

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 18 to 24 September 2012

The Icelandic Government published this response on 19 November 2013. The report of the CPT on its September 2012 visit to Iceland is set out in document CPT/Inf (2013) 37.

Strasbourg, 5 December 2013

**Response of the Icelandic Authorities to the Report of the
European Committee for the Prevention of Torture on the
Visit to Iceland from 18 to 24 September 2012**



**Government of Iceland
Ministry of the Interior
October 2013**

General response

Icelandic authorities consider the Committee's efforts to ensure Iceland's effective implementation of the Convention's provisions to be important, and welcome the Committee's review of the conditions of and facilities for persons deprived of their liberty in Iceland. The authorities' representatives have examined the Committee's findings from its September 2012 visit, consider its comments useful and constructive and will seek to implement the Committee's recommendations where applicable. Below is the Icelandic authorities' response to the Committee's comments, recommendations and requests for information. In preparing this response, consultation was had with the representatives of the establishments and ministries in question.

Co-operation

Comments

The CPT trusts that delays such as the one experienced before its delegation was granted access to the security area at Keflavik International Airport will not occur during future visits to Iceland (paragraph 5 in report)

The Icelandic authorities regret that the procedures did not take sufficient account of the provisions of law regarding the Committee's role and will seek to prevent such occurrences during the Committee's future visits to Iceland.

Monitoring of places of deprivation of liberty

Comments

The CPT strongly encourages the Icelandic authorities to consider ratifying the OPCAT and setting up an NPM as a matter of priority (paragraph 10 in report).

The Icelandic authorities have in recent years been considering OPCAT with a view to its potential ratification. The authorities are yet to make a decision whether and, if so, when to ratify the protocol.

Police establishments

Ill-treatment

Comments

The Icelandic authorities are invited to remind all police officers that no more force than is strictly necessary should be used when effecting an apprehension (paragraph 13)

Under Article 14 of the Police Act No. 90/1996, those who exercise police authority may use force in the course of executing their duties. At no time, however, may they use force to a greater extent than is necessary on each given occasion.

Article 14 of the Police Act No. 90/1996

The use of force.

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Safeguards against ill-treatment

Recommendations

The relevant provisions to be amended so as to ensure that any delay in the exercise of a detained person's right to notify someone of his/her situation requires the approval of a senior police officer unconnected with the case or a public prosecutor (paragraph 15 of report)

The authorities will seriously consider whether to amend Article 1 of Regulation No. 651/2009 in accordance with the Committee's comments.

Steps to be taken to ensure that the right of all persons detained by the police in Iceland to have access to a lawyer is fully effective as from the very outset of deprivation of liberty (paragraph 16 of report)

The authorities are not aware that detained persons have been denied access to a lawyer. Article 2 of an information sheet from January 2013 for detained persons states in clear terms that they have the right to contact a lawyer as soon as possible after arrest. The information sheet provides further guidance on when the arrestee is entitled to access to a lawyer under the Criminal Procedure Code No. 88/2008.

Formal provisions to be adopted regarding the right of persons in police custody to have access to a doctor, including – if they so wish – right to be examined by a doctor of their own choice (in addition on any medical examination carried out by a doctor called by the police), it being understood that an examination by such a doctor may be carried out at the detained person’s own expense (paragraph 17 in report).

Article 6 of the information sheet for arrestees from January 2013 states the following:

“If you have an illness or injury, the police is obliged to provide you with the assistance of a doctor. In such cases, you may also request that the police summon a doctor of your own choice, but you will have to pay any extra costs as a result of this.”

Steps to be taken to ensure that whenever a remand prisoner is present in a police establishment for investigative purposes this is always duly recorded (paragraph 21 in report)

All arrivals at police stations for questioning should be recorded in police reports. Only those arrested and detained by police are recorded in the arrest part of the police system. When persons have been remanded in custody, they are recorded as released from police detention and transferred to remand, with a record kept of their detention by the prisons. However, if the remand in custody is with the police, a record of everything relating thereto is kept by the police.

A system for independent monitoring of police detention facilities to be developed. To be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring body should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; the exercise of detained person’s rights etc.) (paragraph 24 in report).

The Parliamentary Ombudsman, thus empowered by the Althingi, monitors central and local government and is entrusted with safeguarding the rights of citizens vis-à-vis the government. The Ombudsman is independent from the instructions of other parties, including the Althingi. The Ombudsman is empowered by law to initiate inspections of the activities and procedures of government authorities. The Ombudsman also receives complaints from individuals who consider government practice to be contrary to the Public Administration Act or good administrative practice.

The Icelandic authorities are invited to examine the possibility of entrusting the operational conduct of investigations into complaints against the police to an agency which is demonstrably independent of the police (paragraph 22).

Article 35 of the Police Act states:

1. A complaint against a police employee for an alleged punishable offence committed in the course of his work shall be submitted to the Director of Public Prosecutions, who shall be in charge of the investigation of the case.
2. In the investigation of such cases, the Director of Public Prosecutions may make use of the authorisations that the police normally have.
3. The police shall assist the Director of Public Prosecutions with the investigation of cases under this Article as requested.

Under law, the Director of Public Prosecutions is in charge of investigations of complaints against police employees. The Director of Public Prosecutions is the supreme prosecuting authority, is appointed for an indefinite period by the Minister of the Interior and must meet the legal requirements for being appointed a judge to the Supreme Court. The Office of the Director of Public Prosecutions is independent from the police. The Director of Public Prosecutions never requests assistance with any investigation into complaints against the police from the police authority employing the person who is the subject of the complaint.

Confirmation that the standard information sheet on the rights of persons deprived of their liberty by the police has been revised, so as to include information on access to a doctor (paragraph 19);

The information has been updated; see the enclosed document. However, an English version is as yet unavailable. The Icelandic authorities will provide the Committee with the translation once it is available.

in respect of 2012:

- the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;

Offence	Result
excessive use of force during arrest	Conviction at the district court level for violation of Article 132 of the General Penal Code
excessive use of force during arrest	Investigation discontinued, paragraph 4 of Article 52 of the Criminal Procedure Code (objection made that it was incorrectly recorded that the complainant did not request a defence counsel, and that no record was made of her request that her next of kin be contacted)
excessive use of force during arrest	Dismissed, Article 145 of the General Penal Code (objection made to the duration of deprivation of liberty following arrest)
excessive use of force during arrest and in cell	Dismissed, Article 145 of the General Penal Code (objections made that persons at risk of suicide were made to undress)
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excessive use of force during arrest and in cell	Dismissed, Article 145 of the General Penal Code (objections made that persons at risk of suicide were made to undress)
excessive use of force during arrest and in cell	Investigation discontinued, paragraph 4 of Article 52 of the General Penal Code (expired under statute of limitations)
excessive use of force during arrest/assault	Awaiting resolution
excessive use of force during arrest/assault	Complaint dismissed, paragraph 4 of Article 52 of the General Penal Code
excessive use of force during arrest/assault	Awaiting resolution
death of a person in police custody	Dismissed, Article 145 of the General Penal Code
excessive use of force during arrest and in cell	Dismissed, Article 145 of the General Penal Code

- *an account of criminal/disciplinary sanctions imposed following such complaints. (Paragraph 23 in report).*

Complaints regarding police activities are lodged either directly with the police authority employing the police officer in question, to the Office of the National Commissioner of the Icelandic Police or, where applicable, to the Ministry of the Interior. An enquiry was sent to all police authorities in Iceland, the National Police College and the Office of the Special Prosecutor. Replies were received from all agencies. No complaints had been received of ill-treatment in 2012.

