies: "Whoever compels another person to submit to sexual intercourse or other sexual acts by use or threat of force ...".

Physical torture is punishable under various provisions of the Criminal Code. It may generally be said that provisions making punishable intentional acts directed against the life and health of individuals make torture punishable also. In addition to the provisions on infliction of bodily harm quoted in CPT's report the provisions of section 211 concerning homicide may be cited as examples, as well as section 225 on duress; section 226 on deprivation of liberty, and various provisions of Chapter XXII concerning sexual offences.

Psychological torture is also punishable under many provisions of the Criminal Code. As an example section 221 may be quoted, which makes a particular form of psychological torture punishable; section 225 on duress contains, in part, penal provisions against psychological torture further described there, and Chapter XXV of the Code, concerning offences against personal reputation and privacy, has many provisions making psychological torture punishable.

Chapter X of the Criminal Penal Code, concerning treason, has provisions on both psychological and physical torture, and the same can be said of Chapter XI on offences against the constitution and the highest organs of government; Chapter XII on offences against public authorities; Chapter XIII on offences against public peace and order and Chapter XIV on offences committed in public office, and in a reply above it was pointed out that sections 131, 132 and 134 of the Code contained provisions making psychological torture inflicted by police punishable.

In the opinion of the Icelandic Government it is more conducive to positive results in the struggle to eradicate torture to make stringent professional and moral demands than to enact laws using particular terms that are not by themselves descriptive of a certain conduct or certain acts, or of the consequences leading from certain conduct or acts.

2. Torture and other forms of ill-treatment

comments

- **It is most important for senior police officers to make it quite plain to their subordinates that ill-treatment of persons in custody, whether of a physical or a psychological nature, is unacceptable and will be subject to appropriate sanctions (paragraph 16).**

It should be mentioned in this context that during study in police school, during practical training and in everyday work the moral demands made of police are heavily emphasized, and the absolute demand that policemen use proper methods, not least when dealing with arrested persons, is particularly stressed. All policemen must be aware that ill-treatment of arrested persons is subject to disciplinary and criminal sanctions, and in the opinion of the Icelandic Government all complaints concerning police brutality or suspicion thereof are properly investigated and processed.

The Ministry of Justice has sent a letter to all Chiefs of Police calling their particular attention to the points mentioned in paragraphs 13 - 16 of CPT's report. It should also be added that when the report had been made public last June copies of the report in its entirety were sent to all Chefs of Police for their information.

requests for information

- **In respect of 1991, 1992 and 1993:**
  - **the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings which were instituted as a result of such complaints.**
  - **an account of the criminal/disciplinary sanctions imposed during that period following complaints of ill-treatment (paragraph 15).**

In 1991 two complaints were lodged against policemen on account of alleged ill-treatment. They did not result in any sanctions being applied. That year two other instances of suspected police brutality were also investigated on the initiative of the police authorities themselves. One of these cases was closed with two policemen being formally cautioned on account of professional misconduct, and the other was closed with one policeman being formally cautioned.

In 1992 one complaint of this nature was lodged. The matter was investigated by the State Criminal Investigation Department. Following the investigation the Director of Public Prosecutions decided to dismiss the matter, as the issue of an indictment against the policeman in question was not considered justified. The police authorities did not consider that there was an occasion for any action on their part. In the same year the police took the initiative to look into another case of suspected ill-treatment. Following an investigation the policeman in question left his employment, as he had been admonished in 1991 on account of similar misconduct. Criminal sanctions were not applied.

In 1993 six complaints relating to alleged police brutality were lodged. Five of these were investigated by the State Criminal Investigation Department. All these complaints were subsequently dismissed by the Director of Public Prosecutions, as he did not consider that prosecution was justified. The police authorities did not deem that

disciplinary sanctions against the policemen were justified either. One case dating from December 1993 was investigated by the State Criminal Investigation Department and subsequently sent to the Director of Public Prosecutions, who in August 1994 had not taken a decision on the matter. In the same year the police authorities took the initiative to look into two suspected instances of ill-treatment by policemen. One of these cases was investigated by the State Criminal Investigation Department. When the investigation was over the Director of Public Prosecutions decided to dismiss the matter. The policeman in question was, however, formally admonished by the police authorities on account of professional misconduct. When the other case had been clarified it was deemed not to warrant any sanctions against the policeman in question.

3. Conditions of detention in police establishments

recommendations

- **Any remand prisoner detained in Keflavík Police Station to be accommodated, as far as possible, in the largest of the station's cells and the possibility of offering such persons proper outdoor exercise every day to be examined (paragraph 25).**

The Ministry of Justice has sent a letter to the District Commissioner of Keflavík emphasizing that the largest cell be used when remand prisoners are detained in the Keflavík Police Station. The letter also calls attention to the fact that according to section 76.3 of the Regulations on Detention on Remand ("RDR") a remand prisoner is entitled to at least one hour each day in the open provided this is not prevented by particular circumstances, and that this principle also applies to remand prisoners in isolation.

- **The use of the cells at Keflavík Air Base Police Station to be reviewed in the light of the Committee's remarks in paragraph 27. Should the authorities wish to continue using the cells to accommodate detainees held overnight, they should be enlarged (paragraph 27).**

The Ministry of Foreign Affairs has decided that the cells of the Keflavík Air Base Police Station will be enlarged. For budgetary reasons it is not clear now when this will be done.

comments

- **It would be desirable for improvements to be made as regards access to natural light in the cells in Reykjavík Police Headquarters (paragraph 19).**

Modifications to the windows of the Reykjavík Police Headquarters are rather expensive, but the Ministry of Justice has ordered the Chief of Police in Reykjavík to have the windows modified so that daylight is increased. Because of the cost involved the

necessary modifications may be carried out in two stages over two years.

- **The cells in the State Criminal Investigation Department are not appropriate for detention lasting more than a few hours and should not be used for holding persons overnight (paragraph 22).**

As the CPT mentions in paragraph 22 of its report the cells in the State Criminal Investigation Department are only used for detaining persons for a few hours at most, and never overnight. No prisoner has been kept overnight in these cells during the 15 years the Department has been in the premises, and there are no plans to do so.

- **It would be far preferable for persons placed on remand to be transferred immediately to a prison (paragraph 25).**

The Icelandic Government concurs with the opinion of the CPT that it is desirable to transfer remand prisoners to a prison. It should be pointed out, however, that the prisons where remand prisoners can be accommodated are only two in number, namely the Síðumúli Prison in Reykjavík, and the prison unit at the Akureyri Police Station. Remand prisoners from Reykjavík, Hafnarfjörður and Kópavogur are always accommodated in the Síðumúli Prison in Reykjavík, except if no accommodation is available or the remand prisoners involved in the same case are so many that their accommodation in the same prison is not considered advisable. The Icelandic authorities would also like to mention that when a person must be imprisoned on remand in a place distant from Reykjavík it may not be feasible at all to transport him to Reykjavík (or Akureyri), as this would delay the investigation of his case and make it significantly more costly, and might even have the effect of making imprisonment of longer duration necessary.

The Ministry of Justice has requested information from all Chiefs of Police concerning the accommodation of remand prisoners in police detention cells during the period 1 July - 31 December 1992, and in 1993. Their replies were, in summary:

During the period from 1 July to 31 December 1992 no remand prisoner was accommodated in a police detention cell. One remand prisoner was accommodated in the Akureyri Prison for three days.

In 1993 ten remand prisoners were accommodated in police detention facilities. Three remand prisoners were accommodated at the Reykjavík Police Headquarters, one for 7 days, another for 8 days, and the third for 13 days. Two were held at the Police Station at Keflavík, one for 16 hours and the other for 18 hours. The police detention facility at the Keflavík Air Base was used to accommodate two remand prisoners, one of whom stayed there for 5 days, and the other for 6 days. One remand prisoner was accommodated at the police detention facility in Hafnarfjörður for 3 days, and two were accommodated in a similar facility at Eskifjörður, both for 5 days. It should also be mentioned that in 1993 the number of remand prisoners at Akureyri was three. One was accommodated for 5 days, another for 3 days, and the third for 48 days.

The reason for remand prisoners being accommodated at the Reykjavík Police Headquarters and in Hafnarfjörður in 1993 was that for a period a part of the Síðumúli Prison was out of commission by reason of maintenance to the building.

