COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

CPT/Inf (2016) 1

Report

to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 18 to 28 May 2015

The Swedish Government has requested the publication of this report.

Strasbourg, 17 February 2016

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Copy of the letter transmitting the CPT's report

Ministry for Foreign Affairs
Gustav Adolfs torg 1
103 39 Stockholm
Sweden

Strasbourg, 23 November 2015

Dear Sir/Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Swedish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Sweden from 18 to 28 May 2015. The report was adopted by the CPT at its 88th meeting, held from 2 to 6 November 2015.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the Swedish authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Swedish authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in the Swedish language, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours faithfully,

Mykola Gnatovskyy
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

EXECUTIVE SUMMARY

The main objective of the visit was to review the measures taken by the Swedish authorities in response to the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the safeguards against ill-treatment of persons in police custody and the use of restrictions vis-à-vis remand prisoners. The delegation also visited a forensic psychiatric establishment in order to examine the treatment and legal safeguards offered to patients admitted on an involuntary basis. It also reviewed the situation of foreign nationals, held in immigration detention centres and prisons, and the conditions of detention of sentenced prisoners in the high security prison.

Police establishments

The conclusion reached by the Committee after the 2009 visit – namely that persons deprived of their liberty by the Swedish police run relatively little risk of being physically ill-treated – remains valid. The conditions of detention in police establishments were generally acceptable for the maximum period of police custody (i.e. up to 96 hours).

However, the delegation did receive some allegations, including from juveniles below 18 years of age, of the police having used excessive force upon apprehension. The delegation also received one recent allegation of physical ill-treatment while the person concerned was already inside a police station.

The Committee reiterates its recommendation that the Swedish authorities continue to deliver a firm message, including through on-going training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions.

In this context, the procedure for screening newly arrived persons at police detention facilities continued to leave much to be desired. Medically untrained duty officers performed an initial external body check and asked the persons detained about any health problems (including, in principle, any injuries and their origin). It was then up for the duty officer to decide whether medical assistance was needed and whether a doctor, a nurse or an ambulance had to be called in.

The Committee wishes to emphasize once again that in order for the procedure for medical examination to genuinely contribute to the prevention of ill-treatment, steps must be taken to ensure that, whenever it is performed, the examination of persons admitted to police facilities is performed by qualified health-care personnel in a systematic and thorough manner, and duly recorded in a dedicated register. Further, information entered into this register should be systematically transmitted to the relevant investigative authorities.

In the reports on its previous visits to Sweden, the CPT has repeatedly made a number of recommendations and comments as regards safeguards for persons detained by the police, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. Unfortunately, the Committee is concerned to observe a lack of progress in this area since the 2009 visit.

The CPT reiterates its recommendations that the Swedish authorities take the necessary steps to ensure that the safeguards against ill-treatment are applied to all categories of persons from the very outset of their deprivation of liberty. In particular, the right of persons deprived of their liberty by the police to have access to a doctor should be made the subject of a specific legal provision.

Further, the CPT calls upon the Swedish authorities to take effective steps to ensure that all persons apprehended by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty in a language they understand.

Finally, as regards the mechanisms for the investigation of complaints of police ill-treatment, the Committee concludes that the setting up of the new Internal Investigation Department has addressed most of the CPT's concerns. In particular, the independence of the mechanism has been strengthened significantly. However, it remains an open issue whether the new Department will also be perceived as independent by the general public, given that it is still formally a part of the Swedish Police Authority. Therefore, the Committee reiterates its recommendation to reconsider the need for the investigation of complaints against the police to be entrusted to an agency which is demonstrably independent of the police.

Establishments for foreign nationals deprived of their liberty under aliens legislation

The delegation did not receive any allegations of ill-treatment by staff of Migration Agency Detention Centre in Märsta; material conditions were also generally of a high standard.

However, despite the CPT's recommendations from the report on its 2009 visit, there was still no systematic medical screening upon arrival at Märsta detention centre, and medical confidentiality was not ensured.

The Committee reiterates its recommendations that the Swedish authorities take measures to ensure that all newly-arrived foreign nationals benefit from a comprehensive medical screening as soon as possible after their admission and that confidentiality of medical data is respected.

As regards the safeguards, the CPT recommends that the relevant legislation be amended so as to ensure that all persons held under aliens legislation have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings.

Prisons

The CPT welcomes the efforts of the Swedish authorities which have led to elimination of overcrowding and allowed to improve access to organised activities for sentenced prisoners.

The Committee also notes that most of the inmates interviewed by the delegation spoke positively about the staff, the general atmosphere in the prisons visited was relaxed and prison officers appeared to be highly professional and well-trained.

However, the Committee regrets that despite 24 years of on-going dialogue between the CPT and the Swedish authorities on the matter, there are no real signs of progress as regards the widespread imposition of restrictions on remand prisoners.

Moreover, the newly adopted Instructions of the Prosecution Authority, general advice about restrictions and Guidelines on restrictions and long periods of pre-trial detention do not seem to be likely to bring about the desirable change since they limit themselves to providing clarification necessary to ensure consistency in the application of the existing legislation.

The CPT recommends that the Swedish authorities take swift and decisive action, including legislative changes if necessary, to ensure that restrictions on remand prisoners are only imposed in exceptional circumstances which are strictly limited to the actual requirements of the case and last no longer than is absolutely necessary.

As regards the situation of prisoners held in conditions of high security, the Committee was concerned to discover that eight out of ten prisoners in the high-security unit of Saltvik Prison (segregated for their own protection) were placed there, seemingly, without appropriate legal grounds and, as a result, were subjected to the same level of segregation as persons who were considered as representing a particularly high security risk.

The CPT recommends that the above-mentioned legal lacuna be eliminated as a matter of priority and that the Swedish authorities take steps to find alternative accommodation – outside the high-security unit – for prisoners segregated for their own protection.

Further, the delegation noted that the decision about placement in a security unit was taken by the General Directorate of the Prison and Probation Service without informing the prisoner concerned about detailed grounds for such a placement and thus effectively depriving him/her of a real possibility to appeal against the placement decision (and any decision to continue the placement). The CPT recommends that the Swedish authorities take measures to ensure that placement and/or review of placement in conditions of high security is based on a full individualised assessment of the risks requiring it and that the prisoner concerned is offered the opportunity to express his/her views on the matter.

Overall, the material conditions for the mainstream prison population were good in the prisons visited. That said, all the cells at Kronoberg Remand Prison and most of the cells at Falun Remand Prison did not have in-cell sanitation and the delegation received a few complaints about delays in gaining access to the toilet. The CPT recommends that steps be taken to ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night).

As regards regime, it remained impoverished for remand prisoners, whether subjected to restrictions or not. The CPT emphasizes that it is not acceptable to leave prisoners to their own devices for months at a time and recommends take measures to ensure that all remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature.

As for the regime for sentenced prisoners at Saltvik Prison, the delegation gained a positive impression of the efforts made to engage prisoners in educational, vocational and other structured activities.

The delegation was informed that special units for detained foreign nationals had been opened in January 2015 in the prisons of Norrtälje and Storboda. The delegation visited such a unit at Norrtälje Prison and was concerned to receive allegations of recourse to unofficial collective punishments.

The CPT calls upon the Swedish authorities to carry out a thorough and independent inquiry into these allegations; if the above-mentioned practice is found to indeed exist, it should be terminated immediately. Furthermore, the CPT recommends ensuring that all detained foreign nationals transferred to the Prison and Probation Service establishments are fully informed of their situation, their rights, and the procedure applicable to them.

Regarding health-care services in prisons, the CPT reiterates its assessment from the 2009 visit that the presence of doctors (including psychiatrists) is insufficient in some of the prisons visited and recommends that this be increased. Other recommendations include that a person qualified in first-aid always be present in prisons including at night and on weekends; a medical screening be carried out systematically within 24 hours of admission of a newly arrived prisoner; the injury recording procedure be reviewed to ensure a report is immediately and systematically brought to the attention of the competent authorities in all cases; the distribution of medicines be performed solely by health-care staff, and that prisoners be able to have access to the prison's health-care service on a confidential basis.

Recommendations made as concerns security-related issues include that the Swedish authorities review the role of health-care staff in the context of segregation of prisoners; necessary steps be taken to ensure that relevant principles and minimum safeguards are applied in prisons whenever recourse is had to mechanical restraints; and that every instance of use of force/special means be recorded in a dedicated register.

The Committee also recommends that the Swedish authorities eliminate the existing legislative lacuna and adopt provisions concerning the visiting entitlement for prisoners, and that measures be taken to ensure that prisoners have access to a telephone and are able to receive visits without disproportionate restrictions.

Psychiatric establishments

The CPT's delegation visited the Regional Forensic Psychiatric Clinic in Växjö. No allegations were heard of any form of ill-treatment by staff; on the contrary, most of the patients interviewed spoke highly of the staff. Further, the Committee found the living conditions, treatment, activities and staffing levels to be generally adequate. That said, the CPT invites the Swedish authorities to take steps at Växjö Forensic Psychiatric Clinic to increase the number and the times of presence of psychiatrists on the units and to involve more patients – and at more frequent intervals – in therapeutic and rehabilitative activities.

Regarding the use of means of restraint, the CPT was concerned by the practice of doctors authorising (or confirming) recourse to means of restraint by telephone, without actually seeing and examining the patient; such a practice must be stopped.

As regards safeguards, the Committee recommends that the relevant legislation be amended so as to specifically provide for an obligatory psychiatric expert opinion (independent of the establishment in which the patient is placed) in the context of the review of the measure of involuntary hospitalisation. Furthermore, the CPT calls upon the Swedish authorities to introduce in all other psychiatric establishments in Sweden, without further delay, a procedure whereby patients and (if they are legally incompetent) their legal representatives are placed in a position to give their free and informed written consent to treatment (prior to its commencement).

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Sweden from 18 to 28 May 2015. The visit formed part of the Committee's programme of periodic visits for 2015, and was the CPT's fifth periodic visit to Sweden.[1]

2. The visit was carried out by the following members of the CPT:

- Lətif HÜSEYNOV, Head of Delegation
- Georg HØYER
- Jari PIRJOLA
- Therese Maria RYTTER
- Dubravka SALČIĆ
- George TUGUSHI
- Marika VÄLI.

They were supported by Borys WÓDZ, Head of Division, and Dalia ŽUKAUSKIENĖ of the CPT's Secretariat, and assisted by:

- Ann ALBRECHT (interpreter)
- Nadia ALVES (interpreter)
- Maria HEMPH MORAN (interpreter)
- Gerd Elisabeth MATTSSON (interpreter)
- Louise RATFORD (interpreter)
- Patrik TESTE (interpreter)
- Yvonne TIZARD (interpreter)
- Johanna TOLL (interpreter).

[1] The previous periodic visits took place in May 1991, February 1998, January/February 2003 and June 2009. In addition, an ad hoc visit was carried out in August 1994. The Committee's reports on these visits, as well as the responses of the Swedish authorities, have been made public at the request of the Swedish authorities and are available on the Committee's website (http://www.cpt.coe.int).

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

- Arlanda Airport Police Department, Stockholm
- Norrmalm Police Department, Stockholm
- Södermalm Police Department, Stockholm
- Sollentuna Police Department, Stockholm
- Solna Police Department, Stockholm
- Borlänge Police Department
- Falun Police Department
- Lund Police Department
- Malmö Police Department
- Sundsvall Police Department
- Växjö Police Department

Prisons

- Falun Remand Prison
- Kronoberg Remand Prison, Stockholm
- Malmö Remand Prison
- Saltvik Prison
- Sollentuna Remand Prison
- Växjö Remand Prison

Migration Agency establishments

- Migration Agency Detention Centre, Märsta

Psychiatric establishments

- Regional Forensic Psychiatric Clinic, Växjö.

The delegation also went to the special unit for persons detained under aliens legislation located at Norrtälje Prison, in order to interview foreign nationals held there.

C. Consultations held by the delegation and co-operation encountered

4. In the course of the visit, the delegation met Morgan JOHANSSON, Minister of Justice, and Agneta KARLSSON, State Secretary of the Ministry of Health and Social Affairs. It also held consultations with Agneta Isborn LIND, Prosecutor General, Hanna Jarl KÄLLBERG, Director of Prison and Probation Service, Ebba Sverne ARVILL, Chief Commissioner at the Police Authority and other senior officials from the Ministries of Justice and Health and Social Affairs, the Police, the Migration Agency, the National Board of Health and Welfare, the Health and Social Care Inspectorate, and the National Board of Institutional Care.

The delegation further met the Parliamentary Ombudspersons Elisabet FURA (Chief Parliamentary Ombudsperson), Cecilia RENFORS and Lilian WIKLUND, as well as Fredrik MALMBERG, the Ombudsman for Children. Meetings were also held with representatives of civil society.

A list of the national authorities and organisations consulted during the visit is set out in the Appendix to this report.

5. The CPT wishes to thank the Swedish authorities for the excellent co-operation received both from the national authorities and from staff at the establishments visited. Almost invariably, the delegation enjoyed rapid access to the places visited (including the ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, the delegation was provided with all the necessary documentation and additional requests for information made during the visit were promptly met.

The Committee also wishes to express its appreciation for the efficient assistance provided to its delegation by the liaison officers designated by the national authorities, Anna LEKVALL and Kaj LÖVSTEDT from the Ministry for Foreign Affairs.

6. That said, the CPT must stress that the principle of co-operation between State Parties and the CPT is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. In this respect, and despite ongoing efforts in a number of areas, the CPT is seriously concerned by the lack of progress in the implementation of some of the Committee's long-standing recommendations,[2] such as those on the safeguards against ill-treatment of persons in police custody and in the context of involuntary psychiatric hospitalisation and treatment, but in particular on the use of restrictions vis-à-vis remand prisoners.