Conditions of detention

It would be preferable for all police cells to enjoy access to natural light (paragraph 25);

The Icelandic authorities will seek to take the Committee's comment into account in maintenance of police stations where the buildings are structurally suited for such modifications and when new police stations are built.

The Icelandic authorities are invited to improve the heating system in the cells of Selfoss Police Station (paragraph 25).

The Selfoss Police Commissioner has provided information to the effect that experts were engaged to adjust the system following the Committee's comment. The issue has thus been remedied.

Persons detained under aliens legislation

A formal monitoring mechanism for removals by air to be set up (paragraph 30);

The authorities will review the Committee's comment.

Specialised training for members of escort teams for removals by air to be organised as a matter of priority (paragraph 30);

An employee of the International Department of the National Commissioner of Police has been trained by FRONTEX in carrying out removals. Two more employees are set to attend such a course in November followed by another two employees of the Department subsequently, depending on the availability of such courses.

Instruction No. 2003070104 to be completed by adding the requirement of a medical examination of the person concerned after any failed removal attempt (paragraph 30).

The International Department of the National Commissioner of Police will review the procedures.

The execution of removals is based on provisions of law, in addition to which regard is had to the EU regulatory framework.

Updated information on the plans to set up a specific centre for persons detained pursuant to aliens legislation, including as regards the design, capacity, regime and staff complement of the new centre (paragraph 27);

The Ministry of the Interior has launched an effort to improve procedures and legal framework with respect to asylum seekers. The team managing this project is working on proposals for more efficient future arrangements as regards the administration of this policy area and the reception and stay of asylum seekers, on the basis of which the Ministry will formulate a future policy on the asylum regime.

Whether the current removal procedure foresees an obligation for a doctor, prior to the beginning of a removal operation, to examine the person concerned and to issue a “fit to fly” certificate (paragraph 30);

If required by the state of health of the person who is to be removed, doctors are consulted.

Clarification as to whether Instruction No. 2003070104 remains applicable after the handover of the person concerned to the escorts of the Organising Member State (in the case of Joint Return Operations co-ordinated by Frontex) (paragraph 30).

On the basis of the current procedures, it is the Icelandic escorts who are responsible for the person concerned until his/her delivery to the recipient country. While the question implies that the person concerned is handed over to the escorts of the Organising Member State, this is not the case. The handover is thus only made to the recipient country.

Prisons

The CPT strongly encourages the Icelandic authorities to continue to attach the highest priority to the construction of the new prison in Reykjavík (paragraph 31).

Work on this project continues in an aim to improve Iceland's prison situation.

Information on the progress of the project of construction of the new prison in Reykjavík (paragraph 31);

The earthworks phase is complete and other construction has been tendered out. Owing to the fiscal situation, the plan has been amended so the building will not be brought into use in the autumn of 2014, but in 2015.

Steps taken to implement the expert committee's recommendation that an end be put to the practice of occasionally accommodating juveniles (aged 14 to 18) in prisons and that it be ensured that all juveniles are accommodated in establishments managed by the Child Protection Authority (paragraph 33);

As stated in article 14 of the General Penal Code a person shall not be punished on account of an act committed before he or she attained the age of 15 years. The Committee's report regarding juveniles should be corrected as to this point.

Children's interests are very important to the Icelandic authorities, which endeavour to ensure that children's best interests are being met by the legal environment and in practice. Act No. 19/2013 incorporated the UN Convention on the Rights of the Child into Iceland's national legislation and amended the Execution of Sentences Act No. 49/2005. Under paragraph 4 of Article 14 of Act No. 49/2005, cf. Article 4 of Act No. 19/2013, prisoners under 18 years of age must be accommodated in establishments managed by the child protection authorities, unless there are special grounds for accommodating them in a prison. In the authorities' assessment, such special grounds must pertain to the child. Consequently, prisoners under 18 years of age will henceforward be accommodated in rehabilitation homes operated by the Government Agency for Child Protection. The Regulation for such accommodation is being drafted.

Observations on the absence of a half-way house for female prisoners and on the fact that Iceland's only half-way house is run by a private organisation, which reportedly requires prisoners to pay for their accommodation (paragraph 34);

The execution of sentences in Iceland has not employed separation of the sexes as a key principle. The total number of women serving sentences in Iceland ranges between two and ten at a time.

The report's statement that only a single half-way house is operated in Iceland needs to be corrected. There are in fact numerous half-way houses in Iceland, most of which are run by non-governmental organisations that receive funding from the central and local governments. The Committee's attention is also drawn to the fact that the State Prison and Probation Administration has entered into an agreement with Dyngjan, a half-way house for women where two women have already served part of their sentences.

Under Article 24 of the Execution of Sentences Act No. 49/2005, the Prison and Probation Administration may permit a prisoner to serve part of his/her sentence outside prison in an establishment, or a home with which the establishment has made an agreement, provided that the prisoner engages in work or a programme of study during such accommodation. The prisoner must pay the fees collected by such an establishment or home from the inmates. On the basis of this provision, the Prison and Probation Administration has concluded agreements with a number of half-way houses.

Prisoners accommodated at the half-way house Vernd pay ISK 60,000 per month for food and accommodation. The majority of the inmates are in salaried employment out in the community or on disability benefits. They can also apply for financial support from the social services of the relevant local authority. The prison authorities assist them with such applications if required. It should be noted that the State Prison and Probation Administration pays an annual fee to Vernd, which goes towards reducing the prisoners' payments.

More detailed information about the amendments being prepared to the Prison Act (paragraph 35).

A Bill for a new Execution of Sentences Act is being drafted. The aim is to submit the Bill during the current legislative session.

III-treatment and inter-prisoner violence

In case it has not yet been initiated, a thorough and independent investigation to be opened without further delay into the incident of 10 July 2012 at Litla-Hraun Prison referred to in paragraph 38 (paragraph 38);

As stated in a letter from the State Prison and Probation Administration dated 14 December 2012, no prisoner has been made to lie on the wooden board that was in the security cell of Litla-Hraun Prison. The board in question is a loose bed base, which was fixed to the floor of the cell. A soft mattress was placed over it. The purpose of this was to prevent the mattress from being placed on the slippery linoleum flooring and thereby reduce its mobility and the resultant discomfort to the prisoner. The aforesaid letter also contained a report on the incident that took place at Litla-Hraun Prison on 10 July 2012, when a prisoner was placed in the prison's security cell for his own safety. Enclosed with the letter were also extracts from a CCTV recording together with photographs. In addition, a prison doctor's report on the incident was enclosed. The images show clearly that the prisoner was not lying directly on the board, but on a thick, brown foam mattress placed on top of it. They also show that two doctors and a nurse were involved. The prison doctor was readily available during the entire time that the prisoner was restrained and the prisoner was under surveillance by prison officers throughout this time.

With reference to the above and the data and documents of the case, any further investigation into the matter is considered unnecessary.

Steps to be taken to ensure compliance with the principles and minimum standards concerning the resort to means of restraint in a prison setting, enumerated in paragraph 40 of the report, including through the adoption of the necessary regulations and the provision of appropriate training to staff (paragraph 40);

In co-operation with Litla-Hraun Prison's healthcare staff, the prison authorities are currently formulating procedures for the placement of individuals in security cells. The procedures will take account of, among other things, the points raised in the Committee's report as well as the procedures of the Mental Health Services at the Landspítali National University Hospital (MHLSH). Preparations are also underway to engage an expert from the MHLSH or other specialist to provide prison officers with appropriate training in the handling of such matters, including in the use of equipment permitted for such purposes.