4. Safeguards against the ill-treatment of detained persons

recommendations

- **The possibility to delay the exercise of a detained person's right to inform a close relative of his detention to be more clearly circumscribed and made subject to appropriate safeguards (for example, any such delay to be recorded in writing together with the reasons therefor and to require the approval of a public prosecutor or senior police officer) (paragraph 31).**

The Minister for Justice has decided at appoint a committee for bringing to light in what instances arrested persons have been denied communication with their relatives and for making proposals for clearer rules to apply in this regard.

It should be noted that before such rules can be issued amendments must be made to the Criminal Procedure Act (CPA), and the Minister has decided that the necessary amendments will be prepared in the form of a bill.

- **Police officers to be informed that they should not seek to dissuade arrested persons from contacting a lawyer (paragraph 34).**

Icelandic authorities have not received complaints to the effect that policemen have attempted to dissuade arrested persons from contacting a lawyer.

On the occasion of this recommendation the Ministry of Justice has sent a letter to all Chiefs of Police calling their attention to the observation made by the CPT in paragraph 34 of its report, and ordering them to explain to policemen on their staffs that providing counsel to arrested persons as to whether or not they need a lawyer does not come within the scope of their responsibilities, and that they should not attempt to dissuade arrested persons from contacting a lawyer.

- **Specific legal provisions to be adopted regarding the right of persons detained by the police to have access to a doctor. These provisions to stipulate, in particular, that:**
  - **A detained person has the right to be examined, if he so wishes, by a doctor of his choice, in addition to any examination by a doctor summoned by the police.**
  - **All medical examinations are to be undertaken out of the hearing and, preferably, out of the sight of police officers.**
  - **The results of every medical examination, as well as relevant statements made to the doctor by the detainee and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 36).**

In the opinion of the Icelandic Government it is a basic principle that an arrested

person is provided with medical assistance when needed. There are no police doctors in Iceland, and if an arrested person needs a doctor he is either taken to the place where general emergency medical services are provided to the public, or a doctor providing emergency services in a particular area is summoned. When an Icelandic citizen urgently needs medical assistance he is not entitled to be served by a doctor of his choice, but must accept attendance by the doctor on duty at each particular time. But generally speaking there is nothing that the police authorities can have against summoning a particular doctor as requested by an arrested person, if this is feasible or practicable.

The Icelandic Government considers that, with a view to the short period of time the police can lawfully detain a person, the fact that an arrested person is entitled to the services of a lawyer immediately upon his arrest, and not least with a view to the fact that doctors attending arrested persons have no connections to the police but are servants of the general health care system and the identity of a doctor providing emergency services at a given time is purely a matter of chance, the arrangement applying to the provision of medical service to arrested persons offers adequate guarantees against torture and other ill-treatment by police.

Furthermore, the Government doubts that it would be ethically appropriate to impose the duty upon a doctor to provide medical consultation to an arrested person in every case when the arrested person requests this, particularly if there are no other grounds for his request than his desire to consult a doctor.

Medical examination of an arrested person takes place without the presence of police and out of their hearing, except if the doctor requests the contrary.

The findings made during each medical examination are registered in the patient's medical record, and when a doctor is summoned to examine an arrested person in police detention the arrangement is to file the results at the place where medical services are provided to the person in question generally. Under section 16 of the Physicians' Act patients are entitled to information from their own medical records, and this also applies in the present context.

- **A form setting out their rights to be given systematically to persons detained by the police at the outset of their custody. The form should be available in different languages. The person concerned should also certify that he has been informed of his rights (paragraph 37).**

The Minister for Justice has decided that a standardized form be prepared explaining the rights of arrested persons in the languages which are most likely to be needed in practice.

The drafting of a proposal concerning this form will be entrusted to the committee mentioned in the reply relating to the recommendation made in paragraph 31.

- **A code of conduct for interrogations to be drawn up for the Icelandic police (paragraph 39).**

The Minister for Justice has decided that more detailed rules be issued on interrogations, taking into account, inter alia, the points mentioned in paragraph 39 in

CPT's report.

The drafting of such rules will be entrusted to the committee mentioned in the reply relating to the recommendation made in paragraph 31.

It should be noted that before such rules can be issued the CPA must be amended, and the Minister has decided that the necessary amendments will be prepared in the form of a bill.

- **The possibility of making the electronic recording of police interrogations a standard practice to be explored. The system to be introduced to offer all appropriate guarantees (for example, the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy) (paragraph 40).**

According to section 72 of the CPA the standard rule is that police reports shall be prepared in writing. In exceptional cases, i.e. in special situations such as when interrogating a child or a patient in hospital, electronic recording is permitted.

Making the electronic recording of police interrogations standard practice would involve a fundamental change that would have to be carefully deliberated. It is also clear that such an arrangement can not be adopted without legal amendments, and that it would also bring about substantial costs.

The Minister for Justice has decided to request the opinion of the Committee on Legal Procedure as to whether electronic recording of police interrogations should be made standard practice or the scope of the legal provisions now in effect widened.

- **The return to police custody of a remand prisoner held in prison to be subject to the authorization of a judge or public prosecutor (paragraph 42).**

As explained in the reply to a recommendation of the CPT in paragraph 25 of its report, most remand prisoners are accommodated in the Síðumúli prison. The usual practice is to interrogate remand prisoners in the prison. In some cases, for example when it is foreseen that extensive statements must be received from remand prisoners, interrogations take place in the premises of the State Criminal Investigation Department or those of the Drugs of Abuse Department of the Reykjavík police. This is done for the convenience of the remand prisoner and his lawyer, as the interrogation facilities there are better than those in the prison.

Limiting the access of police to remand prisoners can not be done without legal amendments.

The Minister for Justice has decided to request the opinion of the Committee on Legal Procedure concerning this recommendation of the CPT.

- **The possibility of establishing an individualized custody record to be examined (paragraph 43).**

The Minister for Justice has decided that comprehensive rules be issued concerning registration of matters relating to the custody of arrested persons in police

detention facilities, inter alia with regard to the points mentioned in paragraph 43 of CPT's report. The compilation of a proposal for such rules will be entrusted to the committee mentioned in the reply relating to the recommendation made in paragraph 31. It should be noted that before such rules can take effect the CPA must be amended, and the Minister has decided that the necessary amendments will be prepared in the form of a bill.

requests for information

- **More detailed information on the right of police officers to object to a detained person's choice of a particular lawyer, and on the operation in practice of the system of officially appointed lawyers (paragraph 33).**

Generally, the police can not prevent an arrested person from receiving the services of the lawyer of his choice. The only exceptions from this rule are found in section 39.3 of the CPA, cf. section 36.2, which specifies that a person who is a witness, expert witness or appraiser in the case, or has other such involvement with the case or its parties that he may not be able to guard the interests of the defendant appropriately, can not be appointed to serve as counsel for the defence. According to section 38.2 of the CPA in fine, cf. section 36.2, a request for appointing a particular defence counsel can be denied if there is believed to be a danger that he may unlawfully hinder the investigation of the case.

Lawyers who wish to make themselves available for guarding the interests of accused persons and serving as defence counsels in criminal cases notify this to the Icelandic Bar Association, which is an independent association of lawyers authorized to represent litigants in the lower and superior judicial instances. The Icelandic Bar Association compiles a list of these lawyers, which is sent to the police authorities and to the courts. These lawyers also serve on stand-by duty as organized by the Association for all days of the year, in order that the availability of a professional lawyer can be ensured at all times.

When an arrested person requests the services of a lawyer without specifying his identity the police summon the lawyer then on call as indicated by the list supplied by the Icelandic Bar Association. If the lawyer on call can not be reached or if he is busy and the arrested person still does not request a particular lawyer, the police will summon another lawyer whose name is on the list.

The Icelandic Government is of the opinion that this arrangement has proved to serve well in practice, and that it ensures to the extent possible that an independent lawyer can always be reached. The Government also considers that when an accused person does not request any particular lawyer and a lawyer is summoned because he is registered as being on the shift on a particular day, or because his name is on the list supplied by the Icelandic Bar Association, the appropriateness of the term "officially appointed lawyer" is open to dispute.

- **Information on whether a detained person could be interrogated for six hours without any break whatsoever, and on the minimum length of intervals between**

interrogation periods (paragraph 38).

Section 69.2 of the CPA specifies that "A person may not be interrogated for more than six hours at a time, and shall in other respects be afforded adequate sleep and rest. The time when interrogation begins and when it is discontinued shall be recorded".