The CPT wishes to emphasise that a persistent failure to improve the situation in the light of the Committee's recommendations could oblige it to consider having recourse to Article 10, paragraph 2, of the Convention.[3] The Committee trusts that the action taken by the Swedish authorities in response to this report will render such a step unnecessary.

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[2] Some of them dating back to the very first CPT's visit to Sweden, in 1991.

[3] "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

D. Monitoring places of deprivation of liberty (National Preventive Mechanism)

7. Sweden ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 14 September 2005. In 2010, the Swedish Parliament (*Riksdag*) decided to allocate additional funds to the Parliamentary Ombudspersons to allow them to fulfil the role of a National Preventive Mechanism (NPM) pursuant to the OPCAT. An OPCAT (NPM) Unit was established within the Office of the Parliamentary Ombudspersons on 1 July 2011. The Unit's mandate empowers it to carry out both announced and unannounced visits to places of deprivation of liberty, and to speak with detained persons in private.

8. During the meeting with the Parliamentary Ombudspersons and the Head of the OPCAT Unit at the outset of the visit, the delegation was informed that since its creation the Unit had carried out visits to 23 remand prisons and 8 prisons (out of a total of 47 penitentiary establishments in Sweden)[4] and to 52 police detention facilities (out of a total of 135).[5] Further, all the existing establishments for drug addicts (LVM homes) had been visited, as well as 4 out of 25 juvenile detention establishments (LVU), 6 psychiatric establishments and two establishments for persons detained under aliens legislation.[6] The delegation gained the impression that the staff of the OPCAT Unit were making genuine efforts to visit as many establishments as possible, and to cover the widest possible range of types of places of deprivation of liberty.

That said, the Unit's very limited staff resources (four persons, including three lawyers and a former police officer)[7] prevented it from effectively fulfilling its function of carrying out frequent and unannounced visits to all types of such places throughout the country.[8] Admittedly, a part-time medical expert had been recruited in March 2015 (which is a welcome development) but the person concerned had not yet taken up his/her duties. Both the Chief Parliamentary Ombudsperson and the Head of the OPCAT Unit acknowledged that the resources available were insufficient to carry out regular and frequent visits to psychiatric establishments, in particular, and had prevented the Unit from monitoring the situation in social care establishments (run by municipalities) as well as from engaging in the monitoring of operations of removal of foreign nationals by air ("return flights").[9]

In this context, it was regrettable for the delegation to learn subsequently that the most recent visits of the OPCAT Unit to most of the establishments visited in the course of the CPT's 2015 visit had taken place a relatively long time before (if at all).[10]

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4 In 2015, the OPCAT Unit focused its activities on establishments where female prisoners could be accommodated.

5 Five establishments had been visited in 2015 at the time of the visit, including one prison visited previously.

6 Out of the total of 109 visits at that time, approximately 60 had been announced; visits to police establishments had mostly been unannounced.

7 It is noteworthy that staff of the other units of the Office of Parliamentary Ombudspersons reinforced the staff of the OPCAT Unit on an *ad hoc* basis, during some of the visits.

8 In any event, much more frequent than had been the case until now. For 2015, the plan was to visit 16 establishments in total.

9 The Unit was in initial discussions with the police on this subject, but no decisions had been taken at the time.

10 For example, Malmö Remand Prison had last been visited some 2 years before, Falun Remand Prison approximately 3 years before, and there had never been a visit by the OPCAT Unit to the Regional Forensic Psychiatric Clinic in Växjö.

9. While welcoming the setting up of the OPCAT Unit and duly acknowledging the commitment of its staff, the CPT must stress that, in order to be able to perform efficiently the role of a national monitoring mechanism of places of deprivation of liberty, the Unit will require increased financial and human resources. Consequently, **the Committee invites the Swedish authorities to take steps to increase significantly the financial and human resources made available to the Office of Parliamentary Ombudspersons and, in particular, to its OPCAT Unit.**

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

10. Generally speaking, there have been no major changes to the legal and regulatory framework governing the detention of persons by the police since the 2009 visit. It should be recalled here that, pursuant to the Code of Judicial Procedure (CJP), the maximum period during which criminal suspects may be held in police custody before being transferred to a remand prison is 96 hours. The prosecutor must be notified promptly when someone is apprehended (*gripen*) by the police, and the apprehended person must be interrogated as soon as possible. Immediately after this interrogation, the prosecutor must decide whether the person shall be arrested (*anhållen*) or released. A request by the prosecutor for an arrested person to be remanded in custody (*häktad*) by a court must normally be made on the same day as the decision to arrest, and in any case not later than on the third day after arrest.[11]

Further, in the context of the preliminary investigation, the police may oblige a person not under arrest to stay with them for questioning for up to 6 hours, a period which may exceptionally be extended to 12 hours.[12] This provision concerns persons who are not yet under suspicion (*skäligen misstänkta*) of having committed a crime, but who may become suspects, as well as witnesses. As regards persons under 15 years of age, the period of questioning is limited to a maximum of 6 hours.

The Police Act provides for other situations when the police may decide, on their own authority, to take persons into temporary custody (*omhändertagits*), such as minors found in circumstances which pose a serious and imminent threat to their health or development, persons who disturb the public order, and persons whose identity is unknown.[13] The length of temporary custody is limited to 6 hours, but may be prolonged to 12 hours if it is particularly important that a person be identified. In addition, intoxicated persons may be taken into care (*förvar*) and held on police premises for up to 8 hours.[14]

It should be stressed as a positive fact that no violations of the above-mentioned time-limits for police custody have been observed by the CPT's delegation in the course of the 2015 visit.

As for the detention by the police of foreign nationals pursuant to aliens legislation, reference is made here to the description of the applicable legal and regulatory framework in paragraph 31 below.

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11 See Chapter 24, Sections 8, 12 and 13 of the CJP.
12 See Chapter 23, Section 9, of the CJP.
13 See Sections 11 to 16 of the Police Act.
14 See Section 7 of the Law on the Taking into Care of Intoxicated Persons.

2. Ill-treatment

11. The great majority of persons interviewed by the delegation stated that they had been treated correctly while in police custody. Consequently, the conclusion reached by the Committee after the 2009 visit – namely that persons deprived of their liberty by the Swedish police run relatively little risk of being physically ill-treated – remains valid.

However, the delegation did receive some allegations, including from juveniles below 18 years of age, of the police having used excessive force upon apprehension. The allegations heard referred, in the main, to unjustified use of pepper spray, truncheon blows, violently pushing the apprehended person to the ground, too tight handcuffing and lifting the person concerned by the handcuffs.

The delegation also received one recent allegation of physical ill-treatment (consisting of punches) while the person concerned was already inside a police station. As a result, the person concerned had reportedly sustained injuries requiring immediate hospitalisation.

Further, some allegations of verbal abuse, especially vis-à-vis persons of foreign origin, were received by the delegation.

12. In one case, the delegation gathered medical evidence compatible with the allegations made and was told that the person concerned (A[*]), reportedly severely beaten (struck with truncheons several times over his whole body, including 5 blows to his head) by a group of plainclothes police officers upon apprehension in Ullared on 15 May 2015, had formally complained about this to the Internal Investigation Department[15] on 20 May 2015.

The delegation's forensic doctor examined A at Malmö Remand Prison on 23 May 2015 and observed the following injuries: on the right side of the head (the right parietal region), a wound with stitches approximately 2 cm in length; on the lower lid of the left eye, a bruise measuring 2 x 2.5 cm, purple-yellow in colour; on the right side of the top of the head, an excoriation measuring 1.5 x 0.5 cm; on the right side of the thorax, a purple-yellow bruise measuring 5 x 4 cm; on the lower third of the left forearm, a yellow bruise measuring 5 x 6 cm; and on the middle third of the right arm, a yellow bruise measuring 3 x 4 cm.[16]

The CPT would like to be informed, in due course, of the outcome of the investigation into this case.

More generally, **the Committee reiterates its recommendation that the Swedish authorities continue to deliver a firm message to police officers, including through ongoing training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of appropriate sanctions.**

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[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name has been deleted.

15 See paragraph 23 below.

16 It is noteworthy that A's injuries were also described and recorded (in his medical file) by the nurse who examined him upon his arrival at Malmö Remand Prison a few days before the delegation's visit. However, the description made by the nurse was very succinct ("a wound on the top of the head; petechial in the eyes; no rib fracture, only a fissure; pain in the back"). See also paragraph 14 below.

As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them.

13. In the course of the visit, the delegation was provided with statistical information concerning the disciplinary procedures and sanctions vis-à-vis police officers following complaints of ill-treatment in respect of the years 2013 and 2014. There had been 40 disciplinary proceedings in 2013, as a result of which 20 officers had received a warning and 15 had had their salaries reduced; further, three officers were dismissed from the police. The analogous figures for 2014 were 50, 32, 12 and four. The delegation was also informed that there were approximately 6,000 complaints against police officers per year, of which some 1,500 had led to internal inquiries (however, it was not clear how many of those complaints/inquiries concerned alleged ill-treatment of persons in police custody).

Further, the delegation was told that there had been 5 criminal investigations concerning alleged ill-treatment by the police, four of them resulting in convictions, in the course of 2013; the figures in respect of 2014 were said to be approximately the same. **The CPT would like to be informed of the details of the above-mentioned convictions (nature and duration of punishment) in 2013 and 2014.**

More generally, and in order to obtain an updated picture of the situation, **the Committee would like to receive the following information, in respect of the year 2015:**

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

- **an account of criminal/disciplinary sanctions imposed following such complaints.**

14. The role to be played by medical doctors in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past. In this context, the delegation observed that the procedure for screening newly-arrived persons at police detention facilities continued to leave much to be desired. Medically untrained duty officers performed an initial external body check and asked the persons detained about any health problems (including, in principle, any injuries and their origin). It was then up to the duty officer to decide whether medical assistance was needed[17] and whether a doctor, a nurse or an ambulance had to be called in.

[17] See also paragraph 18 below.

Whenever examinations by health-care staff did take place, the quality of the recording of injuries was generally quite poor, with descriptions of injuries being succinct and often incomplete, and with the explanations of the detained persons as to the origin of their injuries frequently missing; further, doctors and nurses did not attempt to make any conclusion as to the consistency of the injuries described with the explanation provided. Police departments lacked dedicated registers for injuries, and the relevant information was recorded in general online logbooks and/or in the investigation files.

In order to contribute to the prevention of ill-treatment, **steps must be taken to ensure that the examination of persons admitted to police facilities, whenever it does take place, is performed by qualified health-care personnel in a systematic and thorough manner, and duly recorded in a dedicated register; further, information entered into the said register should be systematically transmitted to the relevant investigative authorities. The CPT recommends that steps be taken to ensure that the records drawn up following the medical examination of detained persons in police establishments contain: (i) an account of statements made by the persons concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.**[18]

3. Safeguards against ill-treatment

15. In the reports on its previous visits to Sweden, the CPT has repeatedly made a number of recommendations and comments as regards safeguards for persons detained by the police. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As stressed by the Committee, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police). It is equally fundamental that persons detained by the police be informed without delay of their rights, including those mentioned above, in a language they understand.

From the outset, the CPT wishes to stress that it is concerned by the lack of progress in this area since the 2009 visit.

16. In particular, notification of custody was still often delayed, even until the end of the period of police custody i.e. 96 hours. In the CPT's view, any delays in notification of custody should be highly exceptional, short, duly motivated in writing and authorised only by a prosecutor or a judge. **The Committee reiterates its long-standing recommendation that the possibility to delay the exercise of the right of notification of custody be more closely defined and made subject to appropriate safeguards, such as those enumerated above.**

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18 See also paragraphs 71 to 84 of the CPT's 23rd General Report, www.cpt.coe.int/en/annual/rep-23.pdf.

The CPT also recommends that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention; this is still not systematically the case at present**. Further, the relevant legislation and/or regulations should be completed so as to oblige the police to record in writing whether or not notification of custody has been performed in each individual case, with the indication of the exact time of notification and the identity of the person who has been contacted.**

17. Regarding access to a lawyer, the delegation observed that it was usually granted at the beginning of the first formal interview by the investigating officer; that said, a few allegations of delayed access (including until the very end of the police custody period) were heard. The delegation's observations suggest that it was still highly exceptional for persons in police custody to benefit from access to a lawyer as from the very outset of deprivation of liberty (i.e. from the moment when they were obliged to remain with the police).

The CPT calls upon the Swedish authorities to take effective steps to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of deprivation of liberty.

18. It became clear during the 2015 visit that access to a doctor remained in practice at the discretion of the police, and continued to be construed as an obligation for the police to provide health-care to persons in their custody rather than the detainee's right to be seen by a doctor. [19]

Only Malmö Police Department had its own on-site health-care staff (six part-time nurses taking turns to ensure presence for 2–3 hours every working day)[20]. In the other police establishments (as well as, in Malmö, in the absence of a nurse), the duty officer admitting a person to a police detention facility had as one of his/her tasks to inquire about the person's state of health and to decide whether it was necessary to call a doctor or a nurse.[21]

In the CPT's view, access to a doctor for persons in police custody should be unfettered; police officers are not qualified to assess whether a detained person's request to see a doctor is justified. Consequently, there should be a clearly established right of persons deprived of their liberty by the police to have access to a doctor. It is also important to stress here that for the Committee this right is not just about receiving health-care but also preventing ill-treatment and, if necessary, documenting injuries – something that is not done systematically at present, as already mentioned in paragraph 14 above. **The CPT reiterates its long-standing recommendation that the right of persons deprived of their liberty by the police to have access to a doctor be made the subject of a specific legal provision.**

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19 Admittedly, as pointed out by the Swedish authorities, the very wording of the provision regulating the access to a doctor for persons in police custody suggests that a doctor should be called upon the request of the person concerned "unless it is obvious that it is unnecessary". However, this wording leaves it for the police officer to decide whether calling a doctor is justified under the circumstances.