Steps to be taken to ensure that all inmates at Litla-Hraun Prison (including those referred to in paragraph 41 of the report) are able to take their daily outdoor exercise and to participate in organised activities in a safe environment (paragraph 43);

The procedures for outdoor exercise at Litla-Hraun Prison have been changed to ensure that all inmates are able to take outdoor exercise. Inmates can now go out of doors at certain times of the day when other inmates are inside.

The existing procedures at Litla-Hraun Prison (and, as necessary, in other prisons in Iceland) to be reviewed in order to ensure that whenever injuries are recorded by a doctor or a nurse which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the competent authorities and a preliminary investigation initiated (paragraph 44);

According to information from the nurses at Litla-Hraun Prison to the Prison and Probation Administration, they have not seen injuries on prisoners caused by inter-prisoner violence on average once a week. On the contrary, there have been very few such incidents in recent years. On the other hand, this is a very sensitive issue with regard to healthcare practitioners' obligation of confidentiality, which is very stringent under Icelandic law. Healthcare practitioners must maintain confidential any information they receive from prisoners, provided that the information does not concern public safety or very serious violence.

However, the prison authorities attach major importance to ensuring that prisoners are able to approach and seek the assistance of prison officers and other prison employees whenever prisoners have suffered violence, and will do their utmost to ensure that this is the case. All such incidents are reported to the police. These matters have been discussed with the healthcare personnel at Litla-Hraun Prison and with the directors of all the prisons, with an emphasis placed on ensuring that prisoners are able to submit such reports to the appropriate authorities.

The authorities are also considering whether healthcare personnel could maintain an incident register without identifying inmates and report such information to the prison authorities on a regular basis.

A centralised system for recording injuries to be introduced (e.g. a specific register kept by the prison health-care service) so as to better monitor the situation, detect incidents and identify potential risks in order to prevent inter-prisoner violence (paragraph 44).

As mentioned above, the authorities are considering whether healthcare personnel could maintain an incident register without identifying inmates and report such information to the prison authorities

on a regular basis. Work is also ongoing to set up a centralised records system for all the prisons, i.e. to interconnect the electronic medical record systems of all healthcare staff involved with prisoners.

The competent authorities should be informed of all serious cases of inter-prisoner violence, irrespective of whether the victim sustained injuries and of whether he/she chose to formally complain (paragraph 42);

The prison authorities have now reviewed the procedures and amended the rules to ensure that all criminal offences or suspicions thereof are reported to the police, regardless of whether they concern violence, intimidation or other criminal acts and whether the inmate wishes to lodge a complaint or not.

The CPT trusts that staff at Litla-Hraun Prison in particular will continue to be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation (paragraph 43).

One of the main roles of the prison authorities is to ensure the safety of prisoners whilst they are serving their sentence. The prison authorities will continue their efforts to this end.

Request for information

The outcome of any investigation carried out into the incident of 10 July 2012 at Litla-Hraun Prison (paragraph 38);

With reference to the data and documents of the case, the authorities do not consider a further investigation into the matter to be necessary.

In due course, information on the outcome of the investigations into the two cases of suspected inter-prisoner violence at Litla-Hraun Prison mentioned in paragraph 41 of the report (paragraph 41);

The Director of Public Prosecutions has now laid charges against two inmates at Litla-Hraun Prison for jointly committing violence against a fellow inmate and dealing blows on his abdomen that led to his death shortly afterwards as a result of internal bleeding. The case is currently in court.

According to information from Selfoss Police, an investigation into an alleged sexual offence at Litla-Hraun Prison was discontinued, as a continued investigation was not found to be warranted.

The outcome of the investigation into the incident at Akureyri Prison mentioned in paragraph 42 of the report (paragraph 42).

An inmate at Akureyri Prison was charged for intimidation for threatening to stab a fellow prisoner with a knife, which he took from a drawer in a kitchen shared by prisoners and proceeded to swing the knife towards the other inmate. For this and another offence that he committed before starting to serve the sentence, the offending prisoner received a two-month non-suspended sentence.

Conditions of detention

More efforts to be made to enlarge the offer of organised activities at Skólavörðustígur Prison, in particular as regards work and education (paragraph 46);

The situation at Skólavörðustígur Prison continues to be that the facilities and building remain unsuited to provide opportunities for work or education. An effort is made to provide a number of inmates with cleaning and maintenance work as well as gardening work, mowing, etc., in summertime. No changes are anticipated in this respect until the prison's closure, which the authorities aim to effect in conjunction with the construction of a new prison.

The Icelandic authorities to intensify their efforts to provide inmates at Kópavogur Prison with work opportunities (paragraph 47);

Kópavogur Prison is constantly looking for work for the inmates, but since only occasional jobs from external parties are on offer rather than steady work organised by the prison, the amount of work is uneven. The work is sometimes plentiful and sometimes scarce. On the other hand, there is considerable work involved in cleaning, kitchen work and the shared cooking duties of the inmates.

The Icelandic authorities to ensure that all the prisoners presently accommodated at Kópavogur Prison unequivocally agree to the current arrangements as regards the absence of separation of sexes during the day; further, there should be adequate staff supervision during the day (paragraph 48);

Men and women have been accommodated together at Kópavogur Prison for several years under certain arrangements. Male and female inmates meet only in common areas in daytime during work, leisure/hobby activities, outdoor exercise and cooking in the prisoner kitchen. These arrangements have generally been uncontested and well received, as the men accommodated at the prison are carefully selected from the prisoner population. An effort is made to select male inmates that are

emotionally composed, are able to work and have not committed violent offences against women or children. Their interactions are closely monitored over the course of the day.

The prison authorities do not consider it practicable to obtain the consent of all inmates in the prison for their mixed-sex accommodation. The rules on their shared accommodation are clear and strictly forbid the male prisoners from accessing the corridor of the female wing of the prison. The rules are presented to the inmates in a clear manner on their arrival and any violations of the rules are subject to disciplinary sanctions and/or removal from the prison. The prison authorities reiterate that the male inmates are carefully selected and all of them serve time in other prisons before being transferred to Kópavogur Prison, which ensures that certain experience has already been gained of their in-prison behaviour. However, if a female inmate is not in favour of a certain male inmate serving his sentence in the prison, this is dealt with and the man is transferred to another prison if warranted. It should also be noted that female prisoners have the option of serving time in open prisons if they so request.

Steps to be taken without delay to ensure that the cells in the remand section at Akureyri Prison enjoy access to natural light; if this is not possible, they should be taken out of service as prisoner accommodation (paragraph 49);

Akureyri Prison has two types of cells that can be used for the solitary confinement of remand prisoners. One of these solitary confinement cells is on the same floor as the cells for sentenced prisoners but is located aside from them so that no sound travels between the two sections. The cell is very well appointed but has no windows. There are also cells in the basement of the building that belong to the police station. These cells are normally not used for remand custody unless more than one person is in remand. The top section of the external wall of these cells is fitted with glass blocks, making light and darkness distinguishable. However, in all other respects the facilities in these cells are significantly poorer than in the windowless solitary confinement cell, for which reason they are used only in exceptional cases. Notwithstanding the prison authorities' assessment that the windowless cell provides better accommodation for prisoners, the Committee's comments in this respect will be taken into account and measures should be taken to provide remand prisoners placed in solitary confinement with the choice of being accommodated in the cells in the basement of the building.