This provision has been interpreted as follows:

A. An arrested person may be interrogated for six hours without a break.

B. An arrested person may not be interrogated for more than six hours during any twenty-four hour period.

C. Breaks during interrogation are not counted in the interrogation period. In case a person is interrogated for 16 hours including breaks he is entitled to at least 8 hours' rest before interrogation can be resumed.

In practice breaks during interrogation are made as deemed necessary, such as when an accused person requests to speak with his counsel in private or to use the toilet, during traditional lunch hours (if it is foreseen that interrogation may take considerable time), etc.

The operation, in practice, of the system providing for the presence of an "articulate and reliable witness" during police interrogation and, more particularly, clarification of the criteria for the choice of such witnesses and of the precise role of a witness during the interrogation process (paragraph 41).

It is provided in section 72.2 of the CPA that if possible one articulate and reliable witness shall be present when interrogation takes place or other investigative measures are carried out.

Neither the CPA nor other sources describe the role of a witness during interrogation.

It is reasonable to assume that the presence of a witness during interrogation was intended both to strengthen the evidential value of the statements provided by the accused and witnesses, and to protect the persons interrogated, especially the accused, against any manner of ill-treatment during interrogation.

Recently the view has been expressed that with the increased statutory rights provided to the accused, such as the assistance of a lawyer at all stages of the procedure, the underlying considerations described above have changed, and that the provision is now to be interpreted as an indication to those in charge of police investigations of how proof of a person's statement is best secured, its role as a safety measure for the person being interrogated now being a thing of the past.

In practice the witnesses are most frequently other policemen or employees of the agency or office in question. Most commonly a witness is only present while a statement already received is read out aloud or read over by the person providing it, and during its confirmation. A witness is usually present during the interrogation itself when serious offences are being investigated, and also when a statement may be of great or decisive importance, such as with respect to proof. It is emphasized that the witness state what he is witnessing, for example whether he was present during the interrogation or whether he merely was present while the statement received was read and confirmed.

- **Information on the subject of the examination of complaints about treatment received during police custody (paragraph 44).**

When a complaint lodged against police indicates the possibility of a criminal act, it is handed over to the State Criminal Investigation Department, which following an investigation sends the case file to the Director of Public Prosecutions. The Director of Public Prosecutions decides whether to issue an indictment against the policeman in question. When a complaint relates to a violation of police procedures and rules of conduct it is examined by the office of the relevant Chief of Police, which subsequently decides whether the policeman in question is to be formally cautioned, or whether his dismissal from duty is to be recommended to the Ministry of Justice.

Section 34 of the Police Act Bill mentioned above in the reply to a request for information in paragraph 9 reads in translation: "If a complaint against a policeman alleging a criminal offence in the discharge of police duties is received, the Chief of Police shall immediately notify this to the Director of Public Prosecutions. The Director of Public Prosecutions shall decide whether to order an investigation and how it shall be conducted, or have an investigation undertaken on his own initiative. He shall decide whether to bring criminal action, if applicable."

- **The types of action which the Ombudsman can take when contacted by persons who allege that they have suffered ill-treatment during police custody, and information on his activities in this area to date (paragraph 45).**

It is appropriate, before providing a direct reply to this question, to present a brief general description of the activities of the Ombudsman and the measures he can take.

The functions of the Ombudsman are governed by Act No. 13/1987 in respect of the Ombudsman of the Althing, and Parliamentary Resolution No. 82/1988 in respect of the Role and Functions of the Ombudsman of the Althing.

The above Act and Resolution provide that the Ombudsman shall, as an agent of the Althing, supervise the administrative activities of the state and municipalities in the manner further provided for by law, and ensure that the rights of the citizens vis-a-vis the country's administrative authorities are respected. He shall make certain that the principle of equality is adhered to by administrative authorities, and that they carry out their functions in accordance with law and sound practice. The scope of his functions does not reach to judicial acts or to administrative decisions and other administrative measures that according to statute provisions shall be referred to the courts. The Ombudsman may indicate to the authorities that improvements are needed, or recommend improvements to them. Such indications or recommendations are generally acted upon in practice.

Any person who claims to have suffered injustice at the hands of administrative authorities can lodge a complaint with the Ombudsman. If the matter can be referred to a superior authority a complaint will not be considered until the superior authority has rendered its decision. The Ombudsman can also decide to take the initiative on the investigation of a matter.

The Ombudsman can request from administrative authorities any information he

may need for carrying out his functions, including delivery of documents, reports, records and other evidence relating to a matter under consideration. He is entitled to free access to the premises of administrative authorities, and he shall be provided by any necessary assistance by their staffs.

A matter referred to the Ombudsman may be concluded in one of the following ways:

1. If the Ombudsman, having received a complaint, considers that it does not merit further action, or that it does not fulfil the legal requirements for his involvement, he shall notify this to the complainant and close the matter.
2. He may close a matter when the administrative authority in question has made a correction or provided an explanation.
3. He may issue an opinion as to whether a measure taken by an administrative authority conflicts with law, or whether sound administrative practice has in other respects been followed or disregarded. He may also, if applicable, express the opinion that an administrative authority has exercised administrative discretion in an obviously unreasonable or unsound manner.
4. If the Ombudsman considers that a violation subject to sanctions under law has been committed in public office or employment, he shall notify the relevant authorities.
5. As regards a complaint relating to a legal dispute, the resolution of which comes within the purview of the courts, the Ombudsman may close the matter by indicating this fact. He may recommend to the Ministry of Justice that free process be granted for this purpose.
6. If the Ombudsman considers that laws in effect or general administrative provisions or practices suffer from faults or imperfections, he shall notify this to the Althing or to the relevant Minister or municipal government.
7. If the Ombudsman becomes aware of gross mistakes or violations of law on the part of an administrative authority he may deliver a report concerning the matter to the Althing or to the relevant Minister.

Turning again to the above request for information, section 176 of the CPA provides that damages may be awarded by judgment for arrest, personal search or house search, seizure, examination of a person's health, or imprisonment on remand or other measures involving deprivation of liberty, if the legal requirements for such action were lacking, such action was not adequately justified under the circumstances in question, or if such action was carried out in an unnecessarily dangerous, damaging or offending manner. According to section 178 of the CPA such a claim for damages shall be brought up in a civil action in the ordinary manner, but the plaintiff shall be awarded free process both in the lower judicial instance and before the Supreme Court. He can nevertheless be ordered to pay legal costs if he loses his case.

By reason of the above, i.e. the fact that the law envisages that damages be claimed on account of ill-treatment by police, the Ombudsman has not taken a stand with respect to the general question whether or to what extent cases of this nature come within the sphere of his functions. The occasion for a general decision on this point has not presented itself.

Since the office of the Ombudsman was established he has received one complaint on account of arrest and deprivation of liberty. This was in 1988, but the matter was not examined on its merits since too much time had elapsed since the arrest took place until the complaint was lodged. In his reply to the complainant the Ombudsman stated that according to the Criminal Procedure Act then in effect (the provisions of which were comparable to those of the CPA quoted above) it was envisaged that claims arising from events such as described in the complaint be referred to the courts, and therefore the complaint did not come within the purview of his office.

B. PRISONS

1. General information

recommendations

- **The highest priority to be given to implementing the four-year programme of action for prisons (paragraph 53).**

The Icelandic Government has approved the plan of the Minister for Justice for improving the situation as regards prisons. With the Government's approval of the four-year programme of action the importance of the matter has been recognized and the Minister has undertaken to afford it the fullest priority within the financial limits set by appropriations to matters in his charge, in conformity with the policies set out in the action programme.

requests for information

- **Information on the practical implementation of the four-year programme of action for prisons (the dates on which the Skólavörðustígur and Síðumúli prisons and the old wing of Litla-Hraun prison will be taken out of service; a description of the new establishments to be built or already under construction, including prison regimes envisaged, etc.) (paragraph 53).**

The first part of the action programme is the construction of an additional building at Litla-Hraun. Work on the building started in April this year, and the plan is to take it into service before the middle of 1995. The next step, to be taken in 1995, is to construct a multi-purpose sports and work facility at Litla-Hraun. In 1995 preparations will also be made for the construction of a prison in Reykjavík intended to replace the Skólavörðustígur and Síðumúli prisons; according to the present plans work on the building can commence at the beginning of 1996, and it will be completed in approximately two years.