20 In addition, police departments physically located on the same premises as remand prisons (Norrmalm/Kronoberg in Stockholm, and Växjö Police Department) had in principle arrangements in place permitting them to rely, in case of need, on nurses from those prisons.

21 See also paragraph 14 above.

19. The delegation gained the impression that custodial staff working in the police establishments visited had received little – if any – specialised training in the care of intoxicated persons and in recognising the symptoms of conditions that could be mistaken for or complicate alcohol intoxication.

The CPT recommends that specialised training in the care of intoxicated persons be provided to all police officers in Sweden. Further, **the Committee recommends that arrangements be made to ensure that there can be rapid access to a nurse whenever intoxicated persons are held at police establishments. The presence and supervision by custodial staff will also have to be increased in such cases.**

20. Information on rights was generally provided to persons in police custody, at the latest upon arrival at the police establishment. That said, despite the existence of an information sheet in 42 languages, the delegation found that the police did not always make appropriate efforts to ensure that information was properly understood, especially by persons who did not speak Swedish. Many of such persons with whom the delegation spoke appeared unaware of their rights, and any written information that they had been provided with was often only in Swedish (or in another language which they did not understand).

The CPT calls upon the Swedish authorities to take effective steps to ensure that all persons apprehended by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). All persons, including foreign nationals and persons with reading and writing difficulties, should, immediately upon their arrival on police premises, be provided with information on the rights of detained persons in a language which they understand; such information should be provided both orally and in the form of a brochure. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights.

21. The delegation observed that custody records at the police establishments visited were generally well kept and comprehensive. That said, as already mentioned in paragraphs 16 and 20 above, some important information (on the notification of custody and information on rights) was not recorded. In this context, **reference is made to the recommendations in paragraphs 16 and 20.**

22. The CPT has paid close attention to the issue of the mechanisms for the investigation of complaints of police ill-treatment ever since its 1998 visit to Sweden.[22] The Committee has *inter alia* emphasised that, if a police complaints mechanism is to enjoy public confidence, it must both be, *and be seen to be*, independent and impartial. In this respect, the CPT has made clear its view that it would be preferable for the investigative work concerning complaints against the police to be entrusted to an agency which is demonstrably independent of the police.

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[22] See paragraphs 27 to 29 of CPT/Inf (99) 4, paragraphs 13 to 24 of CPT/Inf (2004) 32, and paragraphs 14 to 17 of CPT/Inf (2009) 34.

23. In the course of the 2015 visit, the delegation met the Head of the newly-established (1 January 2015) Internal Investigation Department of the Police.[23]

The Department is empowered to investigate crimes committed by police officers (and some other categories of officials) both in a public and a private capacity. Its Head has the rank of General Commissioner and is appointed by Parliament (as are his/her two deputies). The Department's budget is fixed by the Government and is separate from the budget of other police units.

The Internal Investigation Department has 6 regional units and a staff of 60, mostly police officers (investigators) with the rank of chief inspector; they are placed in the Department on a full-time basis, i.e. they do not carry out ordinary police functions. The Head of the Internal Investigation Department reports directly to the Government and not to the National Police Commissioner.

Regarding the procedure, a case may be initiated after receiving a complaint by the alleged victim or via the police's self-reporting system. Once the complaint/report is received, the Department collects any additional information[24] and reports directly to the Special Department of the Prosecutor's Office dealing with crimes committed by police officers,[25] staffed with 12 specialised prosecutors working on a 24-hour basis. The specialised prosecutor decides whether or not to open an investigation. The prosecutor will always open an investigation if the complainant alleges excessive use of force, even if this is not confirmed by the police.

The investigation is directed by the prosecutor, and each investigatory step is determined by him/her, including whether the complainant should be interviewed, whether any medical records on the incident should be secured and whether the alleged victim should undergo a forensic medical examination. No investigatory steps may be taken by the Internal Investigation Department without the approval of the prosecutor, except if evidence could otherwise be lost or destroyed. In such instances, the Department shall obtain subsequent approval by the prosecutor.

The actual investigative steps are carried out by officers of the Department's Internal Investigation Unit (IA). However, this unit may also draw upon ordinary police officers, if required. In practice, IA investigations are usually carried out in the regional units of the police where the alleged crime was committed. Specialised investigators are used for particular types of crime, such as economic crime.

If a police officer has been found guilty of a crime, the relevant regional police unit will be informed and may decide on which disciplinary sanction to impose. The police officer in question is not usually suspended during the investigation, but is placed in an administrative position (away from any operational or investigative work). This is decided upon by the head of the respective regional police unit. However, in the case of serious crime, the prosecutor may decide to place the accused person in pre-trial detention.

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23 The decision to set up the Department was taken by the Parliament in 2011. Its legal basis is the Ordinance (*förordning*) 2014:1106 on handling of cases of crime committed by the police and certain other executives, issued pursuant to the Police Act.

24 There is no preliminary inquiry, such as questioning of suspects or witnesses, at this stage of the procedure.

25 As well as prosecutors, judges and members of the Royal Family.

24. To sum up, it would appear that the setting up of the new Internal Investigation Department has addressed most of the CPT's concerns regarding the investigation of police complaints. In particular, the independence of the mechanism has been strengthened significantly. However, the Internal Investigation Department may still rely on police officers working in "ordinary" police units in the course of its investigative activities, if this is necessitated by the complexity of the matter. Furthermore, it remains an open issue whether the new Department will also be perceived as independent by the general public, given that it is still formally a part of the Swedish Police Authority (as is even suggested by the Department's name). Therefore, **the Committee must reiterate its recommendation that the Swedish authorities reconsider the need for the investigation of complaints against the police to be entrusted to an agency which is demonstrably independent of the police.**

25. The Committee also notes that another shortcoming of the police complaints procedure identified during previous visits, namely that the outcome of a preliminary investigation into alleged ill-treatment can preclude any further disciplinary action being taken against a police officer who has been the subject of a complaint,[26] appears to persist. In consequence, it remains the case that the only way in which action can be taken against a police officer in connection with a complaint involving allegations of ill-treatment is if the officer concerned is convicted by a criminal court; there are no circumstances in which such a complaint can be handled as a disciplinary matter.[27]

The CPT reiterates its recommendation that steps be taken to ensure that disciplinary action can be taken against police officers implicated in complaints of ill-treatment even if a prosecutor considers that there is insufficient evidence that the officers concerned have committed a crime.

4. Conditions of detention

26. The delegation's findings from the 2015 visit confirmed the assessment made during the CPT's previous visits to Sweden, namely that conditions of detention in police establishments were generally acceptable for the maximum period of police custody (i.e. up to 96 hours).

27. There were two categories of cells (for criminal suspects and for intoxicated persons), all measuring between 7 and 9 m² and intended for single use.[28] Cells had access to natural light, and artificial lighting and ventilation were generally of an adequate standard (with the exception of some of the cells at Lund Police Department). The cells intended for criminal suspects were equipped with a bed (or sleeping platform) with bedding, desk, chair and a water fountain, while the cells for intoxicated persons had a washable mattress placed on the floor and a water fountain. That said, the cells for intoxicated persons seen at Falun Police Department were of the same design as those for criminal suspects; this could potentially be dangerous for intoxicated persons because of the presence of a number of sharp edges. **The CPT recommends that the above-mentioned deficiencies in the cells at Lund and Falun Police Departments be remedied.**

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26 If the prosecutor decides that there is insufficient evidence that a crime of assault has been committed, the alleged assault cannot be the subject of any disciplinary action. This also holds true if a police officer is brought to trial but acquitted of assault by a court.

27 See paragraph 29 of CPT/Inf (99) 4 and paragraph 24 of CPT/Inf (2004) 32.

28 It is noteworthy that in some places (e.g. in Stockholm – Norrmalm Police Department), the police were "renting" cells from the Prison and Probation Service (a number of cells at Kronoberg Remand Prison had been set aside for this purpose).

All cells were fitted with a call bell. Further, some of them had in-cell toilets and persons accommodated in cells without toilets had ready access to communal sanitary facilities at all times. There were no problems with the provision of food and personal hygiene items (toilet paper, soap, tooth brush/paste) and a daily shower was available in at least some of the establishments visited (e.g. in Malmö and Växjö). This is to be welcomed.

28. All police detention facilities had exercise yards[29] and detained persons confirmed that they were allowed access to them. However, some of the yards were rather small and oppressive (e.g. in Lund, where the exercise facility measured some 15 m² and was surrounded by high walls) and the so-called yards at Borlänge Police Department were inadequate (they resembled cells in which one external wall had been replaced by a metal grille). **The Committee recommends that steps be taken to enlarge and improve the design of the exercise yards in the above-mentioned police departments.**

[29] Those located in the same or adjoining buildings as remand prisons – Falun, Malmö, Norrmalm (Stockholm) and Växjö police departments – could use the exercise yards of the respective prisons.

B. Establishments for foreign nationals deprived of their liberty under aliens legislation

1. Preliminary remarks

29. There are five closed migration detention centres in Sweden, with a total capacity of 255 places.[30] They are all run by the Swedish Migration Agency. During the 2015 visit, the CPT's delegation visited the biggest Migration Agency Detention Centre located in Märsta (close to Stockholm Arlanda Airport). Located in the same building as the open reception centre, it consists of three fairly autonomous units, one of which was under renovation at the time of the visit.[31] With an official capacity of 75 places, the centre was holding 42 immigration detainees, including four women, at the time of the visit.

30. According to Chapter 10, Section 1, of the Aliens Act, an alien who is over 18 years of age may be detained[32] in a special detention centre if: a) his/her identity is unclear; b) detention is necessary for the investigation of his/her right to stay in Sweden; c) it is likely that he/she will be refused entry or be expelled, or this is necessary for the enforcement of an existing refusal of entry or expulsion order.

According to Chapter 10, Section 4, of the Aliens Act, an adult alien may not be detained for more than 48 hours for investigation and for more than two weeks for other reasons, unless there are exceptional grounds for a longer period. If the alien does not leave Sweden voluntarily after refusal-of-entry or expulsion order, he/she may be detained for a maximum of two months, unless there are exceptional grounds for detaining him/her for a longer period.[33] Even if there are such exceptional circumstances, the alien cannot be detained longer than three months or, if it is likely that the execution of the order will take longer because of lack of co-operation by the alien or because it takes time to acquire the necessary documents, more than 12 months.[34] The time-limits of 3 and 12 months do not apply if the alien is expelled by a court decision because of a crime.

2. Ill-treatment

31. The delegation did not receive any allegations of ill-treatment by staff from the Migration Agency Detention Centre in Märsta. Further, the delegation received no allegations and found hardly any indications of violence between detained foreign nationals. Most of the foreign nationals interviewed by the delegation indicated that the overall atmosphere in the Centre was relaxed.

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30 There are also two special units for detained foreign nationals, opened in January 2015 in the prisons of Norrtälje and Storboda, see more in Section 6 below

31 Unit 1 was used for accommodation, Unit 2 was under renovation and Unit 3 was a transit unit for persons awaiting deportation or transfer to another institution.

32 Minors may not be detained for more than 72 hours, unless there are exceptional grounds for a prolongation for another 72 hours (Chapter 10, Section 5, of the Aliens Act).

33 A detention order shall be re-examined within two weeks from the date on which enforcement of the order began. In cases where there is a refusal-of-entry or expulsion order, the detention order shall be re-examined within two months from the date on which enforcement of the order began.

34 The time-limit of a maximum of 12 months was set by an amendment to the Aliens Act, which had entered into force on 1 May 2012.

32. However, the delegation was concerned to receive information about the death of an Iraqi citizen, referred to as B*, who died while being removed on 17 March 2015 on a Turkish Airways scheduled flight to Istanbul following the denial of his asylum application.

The delegation was informed that the Swedish Prosecution Authority had opened a preliminary investigation into this case. **The CPT would like to receive, in due course, a full report on the outcome of the above-mentioned investigation**.

33. The Committee attaches considerable importance to the manner in which removal orders concerning foreign nationals are enforced in practice. In this context, the delegation was pleased to note that in 2014 the National Police Authority had issued regulations and general guidelines on the enforcement of decisions on expulsion. However, during the 2015 visit the delegation was not in a position to obtain a clear picture of the responsibilities of the different agencies involved in the process (the Swedish Migration Agency, the Transportation Unit of the Prison and Probation Service and the Border Police) and the level of their co-operation. Further, the delegation did not receive precise information on how foreign nationals were medically assessed in terms of whether they were "fit to fly", whether there was a prior medical examination carried out whenever the prolonged use of force or means of restraint during the removal was expected or highly likely, and how the administration of medication (chemical restraint) to persons subjected to a deportation order was carried out.

The CPT would like to receive detailed information on the applicable regulations and practice as regards the involvement of different State agencies in the removal process, as well as information concerning medical examinations prior to return flights and the provision of medication during such operations.

As regards monitoring of operations of removal of foreign nationals by air ("return flights") by the OPCAT Unit, reference is made to paragraph 8 above.

3. Conditions of detention

34. Material conditions at the Märsta detention centre were generally of a high standard. The accommodation was sufficiently spacious (rooms for up to three persons, measuring approximately 15 m² each), bright and had an efficient heating system and ventilation. Throughout the day, foreign nationals could move freely within their living units (they were given access codes to their rooms). Food was served four times a day, with the last meal – a night snack – served at 9.00 p.m.

35. As regards activities, Unit 1, i.e. the only unit used for accommodation at the time of the visit, contained a large recreational area with sofas, a TV set and a range of board/computer games, as well as a computer room with Internet access 24 hours per day and an indoor gym. Detained foreign nationals were offered handicraft and art classes, and could use a small library with a collection of books in different languages. They also had daily access to the outdoor exercise yard for at least 3 hours per day (and longer in the summer).