The Icelandic authorities to strive to offer additional activities to inmates at Akureyri Prison (paragraph 50);

The provision of job and education opportunities has been fairly successful in Akureyri, in addition to which shared cooking duties and related work are of some value in this respect. Various work has been available during the summer months, including grounds maintenance, car washing and the assembly of barbecues, trailers, etc.

Steps to be taken to enable remand prisoners at Akureyri Prison to take their outdoor exercise during the day time (paragraph 50).

Remand prisoners are rarely placed in solitary confinement in Akureyri Prison. In the few such instances, they have been accommodated in the prison for short periods, usually no more than a few days. In these cases, an effort has been made to provide them with outdoor exercise after other prisoners have been locked inside or before they come out in the morning. This is because to enter the prison yard, the prisoner must walk escorted by a prison officer through the prison cell corridor and common room and from there out the door into the yard. There is no alternative route into the yard. Giving a prisoner in solitary confinement access to the outdoor exercise yard in the middle of the day could therefore jeopardise investigative interests. The prison authorities will, however, do their utmost to find a suitable solution for the outdoor exercise time of those placed in solitary confinement in Akureyri Prison in the interests of an investigation.

Comments

The CPT trusts that steps will be taken to equip the outdoor exercise yard at Litla-Hraun Prison with a shelter against inclement weather (paragraph 45);

The authorities will endeavour to improve the facilities in the outdoor exercise yard at Litla-Hraun Prison, having regard to the Committee's comments.

The CPT trusts that the Icelandic authorities will pursue their efforts to develop the offer of work and other organised activities for all inmates at Litla-Hraun Prison, in particular for those serving long sentences (paragraph 45);

The prison authorities at Litla-Hraun Prison endeavour to provide work opportunities for the inmates every week, which includes work organised by the prison itself and other work organised in co-operation with the business community. All inmates are also offered education opportunities. All prisoners are able to engage in hobby work, which may comprise activities on their own initiative or organised by the prison. Prisoners wishing to pursue their own hobbies are provided with facilities to do so within the prison. The prison has also partnered with various organisations to provide courses for inmates. These include courses in silversmithing and other jewellery-making, various cooking courses and gardening, creative writing, computer, football, tennis and yoga courses. Summer study programmes are offered for those who perform well in education. Generally, the courses are provided on a voluntary basis, an arrangement that will continue.

The CPT trusts that steps will be taken to equip the outdoor exercise yard at Litla-Hraun Prison with a shelter against inclement weather (paragraph 47);

The authorities will endeavour to improve the facilities in the outdoor exercise yard at Litla-Hraun Prison, having regard to the Committee's comments.

The CPT trusts that the practice of mixed-sex accommodation will cease with the entry into service of the future new prison located at Hólmsheiði (paragraph 48).

The execution of sentences in Iceland has not employed separation of the sexes as a key principle. Men have been accommodated in the women's prison for years under certain arrangements, with male and female inmates meeting only in common areas in daytime during work, leisure activities, outdoor exercise and cooking in the prisoner kitchen. This arrangement has generally been a success. The Prison and Probation Administration is required to give consideration to the prisoner's criminal record when making a decision on the place of detention and must not, among other things, place a sex offender in the women's prison. The planned prison at Hólmsheiði will have a separate women's wing. However, it is envisaged that men and women will spend time together over the course of the day during educational activities, work, etc. Women have also been allowed to serve their sentence in open prisons at Kvíabryggja and at Sogn, with good results. The Prison and Probation Administration finds it important to continue with this arrangement and thus ensure equal access for men and women to open prisons.

Health care

Recommendations

The Icelandic authorities to increase the time of presence of a doctor at Litla-Hraun Prison (preferably, a doctor should visit the establishment every working day) and at Kópavogur Prison (to ensure a weekly doctor's visit) (paragraph 53);

Steps to be taken to provide the equivalent of at least one full-time nurse at Litla-Hraun Prison (paragraph 53);

A daily visit by a nurse to Skólavörðustigur, Kópavogur and Akureyri Prisons to be ensured (paragraph 53);

Steps to be taken to improve the medical consultation rooms and their equipment at Skólavörðustigur, Kópavogur and Akureyri Prisons (paragraph 54);

The necessary measures to be taken to ensure that all prisoners are examined by a doctor, or by a qualified nurse reporting to a doctor, within 24 hours of their admission (paragraph 55);

The Icelandic authorities attach much importance to healthcare services for prisoners and are committed to ensuring that these services are on the best possible path. The authorities have noted the Committee's comments with regard to paragraphs 53, 54 and 55 of the Committee's report and will draw on these comments if these services are reorganised or more funds are allocated to this policy area.

Specific instructions to be issued so as to ensure that, whenever prison health-care staff observe injuries on an inmate's body which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), such injuries are duly recorded by the health-care staff in a dedicated register and the record is immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 56);

All cases of inter-prisoner violence are treated in accordance with Icelandic law. Prisoners can trust that doctor-patient relationships follow conventional confidentiality practices, since confidentiality in prisoner healthcare is not governed by any separate law. Reference is made to the Patients Rights Act No. 74/1997, the Health Records Act No. 55/2009 and the Healthcare Practitioners Act No. 34/2012.

The provision of psychiatric care to be significantly improved in all the prisons visited and the attendance of a psychologist to be increased, especially at Akureyri Prison (paragraph 57);

The average length of stay is 14 days in inpatient units (and 11 days in acute inpatient units) at MHLSH. This, among other things, shows that institutionalised care has for the most part disappeared from psychiatry in Iceland. Therefore, prisoners¹ do not reside in the hospital, no more than other mentally ill people – a monumental shift in treatment approach. The move away from institutional care has resulted in a treatment model where people come into hospital for assessment and treatment, then return to their home; be it their own home, supported housing or prison.

Hospitals are not places where execution of court imposed prison sentences takes place in Iceland. When people are sentenced to the forensic ward, it is because they have been judged not fit to be sentenced; hence they are admitted not as prisoners, but as patients.

An agreement regarding the transfer of prisoners to and from psychiatric establishments is not available yet, but institutional collaboration is improving.

Immediate steps to be taken to ensure that mentally disturbed prisoners who require in-patient psychiatric treatment are kept and cared for in appropriate facilities (paragraph 57);

The Ministry of Welfare will press for increased co-operation between the prison authorities, healthcare practitioners that provide treatment and the staff of the Psychiatric Department of the Landspítali National University Hospital.

The Icelandic authorities to continue their efforts to develop fully-fledged therapeutic programmes aimed at combating alcohol and drug addiction amongst the inmates (paragraph 58).

Healthcare staff provide alcohol and drug rehabilitation treatment every day. This involves detoxification and general rehabilitation treatment. The Committee's comment that there is room for improvement in this area will be considered by the Ministry of Welfare.

¹ With the exception of forensic patients (judged to be totally unaware of their violent crime when they committed it (and inebriation not being an excuse)).

Comments

The Icelandic authorities are invited to address the issue of an absence of a uniform system for the keeping of medical documentation, and of the lack of an efficient procedure for the exchange of medical information between prisons if/when an inmate needed to be transferred to another penitentiary establishment (paragraph 59).

Work is already underway to remedy this situation. Note is taken of the Committee's comment in that process.

Requests for information

A copy of the agreement between the prison and health-care authorities concerning the transfers of prisoners to psychiatric establishments (paragraph 57).