2. Torture and other forms of physical ill-treatment

recommendations

- **A detailed examination of the problem of inter-prisoner violence in Litla-Hraun Prison to be carried out and an appropriate plan of action to be drawn up (paragraph 57).**

The authorities have already reacted to the problems mentioned, and a reference

shall be made to the reply to a request for information in paragraph 78, where the measures taken are described. It should also be mentioned that when the new building at Litla-Hraun will be taken into use in 1995 the functions and roles of prison wardens will be revised, and the preparations for this have been assigned to a staff member unburdened with other duties.

requests for information

- **In respect of 1991, 1992 and 1993:**
  - **The number of complaints of ill-treatment lodged against prison staff.**
  - **The number of cases in which disciplinary/criminal proceedings were initiated as a result of complaints of ill-treatment, with an indication of any sanctions imposed. (paragraph 54).**

In 1991, 1992 and 1993 no complaints relating to ill-treatment by prison staff were received.

3. Solitary confinement of remand prisoners for investigation purposes

recommendations

- **Any remand prisoner placed in solitary confinement for the purposes of the investigation to be informed in writing of the existence of a right of appeal against that decision (paragraph 63).**

According to section 16.2 of the RDR a remand prisoner may refer to the courts a decision to the effect that he shall be kept in isolation by reason of the needs of the investigation. The Minister for Justice has decided to add to this subsection the provision that a remand prisoner shall be notified of this right in a manner offering proof.

On the occasion of CPT's observation to the effect that the existence of this right was not widely known the Icelandic authorities wish to mention that about 75% of court decisions ordering remand are rendered upon the request of the State Criminal Investigation Department. Since 1 June 1992 this agency has followed the practice of notifying the terms of the imprisonment, including, if applicable, that the prisoner shall be held in isolation, to the prisoner and his counsel in the courtroom immediately after the court has rendered its decision, so that any dispute concerning the terms of the imprisonment can be referred to the court there and then. The Department has now requested that the District Court approve the arrangement of explaining the terms of the imprisonment during the court session in which the remand decision is rendered, also reminding the defence of their right to refer the matter to the judge, and to have this, together with the reactions of the detainee and his counsel, recorded in the records of the court.

With this in view the observation that the existence of this right of appeal was not widely known among prisoners and persons in authority is unexpected.

- **The reasons for a decision to place a prisoner in solitary confinement for the purposes of the investigation to be recorded in writing and the person concerned to be informed of them (paragraph 63).**

A remand prisoner can not be placed in solitary confinement for the purposes of the investigation unless the remand decision is rendered by reference to section 103.1 (a) of the CPA, which sets the condition "that there is reason to believe that the accused will seek to impede the investigation, such as by obliterating traces, secreting evidence or by influencing witnesses or other persons also involved in the commission of the offence". The arguments invoked by police in support of keeping the prisoner in isolation are therefore the same as the arguments invoked in support of a request for remand based on section 103.1 (a) of the CPA, and the judge will take a stand with respect to these arguments when rendering his decision. By reference to this, and to the fact that a remand prisoner may refer to the court a decision to keep him in isolation, which right is to be expressly notified to him, the Icelandic Government does not consider that it is necessary to present separate reasoning in support of a request for isolation.

- **Whenever a prisoner in solitary confinement, or a prison officer acting on his behalf, asks for a doctor, the doctor to be called forthwith to examine the prisoner. The findings of the examination, including an assessment of the prisoner's physical and mental health, and, if appropriate, an opinion on the likely effects of continuing solitary confinement, should be set out in a written report to be sent to the relevant authorities (paragraph 65).**

According to section 30 of the RDR the prison's doctor shall examine a remand prisoner as soon as possible after his arrival in prison, and according to section 38 of the RDR the doctor shall notify the director of the prison if he considers that the prisoner is mentally or physically endangered by continued imprisonment or by particular conditions within the prison. The director shall immediately notify this to the person in charge of the investigation, who shall decide whether the conditions of detention shall be changed or the prisoner released.

In practice, when a remand prisoner wishes to consult a doctor the doctor is summoned immediately if this is deemed to be a matter of urgency, but in other cases the doctor himself, having been notified of the prisoner's request, decides when his attention is needed, in some cases after having discussed the matter with the prisoner by phone.

In the above paragraph of its report the CPT recommends, inter alia, that the findings of a medical examination, including an assessment of the prisoner's mental and physical health, and, if appropriate, an opinion on the likely effects of continued solitary confinement, be set out in a written report to be sent to the relevant authorities. In this context it should be noted that according to section 15.1 of the Physicians' Act a medical practitioner is to respect confidentiality in full and prevent unconcerned persons from gaining knowledge of diseases or other personal matters of which he may become aware in the capacity of medical practitioner. According to the following paragraph this applies subject to other statute provisions, and reasoned, urgent necessity may also take precedence over this stipulation. The Icelandic Government considers that, in cases when

a doctor finds that a prisoner is not endangered by continued imprisonment or some particular conditions within a prison, the delivery of an opinion such as proposed here would not accord with the provisions on secrecy of medical information and the recognized principles relating to confidence between doctor and patient. The Government furthermore considers that the provisions of section 38 of the RDR are in agreement with the provisions of the Physicians' Act concerning secrecy of medical information, and that they also afford remand prisoners adequate protection.

It is the opinion of the Icelandic Government that there is no actual need to change the arrangement now in effect with respect to medical services to remand prisoners, and that no events have occurred, either, that provide an occasion to do so. The Minister for Justice has, however, decided to amend the RDR by including a provision to the effect that a doctor shall immediately be summoned to attend to a remand prisoner if the prisoner requests this and if he has not previously been examined by the prison's doctor, and also in other cases of urgency. A provision will also be added specifying that the prison's doctor shall forthwith be notified of a prisoner's request for a medical consultation, and that the doctor shall assess when his examination is necessary. Finally, a provision will be added to section 38 specifying that a prison doctor's notification made in accordance with that section shall be in writing.

requests for information

- **Clarification of the precise meaning of the phrase "if the needs of the investigation so require" in section 108.1.b of the Criminal Procedure Act (paragraph 64).**

The phrase is a translation of the Icelandic words "*að rannsóknarnauðsynjar krefji*". "*Rannsóknarnauðsynjar*" is a compound word from the words "*rannsókn*", meaning investigation, and "*nauðsyn*", meaning need. The term is not, nor has been, used elsewhere in Icelandic statute law.

In section 67.1.1 of the previous Criminal Procedure Act, No. 74/1974, which went out of effect 1 July 1992, certain conditions were set for a decision ordering detention on remand. The term was used in everyday parlance to indicate these. Similar provisions are now found in section 103.1 (a) of the present CPA.

By reference to the above the consensus is that the words "*að rannsóknarnauðsynjar krefji*" in section 108.1 (b) of the CPA mean that if the accused is not kept in isolation he may be able to damage the investigation of his case, such as by warning his accomplices, influencing witnesses or others by direct communication or through his fellow prisoners, having traces obliterated or evidence secreted, etc.

- **For the period from 1 July 1992 to the end of 1993:**
  - **The number of remand prisoners placed in solitary confinement for the purposes of the investigation, expressed as a percentage of the total number of persons remanded in custody.**
  - **The length of each of the placements in solitary confinement for the purposes of the investigation (paragraph 67).**

During the period from 1 July 1992 to 31 December 1992 the number of persons remanded in custody was 37, of whom 35 were held in isolation, either for a part of the detention period or during its entirety. The following table shows the lengths of the periods in isolation:

1 July - 31 December 1992		
Days in Isolation	**Number of Prisoners**	**%**
0 - 5	6	17.1
6 - 10	18	51.4
11 - 15	3	8.6
16 - 30	7	20.0
More than 30	1	2.9
Totals	**35**	**100**

In 1993 the number of remand prisoners totalled 94, of whom 83 were kept in isolation for a part of their period in detention or throughout the period. The following table shows the length of the period in isolation.