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* In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name has been deleted.

4. Health care

36. Märsta detention centre had no on-site health-care staff. In fact, the delegation was informed that the provision of health care to detained foreign nationals was not the responsibility of the Swedish Migration Agency. Health-care services to the foreign nationals were provided by the local health centre. Under the agreement between the said health centre and Märsta detention centre, a general practitioner visited the detention centre once a week and a nurse three days per week. There were no set working hours; both the doctor and the nurse planned their visit to the detention centre based on the number of persons registered for consultation. However, this meant that, as during the CPT's 2009 visit, access to health-care staff was filtered by the custodial staff who asked the detainees about their reasons to see a doctor/nurse.

37. Furthermore, despite the CPT's recommendation,[35] there was still no systematic medical screening upon arrival at Märsta detention centre. The Committee wishes to emphasise yet again that carrying out medical screening of all newly-arrived foreign nationals is in the interests of both detainees and staff, in particular for identifying those at risk of self-harm, screening for transmissible diseases and the timely recording of any injuries.

38. Regrettably, despite the specific recommendation made by the Committee in the report on the 2009 visit,[36] the situation had not improved as regards medical confidentiality either. The delegation observed that some medical information concerning foreign nationals was freely available to the custodial staff, which is unacceptable.

39. In the light of the above, **the CPT reiterates its recommendation that the Swedish authorities take measures to improve the provision of health care to foreign nationals detained at the Migration Agency Detention Centre in Märsta. In particular, steps should be taken to ensure that:**

- **all newly-arrived foreign nationals benefit from comprehensive medical screening (including screening for transmissible diseases) by a doctor or a fully-qualified nurse reporting to a doctor as soon as possible after their admission;**

- **custodial staff do not seek to screen requests to consult a doctor/nurse, and detained foreign nationals can approach health-care staff on a confidential basis;**

- **the confidentiality of medical data is respected.**

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35 See paragraph 87 of CPT/Inf (2009) 34.

36 *Ibid.*

5. Safeguards for persons deprived of their liberty under aliens legislation

40. The delegation did not receive any complaints from detained foreign nationals regarding the possibility to promptly inform their next-of-kin of their deprivation of liberty.

As regards access to the telephone in general, detainees were allowed to use their mobile phones without a camera function (or were given such phones) or to call from public phones installed in the centre.

41. Concerning access to a lawyer, the situation had not changed since the previous CPT visit.[37] According to the Aliens Act, a detained alien has the right to a public counsel in cases concerning the enforcement of a refusal-of-entry or expulsion order if the alien has been held in detention for more than three days.[38]

The CPT would like to recall that immigration detainees (whether or not they are asylum-seekers) should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their deprivation of liberty, to have access to a lawyer.

The CPT recommends that the relevant legislation be amended so as to ensure that all persons held under aliens legislation (wherever they are detained) have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings.

42. The delegation heard hardly any complaints as regards the provision of information on rights; upon arrival at the detention centre, foreign nationals received information leaflets, available in a number of languages. Furthermore, interpretation services were provided, if necessary.

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37 See paragraph 90 of CPT/Inf (2009) 34.

38 A person who is to be returned under the Dublin Regulation and who is detained has the same right to a public counsel.

C. Prisons

1. Preliminary remarks

43. In the course of the 2015 visit, the CPT's delegation carried out follow-up visits to Kronoberg and Malmö Remand Prisons as well as first-time visits to Falun, Sollentuna, and Växjö Remand Prisons, focused on examining the situation of remand prisoners subjected to restrictions.[39] It also visited a maximum-security ("Class 1") prison in Saltvik.[40]

Kronoberg Remand Prison is situated in Stockholm on the upper floors of a multi-storey building. The sixth floor housed the administration of the prison and the health-care centre and floors seven to nine provided prisoner accommodation.[41] The outdoor exercise facilities and kitchen were located on the tenth floor. At the time of the visit, half of the prison was closed for renovation which was planned for completion in 2017. With an official capacity of 136 places in single cells, the establishment was accommodating 119 inmates (105 remand prisoners, of whom one was a woman, five arrested persons, one person detained under aliens legislation and eight sentenced prisoners awaiting transfer to prison); 38 of the remand prisoners were subjected to restrictions. The delegation was informed that after the completion of the renovation works, the official capacity of the establishment would rise to 278 places in single cells.

Malmö Remand Prison is located close to the town centre, next to the Police Department. Built in 1993 but wholly reconstructed in 2013 (which involved a significant increase in the level of security[42]), the prison has a detention area on two floors with approximately 60 single-occupancy cells per floor. With an official capacity of 117, the establishment was accommodating 100 prisoners at the time of the visit, including seven sentenced and one detained under the Aliens Act. The bulk of the prisoners were adult men on remand (except for one woman and a few juveniles[43] – there was a separate unit for inmates aged below 21 with 15 places), almost all of whom were subjected to restrictions. The average stay for remand prisoners was said to be between 3 and 6 months[44] but in complex cases inmates could stay at the prison for much longer periods, even well over a year.

Falun Remand Prison is also located in town, close to the Police Department. Built in 1968, it had undergone its last major renovation in 2005 (after which the establishment's capacity was increased to 34). At the time of the delegation's visit, it was accommodating 28 adult remand prisoners including two women; almost all of them were subjected to restrictions. The delegation was told that most inmates stayed at the prison for periods lasting from 2 weeks to a year.

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39 See paragraphs 48 to 53 below.

40 Kronoberg Remand Prison was previously visited by the CPT in 1991, 1994, 1998 and in 2008 (to interview immigration detainees); Malmö Remand Prison was visited in 1998.

41 32 cells on the seventh floor were used to accommodate persons apprehended by the police at Norrmalm Police Department (located on the first five floors of the same building, see paragraph 27).

42 E.g. sub-divisions in several small secure units, with no easy passage between them, fitting of windows that cannot be opened, air conditioning throughout the building, all door locks remote-controlled, facial recognition systems at passages between units, etc.

43 The youngest was 16 years old.

44 For those detained under the Aliens Act, the stay was much shorter: 1 – 2 days, just before deportation.

Sollentuna Remand Prison, brought into service in 2011, is located in the suburbs of Stockholm. It is a 12-storey building, with floors six to ten providing prisoner accommodation (four corridors on the floor with 12 cells each) and the 11th floor containing exercise yards. With an official capacity of 240 in single cells, at the time of the visit, the prison was accommodating 201 inmates (180 remand prisoners, of whom 14 were women, five juveniles, two persons detained under aliens legislation, and 21 sentenced prisoners awaiting transfer to prison); 72 of the remand prisoners were subjected to restrictions.

Växjö Remand Prison is located in the centre of Växjö, in the same building as the Police Department. Opened in 2001, it has a capacity of 26 in single cells. On the day of the delegation's visit, it was accommodating 20 inmates including a woman and a young male who had just turned 18. All but one prisoner were on remand (one inmate had already been sentenced and was awaiting transfer to another establishment), including 11 prisoners subjected to restrictions. The average stay was said to be between 60 and 90 days.

Saltvik Prison, brought into service in 2010, is one of the seven maximum-security ("Class 1") prisons in Sweden for both sentenced and remand prisoners. Along with Hall and Kumla Prisons,[45] it is one of the three maximum-security prisons with a separate high-security unit. With an official capacity of 189 in single cells, at the time of the visit, the prison was accommodating 105 sentenced prisoners (10 of them in the high-security unit) and 56 remand prisoners, of whom 18 were subjected to restrictions.

44. At the outset of the visit, senior officials from the Ministry of Justice and the Prison and Probation Service told the delegation that prison overcrowding was no longer a problem in Sweden and that the prison system was currently operating below its official capacity,[46] which allowed the improvement of access for inmates to organised activities (including education and vocational training) and preparation for release. There was a decreasing trend as regards the number of prisoners, both those on remand and those already sentenced, with the total prison population being approximately 1,000 inmates fewer than during the CPT's 2009 visit.[47] This was reportedly the result of a change in sentencing practices by courts (e.g. on drug offences) and the wider use of alternatives to imprisonment and early release.

The authorities also stated that the budget had increased since 2011, especially for high-security prisons/units and units for juveniles. Current efforts focused on improving the regime for remand prisoners (especially those subjected to restrictions) and reducing the harmful effects of their isolation.

The CPT welcomes these positive developments. As regards the situation of remand prisoners (in particularly, those subjected to restrictions) and prisoners placed in high-security prisons/units, **reference is made to the recommendations in paragraphs 53, 61 and 63 below.**

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45 Hall Prison was visited by the CPT in 2009 and Kumla Prison in 1991 and 2009.

46 The average occupancy rate in the remand prisons was 80%.

47 At the time of the 2015 visit there were approximately 4,300 sentenced and some 1,000 remand prisoners in Sweden.

2. Ill-treatment

45. The delegation received no allegations of ill-treatment of prisoners by staff in any of the prisons visited. On the contrary, most of the inmates interviewed spoke positively about the staff, the general atmosphere was relaxed and prison officers appeared to be highly professional and well-trained.

46. At *Sollentuna Remand Prison*, the delegation received a few allegations from female prisoners that, on occasion, they had been searched by male prison officers when going to or returning from exercise yards. In this respect, the CPT wishes to stress that persons deprived of their liberty should only be searched by staff of the same sex. **The Committee recommends that the Swedish authorities ensure an appropriate staff deployment when carrying out gender-sensitive tasks, such as searches.**

47. The information gathered during the visit indicated that inter-prisoner violence was not a frequent occurrence in the establishments visited; steps were taken by staff to prevent such incidents and to address them adequately if and when they did occur.

3. Imposition of restrictions on remand prisoners by court order

48. Ever since its very first visit to Sweden in 1991, the CPT has criticised the Swedish practice of the widespread imposition of restrictions on remand prisoners. This issue was also once again raised by the United Nations Committee against Torture in its recent Concluding observations on the sixth and seventh periodic reports of Sweden.[48]

49. Since the CPT's last visit in 2009, a new Act on Detention[49] came into force in 2011. Chapter 6 of the Act provides that a prisoner who is in detention, arrest or apprehension on suspicion of a crime may be subjected to curtailments of his or her contact with the outside world (restrictions) if a risk exists that he or she will remove evidence or otherwise impede the investigation of the matter at issue. Such a decision may relate to restrictions on the right to be placed together with other prisoners, association, following events in the outside world, possessing periodicals and newspapers, receiving visits, being in contact with another person through electronic communication or sending and receiving mail.

Further, the law provides that the task of deciding on specific restrictions, after having obtained general permission from the court, is assigned to the prosecutor. A decision on this question is reviewed as often as there is reason to do so. A person who is in detention on suspicion of a crime may request that the district court examine a decision to subject him or her to restrictions of a particular kind. The court examines such a request when it examines the question of an authorisation for restrictions (which is done at the same time as when the court holds a new hearing on continuation of the remand custody).

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48 See CAT/C/SWE/CO/6-7, 2014.

49 No. 2010:611.

50. During the 2015 visit, the delegation was informed that in order to ensure a consistent application of the provisions on restrictions, in April 2015 the Swedish Prosecution Authority had issued some regulations, notably Instructions of the Prosecution Authority and general advice about restrictions and Guidelines on restrictions and long periods of pre-trial detention.[50]

According to the above-mentioned Instructions, the prosecutor considers whether or not there is a need to impose restrictions and if so, he/she also assesses the need for each individual type of restriction. Afterwards, the prosecutor presents his/her decision in court about the general need to impose restrictions without any specification of the type(s) of restrictions that are needed. The court decides whether or not to approve the general request to impose restrictions and, if it is approved, the prosecutor is free to impose whatever type of restriction he/she deems necessary.

The remand prisoner is given written information about the restrictions (providing standardised reasoning), unless such information may jeopardise the investigation. The decision to impose restrictions is reviewed every two weeks in connection with the review of the decision on pre-trial detention.

51. According to the statistics provided to the delegation by the Ministry of Justice, out of 9,519 prisoners remanded in custody during 2014, 6,504 (or 68%) had been subjected to some form of restriction; 1,114 of them for more than 60 days. These figures show that despite the continuous criticism from the CPT and other international monitoring bodies, in a period of 5 years the number of remand prisoners with restrictions had been reduced by a mere 2%.[51] It is noteworthy that a significant proportion among the above-mentioned 6,504 remand prisoners with restrictions in 2014 were juveniles or young prisoners (103 of them were aged between 15 and 17, and 695 were aged between 18 and 20).

The fact that this practice continues almost unabated after 24 years of on-going dialogue between the CPT and the Swedish authorities and that there are no real signs of progress is most regrettable for the Committee. Moreover, the newly adopted Instructions and Guidelines do not seem to be able to bring about the desirable change since they limit themselves to providing clarification necessary to ensure consistency in the application of the existing legislation.[52]

52. As was again witnessed during the 2015 visit, the widespread imposition of restrictions had an unavoidably negative impact on the regime which was generally characterised by an almost total absence of organised activities, with most remand prisoners spending up to 23 hours per day alone in their cell, with hardly anything to occupy themselves (see more on the regime in paragraph 65).

Many of the prisoners interviewed by the delegation stated that such prolonged isolation had an influence on their psychological well-being, and the situation was further exacerbated by the high-security environment in some establishments (e.g. Kronoberg, Malmö and Sollentuna).

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50 The Instructions of the Prosecution Authority and general advice about restrictions were not yet in force at the time of the visit.

51 In 2013 the corresponding numbers were 9,415 and 6,558 (or 69%), in 2012 - 9,985 and 6,853 (or 68%), in 2011 – 10,432 and 7,530 (or 72%), and in 2010 – 11,213 and 7,856 (or 70%).

52 It should be added here that the delegation heard several complaints from remand prisoners about the manner in which the existing provisions had been applied to them, especially the lack of specific reasons provided by prosecutors for the application of each particular type of restriction, and the brevity of examination of the issue during the court hearings.