As stated in the letter from the State Prison and Probation Administration dated 14 December 2012, the prison authorities met with the senior managers of the MHLSH in October 2012. This was a very constructive meeting where a decision was made to strengthen co-operation between the Division and the prisons and to work to find suitable solutions for criminally sane prisoners suffering from psychiatric problems. A psychologist of the State Prison and Probation Administration and a psychiatrist at Litla-Hraun Prison were appointed the prison authorities' contacts with the MHLSH. The needs of the prisons for mental health services are being mapped out with a view to improving such services for patients. Particular emphasis will be placed on improved co-operation to ensure that all parties work together in the best possible way and to optimise the use of limited resources. Representatives of the Ministry of Welfare and the Ministry of the Interior have also met to discuss this matter. However, no formal agreement has been made on co-operation between the two institutions.

Other issues related to the CPT's mandate

Recommendations

The exercise yard in the isolation section of Litla-Hraun Prison to be enlarged and improved (paragraph 61);

At present there are no plans to modify the outdoor exercise yard for prisoners in solitary confinement at Litla-Hraun Prison. Only one prisoner takes outdoor exercise at a time, and there should be sufficient space for outdoor recreation, light physical exercise, etc.

Dedicated registers of disciplinary sanctions to be set up in the establishments visited (paragraph 61);

All disciplinary sanctions imposed on prisoners at Litla-Hraun Prison are recorded in a structured manner and all records of such decisions are available back to 1998. Disciplinary sanctions are made known to the prisoner in the presence of a witness. Disciplinary sanctions are dated and numbered. The original of the decision goes into the prisoner's file and a copy is placed in a file by alphabetical order. A copy of the front page is placed in a folder by numerical order and decisions regarding disciplinary sanctions are entered in the prisons' computer system under the name of the prisoner in question. If a prisoner is placed in solitary confinement, a copy of the decision document is put in a special folder. All disciplinary sanctions, urine sampling, body searches, cell searches, etc., are also recorded in a separate document. This summary is sent to the State Prison and Probation Administration annually and specifies the number of disciplinary sanctions, body searches, cell searches, etc.

Skólavörðustígur Prison, Kópavogur Prison and Akureyri Prison each keep a similar record of disciplinary sanctions. Decisions on disciplinary sanctions are almost exclusively made by the director of the prison and recorded in the prisoner's file, which is kept at the director's office, and reports and the decisions themselves are recorded in the prisons' computer system. All reports written by the duty officers of the prisons in relation to disciplinary violations, etc., are sent to the prison director's office and then added to the prisoner's file. The computer records for all decisions regarding disciplinary sanctions can be retrieved back to the year 1998.

The regime of prisoners accommodated in the security section of Litla-Hraun Prison to be reviewed, in the light of the remarks made in paragraph 63 (paragraph 63);

It should be reiterated that a clear distinction needs to be made between solitary confinement as a disciplinary measure under Article 57 of the Execution of Sentences Act, separation under Article 58 of the Act, detention in a security cell under Article 59 and placement in the prison's security section.

Measures under Articles 57, 58 and 59 of the Execution of Sentences Act involve the placement of prisoners in solitary confinement. These articles clearly specify the instances in which such measures may be taken and their permitted duration. It is inherent in the nature of such solitary confinement that the prisoners in question do not have the same access to work, educational activities, physical exercise, etc., as other prisoners. Prisoners placed in solitary confinement as a disciplinary measure have access to daily outdoor exercise for up to an hour and a half under Article 39 of the Execution of Sentences Act. Whether they use the entire time allowed varies between prisoners. During their outdoor time, they can engage in light physical exercise, etc. If a prisoner placed in solitary confinement for disciplinary reasons is on a programme of study, he/she may keep the educational materials that he/she wishes.

The prison director may decide to place a prisoner in the security section under paragraph 3 of Article 14 of the Execution of Sentences Act, which states that prison directors may, for security reasons or in view of special circumstances, take the decision to transfer prisoners between departments and cells. Under rules on the placement of prisoners in a security section, such placement is permitted of prisoners who have committed serious or repeated disciplinary offences, are believed to pose a danger to the prison's safety or cannot be accommodated with other prisoners owing to their behaviour. Placement in a security section may be decided for three months at a time. Prisoners placed in a security section are not in solitary confinement and retain the same entitlement as other prisoners to work and education, visits, outdoor exercise, leisure/hobby activities, etc. In principle, however, their work, education, outdoor and leisure/hobby activities should take place in a separate place and time from other prisoners.

The practice in all Icelandic prisons concerning the role of health-care staff vis-à-vis prisoners placed in solitary confinement to be brought into conformity with the principles outlined in paragraph 64 (paragraph 64);

A work group has been formed in relation to the placement of prisoners in solitary confinement to review the current procedures and necessary amendments thereto in accordance with the Execution of Sentences Act. Litla-Hraun Prison's healthcare team, among others, will take part in this work.

The Icelandic authorities to establish a system under which each prison establishment will be visited on a regular basis by an independent body authorised to inspect the prison's premises and to receive complaints from inmates about their treatment in the establishment (paragraph 65).

As stated in the answers above, the Icelandic authorities have in recent years been considering OPCAT with a view to its potential ratification. No solution has been found as to how best to organise the activities of an NPM in an Icelandic environment, in addition to unresolved issues relating to the funding of such activities.

It should also be noted that the Parliamentary Ombudsman plays a substantial role in supervising Icelandic public administration, including prison matters.

Comments

The CPT trusts that the use of closed visiting facilities will remain the exception, limited to individual cases justified for security-related reasons or by the legitimate interests of an investigation (paragraph 60);

Restrictions on visits remain the exception and are decided solely on the basis of the Execution of Sentences Act and the related regulation. Under the Execution of Sentences Act, visits may be restricted if this is deemed necessary to maintain good order and security in the prison or to prevent criminal actions. In such cases, a decision may be made that visits of certain persons are to take place under supervision by a member of the staff or in other parts of the prison, or by prohibiting physical contact between visitor and prisoner.

The Icelandic authorities are invited to translate the information brochures for newly-arrived prisoners and their relatives, as well as various forms inmates had to use for making requests, into an appropriate range of languages, and make them available to foreign prisoners (paragraph 66);

The prison authorities have already started the translation of information leaflets and forms for foreign prisoners.

The Icelandic authorities are invited to take the necessary steps to introduce treatment programmes for imprisoned sex-offenders, with a view to reducing the risk of reoffending and to preparing the inmates concerned for their eventual release (paragraph 67).

Sex offenders in Icelandic prisons are offered individual treatment based on cognitive behavioural therapy tailored to the needs of each person. Sometimes the individual in question is not interested in the therapy, in which case an effort is made to motivate the person through methods such as motivational interviewing, etc. The treatment has two main aims: to direct the person's sexual impulses into other channels and to prevent the person from reoffending.

The process is as follows:

1. Psychologists receive information on sex offenders from the State Prison and Probation Administration.
2. The group is arranged by the nature of the offence, which most often is rape or a child sex offence, and the individuals in question are invited to interviews.
3. The willingness of each such individual to overcome his problem and undergo therapy is gauged. Where applicable, individuals are offered treatment or an effort is made to motivate them to seek treatment.
4. Specialised individual treatment based on cognitive behavioural therapy is offered.
5. Follow-up treatment by a psychologist at the State Prison and Probation Administration is offered after the prisoner has served the sentence. All child sex offenders are subjected to psychological treatment during probation.