1993		
Days in Isolation	**Number of Prisoners**	**%**
0 - 5	28	33.8
6 - 10	27	32.5
11 - 15	13	15.7
16 - 30	9	10.8
More than 30	6	7.2
Totals	**83**	**100**

4. Conditions of detention in general

recommendations

- **Employment opportunities at Litla-Hraun Prison to be expanded and diversified, with an emphasis on the provision of vocational training (paragraph 75).**

The above is a policy of the Icelandic Government. However, the studies and

measures undertaken by the prison authorities for expanding the employment opportunities at Litla-Hraun have only yielded insignificant results. The reasons for this may be traced to the general employment situation in Iceland at present, the attitudes of labour organizations to the employment of prisoners for work which could be performed by their members, and, in part, to the lack of proper working facilities for the prisoners at Litla-Hraun. As mentioned in the reply to the CPT's request for information in paragraph 53 of its report construction of a new, multi-purpose sports and work facility is planned at Litla-Hraun in 1995. It may be expected that the employment opportunities for the prisoners can only be expanded and diversified when this facility becomes available.

Work, study and other activities available to prisoners in Kópavogur Prison to be expanded and diversified (paragraph 80).

The Kópavogur Prison offers three prisoners employment in the laundry, and one prisoner is responsible for indoor cleaning. Various leisure activities are offered, such as leather work, knitting and sewing, and physical exercise.

The Minister has entrusted the Prison Development Committee with working towards the goal of expanding and diversifying employment and other activities in the prison.

- **The considerations set out in paragraph 85 to be taken into account in planning the prison regime for the new establishment to be built in Reykjavík, (paragraph 85).**

The Ministry of Justice has sent a letter to the Prison Development Committee calling attention to this recommendation of the CPT, and instructed the committee to take the views expressed in paragraph 85 into account to the extent possible in planning the construction of the prison and in organizing the regime of activities planned there.

- **The Icelandic authorities to attempt to provide additional activities for the inmates of Síðumúli Prison, particularly those detained there for a prolonged period (paragraph 86).**

The Minister for Justice has instructed the Prison Administration to try to find tasks suitable for the inmates of Síðumúli Prison.

- **Conditions in the outdoor exercise yard at Síðumúli Prison to be improved, in the light of the remarks set out in paragraph 84 (paragraph 86).**

The Minister for Justice has ordered the Prison Administration to have a shelter with a bench erected in the yard of Síðumúli Prison, and also to provide facilities for sports in the yard.

- **Consideration to be given to withdrawing from service, as cellular accommodation, cells 13 and 14 at Skólavörðustígur Prison without waiting for the**

prison's scheduled closure in mid-1995 (paragraph 89).

A correction should first be made of a misunderstanding expressed in paragraph 89, to the effect that closure of the Skólavörðustígur Prison is scheduled in mid-1995. The following is a quotation from a letter of the Ministry of Justice to the CPT dated 27 December 1994:

> "In the Ministry's opinion modification of the roof windows of cells no. 13 and 14 is not feasible. The Ministry had decided to take the cells out of use in the middle of 1995, when a new prison at Litla-Hraun will be commissioned."

The Skólavörðustígur Prison can not be closed until a new prison has been constructed in Reykjavík. The reason why the Government does not consider that the above cells can be taken out of service earlier than in 1995 is that there is a shortage of prison accommodation and further reductions in accommodation can not be accepted, in spite of the fact that the conditions of detention in some cells are inadequate. The Ministry has notified the Prison Administration and the Director of the Skólavörðustígur Prison that the above cells will be withdrawn from service as soon as the new prison at Litla-Hraun is commissioned, and also ordered that cells no. 13 and 14 shall not be used unless all other cells in the prison are fully occupied.

- **The Icelandic authorities to attempt to provide additional activities for inmates at Skólavörðustígur Prison, particularly those detained there for a prolonged period (paragraph 91).**

The Minister for Justice has instructed the Prison Administration to try to find work suitable for the prisoners at Skólavörðustígur.

comments

- **It is important to enable prisoners to have ready access to toilet facilities at all times (including at night) (paragraph 9).**

The Government fully agrees with the view that prisoners are entitled to ready access to a toilet at all times, including at night. The Ministry has sent a letter to the Prison Administration on the occasion of this comment, ordering that a call from a prisoner occupying a closed cell without toilet facilities be answered without delay.

In the new prison at Litla-Hraun to be taken into use in 1995 65 of the 87 cells will be provided with toilet facilities. It is planned to make changes to the older premises, i.a. with a view to the prisoners' access to toilets.

- **In the context of the planned construction of a new detention facility at Litla-Hraun Prison, it is important to ensure that sufficient provision is made for activities such as work, education and sport, having regard to the establishment's intended capacity (paragraph 77).**

The Icelandic Government is aware of the importance of ensuring adequate provision for the above activities when matters concerning prisons are subject to revision and new prisons are being constructed.

As indicated in the reply to a request for information in paragraph 53 the construction of a work and sports facility is planned at Litla-Hraun in 1995.

The Minister for Justice has sent a letter to the Prison Development Committee calling attention to this comment of the CPT.

requests for information

- **The admission criteria for the 12-place unit on the first floor of wing 2 at Litla-Hraun Prison, and whether its creation was designed to assist in resolving the tensions between prisoners referred to in paragraph 55 (paragraph 74).**

Previously the security wing of the prison (wing 3) was used to house a similar unit, but only six prisoners could be accommodated there. The transfer of the unit was one of the measures adopted following the disturbances that occurred at Litla-Hraun in the autumn of 1993.

The prisoners apply for admission to the unit in writing. On the application form certain admission criteria are stated, which the prisoner, in his application, declares that he is willing to respect. These are:

- That the prisoner abide by the laws and regulations in respect of prisons and imprisonment, the rules applying to the conduct of prisoners at Litla-Hraun, and the rules effective for the unit at any particular time;
- That the prisoner readily accept to undergo urine and blood tests at any time this may be requested by the prison authorities;
- That the prisoner do not request from the prison's doctors drugs that may have intoxicating effects;
- That the prisoner pursue work and/or studies and completely adhere to the plan setting out his goals during his term in prison;
- That the prisoner evince positive attitudes and contribute to a positive relationship between prisoners and staff, and that he partake fully in the activities conducted within the unit;
- That the prisoner keep the personal affairs of the unit's prisoners and staff, and other information which is deemed worthy of confidence on ethical grounds, fully confidential;
- That the prisoner seek at all times to resolve any matters of dispute among the prisoners and the staff in a spirit of fairness and with a positive frame of mind.

- **Clarification of the criteria for admission to wing 3 of Litla-Hraun Prison (paragraph 74).**

This unit accommodates prisoners who, in the opinion of the prison authorities, have caused or are likely to cause disturbance or insubordination within the prison, have

absconded or attempted to do so, or are deemed to be dangerous to the public or other prisoners.

- **As regards admission to the 12-place unit on wing 2 and to wing 3 at Litla-Hraun Prison, information on: the authority which selects the prisoners concerned, the admission procedure followed (hearing of the prisoner, provision of reasons, etc.), and any rights of appeal which apply in this area (paragraph 74).**

The Director of the Litla-Hraun Prison decides what prisoners are admitted to the 12-place unit on wing 2. As mentioned above the prisoners apply for admission in writing, and thereby declare their willingness to abide by the rules that apply to prisoners accommodated there. Before deciding on an application the Director interviews the prisoner thoroughly. The application is not replied to in writing; the application is regarded as a declaration to the above effect. A denial is subject to appeal in accordance with the general provisions of the Administrative Practices Act.

A decision to accommodate a prisoner on the security wing is taken jointly by the officers in charge of the Litla-Hraun Prison and the officers of the Prison Administration, in some cases after having received the opinion of the Director of the Reykjavík Prisons, prison doctors, and the Prison Administration psychologist. A decision to accommodate a prisoner there is not made in writing, and a prisoner is not specifically given an opportunity to explain his views before the decision is taken. Avenues of appeal are not specifically explained to him. The general provisions of the Administrative Practices Act apply as regards appeal.

The Minister for Justice has sent a letter to the Prison Administration ordering the Administration to ensure that henceforth decisions taken with respect to accommodation on this wing shall be reasoned and made in writing; that a prisoner shall, if possible, be provided with an opportunity to explain his views in advance; that the decision shall be notified him in a manner offering proof, and that avenues of appeal shall be explained to the prisoner.

- **The causes of the disturbance which occurred at Litla-Hraun Prison in 1993, some time after the CPT's visit, and any measures subsequently taken (paragraph 78).**

In May 1993 two prisoners broke out from Litla-Hraun Prison. They were soon apprehended by prison wardens in the neighbourhood of the prison. On 23 June 1993 a dangerous prisoner broke out. He turned himself in at the Skólavörðustígur Prison the following day. On 28 July 1993 three prisoners broke out from Litla-Hraun, one of whom was believed to be dangerous. These events were discussed in the media at considerable length. Following the breakout of 28 July a decision was taken to perform an examination of management and security at Litla-Hraun, as the enquiries conducted by the authorities indicated that the management of the prison and staff practices were deficient and that there was insufficient contact between superiors and their personnel. It was also considered that personnel did not, or did not adequately, obey orders given them, and that security arrangements were faulty. The Director was charged with making certain improvements in the above fields.