Admittedly, staff in those establishments did try to alleviate these negative aspects by engaging with the inmates concerned, but their efforts failed to truly remedy the harmful effects of prolonged isolation on many prisoners (as acknowledged by management and staff).

53. The CPT is of the view that the entire approach to restrictions and to the regime for remand prisoners in Sweden has to change fundamentally; in this respect the Committee wishes to reiterate the CPT's standard that all prisoners, including those on remand, should as a rule be able to spend at least 8 hours per day outside their cells, involved in constructive activities of a varied nature (work, education, vocational training, sports, etc.) and association; further, any restrictions (both on association and on contact with the outside world) must be duly justified in each case (and in respect of each type of restriction) by the needs of the investigation and applied for the shortest period possible.

The CPT reiterates its recommendation that the Swedish authorities take swift and decisive action, including if necessary legislative changes, to ensure that restrictions on remand prisoners are only imposed in exceptional circumstances which are strictly limited to the actual requirements of the case and last no longer than is absolutely necessary.

Furthermore, **the Committee calls upon the Swedish authorities to radically improve the offer of activities for remand prisoners. The aim should be to ensure that all such prisoners are able to spend at least 8 hours per day outside their cells, engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport, recreation/association** (see also paragraph 67 below)**. This may require changes to the physical infrastructure of prisons.**

4. Prisoners held in conditions of high security

54. In the course of the 2015 visit, the CPT's delegation paid particular attention to the situation of prisoners held in conditions of high security at *Saltvik Prison*.

55. The high-security unit at Saltvik Prison is a separate building within the compound, surrounded by high walls. The unit was divided into four largely autonomous 6-bedded sub-units, of which three were used to accommodate prisoners under protection and one for prisoners considered to present a particularly high security risk. With a capacity of 24 places, the unit was accommodating ten prisoners at the time of the visit, eight of them under protection[53] and the remaining two segregated from the general prison population for reasons of security.

Material conditions at the unit were of a very high standard. The single cells in which prisoners were accommodated were spacious (measuring some 12 m² each) and well-appointed with modern furniture and a fully partitioned sanitary annexe (a washbasin and a toilet). Each sub-unit had a large common area with a kitchen, a dining area and a recreation space. It was envisaged that in the very near future prisoners would be able to cook in the kitchens for themselves.

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[53] At the time of the visit, one of the prisoners under protection was placed in the isolation cell of the high-security unit.

In addition, in each sub-unit there was a gym, a study room with computers, a workshop, a laundry and two shower rooms. Each sub-unit had an exercise yard equipped with a basketball hoop and a shelter against inclement weather; however, the yards were of an oppressive design due to the high walls with sky-view only and a metal grid.

56. As regards the regime, inmates could spend up to 12 hours a day out of their cells, engaging in outdoor exercise, time in the sub-unit's gym and study room or association with other inmates from the same sub-unit. Some inmates also had work for up to 6 hours a day. The delegation was positively impressed by the staff-inmate ratio as well as the level of interaction between the staff and the prisoners (the inmates and the staff played board games, watched films together, etc.). In general, prisoners spoke highly of the staff and their efforts to minimise the negative consequences of placement in the high-security unit.

That said, prisoners interviewed by the delegation complained about very limited possibilities of association with other inmates and the negative impact of such segregation on their mental well-being. Notably, at the time of the CPT's visit, three out of four sub-units were accommodating only two inmates each and the fourth sub-unit was accommodating three inmates. This meant that in practice prisoners of three sub-units could only associate with one other inmate. Moreover, this also meant that if one of the inmates was placed in the isolation cell, the remaining one would also be subjected to *de facto* isolation since he would be the only prisoner in the sub-unit.

Combined with rather limited contact with the outside world (discussed below in paragraph 96), this created a feeling of total seclusion for prisoners and, in their view, did not help their reintegration into society.

57. The procedure of placement in a high-security unit is regulated in Chapter 2, Section 4 (Placement in a security unit), of the Act on Imprisonment[54] which provides that a prisoner may be placed in a unit with an especially high degree of supervision and control (a security unit) if: (1) there is a continuing risk that the prisoner will escape or be liberated and it can be assumed that he or she is especially inclined to continue serious criminal activity, or (2) there is special reason to assume that this is needed to prevent the prisoner from engaging in serious criminal activity during his or her stay in prison. The law requires that a decision on placement in a security unit is reviewed as often as there is reason to do so and at least once per month.

58. It should be stressed that the above-mentioned procedure does not provide for the possibility for a prisoner to be placed in a security unit for his/her own protection. In this regard, it is a matter of particular concern for the Committee that eight out of ten prisoners in the high-security unit of Saltvik Prison were placed there, seemingly, without appropriate legal grounds and, as a result, were subjected to the same level of segregation as persons who were considered as representing a particularly high security risk.

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54 No. 2010:610, in force since 1 April 2011.

Whilst acknowledging the challenges for the prison system to find a suitable and safe environment for all prisoners held in penitentiary establishments, **the CPT recommends that the Swedish authorities take steps to find alternative accommodation – outside the high-security unit – for prisoners segregated for their own protection.** More generally, **the above-mentioned legal *lacuna* should be eliminated as a matter of priority.**

59. Further, the delegation noted that a decision about placement in a security unit was taken by the General Directorate of the Prison and Probation Service without informing the prisoner concerned about the detailed grounds for such a placement and thus effectively depriving him/her of a real possibility to appeal against the placement decision (and any decision to continue the placement).

Moreover, the delegation was informed that prisoners placed in a security unit would typically remain there until the end of the sentence. In one case, a prisoner with a 14-year prison sentence had been placed in the security units of different prisons since 2012. According to him, he had appealed the placement 34 times but thus far unsuccessfully since the Prison and Probation Service found that the initial grounds for his placement in the security unit had not changed.

60. In the CPT's view, placement in conditions of high security should be based on a full individualised assessment of the risks requiring it. The prisoner concerned should be offered the opportunity to express his/her views on the matter. Further, continued placement should not be a purely passive response to a prisoner's problematic behaviour. Instead, reviews of placement should be objective and meaningful, and should form part of a positive process designed to address the prisoner's problems and permit his (re-)integration into the mainstream prison population.

In addition, it is essential for the management of prisoners whose personality or behaviour is likely to mean that they will spend considerable periods of time in conditions of high security or control, that decisions reached about their management are not only fair but can be seen to be fair.

Furthermore, the review of placement in conditions of high security should specify clearly what is to be done to assist the prisoner concerned to move away from this status and provide clear criteria for assessing development. Prisoners should be fully involved in all review processes. A detailed plan should be established for every such inmate with a view to addressing the issues which led the inmate concerned to being kept under such conditions. At every review of the placement, progress against the agreed plan should be assessed and, if appropriate, a new plan developed. The longer a high security prisoner remains in this situation, the more thorough the review should be and the more resources should be made available to attempt to (re)integrate the prisoner into the mainstream prison community.

61. In the light of the above remarks, **the CPT recommends that the Swedish authorities take steps to ensure that:**

- **prisoners placed in a high-security unit or in respect of whom such placement is extended are informed in writing of the reasons therefor and sign an attestation that they have received the decision (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);**

- **prisoners concerned are effectively offered the opportunity to be heard and to provide their comments and explanations in the context of the placement procedure in the security unit, and of the review of such placement;**

- **the review of the placement in conditions of high security meets the requirements set out in paragraph 60.**

Further, the Committee recommends that prisoners placed in a high security unit be offered more opportunities for association.

5. Conditions of detention for general prison population

a. remand prisoners

i. material conditions

62. Material conditions in the cells at the remand prisons visited were generally of a good standard (and even very good at *Malmö Remand Prison*). The cells, each measuring between approximately 7 m² and 9 m², were suitably equipped (bed with full bedding, table or desk, chair, locker, shelves, television, call bell, and a washbasin), access to natural light was generally adequate (with the exception of some of the cells at *Malmö and Växjö remand prisons*, where access to natural light was somewhat restricted by slats fixed on cell windows) and the artificial lighting and ventilation was sufficient. Inmates had ready access to well-equipped and clean communal showers[55] and washing facilities every day or every second day. Overall, prisoner accommodation areas were clean and in a good state of repair.

That said, none of the cells at *Kronoberg Remand Prison* and hardly any of the cells at *Falun Remand Prison* had in-cell sanitation. While the majority of prisoners interviewed said that they had ready access to a toilet facility (including at night), the delegation received a few complaints about delays (on occasion, up to 3 hours) in gaining access to the toilet, especially in Falun. **The CPT recommends that steps be taken at Falun and Kronoberg remand prisons to ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night).** Further, **the Committee invites the Swedish authorities to reflect upon ways to address the problem of access to natural light in some of the cells at Malmö and Växjö remand prisons.**

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55 There were 8 cells with in-cell showers at Malmö, used to accommodate prisoners with reduced mobility and women.

63. Remand prisoners were allowed one hour of outdoor exercise every day. That said, the CPT is concerned by the fact that exercise yards in all the remand prisons visited were located on the roof and were generally rather small[56] and of an oppressive design (high walls and frosted glass which obstructed any outside view).[57]

The delegation was informed that, after the renovation of *Kronoberg Remand Prison*, there would be 36 exercise yards, three of which would be large enough for 10 – 15 prisoners. It is regrettable, however, that despite the CPT's recommendations in previous reports,[58] the (re)construction plans in both *Sollentuna*[59] and Kronoberg remand prisons had replicated the same oppressive design of the exercise yards.

The CPT recommends that the Swedish authorities take steps to ensure that outdoor exercise facilities in all remand prisons visited are sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space), less oppressive in design (e.g. allowing a horizontal view) and, as far as possible, located at ground level.

ii. regime

64. The regime for prisoners subjected to restrictions remained very impoverished. Apart from daily outdoor exercise, they had access to a gym for periods of 30 minutes to an hour (every day in *Falun and Malmö*, and every other day in *Kronoberg, Sollentuna and Växjö*). There were hardly any other organised out-of-cell activities and inmates spent most of their day in their cells, watching TV, listening to the radio, reading books or newspapers[60], and playing board or electronic games.

The delegation was informed that normally the prison administration would submit a request to the prosecutor to find out whether a prisoner could be granted limited association time with another inmate. If approved, the prisoner concerned would be able to take outdoor exercise and use the gym together with another inmate. They would also be allowed to associate in a designated area (a recreation room, a cell or – as in *Malmö* – a so-called "chat room") for one or two hours per day. However, only a very small number of inmates met by the delegation had been granted such an opportunity. Furthermore, several prisoners told the delegation that the possibility to associate with another (approved) inmate sometimes depended on the staff's availability.

At *Kronoberg and Sollentuna remand prisons*, some prisoners subjected to restrictions were given the opportunity to work for a few hours per day. [61] The work included cleaning, laundry or simple folding and packaging performed inside the cell. Further, young/juvenile prisoners at *Kronoberg, Malmö and Sollentuna remand prisons* were provided with some schooling (by outside teachers coming every working day) and offered access to activity rooms with table tennis and table football.

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56 E.g. approximately 25 m² in Växjö and some 35 m² in Falun. Also, the yards at Kronoberg Remand Prison were not large enough to allow prisoners to exert themselves physically. By contrast, there were larger yards (18 yards measuring some 75 m² and two measuring approximately 150 m²) at Malmö Remand Prison.

57 On a more positive note, all the yards were equipped with benches and shelters against inclement weather.

58 See e.g. paragraph 48 of CPT/Inf (2009) 34.

59 It should be recalled here that Sollentuna Remand Prison was brought into service some 2 years after the last CPT visit.

60 At Malmö Remand Prison, those of the inmates whose restrictions included access to the media were given the possibility to watch movies on DVD (instead of watching television).

61 Five prisoners at Kronoberg Remand Prison and ten at Sollentuna Remand Prison.

65. As already mentioned in paragraph 52 above, the management and staff in the remand prisons visited made efforts to minimise the negative consequences of prolonged isolation for prisoners subjected to restrictions. Each of the remand prisons visited had a few members of staff whose main function was "to break isolation". The staff member would spend some time with a prisoner watching a movie and discussing it afterwards, playing computer or board games. While it was appreciated by the prisoners, all the inmates interviewed by the delegation complained that isolation and the almost total lack of human contact due to the restrictions was inhumane and had a serious impact on their mental health.[62]

66. The regime for prisoners not subjected to restrictions was not fundamentally different from that applied to their fellow inmates subjected to restrictions. The main difference was that they had more work opportunities, which nevertheless remained very limited[63] with the (relative) exception of *Sollentuna Remand Prison* where some 25 remand prisoners had a paid job.

Further, prisoners not subjected to restrictions benefited from (more) association time: they could take their outdoor exercise and use the gym together with another inmate, and associate in a recreation room or in each other's cell for a few hours per day (e.g. at *Kronoberg Remand Prison*).[64] At *Sollentuna Remand Prison*, cells in the units for prisoners not subjected to restrictions were unlocked from 8.30 a.m. to noon and from 2 p.m. to 4.45 p.m. As for *Växjö Remand Prison*, inmates not subjected to restrictions could play basketball or volleyball on an outdoor pitch located on the ground level.

67. The CPT recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates, poses particular challenges. It will be very difficult to set up individualised programmes for such prisoners; however, it is not acceptable to leave prisoners to their own devices for months at a time. In this regard, **reference is made to the remarks and recommendation made in paragraph 53.**

b. sentenced prisoners

i. material conditions

68. Material conditions at *Saltvik Prison* were of a high standard. Sentenced prisoners held in ordinary accommodation were allocated to two blocks (Houses 5 and 6), subdivided into eight or ten-cell units.[65] A standard single-occupancy cell measured approximately 10 m², including a fully partitioned sanitary annexe with a toilet and a washbasin. The cells were suitably furnished, had adequate access to natural light and the artificial lighting and ventilation was sufficient. Further, inmates had ready access to a shower every day.