Child sex offenders:

This group of offenders is given priority in psychotherapy in prisons, both because the therapy is very specialised and few psychologists outside the prison system have the required knowledge, and also because of the serious implications of the offences, i.e. their effects on the victims and their families. Much emphasis is placed on providing offenders in this group with treatment and thereby reducing the risk of their reoffending.

Cognitive behavioural therapy is used in the prisons, as research shows that this form of therapy has produced the best results. Most therapy programmes in the world, whether for individual or group therapy, are based on this approach. The cognitive behavioural therapy used in Icelandic prisons is based on an approach that has been employed in the United Kingdom and Canada, among other countries. The therapy has two main aims: to direct the person's sexual impulses into other channels and to prevent the person from reoffending. In broad terms, this is effected by:

- a. educating the individual about sexual abuse
- b. redirecting the sex offender's impulses into a healthy direction
- c. teaching the individual to know and avoid certain circumstances and to identify thoughts that pose increased risk, so as to prevent the individual from reoffending. In such cases, sexual interest often remains intact but the individual is taught not to fulfil his/her sexual desires.
- d. Other problems that may be indirectly linked to the sexual offence are also dealt with, such as anger, loneliness, emotional identification with children, etc.

Requests for information

A copy of the new rules on solitary confinement on security grounds (paragraph 62);

No rules have been adopted with regard to solitary confinement. Such confinement is governed by the Criminal Procedure Code No. 88/2008 and the Execution of Sentences Act No. 49/2005. Under the Criminal Procedure Code, remand custody must be decided by a judge's order specifying the period thereof, which must be no longer than four weeks at a time. Remand custody cannot be extended without a new court order. However, a longer custody period than four weeks may be decided in exceptional circumstances. At the request of an accused person remanded in custody, the court order may stipulate that the rights reserved for him/her as a remand prisoner must not be abridged. In addition, a remand prisoner may refer matters relating to the remand custody to a judge.

Under Article 57 of the Execution of Sentences Act, prisoners may be placed in solitary confinement as a disciplinary measure for up to 15 days. Under Article 58, prisoners may be separated from other prisoners in certain cases, but never for more than 24 hours. Under Article 59, a prisoner may be detained in a security cell if this is necessary to prevent violence or prevent him from injuring himself or others. Such detention must not last longer than is compatible with its purpose. As previously stated, the prison authorities are currently devising procedures for the placement of prisoners in security cells on the basis of Article 59.

Whether there exists any maximum legal time-limit for placements in solitary confinement on security grounds (paragraph 62).

Reference is made to the above discussion regarding paragraph 63. It should be reiterated that a distinction needs to be made between solitary confinement as a disciplinary measure under Article 57, separation under Article 58, detention in a security cell under Article 59 and placement in the prison's security section.

Measures under Articles 57, 58 and 59 of the Execution of Sentences Act involve the placement of prisoners in solitary confinement. These articles clearly specify the instances in which such measures may be taken and their permitted duration. However, the prison director may decide to place a prisoner in the security section under paragraph 3 of Article 14 of the Execution of Sentences Act, which states that prison directors may, for security reasons or in view of special circumstances, take the decision to transfer prisoners between departments and cells. Under rules on the placement of prisoners in a security section, such placement is permitted of prisoners who have committed serious or repeated disciplinary offences, are believed to pose a danger to the prison's safety or cannot be accommodated with other prisoners owing to their behaviour. Placement in a security section may be decided for three months at a time. Prisoners placed in a security section are not in solitary confinement and retain the same entitlement as other prisoners to work and education, visits, outdoor exercise, leisure/hobby activities, etc. In principle, however, their work, education, outdoor and leisure/hobby activities should take place at a separate time from those of other prisoners.

Psychiatric establishments

Recommendations

The Icelandic authorities to carry out a thorough review of the current mental health legislation, both as regards the civil and forensic patients. The final objective should be to have in place a comprehensive and coherent set of rules (e.g. a Mental Health Act) (paragraph 69).

Icelandic legislation covers all aspects of mental health, although not in a single legislative act. Whilst the continual development of legislation is important, the Icelandic authorities do not consider a separate Mental Health Act to be the best way of safeguarding the quality of mental health services or the rights of their users.

Improvements are made to aspects of the legal environment, derived rules and procedures regarding mental health services as deemed necessary. Nonetheless, the authorities will take the Committee's encouragement to do better in this area under consideration. Aspects of the legislation and practices regarding involuntary commitment on the basis of the provisions of the Act on Legal Competence are currently being discussed. This work has been undertaken by an informal consultative group under the auspices of the Ministry of the Interior. The group has met regularly over recent months. Its members include representatives of the Ministry of Welfare, the MHLSH, the Division of Welfare of the City of Reykjavík, users of mental health services and the Icelandic Mental Health Alliance (Geðhjálp).

Comments

The CPT trusts that the Icelandic authorities will strive to find a solution to avoid patients' stay in Kleppur being prolonged due to the difficulty in finding places for them to live outside the hospital (paragraph 70).

The authorities take the Committee's encouragement seriously. Community psychiatry has indeed developed, and institutional care was abandoned in Iceland in 2010 when the last long-stay ward (ward 14 in Kleppur) was closed. It is important to continue on this path.

Requests for information

When the Icelandic authorities envisage ratifying the UN Convention on the Rights of Persons with Disabilities, as well as how the authorities intend to prepare for the consequences of this ratification (paragraph 70).

The Icelandic authorities have signed the Convention. Work is ongoing on its ratification through extensive consultation between ministries, agencies and establishments as well as through close consultation with the advocacy groups of people with disabilities. A new translation of the Convention will be introduced in the autumn and a comprehensive analysis of the law amendments needed has been made accessible on a special website where the public can follow the progress of the project. Work has already commenced to review legislation falling under the policy area of the Ministry of Welfare.

Patients' living conditions

Recommendations

Appropriate measures to be taken to ensure that all patients subject to involuntary placement in the psychiatric ward of Akureyri Hospital and in the secure ward of Kleppur have the possibility to take outdoor exercise of at least one hour on a daily basis, if their medical condition so permits (paragraph 73).

The authorities will take the Committee's recommendation under consideration.

Comments

Consideration should be given to transforming the terrace of the secure ward of Kleppur into a secure outdoor exercise area for the patients (paragraph 73).

Such an outdoor area has now been designed and funds are being sought to build it.

Staff and treatment

Recommendations

All newly-arrived patients to be examined somatically by a doctor within 24 hours of their admission. Such somatic screening should be repeated at suitable intervals. The recommendations in paragraphs 44, 55 and 56 of the report apply mutatis mutandis (paragraph 76).

Patients are generally examined physically within 24 hours. Efforts will be made to make sure that patients arriving in the forensic and secure wards are examined within this time frame. Procedures will be reviewed to ensure this.

Comments

The Icelandic authorities are invited to address the lack of specific intermediate and final treatment goals in individual treatment plans (paragraph 75).

The authorities will consider the Committee's comment.

Means of restraint

Recommendations

Dedicated registers for documenting all instances of the application of means of restraint to be established (paragraph 79);

The MHLSH now maintains a comprehensive register detailing all issues pertaining to coercion, which is kept separate from the general medical notes but under the same stringent data protection, providing immediate access to all statistics relevant to coercion.

A written, comprehensive policy on the use of means of restraint to be adopted as a matter of priority in all psychiatric establishments in Iceland (paragraph 80);

MHLSH is in the process of finalising such a policy, which will be directed to the Ministry of Welfare and the Directorate of Health.