On 7 August 1993 yet another breakout took place. This time two prisoners broke out, but were arrested the same day after having attempted to leave Iceland. One of them was a foreign national. With this media discussions of repeated escapes from Litla-Hraun increased.

On 24 August 1993 disturbance among the prisoners became noticeable. This made it necessary for the wardens to remove one prisoner. When this was being done the prisoners behaved in a threatening manner towards the wardens. On the following day, when the Director was going to examine the case of the ringleaders, the prisoners mutinied and attacked the wardens, preventing them from carrying out their duties. Control of the prison was actually in the hands of the prisoners. The prison authorities summoned police to assist in restoring order. Before policemen and wardens entered the prison the prisoners were given a warning, and upon their entry the prisoners went to their cells without further defiance. Approximately 40 prisoners took part in this uprising, but only a fraction were active. In the assessment of the prison authorities the situation that developed at Litla-Hraun on 24 August 1993 can not be described as one of serious danger.

After police and prison staff regained control of the prison searches were conducted, and a considerable number of home made weapons was discovered. It is suspected that the prisoners also had acquired a considerable amount of drugs, and had been using them before the uprising occurred.

In the opinion of the prison authorities the uprising can not be traced to any single cause, and that various factors contributed. Management problems and problems concerning staff practices have already been mentioned. The prisoners' covert and prohibited use of drugs may also be mentioned, along with the tightening of security following breakouts at the end of July and the beginning of August 1993, and the general conditions of detention afforded the prisoners.

The measures taken as a result of this uprising were described in the letter of the Ministry of Justice to the CPT dated 27 December 1993. In addition to them, security matters, and management and staff practices, have been improved at Litla-Hraun.

5. Medical services

recommendations

- **Someone qualified to provide first aid always to be present on prison premises (paragraph 98).**

It should be mentioned in this context that first aid is a mandatory subject in the State School for Prison Wardens. The course includes mouth-to-mouth and cardiac resuscitation, recognition of chock symptoms and measures in case of chock, the symptoms of serious diabetes, etc.

On the occasion of this recommendation of the CPT the Minister for Justice has instructed the Prison Administration to ascertain in what ways the training of prison wardens in this field can best be maintained, and also to determine whether and how

individual prison wardens can be given additional first-aid training.

- **Appropriate measures to be taken in order to ensure that every newly arrived prisoner, whether convicted or on remand, is seen on reception by a member of the prison health service, who should be either a doctor or a qualified nurse reporting to a doctor (paragraph 103).**

On the occasion of this recommendation the Government would like to point out that most convicted prisoners (90 - 95 %) start serving their terms in the Skólavörðustígur Prison and undergo a thorough medical examination following their arrival. It is not considered necessary to reexamine the prisoners when they are transferred to other prisons in order to continue serving their terms, as a prisoner's medical record will generally accompany him to that prison. Other convicted prisoners begin serving their sentences in the prison unit at the Akureyri Police Station. They undergo a medical examination after they have arrived. In exceptional cases convicted prisoners come directly to the Kópavogur Prison, and are examined by a doctor there. Prisoners never come to other prisons in order to serve their terms unless they have already been in a prison where they have undergone a medical examination.

The practice in the Síðumúli Prison in Reykjavík is that the prison is visited by doctors regularly twice a week. All prisoners are informed of their visits and asked if they request a consultation, but prisoners staying there for five days or more are examined as a matter of routine, irrespective of a request to that effect.

On the occasion of the CPT's recommendation the Minister for Justice has ordered the Prison Administration to make certain that all new prisoners arriving at the Síðumúli Prison undergo a medical examination when they have arrived at the prison, in conformity with the mandatory provision in section 30 of the RDR.

- **All necessary steps to be taken to ensure that the practice as regards access to a doctor is in accordance with the considerations set out in paragraph 106 (paragraph 106).**

On the occasion of this recommendation the Minister of Justice has ordered the Prison Administration, in cooperation with prison doctors, to prepare detailed proposals on the procedures by which requests from prisoners for medical consultation outside regular consultation hours shall be reacted to and forwarded.

- **Steps to be taken to ensure co-operation between the different health professions providing services to prisoners at Litla-Hraun Prison (paragraph 111).**

On the occasion of this recommendation the Minister for Justice has ordered the Prison Administration, in consultation with prison doctors, to institute closer cooperation between the parties providing medical services at Litla-Hraun.

- **Appropriate steps be taken to ensure that when a prisoner is transferred to another establishment, his medical record is also transferred (paragraph 111).**

In the autumn of 1993 the arrangement was adopted of having, when a prisoner is transferred from a prison in the Reykjavík area to Litla-Hraun, his medical record photocopied by a nurse, who then places it in a closed envelope addressed to the doctors serving the Litla-Hraun prison.

Medical records do generally not accompany prisoners transferred to the prison unit at the Akureyri Police Station or to the Kvíabryggja Prison, if the prison doctors consider that there is no special need for this. The reason is that in these two prisons there is no separate medical room or other facility for secure storage of such records, and it is not considered worthwhile to collect them together at the clinic of each doctor.

- **The means devoted to the preventive aspects of the anti-addiction programme to be reinforced (paragraph 113).**

On the occasion of this recommendation it should be mentioned that in later years Icelandic prison authorities have devoted considerable effort to serving the needs of prisoners for treatment, who suffer from addiction to alcohol or other drugs.

In 1990 the prison authorities concluded an agreement with the SÁÁ organization, which operates a treatment centre for alcohol and drug addicts, to the effect that prisoners be given the opportunity of serving the last weeks of their terms there. The prisoners in question are generally prisoners who are completing sentences of considerable duration by conditional release. Those who undergo such treatment sign an agreement explaining the conditions that apply to it. The head doctor of the treatment centre decides, in consultation with the Prison Administration, when the prisoner shall arrive for treatment.

From the year 1990 to the end of 1993 50 prisoners have been given the opportunity to complete their terms by alcohol or drug addiction treatment. Of these, 35 went through the entire treatment, which is of six weeks duration. Of the remaining fifteen two were sent back to prison upon to the request of the treatment centre, one absconded, and twelve requested to go back to prison in order to complete their sentences there.

At the end of 1990 an agreement was concluded with a treatment centre at Tindar, were young drug addicts are accommodated. One prisoner underwent treatment there in 1991. No other prisoners have undergone such treatment there. The main reason for this is that the centre chiefly treats younger persons than those who have been sentenced to prison.

Furthermore, the AA (Alcoholics Anonymous) are regularly active within prisons, in particular at Litla-Hraun.

Among the staff of the Prison Administration there is a psychologist who performs important work concerning addiction treatment among prisoners. His main mission, however, is to help them in accepting their lot as prisoners and in adapting to society when their terms have been served. The services of the psychologist are in high and increasing demand. In the autumn of 1993 45% of the prisoners at Litla-Hraun requested his services, which is more than he can cover. In order to meet this demand the psychologist has conducted courses at Litla-Hraun this year intended for prisoners who are interested in changing their life styles, such as by refraining from the use of alcohol or

drugs. Among the matters covered in these courses is how to be prepared for situations that can throw a person off his balance and how to react to such situations. The courses have been attended by a large number of prisoners.

The prison authorities have had under consideration if and to what extent treatment within the prisons can be increased.

comments

- **The national health authorities appear to exercise no effective supervision over the work of doctors in prison establishments (paragraph 93).**

According to section 3.1 of the Health Service Act, No. 97/1990, the Director General of Public Health shall supervise the functions of the members of the health professions and the facilities afforded them. According to the section's fifth paragraph the same official shall also examine petitions or complaints concerning the relations between the public and the nation's health service. The same provision also provides that matters in dispute can be referred to a committee of three members nominated by the Supreme Court. None of these may be a health service professional.