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62 See also paragraph 78 below.

63 E.g. only two inmates had a job (cleaning and doing the laundry) at Falun Remand Prison, six at Kronoberg Remand Prison, six at Växjö Remand Prison (five men assembling lamps and boxes in a workshop, and the female prisoner doing the laundry), and ten at Malmö Remand Prison (cleaning and laundry).

64 The delegation was informed that after the completion of renovation work, Kronoberg Remand Prison would be equipped with 3 large rooms for association, suitable for accommodating 20 prisoners each.

65 The juvenile unit had six cells.

There were three outdoor exercise yards (each measuring approximately 40 m²) equipped with a table and a bench, a basketball hoop and a covered area to protect inmates from inclement weather.

Each unit had a big recreation area together with an open-plan kitchen. In a number of units prisoners were allowed to prepare their own meals and this possibility was highly appreciated by the inmates.[66]

ii. regime

69. The delegation gained a generally positive impression of the regime activities on offer at *Saltvik Prison*. In the week preceding the delegation's visit, work was offered to some 80% of sentenced prisoners, either in workshops or in the establishment's general services (e.g. cleaning, kitchen, laundry, etc.). Efforts were also being made to engage prisoners in educational, vocational and other structured activities, like handicrafts, sentence planning or preparation for release.

6. Persons held in prisons pursuant to aliens legislation

70. Chapter 10, Section 20, of the Aliens Act stipulates that the Swedish Migration Agency may order a transfer of an alien from the migration detention centre to a police department, a remand prison or a prison if the alien has been expelled for having committed a criminal offence, if he/she cannot be kept in the migration detention centre for security reasons, or if there are some other exceptional grounds (in the last two cases an alien has to be kept separately from prisoners).

According to Chapter 11, Section 2, of the Aliens Act, the relevant parts of the Act on Detention are applicable to the treatment of an alien who has been placed in the police department, a remand prison or a prison. In addition to what follows from the above Act, the alien shall be given the opportunity to maintain contact with the outside world and be otherwise granted the facilities and privileges that can be permitted taking into consideration the good order and security of the establishment.

71. During the 2015 visit, the delegation was informed that special units for detained foreign nationals had been opened in January 2015 in the prisons of Norrtälje and Strode. The delegation visited such a *unit at Norrtälje Prison* to conduct interviews with detained foreign nationals held there. With an official capacity of 32 in single cells, at the time of the visit, the unit was holding 32 persons. According to the prison staff, when there were no places available in Norrtälje, foreign nationals would either be sent to the special unit in Strode Prison or to another Prison and Probation Service establishment.[67]

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66 Usually one inmate from the unit would be a permanent cook and other inmates would rotate every three weeks assisting him in the kitchen.

67 At the time of the visit, 13 persons were awaiting transfer to Norrtälje Prison from a remand prison.

72. The CPT again wishes to stress that, in those cases where it is considered necessary to deprive persons of their liberty under the aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation.[68]

The CPT recommends that the Swedish authorities put an end to the practice of placing persons detained under aliens legislation in penitentiary establishments and accommodate them in centres specifically created for that purpose.

Pending this, the Committee recommends that steps be taken to ensure that foreign nationals transferred to the special unit at Norrtälje Prison are offered more organised activities, including work, education and sports.

73. Many of the foreign nationals interviewed by the delegation at Norrtälje Prison complained that they were sometimes locked up in their cells for 23 hours a day, for two-three days in a row, following a fight between two or more inmates, as an unofficial collective punishment. In this respect, the CPT must stress that disciplinary sanctions should result from relevant existing disciplinary procedures and not take the form of an unofficial punishment. Moreover, any form of collective punishment would be unacceptable.

The CPT recommends that the Swedish authorities carry out a thorough and independent inquiry into these allegations; were the above-mentioned practice to be found to indeed exist, it should be terminated immediately.

74. As for contact with the outside world, foreign nationals detained in the special unit of Norrtälje Prison had the possibility to receive visits and make daily telephone calls using one of the two mobile phones in the unit.

75. Most of the foreign nationals interviewed told the delegation that they had not received any oral or written information concerning their rights and the house rules upon their admission. The delegation observed that such information was, in fact, available, but only in Swedish.

Moreover, a number of persons interviewed appeared to have no understanding of the reason why they had been transferred to a prison, the duration of their detention in the establishment or of the means to challenge this transfer. Further, it appeared that no automatic review of the transfer to prison was provided for by the legislation or carried out in practice.

The Committee wishes to stress that it is in the interests of both foreign nationals and staff that there be clear house rules at the detention facilities, and copies of the rules should be made available in a suitable range of languages. The house rules should primarily be informative in nature and address the widest range of issues, rights and duties which are relevant to daily life in detention. Further, detained persons should receive complementary information verbally from staff.

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[68] Reference may also be made here to the judgments in joined cases C-473/13 and C-514/13 and in case C-474/13, in which the European Court of Justice ruled that a EU Member State cannot rely on the fact that there are no specialised facilities in a part of its territory to justify detaining third-country nationals in prison pending their removal.

The CPT recommends that the Swedish authorities take measures to ensure that all detained foreign nationals transferred to the Prison and Probation Service establishments are fully informed of their situation, their rights, and the procedure applicable to them in a language they understand. This should be ensured by the provision of clear verbal information upon admission, to be supplemented at the earliest opportunity by a written form.

The form should be available in the languages most commonly spoken by those detained under aliens legislation, and should contain information on detainees' rights, house rules and applicable procedures. The establishments' house rules should be translated in a variety of languages and posted around the detention areas.

The Committee would also like to be informed whether there is a mechanism of periodic review of the detention of foreign nationals in establishments of the Prison and Probation Service.

7. Health-care services

76. The health-care team at *Kronoberg Remand Prison*[69] comprised four full-time nurses and three general practitioners (one of whom was also a qualified psychiatrist) visiting the prison three days a week for three hours, but the hours could be extended according to demand. A psychologist was present in the prison 12 hours per week. Access to dental care did not appear to be a problem.

At *Malmö Remand Prison*,[70] there was one part-time general practitioner visiting the prison twice a week for half a day and five nurses (four of them working full time during weekdays and one working on weekends). A psychiatrist was visiting the prison twice a week for half a day. There was also a part-time dentist; however, the delegation heard complaints about delays in access to dental care and its poor quality (reportedly limited to extractions). The care team also comprised a full time psychologist, working mostly with young prisoners (aged below 21).

The health-care team at *Falun Remand Prison*[71] comprised a part-time general practitioner visiting the prison for three hours once a week and two nurses[72] (three in the summer). There was no psychiatrist in the prison. Further, the delegation received complaints from prisoners about delays of up to 30 days in receiving access to a dentist.[73]

At *Sollentuna Remand Prison*,[74] there was one general practitioner, visiting the prison once a week for seven hours,[75] and five full-time nurses. Two psychiatrists were visiting the prison two days a week; a dentist was present in the establishment one half-day a week.

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69 Capacity 136, population at the time of the visit – 119.

70 Capacity 117, population at the time of the visit – 100.

71 Capacity 34, population at the time of the visit – 28.

72 The nurses were present from 9 a.m. to 11 a.m. and from 2 p.m. to 3.30 p.m. on weekdays (except for Tuesday morning).

73 The establishment's Director told the delegation that, if required, inmates were taken for dental consultation/treatment to a dental clinic in town.

74 Capacity 240, population at the time of the visit – 201.

75 In the doctor's absence, the prison was served by on-call doctors from a private company called "Stockholms akutläkargrupp" (Stockholm's emergency doctor's group) which had an agreement with the Prison and Probation Service and was serving the penitentiary establishments in the centre of Stockholm.

The health-care team at *Växjö Remand Prison*[76] comprised one general practitioner present in the prison for 3 hours once a week and a part-time nurse (working on 75% basis, present from 8 a.m. to 3 p.m. from Monday to Thursday, and from noon to 6 p.m. on Fridays). There was no psychiatrist.[77]

As regards dental care, the delegation heard allegations about long delays to see a dentist. The delegation was informed by the prison's Director that the establishment was in the process of recruiting a psychologist (to work both for the prison and for the local Probation Service) who would focus on young inmates.

At *Saltvik Prison*,[78] there was one general practitioner present at the establishment one day per week, and four nurses (three of them working full time). The prison also had three full-time psychologists and a psychiatrist who was visiting the prison once a week, for a full day. The delegation noted that both the general practitioner and the psychiatrist were also available on call on working days. Access to dental care did not appear to be a problem.

77. To sum up, the health-care services of the prisons visited were on the whole adequately staffed as regards the nurses; that said, **steps should be taken in all the establishments to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends.**

Concerning the general practitioners, the staffing arrangements and times of presence could be considered acceptable in *Kronoberg, Falun and Växjö*, but should be increased in *Malmö, Sollentuna and Saltvik prisons*. Further, access to dental care appeared to be a problem at *Falun and Växjö* prisons, and in *Malmö* Prison the delegation received complaints regarding the quality of dental care. Consequently, **the CPT recommends that the Swedish authorities:**

- **increase the presence of general practitioners at Malmö Remand Prison (at least to the equivalent of a half-time position), Sollentuna Remand Prison and Saltvik Prison (both to at least the equivalent of a full-time position);**

- **improve the access to dental care at Falun and Växjö prisons, as well as the quality of dental care at Malmö Prison.**

78. As for the psychiatric care and psychological assistance, the Committee wishes to recall that, in comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners. Further, as already mentioned in paragraph 52 above, many remand prisoners in the establishments visited suffered from negative psychological consequences of prolonged isolation due to the imposed restrictions.

This was acknowledged by the management and staff (in particular, at *Malmö Remand Prison*) who referred in this context to inmates' frequent attempts to commit suicide and self-harm, as well as repeated transfers to and from psychiatric establishments.

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76 Capacity 26, population at the time of the visit – 20.

77 But the Director assured the delegation that the prison enjoyed good co-operation with the nearby Regional Forensic Clinic (see paragraphs 104 to 125, below).

78 Capacity 189, population at the time of the visit – 161.

The delegation itself interviewed several prisoners who would have clearly benefited from more/better psychiatric care and psychological assistance. In the light of this, **the CPT recommends that steps be taken to improve access to psychiatric care and psychological assistance in all the prisons visited.[79] The Committee would also like to receive confirmation that a psychologist has now been recruited at Växjö Remand Prison.**

79. All the prisons visited were accommodating a significant number of inmates with a history of addiction to illicit drugs and other intoxicating substances (such as alcohol). The delegation noted that prisoners were allowed to follow the methadone detoxification programme, provided it had been initiated prior to their incarceration (or, in rare cases, initiated after deprivation of liberty but upon the recommendation of an outside clinic); however, as far as the delegation could ascertain, there were no harm-reduction measures (e.g. substitution therapy, syringe and needle exchange programmes, provision of disinfectant and information about how to sterilise needles) and no specific psycho-socio-educational assistance.

80. The CPT wishes to stress that the management of drug-addicted prisoners must be varied – combining detoxification, psychological support, socio-educational programmes, rehabilitation and substitution programmes – and linked to a real prevention policy. This policy should highlight the risks of HIV and hepatitis B/C infection through drug use and address methods of transmission and means of protection. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the programmes concerned and must co-operate closely with the other (psycho-socio-educational) staff involved.[80]

The Committee recommends that the Swedish authorities develop and implement a comprehensive policy for the provision of care to prisoners with drug-related problems. Specific training on this subject should be organised for the prisons' health-care staff.

81. As regards medical screening on admission in the prisons visited, newly-arrived prisoners were usually screened the day (or the first weekday) after admission by a nurse reporting to a doctor. In addition, screening for various transmissible diseases (such as tuberculosis, hepatitis C, HIV, etc.) as well as screening for depression and suicide risk was offered in a systematic manner.[81] However, at *Malmö and Falun Remand Prisons* the delegation noted that prisoners on occasion had to wait up to 7 days for the initial screening, and at *Kronoberg Prison* some prisoners alleged that upon admission they had not been medically screened; this is not acceptable. Furthermore, at *Saltvik Prison*, the delegation noted that prisoners transferred from other penitentiary establishments were not medically screened upon admission at all, unless they themselves requested to see a nurse or a doctor.

The CPT recommends that the Swedish authorities take the necessary steps to ensure that all prisoners (including those transferred from another prison) are subjected to a medical screening (including screening for tuberculosis for inmates entering the prison system) by a health-care professional as soon as possible and no later than 24 hours after their admission.

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79 With the sole exception of Saltvik Prison, where the existing arrangements could be considered satisfactory.

80 See also "Drug Dependence Treatment: Interventions for Drug Users in Prison", UN Office on Drugs and Crime, www.unodc.org/docs/treatment/111_PRISON.pdf.

81 Except at Malmö Remand Prison, where screening for TB was not performed unless the inmate displayed symptoms of the disease or requested such a screening.

82. Further, there was no systematic recording of injuries and the records checked by medical members of the delegation were often not detailed and comprehensive. In one case, at *Malmö Remand Prison*, the delegation saw a superficial description of injuries of a recently admitted prisoner who had alleged physical ill-treatment by police officers.[82] It should be added that health-care staff generally did not report cases of possible ill-treatment to a competent authority, leaving it for the inmate and/or his/her lawyer to pursue the matter. At *Malmö and Falun remand prisons*, health-care staff would only report injuries observed on a newly-arrived prisoner if they obtained the consent of the inmate concerned.