The practices described in paragraph 81 of the report, consisting of the involvement of uniformed police officers (and, in Akureyri, staff from a private security company) in helping the health-care staff restrain a patient, to be stopped immediately (paragraph 81).

A way to reduce the involvement of uniformed police officers in the process of uniformed police officers bringing patients to hospital is being sought.

Regarding calling uniformed police officers to mental health wards in hospitals “to help the health-care staff restrain a patient”, it must be stressed that this happens once to twice per year on average. In comparison, the general A&E of Landspítali is manned by a police officer every evening and on weekends. It should also be noted that Iceland is a country without an army and the police is unarmed. Public attitudes and trust towards the police are over 80% positive (higher than towards primary health care). Mechanical restraints are categorically not used in psychiatric establishments, and it relies on specifically trained general health care staff to try and de-escalate a situation. If “control and restraint” methods do not suffice or if a patient for some reason is armed, there are only two options: to add extra staff or to call the police, who are better staffed and trained in dealing with violence as well as disarming armed people. A clear path has been marked as to give patients and staff the same protection and rights as the general citizen in the community when faced with violence and call in the police when a situation gets seriously out of hand.

Regarding police participation in removing a patient to a police cell, it should be noted that on occasion people may show up in the MHLSH emergency room, which is open and a public place, in a disturbed state, acting towards nearby people in a threatening manner. If these people are obviously under the influence of drugs or alcohol, police may be asked to remove them, in which case they may be brought back when fit to be assessed by a psychiatrist. Regarding admitted hospital patients, we are not aware of police having been asked to remove patients from within MHLSH. It is absolutely clear that this should not happen and we will endeavour to reiterate to our on-call psychiatrists that this should not happen.

Comments

Conditions in the room used at the psychiatric ward of Akureyri Hospital for seclusion of patients are not optimal and should be improved (paragraph 78);

The authorities will take the comment into consideration.

If restraint is applied in respect of a voluntary patient, his/her legal status should be reviewed (paragraph 82).

Subjecting voluntary patients to involuntary treatment is not in accordance with hospital policies. However, the hospital will reiterate to all doctors and other staff that if a patient needs involuntary treatment he/she should be granted the protection of the Act on Legal Competence No. 71/1997.

Requests for information

Confirmation that the mattress in the seclusion room of the secure ward of Kleppur has been replaced by a tear-proof model (paragraph 78);

The mattress mentioned at the secure ward of Kleppur was changed in the spring of 2013 following the Committee's comments.

Prospects for the adoption of a special regulation on the use of means of restraint (paragraph 80).

The Icelandic health authorities will take this comment into further consideration and address this matter in co-operation with the management MHLSH.

Safeguards in the context of involuntary hospitalisation

Recommendations

Steps to be taken to ensure (if necessary, through legislative amendments) that the continuation of the initial (civil) involuntary hospitalisation beyond 48 hours requires the opinion of an independent psychiatrist (paragraph 84);

An independent doctor does give an opinion if the patient is kept in hospital for longer than 48 hours, in line with the current legal framework. Any doctor can admit a patient for up to 48 hours, if the person is deemed to be very likely to be suffering from a serious mental illness. For a further involuntary containment to take place for up to 21 days (following the 48 hours) what is needed is: a) a request by a first degree relative or social services stating the reasons why the person needs to be kept in hospital longer; b) a certificate by a qualified (independent) psychiatrist giving a detailed account of why he/she feels the person needs to be kept in hospital against her will any longer, with reference to the harm principle (risk to self, others or one's health); c) the approval of the Ministry of the Interior after considering those two aforementioned pieces of evidence.

The relevant legislation to be amended in order to remove the automatic linking of involuntary hospitalisation to deprivation of legal competence (paragraph 85);

Should the Act on Legal Competence be reviewed, note will be taken of the recommendation.

The Icelandic authorities to change the existing practice so that if the period of involuntary placement is unspecified (or exceeds six months), there is an automatic review at regular intervals of the need to continue the placement. This should also apply to forensic patients placed under Section 62 of the Criminal Code (paragraph 86);

As regards the deprivation of legal competence, paragraph 1 of Article 5 of the Act on Legal Competence states that a person may be deprived of legal competence for a limited period of time if deprivation unlimited in time is not considered necessary. Time-limited deprivation of legal competence must, however, not be ordered for less than six months at a time. The Explanatory Notes to the Bill for the Act state that this provision serves to emphasise that this practice should not generally be used unless it is foreseeably needed for some time. The Explanatory Notes further state: *“The provision should specifically state that a person deprived on a time-limited basis of his/her legal competence automatically regains legal competence after the period decided by the court order. If an extension of the deprivation of legal competence is deemed necessary, such an*

extension shall not be effected unless with either a time-limited or non-time-limited decision of a judge in a new case of deprivation of legal competence. The proceedings of such a case shall be governed by the same rules as the proceedings of legal competence cases in general.”

It should be noted that, on the basis of Article 15 of the Act on Legal Competence, a request can be made for the cancellation of deprivation of legal competence in part or in whole. Such a request must be made to a district court judge. The cancellation of time-limited deprivation by a decision of a judge is governed by the same rules as apply to non-time-limited deprivation, provided that it is no longer considered necessary. A special rule is to be found in paragraph 2 of Article 15 of the Act on Legal Competence concerning the cancellation of time-limited deprivation, which states that if such a request is made by the person deprived of legal competence, the judge shall only be obliged to proceed with the request if at least six months have passed since the deprivation took place. In case of a deprivation ordered for twelve months or a shorter period, the judge shall only be obliged to proceed with the request if at least one half of the period of deprivation has passed.

However, the Icelandic authorities will take the Committee’s recommendation into consideration if and when the Act on Legal Competence is reviewed.

The legislation concerning the possibility of treating a patient without his/her consent to be reviewed, in the light of the remarks in paragraph 87 (paragraph 87);

As regards involuntary medication and other involuntary medical treatment of patients, it is pointed out that under paragraph 1 of Article 28 of the Act on Legal Competence, a person committed involuntarily to hospital without the approval of the Ministry of the Interior having been obtained can only be subjected to involuntary medication or other involuntary medical treatment if the conditions in paragraph 3 of the Article are met. Paragraph 2 of the same Article states that a person involuntarily committed to hospital for treatment with the approval of the Ministry shall only be subjected to involuntary medication in accordance with a decision of the chief physician. The paragraph further states that the same applies to any other involuntary treatment. Paragraph 3 of Article 28 further provides that the doctor in charge of a shift may decide, however, that a person subject to involuntary commitment shall be subjected to involuntary medication or other involuntary medical treatment if the patient presents a danger to him-/herself or others, or if the patient’s life or health would otherwise be in jeopardy. Any decision on involuntary medication or other involuntary treatment must in such cases be notified to the chief physician as soon as possible, and the chief physician must decide on any further treatment.

A brochure setting out the wards' routines and patients' rights, including information about outside complaints bodies and procedures, to be systematically provided to patients and their families and/or legal representatives on admission to all psychiatric establishments in Iceland. Any patients unable to understand the brochure should receive appropriate assistance (paragraph 89);

Attention is drawn to the provisions of Article 27 of the Act on Legal Competence, under which a person subject to involuntary commitment is entitled to the counsel and support of a specially appointed councillor on account of hospitalisation and treatment provided in the hospital. The committed person is entitled to discuss any matter relating to the involuntary commitment in private with the councillor and to contact the councillor regularly. The councillor must assist in preparing applications, if requested, to refer a decision of involuntary commitment or involuntary medication to the courts. The councillor must also ensure that the court receives the application immediately.