Prison doctors are also subject to the supervision of the Director General of Public Health, who keeps their work under fairly close scrutiny. The Director General personally visits the most important prisons from time to time, and he has visited all Icelandic prisons. His office occasionally receives complaints from prisoners concerning their relations with prison doctors, and these are of course examined. It is well to explain that one reason for how much informal control is exercised by the office of the Director General of Public Health in this field is that ever since 1978 the Director General has personally been a member of a committee which until the end of 1988 considered all petitions for pardon and conditional release, and since the beginning of 1989 the committee considers petitions for pardon and appeals from decisions of prison authorities declining petitions for conditional release. It may also be mentioned that the nurse now serving the Reykjavík prisons was previously a staff member of the Office of the Director General of Public Health.

With the above in view the Icelandic Government considers that the concern expressed by the above comment is unnecessary.

The Government would like to correct the statement in paragraph 93 to the effect that doctors serving prisoners are remunerated by the national health authorities. Their remuneration is paid out of the funds appropriated to the prison in question.

- **The nursing staff presence in Litla-Hraun Prison could usefully be reinforced (paragraph 97).**

When the additional building at Litla-Hraun will be taken into use in 1995 the possibility of increasing the nurse's presence there will be examined.

- **It is important that there be a continuing programme of information for prisoners and prison staff on communicable diseases (in particular, hepatitis, AIDS,**

tuberculosis and skin diseases), with particular emphasis on the risks of transmission and means of protection (paragraph 115).

Prison doctors follow the principle of providing a prisoner, when he undergoes a medical examination after arrival in prison, with oral information on hepatitis, AIDS and other communicable diseases, and on relations with persons carrying such diseases.

About two years ago prison staff in all Icelandic prisons were given thorough information on these diseases, and their knowledge has been maintained by the prison doctors, who regularly discuss these matters with staff. In addition to this lectures on these diseases have been held for prison staff by prison doctors and experts in the field of infectious diseases.

requests for information

- **The comments of the Icelandic authorities on allegations heard that it was not easy to secure the transfer of a prisoner whose mental state required care in a psychiatric hospital (paragraph 108).**

The observation that prisoners are not transferred to hospital wards for patients suffering from psychiatric diseases even though they need, in the assessment of doctors, psychiatric care in hospital, is unfortunately correct. This is a problem which Icelandic prison authorities have tried to solve for decades, but so far without success. Psychiatrists attend prisoners within the prisons as necessary.

- **The comments of the Icelandic authorities on the method of payment for medical care provided to prisoners (paragraph 109).**

As regards the arrangement in effect concerning payment for medical services to prisoners and for tests and medicines they need the following shall be said in reply to this request:

All medical services by prison doctors are free of charge as far as prisoners are concerned. The same applies to consultations with specialists recommended by prison doctors, irrespective of whether a specialist visits a prisoner in prison or whether the prisoner comes to the specialist's clinic. An exception from this is that prisoners at Kvíabryggja pay for consultations with specialists in cases when the prisoners are brought to their clinics.

All tests deemed necessary by prison doctors or specialists are paid by the prison in question. This includes blood tests.

The prisons in the Reykjavík area pay for all medicines deemed necessary by prison doctors or specialists. At Litla-Hraun prisoners sometimes use medicines or ointments that a doctor does not deem necessary for medical reasons, but are nevertheless recommended. In such cases the prisoner in question is expected to pay for them. At the Kvíabryggja Prison and at the Akureyri Police Station the main principle is that the prisoners themselves pay for the medicines they need.

As regards dental care, the dental status of new prisoners is almost always poor. A prisoner is always sent to a dentist in case of an acute disorder, either manifested by pain

or infection in the teeth or the gums. The dentist will use any means available to his profession, and extraction is not the only one. The prison pays for this treatment, except for the Kvíabryggja Prison, which only pays for dental extraction. As regards other dental treatment the matter is more complicated. In Iceland the general rule is that the individual citizen must himself pay for dental care. Previously the social welfare offices of the relevant municipalities often provided prisoners with support for dental care, but this is seldom done nowadays. Prisoners serving long term sentences are now expected to avail themselves of the services of dentists as often as needed. The cost of this is initially disbursed by the prison, but reclaimed from the prisoner, generally in part, if his economic situation permits. Occasionally prisoners serving short term sentences undergo comprehensive dental treatment if there is an urgent reason for this. This is paid for by the prison in question.

It should finally be noted that prisoners sometimes request medical treatment that is not strictly necessary while they are in prison. In such cases the prisoners themselves pay the usual patient's share of the cost of testing, specialist consultations and treatment. This mainly applies to cosmetic or plastic operations, such as removal of tattoos, realignment of protruding ears, correction of nasal deformity, hair transplants, etc.

- **Whether HIV tests are carried out on prisoners and, if so, under which conditions (whether the prisoner's consent is sought, whether counselling is provided before and - if necessary - after such a test, etc) (paragraph 114).**

As stated in the reply to CPT's comment in paragraph 115 of its report it is the practice among prison doctors to provide a prisoner, at the time when he undergoes a medical examination after arrival in prison, with oral information on hepatitis, AIDS and other communicable diseases, and instructions concerning relations with persons carrying such diseases. The doctor also asks for the prisoner's oral approval of a blood test in order to ascertain whether he carries infectious diseases, in particular hepatitis or AIDS. If a prisoner declines to have such tests carried out his refusal is respected. Prisoners are informed that the results of such tests are kept in strict confidence. If necessary prisoners are provided with instructions when the results become available.

In 1993 no prisoner was found to carry the HIV virus, but a few prisoners were found to be infected with hepatitis.

- **Any instructions or guidelines produced by the national authorities regarding the approach to be adopted towards prisoners who are HIV positive or have developed AIDS (paragraph 115).**

No such instructions or guidelines have been issued.

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

recommendations

- **The detention of female prisoners in Skólavörðustígur Prison to be avoided (paragraph 118).**

Since 1980 prison authorities have avoided accommodating female prisoners in the Skólavörðustígur Prison. No change to this policy is expected.

- **As regards the use of a security cell:**
- **Any detainee placed in such a cell (whether means of physical restraint are applied or not) to have the right to be examined and, if necessary, treated by a doctor without delay.**
- **Such a medical examination to be performed out of the hearing and, unless the doctor requests otherwise, out of the sight of non-medical personnel.**
- **The results of the medical examination as well as any relevant statements by the detainee and the doctor's conclusions to be duly recorded in writing and made available to the detainee (paragraph 129).**

As the CPT states in paragraph 129 of its report section 100 of the RDR specifies that a doctor must be called as soon as possible to examine a prisoner vis-a-vis whom physical means of restraint have been applied. In case a prisoner is placed in a security cell but physical means of restraint are not applied, a doctor must be informed of the placement as soon as possible so that he can assess whether a medical examination is necessary.

In the opinion of the Icelandic Government there are no material reasons in favour of changing this arrangement, and no situation can be foreseen that recommend changes. The provision is deemed to offer sufficient protection for a remand prisoner placed in a security cell.

All medical examination within prisons takes place out of the hearing of prison staff, unless the doctor decides otherwise. The Minister of Justice has decided that this rule be given greater weight by including it in the RDR.

According to the practices now followed the doctors write the results of medical examinations into the medical record of the prisoner in question. Section 16 of the Physicians' Act specifies that patients generally are entitled to information from their own medical records, and this also applies to medical information on prisoners registered by prison doctors.

It is envisaged that regulations now in preparation on the use of means of physical restraint and security cells with respect to convicted prisoners will, in the above respects, be similar to those of the RDR.

- **Immediate steps to be taken to draw up regulations for the use of the security cell and means of physical restraint in Litla-Hraun Prison (paragraph 130).**

The Minister for Justice has decided that regulations be issued on the use of means of physical restraint and security cells with respect to convicted prisoners. It is hoped that this will have been done before the end of this year.

- **Steps to be taken to remedy the absence of natural light in the security cell of Síðumúli Prison (paragraph 132).**

The Minister for Justice has ordered the Prison Administration to examine whether, and if so how, natural lighting in the cell can be improved, and to compile a cost estimate on account of the necessary modifications.

It is hoped that an account of the final measures taken on the occasion of this recommendation can be presented in a follow-up report.

- **A register of the use of security cells and means of physical restraint at Litla-Hraun and Síðumúli Prisons to be established, in which should be recorded the times when the measure started and finished and the circumstances of, and reasons for, its use (paragraph 133).**

The Minister has decided that a provision on the use of means of physical restraint and security cells be inserted into the RDR, and that similar provisions be included in regulations to be prepared on these matters that are intended to apply to convicted prisoners.

comments

- **The Icelandic authorities are invited to add the President of the CPT to the list of authorities to which prisoners may send confidential correspondence (paragraph 122).**

The Minister has decided to amend the Regulations on Correspondence, et al. in order to ensure that prisoners can send the President such correspondence.