As already stressed by the Committee in the past, prison health-care services can and should make a significant contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries observed on newly-arrived prisoners and, if appropriate, the provision of information to the relevant authorities. Any signs of violence observed when a prisoner is being medically screened on admission to such an establishment should be fully recorded, together with any relevant statements by the prisoner and the doctor's conclusions. The same approach should be followed whenever a prisoner is medically examined following a violent episode within the prison. **The CPT calls upon the Swedish authorities to review the existing procedures in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities (e.g. the prosecutor), regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.**

As regards the content of the record to be drawn up after the medical screening, reference is made to the recommendation in paragraph 14 above, which is fully applicable here. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded. **The Committee calls upon the Swedish authorities to take steps to ensure that the practice in all prisons is brought into line with the above considerations.**

83. As regards medical confidentiality, the delegation was concerned to observe that in most of the establishments visited, the distribution of prescribed medicines to inmates was performed by medically untrained prison officers. As a usual practice, individual medication boxes with a prisoner's name, name of medication and the dosage written on them were held in each unit of the prison and distributed by the dedicated prison officer.

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82 See paragraph 12 above.

The CPT wishes to underline that the distribution of prescription medicines by medically untrained individuals may be harmful and, in any event, it is in principle incompatible with the requirements of medical confidentiality and does not contribute to the proper establishment of a doctor-patient relationship. **The CPT recommends that the Swedish authorities take the necessary steps to ensure that the distribution of prescription medicines is carried out in a manner respectful of medical confidentiality and only by qualified staff.**

84. Furthermore, the delegation noted that prisoners requesting medical care had to submit a form stating the reason for such a request; the form was available to the custodial staff who passed it on to the medical service. Such a practice meant that the prisoner's medical confidentiality was not guaranteed. **The Committee recommends that the Swedish authorities take measures to ensure that prisoners are able to have access to the prison's health-care service on a confidential basis, and that medical information regarding individual prisoners is not available to non-medical staff.**

8. Other issues of relevance for the CPT's mandate

a. security related issues

85. Chapter 6 (Segregation for reasons of good order and security) of the Act on Imprisonment provides that a prisoner may be held segregated from other prisoners if, *inter alia*, this is necessary because the prisoner is violent or intoxicated, or due to a risk to the life or health of the prisoner or some other person or a risk of serious damage to property.[83] Chapter 2, Section 5, of the Act on Detention also provides that a prisoner may be segregated from other inmates due to security reasons.

According to Chapter 6, Section 10, of the Act on Imprisonment, a prisoner segregated due to his/her violent behaviour or a danger to his/her own life or health shall be examined by a doctor "as soon as possible" whereas a prisoner segregated for other reasons shall be examined by a doctor upon placement in segregation "only if this is needed having regard to the state of the prisoner's health" and otherwise/thereafter at least once per month.

86. As the delegation was informed, prisoners who posed a threat of serious harm to themselves were placed for monitoring in *special observation cells*.[84] While in these cells, prisoners would be monitored every 5 minutes, every 15 minutes, every 30 minutes or once an hour, depending on the situation.[85] The decision to place a prisoner in a special observation cell, as well as to release him/her, was taken by the officer on duty.

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83 A prisoner can also be separated for reasons of national security, risk of escape, risk of disrupting good order in the prison, etc.

84 Some of these cells were identical to other cells in the prison, while others had only a mattress on the floor.

85 There were also *close observation cells* where inmates would be monitored constantly. At Malmö Remand Prison, for example, these were "normal" cells located next to staff offices and fitted with an observation window in the wall, as well as furniture fixed to the floor and an unbreakable stainless-steel toilet. These cells were also used by the Swedish Customs Service, if there is any suspicion that a prisoner was hiding drugs inside his/her body.

While examining the records of placements in special observation cells, the delegation discovered that, at *Saltvik Prison*, inmates placed in special observation cells were not always seen by a doctor following their placement, as required by the law. In one case, a prisoner placed in a special observation cell had been put under constant supervision the following day (after he had threatened to commit suicide and after custodial staff had spoken on the phone with a doctor); only on the third day after placement did the doctor come to see him.

87. Inmates segregated from other prisoners due to other reasons of security and good order were placed in *isolation cells* where they were locked in for 23 hours per day. The review of the procedure and the records on the placement of prisoners in isolation revealed that, as provided for by the legislation, inmates were seen by medical staff only upon their request or in cases when the custodial staff considered it necessary.

88. The CPT wishes to emphasise that health-care staff should be very attentive to the situation of all prisoners placed under conditions akin to solitary confinement, whether for preventing self-harm or for reasons of security and good order. Health-care staff should be informed of every such placement and should visit prisoners immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required.

The CPT recommends that the Swedish authorities take steps, including if required of a legislative nature, to review the role of health-care staff in the context of segregation of prisoners. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2[86]) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).

89. As regards the use of means of restraint,[87] both the Act on Imprisonment and the Act on Detention provide that a prisoner may be restrained with an instrument of restraint: 1) during movement inside the prison and during transport or any other stay away from prison if this is necessary for security reasons, or 2) if he or she behaves violently and restraint is absolutely necessary having regard to danger to the life and health of the prisoner or some other person. The law requires that a prisoner who has been restrained be examined by a doctor as soon as possible.

In practice, the situation appeared to vary from one establishment to another. For example, the initial decision to apply any means of restraint would be taken by the custodial officer on duty (in Falun and Malmö) but at Växjö Remand Prison, the delegation was told that only a doctor would be allowed to decide about the application of fixation.

As for the precise time when the doctor would intervene in the procedure, it varied from 3 hours (Malmö) to over 24 hours (Växjö).

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86 Rule 43.2 reads: "The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff."

87 Including handcuffs, ankle-cuffs and restraint belts.

90. All prisons visited by the delegation possessed *special cells* furnished with a bed used to immobilise a prisoner by fixating his/her ankles, wrists and chest to a bed with leather straps (or 5-point restraint). The conditions in these cells (which were usually under CCTV surveillance) were generally adequate.

The delegation was informed that restraint beds were used quite rarely.[88] As the recourse to these beds (and fixation) was not always recorded in a special register,[89] the delegation was not in a position to assess the situation thoroughly. Furthermore, instances of recourse to the restraint bed were sometimes poorly documented even in the existing special registers. In those prisons where a special register was not kept (e.g. at *Sollentuna Remand Prison*), the use of means of restraint was recorded in the personal (medical) files of prisoners concerned.[90]

More generally, **the Committee wishes to stress that, in principle, restraint beds should not be used in a non-medical setting.**

91. The CPT fully recognises that it could be necessary, on rare occasions, to resort to mechanical means of restraint in a prison. However, in the Committee's opinion, the approach to mechanical restraint in prisons should take into consideration the following principles and minimum standards:

- regarding its appropriate use, mechanical restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention;

  any resort to mechanical restraint should be immediately brought to the attention of a medical doctor in order to assess whether the mental state of the prisoner concerned requires hospitalisation or whether any other measure is required in the light of the prisoner's medical condition (as opposed to certifying the individual's fitness for restraint);

- the equipment used should be properly designed to limit harmful effects, discomfort and pain during restraint, and staff must be trained in the use of the equipment; metal cuffs should never be used;

- the duration of mechanical restraint should be for the shortest possible time (usually minutes rather than hours); the exceptional prolongation of immobilisation should warrant a further review, including a new medical assessment; immobilisation for periods of days at a time cannot have any justification and would amount to ill-treatment;

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88 E.g. 2 – 5 times per year at Falun Remand Prison, and less than once per month at Växjö Remand Prison.

89 For example, at Falun Remand Prison the delegation could assess the frequency and duration of restraint only thanks to the fact that custodial staff had taken the initiative to record this data in an "informal" register kept by them.

90 At the above-mentioned establishment, the delegation examined the records regarding the latest case of recourse to the restraint bed. In May 2015, an inmate was placed in a special observation cell under constant supervision due to a risk of self-harm. After he had broken the window in the cell, he was moved to a cell with a restraint bed and immobilised. An on-call doctor arrived to examine the prisoner after two hours. Ten hours after the beginning of the immobilisation the prisoner was released from the restraint bed and moved to a special observation cell.

- persons subject to mechanical restraint should receive full information on the reasons for the intervention;

- the management of any establishment which might use mechanical restraint should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved;[91]

- a special register should be kept to record all cases in which recourse is had to means of restraint; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, and an account of any injuries sustained by the prisoner or staff;

- further, the inmate concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. This discussion should always involve a senior member of the health-care staff or another senior member of staff with appropriate training.

The CPT recommends that the Swedish authorities take the necessary steps (including through legislative and/or regulatory amendments and through appropriate training for staff) to ensure that all the principles and minimum safeguards set out above are applied in prisons whenever resort is had to mechanical restraint (fixation).

92. The CPT is also concerned about the information received by the delegation at *Malmö Remand Prison* that inmates had often been subjected to immobilisation whilst naked. In the CPT's view, such a practice could easily be considered to be degrading for the prisoners concerned. **If such a practice does exist, it should be terminated immediately.**

93. As regards the use of force/special means, in the absence of a dedicated *register* for such instances, the delegation was not in a position to assess the frequency of their use in the prisons visited. Admittedly, prison directors were under an obligation to report to the Prison and Probation Service on the use of certain special means, in particular pepper spray and handcuffs; however, there was no reporting obligation for the use of other means such as physical force or telescopic truncheons. The same was true as concerns any interventions by special task teams (*indsatsstyrke*), formed internally from the staff of the establishments. Such information could only be found in the individual (administrative) files of prisoners against whom force had been used. However, a review of several of administrative files in the prisons visited demonstrated that recording of the use of force/special means was, as a rule, succinct.

In the CPT's view, the conscientious recording of every application of use of force/special means in a dedicated register is a fundamental safeguard against possible abuse and, at a more general level, constitutes an essential tool of good management.

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[91] In particular, an individual subject to mechanical restraint should have his/her mental and physical state continuously and directly monitored by an identified and suitably trained member of staff who has not been involved in the circumstances which gave rise to the application of the measure. The staff member concerned should offer immediate human contact to the restrained person, communicate with the individual and rapidly respond to the individual's personal needs. Such individualised staff supervision should be performed from within the room or very near the door (within hearing and so that personal contact can be established immediately). The supervising staff member should be required to maintain a written running record.

The Committee recommends that the Swedish authorities take the necessary measures to ensure that every instance of use of force/special means is recorded in a dedicated register, established for that purpose. The entry should include the times at which the use of force/special means began and ended, the circumstances of the case, the reasons for resorting to force/special means, the type of means used, and an account of any injuries sustained by inmates or staff. In addition, any intervention by the special task team should be video recorded.

94. As concerns more specifically *pepper spray*, the CPT is of the view that this potentially dangerous substance should not be used in confined spaces. Further, if exceptionally it needs to be used in open spaces, there should be clearly defined safeguards in place. For example, prisoners exposed to them should be granted immediate access to a doctor and should be supplied immediately with means to reverse the effects effectively and rapidly. Pepper spray should never be deployed against an inmate who has already been brought under control. Further, it should not form part of the standard equipment of a prison officer. **The CPT recommends that the rules and regulations concerning the use of pepper spray in a prison setting be amended accordingly.**

95. The CPT's delegation observed that some custodial staff carried telescopic *truncheons* in full view of inmates inside the detention areas of the prisons visited.

The Committee wishes to stress that openly carrying truncheons is not conducive to developing positive relations between staff and inmates. **If it is considered necessary for custodial staff to be equipped with truncheons, the CPT recommends that they be hidden from view.**

More generally, **the Committee invites the Swedish authorities to phase out the carrying of truncheons by custodial staff in detention areas.**

b. contact with the outside world

96. The Swedish legislation does not contain any clear rules on visiting entitlement for prisoners. Both the Act on Imprisonment and the Act on Detention merely stipulate that a prisoner may receive visits if a visit can be conveniently arranged.

As observed by the delegation, this *lacuna* resulted in different practices as regards the duration of the visits in different prisons, and even within the same prison. For example, at *Kronoberg Remand Prison* the maximum permitted visiting time for remand prisoners subjected to restrictions varied from 30 minutes per week to one hour per month; at *Sollentuna Remand Prison*, the visiting entitlement was 30 minutes per week for remand prisoners subjected to restrictions and one hour per week for those not subjected to restrictions; at Saltvik Prison, the visiting entitlement for sentenced prisoners was from 2 hours every two weeks to 2 or 3 days every two months.

The CPT wishes to emphasise that contacts with the outside world, in particular visits from families and other relatives, are of crucial importance in the context of maintenance of relationships with the family for all inmates, including remand prisoners, and of social rehabilitation of sentenced prisoners in particular. The Committee is therefore of the view that the visiting entitlement for all prisoners should be the equivalent of at least one hour every week.

The CPT recommends that the Swedish authorities eliminate the above-mentioned legislative *lacuna* and adopt provisions concerning the visiting entitlement for prisoners, taking into account the above-mentioned remarks.

97. The visiting facilities in the prisons visited were generally adequate, of an open type (over a table) and family friendly. However, the delegation received complaints that remand prisoners subjected to restrictions as well as sentenced prisoners placed in *Saltvik Prison*'s security unit were not allowed any physical contact with their visitors, except for children, even though the visits were supervised.

While acknowledging that it may be necessary for certain inmates to be subjected, for a given period of time, to restrictions concerning the manner in which visits take place, the CPT is of the opinion that visits prohibiting any physical contact should be an exception and only applied in individual cases where there is a clear security concern.

Moreover, both the Act on Imprisonment and the Act on Detention provide that in cases where it is necessary for security reasons, a visit may be subject to control by (1) staff supervision of the visit, or (2) the visit taking place in a visiting room designed to make it impossible to hand over articles. In this context, the prohibition of any physical contact during a supervised visit seems to be excessive.