In addition, efforts have been made following the Committee's recommendations to further ensure that patients are aware of their rights. In terms of procedure, this is already adequate. However, efforts will be made to further ensure full implementation. Efforts will be made to make hospital staff better aware of the best way to engage patients and help them be completely aware of their situation and why and how they happen to be in our wards.

Furthermore, the Ministry of the Interior will consider whether there is reason to change procedures for the approval of involuntary commitments so that, in parallel with approval, a special letter will be sent to the person involuntarily committed including information and guidance on his/her rights.

Regular visits by an independent body to be organised to psychiatric establishments. Such a body should be authorised, in particular, to talk privately with patients, to receive directly any complaints and transmit them, if appropriate, to the competent authority, and to make recommendations (paragraph 90).

It should be noted that users of mental health services have ready access to a users' representative at the Division of Mental Health Services of the Landspítali National University Hospital. The position of the users' representative was established in 2006, with the representative taking a seat on the Quality Board of the Division of Mental Health Services. The purpose of this position includes enhancing knowledge on users within the Division and increasing co-operation with the users of its services.

It should also be pointed out that under Article 27 of the Act on Legal Competence, a person subject to involuntary commitment is entitled to the counsel and support of a specially appointed councillor on account of hospitalisation and treatment provided in the hospital. The committed person is entitled to discuss any matter relating to the involuntary commitment in private with the councillor

and to contact the councillor regularly. If requested, the councillor must assist with the preparation of applications to refer a decision of involuntary commitment or involuntary medication to the courts. The councillor must also ensure that the court receives the application immediately.

Comments

The Icelandic authorities are invited to set up appropriate facilities in which patients can meet their relatives and friends in the psychiatric ward of Akureyri Hospital and in the secure and forensic wards of the Kleppur hospital (paragraph 88);

In the forensic and secure wards at Kleppur, there are separate quarters for visiting family members. Additionally, this autumn a separate family room has been set up in the new acute psychiatric intensive care facility at Landspítali National University Hospital so that family members can visit patients, with greater emphasis on patients' privacy and without having to step into the ward proper.

The Icelandic authorities are invited to make further efforts to explain to patients in an understandable manner, repeatedly if necessary, their legal status and its implications (paragraph 89).

Efforts have already been made, following the Committee's recommendations, to further ensure that patients are aware of their rights. In terms of procedure, this is already adequate. With respect to implementation, efforts are being instigated to make staff better aware of the best way to engage patients and help them be completely aware of their situation.

Furthermore, the Ministry of the Interior will consider whether there is reason to change the procedures for the approval of involuntary commitments so that, in parallel with approval, a special letter will be sent to the person involuntarily committed including information and guidance on his/her rights.

Requests for information

Clarification of why two involuntary patients at the secure ward in Kleppur had court-imposed time-limited deprivation of legal capacity (and, consequently, involuntary placement) of, respectively, two and four years, whereas pursuant to Section 5 of the Legal Competence Act a time-limited deprivation of legal competence shall not be ordered for more than six months (paragraph 86).

Under paragraph 1 of Article 5 of the Act on Legal Competence, a person may be deprived of legal competence for a limited period of time if deprivation unlimited in time is not considered necessary. Time-limited deprivation of legal competence must, however, not be ordered for less than six months at a time. The Explanatory Notes to the Bill for the Act state that this provision serves to emphasise that this practice should not generally be used unless it is foreseeably needed for some time.

Re-examination revealed an error in the English translation of provisions of the Act on Legal Competence concerning this matter. The translation will be corrected as soon as possible.

Enclosed: Information sheet for detained persons information sheet from January 2013.



INNANRÍKISRÁÐUNEYTIÐ

UPPLÝSINGAR HANDA ÞEIM SEM HEFUR VERIÐ HANDTEKINN

1.gr.

Þú átt rétt á að fá upplýsingar um réttarstöðu þína á tungumáli sem þú skilur.

Þú átt rétt á að fá upplýsingar um tíma handtöku.

Þú átt rétt á að vera upplýst/ur um ástæður þess að þú varst handtekin/n og hvaða sökum þú ert borin/n.

2.gr.

Þú átt rétt á að hafa samband við lögmann eins fljótt og unnt er eftir handtöku.

Þú átt rétt á að lögreglan tilnefni þér verjanda og þú mátt ræða einslega við hann. Lögreglunni er skylt að verða við ósk þinni um að tilnefna tiltekinn lögmann.

Þú átt rétt á, á öllum stigum máls, að haft verði samband við lögmann, sem þú ræður á eigin kostnað, og mátt ráðfæra þig við hann með sama hætti.

3.gr.

Þú átt rétt á að hafa samband við nánustu vandamenn þína nema sérstök ástæða sé til að ætla að það muni torvelða rannsókn málsins. Ef þér er synjað um að hafa samband við nána vandamenn þá skal lögreglan láta þig vita hvers vegna.

Þú átt rétt á að vandamanni þínum eða nánum vini verði gert viðvart um handtökuna og hvar þú ert vistuð/vistaður. Lögreglan skal láta þig vita ef hún frestar slíkri tilkynningu og jafnframt hvers vegna það er gert.

Ef þú ert yngri en 18 ára ber lögreglu að láta foreldra þína eða aðra vandamenn og barnaverndarfulltrúa vita af handtöku þinni og hvar þú ert vistuð/vistaður.

Ef þú ert erlendur ríkisborgari og heimaríki þitt hefur sendiráð eða ræðisskrifstofu hér á landi, getur þú óskað þess að lögreglan tilkynni um handtökuna þangað.

4.gr.

Þú átt rétt á að verða látin/n laus um leið og forsendur handtökunnar eru ekki lengur fyrir hendi. Lögreglunni ber að leiða þig fyrir dómara án undandráttar og ávallt innan 24 klukkustunda frá handtöku.

Ef veður, ófærð eða aðrar álíka ástæður koma í veg fyrir að þú verðir leidd/ur fyrir dómara innan 24 klukkustunda skal það gert jafnskjótt og kostur er. Sama á við ef ekki er unnt að taka af þér skýrslu fljótlega eftir handtöku vegna áfengis- eða vímuáhrifa þinna en í þeim tilvikum mega þó aldrei líða meira en 30 klukkustundir þar til þú ert leidd/ur fyrir dómara.

5.gr.

Þú átt rétt á að vita að á þig getur fallið greiðsla sakarkostnaðar verðir þú fundin/n sek/ur um það brot sem þér er gefið að sök. Verði mál þitt fellt niður af einhverjum ástæðum eða þú sýknuð/sýknaður ber ríkissjóður sakarkostnað. Til sakarkostnaðar teljast óhjákvæmileg útgjöld vegna rannsóknaðar sakamáls og meðferðar þess, m.a. þóknun verjanda og réttargæslumanns.

6.gr.

Eigir þú við veikindi eða meiðsli að stríða er lögreglu rétt að útvega þér aðstoð læknis. Í þess háttar tilfellum getur þú einnig farið fram á að lögregla kalli til lækni að þínu eigin vali en þá fellur sá kostnaður sem umfram verður vegna þess á þig.

Ég hef lesið framanskráðar upplýsingar og staðfesti það með undirskrift minni.

Dagsetning

Tímasetning

Undirskrift

INNANRÍKISRÁÐUNEYTIÐ
JANÚAR 2013