- **The application of means of physical restraint to a prisoner in a security cell would be one of the circumstances when staff should be permanently present (paragraph 128).**

The Minister has decided to amend section 101 of the RDR in order to provide that prison staff shall constantly keep an eye on a prisoner in a security cell to whom means of physical restraint are applied, and also that a similar provision is to be included in regulations which are to be prepared on these matters with respect to convicted prisoners.

- **Cases where means of physical restraint need to be applied to a prisoner for more than twenty-four hours will be rare, particularly if the observation requirement provided for in section 101 of the RDR is understood to include the role of providing support to the prisoner (paragraph 128).**

Section 101 of the RDR specifies that when a remand prisoner is placed in a security cell his condition shall be checked with intervals of not more than 20 minutes. If

his condition or other circumstances require he shall be constantly watched. This provision is self-explanatory.

It shall however be mentioned, on the occasion of this comment, that one of the general duties of prison wardens is to provide support to prisoners as the circumstances permit and as they are able to.

In 1993 means of physical restraint were applied six times at the Síðumúli Prison in Reykjavík, to three prisoners. In five of these cases the means of restraint were in use for between 20 and 90 minutes, and in one case handcuffs were used for 335 minutes and leg irons for 550 minutes. At Litla-Hraun means of physical restraint were used eight times in 1993, to five prisoners. They were in use for between 33 and 119 minutes.

- **It is important to avoid material hazards such as broken windows, in particular in a security cell (paragraph 131).**

This is of course avoided in prisons. It should be noted with respect to the security cell window at Litla-Hraun that measures to obtain new security glass from abroad had already been taken at the time the CPT's delegation visited the prison, and the window has been repaired.

requests for information

- **More detailed information on the measures envisaged to separate different categories of prisoners in Iceland (paragraph 117).**

In this respect no plans have been completed.

- **Whether it is expressly prohibited to monitor telephone conversations between a remand prisoner and his lawyer, or with certain administrative or judicial authorities, the Ombudsman and the European Commission on Human Rights (paragraph 121).**

This is not expressly prohibited.

The Minister for Justice has decided to ask the Committee on Legal Procedure to make proposals for amendments to the CPA to provide for a right of prisoners to communicate with certain administrative and judicial authorities and other parties in confidence.

- **Whether remand prisoners' letters to lawyers, or to any of the authorities referred to in paragraph 121, may be inspected, and if so, in what manner (paragraph 122).**

Inspection of letters to the recipients referred to above is allowed. In this respect the same principles apply as to correspondence from remand prisoners in general, cf. sections 55 -61 of the RDR, which elaborate in detail upon the provision in section 108.1 (d) of the CPA.

The Minister for Justice has decided to ask the Committee on Legal Procedure to make proposals for amendments to the CPA to provide for a right of prisoners to communicate with certain administrative and judicial authorities and other parties in confidence.

- **Regarding solitary confinement:**
- **whether prisoners placed in solitary confinement are informed in writing of the reasons for the decision.**
- **whether prisoners have an opportunity to express their point of view to the competent authority before any final decision is taken (paragraph 124).**

A decision to keep a prisoner in solitary confinement as permitted in the Prisons and Imprisonment Act is written and reasoned. Before such a decision is taken the prisoner is given an opportunity to express his views. The prisoner is notified that he can appeal against the decision to the Ministry of Justice, and he is provided with a copy of the decision if he requests so.

When a prisoner appeals to the Ministry of Justice against a decision to keep him in solitary confinement this is done on writing. The points which in the prisoner's opinion should lead to reversal or change of the decision are stated in his petition. The Ministry does not ascertain the prisoner's views further before taking a stand with respect to the matter. The Ministry is provided with all evidence from the relevant prison and must take its decision within two days from receiving the petition, since the decision appealed from will else fall out of effect. Because of this narrow time limit the Ministry can not make further enquiries concerning the views of the prisoner.

- **Whether the use of security cells and/or means of physical restraint vis-a-vis sentenced prisoners is the subject of detailed regulations (paragraph 126).**

This is not so. As mentioned in the reply to a recommendation in paragraph 130 the Minister for Justice has decided that regulations will be issued on the use of means of physical restraint and security cells with respect to convicted prisoners, and it is hoped that this will have been done before the end of this year.

- **Details of the powers and activities of the Ombudsman as regards visiting Icelandic prisons (paragraph 138).**

A reference shall be made to the reply to a request for information in paragraph 45 as regards the activities and powers of the Ombudsman and the measures open to him. It should be mentioned in addition to the information presented there that visiting prisons or other institutions in the purpose of receiving complaints is not among his functions.

The Ombudsman visited the Litla-Hraun Prison 25 May 1994. Apart from inspecting the prison premises he talked with the prisoners who wished to meet him. Four prisoners were interviewed.

It should be mentioned in the present context that the main role of the Ombudsman is to consider complaints, and that it is a condition for the acceptance of a

complaint that other administrative remedies have been exhausted. It may also be noted that the Ombudsman has extensive powers to involve himself with a matter on his on initiative. He can also express an opinion as to whether the conditions afforded prisoners are acceptable and whether current laws and regulations are respected. He can also make proposals for amendments in individual fields.

C. SOGN INSTITUTION FOR MENTALLY ILL OFFENDERS

recommendations

- **Steps to be taken immediately to ensure permanent nursing cover in the establishment, including at night and over weekends (paragraph 147).**

As noted in the CPT's report there is no nurse at Sogn at night and over weekends. The Icelandic Government concurs with the opinion of the CPT that more extensive nursing cover is required. The reason why there are not more qualified nurses working at Sogn is that attempts to engage more nurses have not met with success. The management committee at Sogn are continuing their attempts to remedy this situation.

It should be mentioned that a nurse is always on stand-by at night and over weekends, and can therefore be reached on short notice.

- **Appropriate steps to be taken to ensure that, when a patient is transferred to the Sogn Institution, his medical record is also transferred (paragraph 155).**

For a period after the Sogn Institution came into being the medical records of the patients, or photocopies thereof, proved difficult to obtain, but this problem has now been successfully solved.

- **The Icelandic authorities to establish formal internal machinery for receiving complaints from patients and to ensure that patients have confidential access to an appropriate authority (paragraph 159).**

According to section 3.1 of the Health Service Act, No. 97/1990, the Director General of Public Health shall supervise the functions of members of the health professions and the facilities afforded to them. According to the section's fifth paragraph the Director General shall also examine petitions or complaints concerning the relations between the public and the nation's health service. The same provision also provides that matters in dispute can be referred to a committee of three members nominated by the Supreme Court. None of these may be a health service professional.

In addition to this it should be mentioned that the Director General visits Sogn regularly.

Since the Sogn institution came into being no complaints from patients have been received.

In the Government's opinion the above arrangement is satisfactory and it is not necessary to issue administrative provisions relating to complaints from the patients at Sogn.

comments

- **The idea of employing a part-time social worker merits close attention from**

the Icelandic authorities (paragraph 150).

At the end of 1993 the employment of the psychologist who until then had been employed at Sogn ceased. A social counsellor was employed in his place on a half-day basis. It is believed that the services of a social worker are of more use to the institution than those of a psychologist, and that half-time employment of a social worker is, under the present circumstances, adequate.

requests for information

- **The comments of the Icelandic authorities on the adequacy of the present legal framework as regards the deprivation of liberty on grounds of mental health (paragraph 141).**

In the opinion of Icelandic health authorities the legal provisions now in effect as regards deprivation of legal competence and commitment to institutions on grounds of mental health are adequate, and no particular problems have been noticed in this respect. There are no plans to change the present state of these matters.

- **Whether the post of full-time psychiatrist has been filled (paragraph 146).**

At the beginning of 1994 a psychiatrist was engaged at Sogn for a 75% position, and it is planned that the post of psychiatrist at Sogn will be thus occupied in the future.

- **Whether the Ombudsman's terms of reference also cover mentally ill offenders detained in the Sogn Institution (paragraph 159).**

They do. As regards the functions and powers of the Ombudsman, and the measures open to him, a reference is made to replies to the requests for information presented in paragraphs 45 and 138.