In the light of the above remarks, **the CPT recommends that the Swedish authorities take measures to ensure that all remand and sentenced prisoners are able to receive visits from their family members under reasonably open conditions, except when there is a clear security concern.**

98. As during the 2009 visit, the delegation received numerous complaints from prisoners about their access to a telephone.[92] In particular, inmates alleged that they were not allowed to call mobile phones since the VoIP (Voice over Internet Protocol) technology made it difficult for the prison administration to identify the recipient of the call. However, the delegation gained the impression that the practice was not identical in different prisons i.e. in some prisons, inmates were allowed to call fixed lines only (e.g. in Malmö) while in other establishments (e.g. in Falun) they could also call certain mobile numbers.

Inmates also complained to the delegation about the heavy and lengthy bureaucratic procedure for obtaining permission to call a certain number, including the obligation for the potential recipient of the call to agree in writing to being called by the prisoner; reportedly, this procedure could lead to significant delays, especially when the person concerned resided abroad.

In the light of the above, **the CPT recommends that the Swedish authorities make the necessary arrangements to ensure that prisoners have access to a telephone without disproportionate restrictions and delays.**

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[92] See paragraph 73 of CPT/Inf (2009) 34.

99. Some inmates, especially those with families living abroad, complained about the cost of the phone cards. **The CPT invites the Swedish authorities to reflect upon possible solutions to this problem, such as VoIP (Voice Over Internet Protocol), whether through a telephone company or computer to computer.**

100. Several remand prisoners subjected to restrictions (especially at *Falun and Malmö remand prisons*) complained to the delegation about long delays in outgoing and incoming correspondence. **The Committee would welcome the Swedish authorities' clarification of this issue.**

c. complaints procedures

101. The delegation noted that external complaints mechanisms in prisons[93] were generally known and understood by the inmates in each of the prisons visited (see, however, paragraph 102 below).

By contrast, the prisons visited seemed to lack a formalised internal complaints procedure and prisoners were not duly informed as to how to complain to the establishment's Director. There were no complaints boxes, and internal complaints were not systematically recorded and followed up. **The CPT recommends that the Swedish authorities review the internal complaints procedures in prisons, in the light of the above remarks. Prisoners should be able to make written complaints at any moment and place them in a locked complaints box (to which only the establishment's Director and/or designated deputy has the key) located in each accommodation unit. All written complaints should be registered centrally within a prison before being allocated to a particular service for consideration. In all cases, internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the prison.**

d. foreign national prisoners

102. Each of the prisons visited was accommodating a high number of inmates of foreign nationality. In this context, despite the CPT's recommendation in the previous report,[94] the delegation again heard some complaints (which they could verify in a few cases) that inmates of foreign nationality were not provided with written information about the internal regulations and complaints procedures in a language they could understand.

The CPT reiterates its recommendation that the Swedish authorities take steps to improve the provision of information to foreign national prisoners and to ensure that written information on the internal regulations and complaints procedures is systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand.

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93 In particular, the possibility to complain to the Parliamentary Ombudspersons and to international bodies.

94 See paragraph 76 of CPT/Inf (2009) 34.

D. Psychiatric establishments

1. Preliminary remarks

103. Involuntary psychiatric hospitalisation and treatment in Sweden is governed by two legal acts: the Compulsory Mental Care Act (LPT) and the Forensic Mental Care Act (LRV). The LPT provides the legal framework for *civil involuntary hospitalisation* of persons who refuse to consent to necessary psychiatric care or who are judged incapable of participating in such care voluntarily, whereas the LRV concerns *forensic psychiatric patients* sentenced to compulsory treatment pursuant to the Criminal Code[95] following forensic psychiatric assessment carried out by the National Board of Forensic Medicine. There are two types of forensic procedures: the standard one (LRV) under which the hospitalisation of a person who committed a punishable act is decided by the country administrative court but the release may be decided by a psychiatrist; and a reinforced one (LRV-SUP), under which both the placement and the release (as well as any temporary leave) may only be ordered by the court.[96]

At the outset of the visit, senior officials of the Ministry of Health and Social Affairs informed the delegation of the entry into force, on 1 January 2015, of the new Act on Patients' Rights, which applies also to psychiatric patients. Reportedly, the above-mentioned Act has increased the legal protection of psychiatric patients, *inter alia* by granting them access to a second/independent medical opinion in the context of the hospitalisation procedure, and reinforcing the right of access to medical information and to consent to treatment (or refusal to consent). While welcoming this positive legislative development, the CPT must nevertheless stress that the situation observed in this respect in practice during the 2015 visit continued to give rise to concern on the part of the Committee.[97]

104. The delegation visited one psychiatric establishment, namely the Regional Forensic Psychiatric Clinic in Växjö (hereafter, "Växjö Forensic Psychiatric Clinic" or "the Clinic").

The Clinic,[98] founded in 1906 and completely reconstructed after a devastating fire in 2003,[99] is located in the outskirts of the town of Växjö in a park area near the regional (civil) psychiatric hospital and close to the shores of Lake Trummen. It mainly serves as a high-security establishment for long-term treatment of forensic patients but also receives civil patients considered to be "challenging" due to their violent/aggressive behaviour. While the main catchment area is the Kronoberg county, the establishment receives patients from the whole of Sweden.

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95 In most cases, based on Section 31:3 of the Code.

96 See paragraph 121 below.

97 See paragraphs 122 and 123 below.

98 One of Sweden's five regional forensic psychiatric establishments, the oldest and the second largest in size.

99 The reconstruction was completed in 2008.

At the time of the visit, Växjö Forensic Psychiatric Clinic had a total of 120 beds and was accommodating 119 patients, of whom approximately 20 were women (one of them being a juvenile aged 17). Most of the patients were placed pursuant to LRV but there were some 20 prisoners who were temporarily at the Clinic to undergo psychiatric treatment (after which they would return to prison)[100] and a further 20 civil involuntary patients hospitalised pursuant to LPT.

The Clinic had 8 closed units with 8 to 14 beds each[101] and an open unit with approximately 30 places. Patients in the closed units were allocated according to four security levels ("Classes") which differed primarily as regards the degree of the patients' freedom of movement.[102] Most of the patients were diagnosed as suffering from psychosis (in most cases caused by schizophrenia) but there were also patients with bipolar disorder, personality disorder, autism, depression, drug or alcohol dependence, and in a few cases a mild learning disability. Many patients had more than one diagnosis, and approximately 10% of the forensic patients were sex offenders.

As for the length of hospitalisation, due to the specific profile of the Clinic and of the patients, approximately 30% of the (especially forensic) patients stayed at the establishment for lengthy periods (between 1 and 8 years). The remaining 70% stayed for periods lasting between several weeks and several months, but some of the prisoners had been re-admitted several times.

105. It should be stressed at the outset that no allegations were heard by the delegation of any form of ill-treatment by staff of Växjö Forensic Psychiatric Clinic. On the contrary, most of the patients interviewed spoke highly of the staff, especially the ward-based staff (i.e. the nurses and auxiliaries).

Further, inter-patient violence did not appear to be a major problem and whenever such incidents occurred, staff intervened promptly and adequately. The CPT welcomes this.

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100 They had been referred for treatment by recommendation of the Prison and Probation Service and continued (legally speaking) to serve their sentence in the Clinic.

101 Unit 59 (admission/acute and forensic) with 12 beds; Unit 60 (mixed-gender acute) with 12 beds; Unit 61 (mixed-gender high-security, mostly patients with antisocial personality disorder) with 8 beds; Unit 62 (mixed-gender, mostly patients with psychosis and/or autism/Asperger syndrome) with 9 beds; Unit 63 (patients with personality disorders and addiction problems) with 14 beds; Unit 64 (mixed-gender for patients suffering from psychosis) with 13 beds; Unit 65 (mixed-gender for patients with personality disorders and addiction problems) with 14 beds; and Unit 66 (mixed-gender, highest security level, for both forensic and civil patients) with 12 beds.

102 Patients allocated to Class 1 (there were six of them at the time of the visit) were under permanent direct staff supervision and were confined to their rooms except for times of exercise and therapeutic activities; those in Class 2 (approximately 35 patients) had to stay in closed units but could move around inside the units without ongoing direct staff supervision; those in Class 3 (37 patients at the time of the visit) were free to move inside the unit without staff supervision and go for accompanied walks within the Clinic's secure perimeter; as for those in Class 4 (approximately 50 patients at the time of the visit), they were allowed unsupervised walks inside the Clinic's perimeter and supervised (or even, rarely, unsupervised) excursions outside the establishment's territory.

2. Patients' living conditions

106. The living conditions at Växjö Forensic Psychiatric Clinic could be described as good or even very good on the whole, despite the very secure environment.[103] Patients were accommodated in individual rooms measuring approximately 10 to 12 m², with adequate access to natural light, artificial lighting and ventilation. The rooms were suitably equipped[104] and personalised. A few of the rooms were specifically adapted to the needs of patients with reduced mobility.

Many rooms had fully-partitioned sanitary annexes (comprising a shower) and patients accommodated in other rooms had ready access to communal sanitary facilities which were of a high standard. No problems were reported or observed as regards the supply of personal hygiene items and the food served to patients.

It is also noteworthy that patient's clothing was individualised – patients were allowed to wear their own clothes (as long as these were in an acceptable condition and adapted to the weather)[105] and could wash them themselves using washing machines on the units.

107. The rooms were not locked (including at night)[106] and patients had unrestricted access to association and other communal facilities (e.g. day rooms, dining and smoking areas)[107] which were pleasantly furnished, comfortable and offered a warm atmosphere.

108. As a rule, patients had the possibility to take outdoor exercise for at least 5 hours every day, using secure exercise yards adjacent to the units. The yards were adequately equipped (benches, shelters against inclement weather) and planted with grass and flowers. That said, at the time of the visit the yards normally used by patients from Units 62, 63 and 63 were undergoing refurbishment and the delegation was told that patients from those units had not had access to outdoor exercise for several weeks. **The CPT would like to receive confirmation that the above-mentioned refurbishment is now completed and that patients from Units 62, 63 and 64 of Växjö Forensic Psychiatric Clinic have the possibility to take daily outdoor exercise.**

3. Treatment and staff resources

109. As for the range of treatments at the Clinic, pharmacotherapy appeared to be adequate, with new-generation drugs available. The patients' individual medical files and other medical documentation were well kept (containing *inter alia* regularly updated individual treatment plans) and medical confidentiality was duly respected (both as regards consultations and documentation).

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103 E.g. the presence of numerous secure doors (dividing the living areas into small units) with CCTV, an obligation for staff to show their IDs in front of cameras before the remote-controlled locks were unlocked, secure windows (though no bars), secure exercise areas, etc.

104 Beds with full bedding, tables, chairs, lockers, shelves, television sets, call bells, etc.

105 If needed, the Clinic could provide suitable clothing.

106 Patients had keys to their rooms except those in the highest-security accommodation.

107 Except those in Class 1 (see paragraph 104).

That said, some patients told the delegation that they would have liked to see the psychiatrists more frequently and for a longer time; indeed, the delegation noted in the relevant documentation that most patients were seen by a psychiatrist at most once a week, and sometimes only once a fortnight, for 15 – 20 minutes at a time.[108] Given the profile of the patients, many of whom suffered from severe mental disorders (some of which were at an acute stage), the frequency and duration of meetings would not appear to be particularly high. **The CPT invites the Swedish authorities to strive to increase the frequency and duration of psychiatric consultations at Växjö Forensic Psychiatric Clinic, in the light of the above remarks**; this might require reinforcing the medical team (see paragraph 114)**.**

Further, the delegation noted that the multi-disciplinary team approach was not (yet) fully developed at the Clinic;[109] the establishment's Director acknowledged this fact and stated that it was one of the Clinic's objectives to implement such an approach in the near future. **The Committee would like to receive confirmation from the Swedish authorities that this has now happened.**

110. The delegation was informed that the Clinic occasionally resorted to electroconvulsive therapy (ECT), as a last-resort measure to treat severe and life-threatening conditions;[110] two patients were undergoing ECT at the time of the visit. Physically, it was carried out at the nearby (civil) psychiatric hospital because the Clinic did not possess ECT equipment. It was reportedly always applied with anaesthesia and muscle relaxants, and was administered by specially trained staff. Recourse to ECT was recorded in patients' medical files and in a dedicated register. However, the patients' *written* consent was not sought before undergoing this therapy.[111]

The CPT recommends that steps be taken at Växjö Forensic Psychiatric Clinic to ensure that patients' written informed consent is always sought before resorting to ECT (and that this be reflected in the relevant documentation); reference is also made to the recommendation in paragraph 123 below.

111. As approximately 70% of the patients had a history of drug or alcohol addiction, the Clinic attached great importance to this issue. All patients were subjected to urine drug testing upon admission and at regular intervals thereafter. Pharmacological treatment of drug addiction was based on buprenorphine (methadone therapy was not used). Further, the Clinic's impressive team of treatment pedagogues[112] focused specifically on working with this category of patients.

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108 Although both the patients and the staff stressed that it was possible for patients to request a consultation in between the regular scheduled days.

109 E.g. the nurses did not regularly meet psychologists and occupational therapists to discuss the condition and the needs of the patients (although they did have such regular discussions with the psychiatrists).

110 Such as severe depressive episodes of patients suffering from bipolar disorder.

111 The delegation was told that *verbal* informed consent was always sought.

112 *Behandlingspedagog* – a kind of social worker specialised in addiction issues and in working with persons with mental disorders.

112. Växjö Forensic Psychiatric Clinic offered a range of other therapeutic and rehabilitative activities (individual psychotherapy,[113] support and group therapy, special education, work therapy,[114] life skills training, art,[115] hydrotherapy, sports, etc.). Further, a few patients were helping on a voluntary basis with the cleaning on the units.

As regards recreational activities, patients had access to common areas on the units, where they could watch TV/DVD, and could listen to the radio, read books (from home or from the Clinic's library), newspapers and magazines, play computer and board games, table tennis and billiards. Further, patients could use the Internet without restrictions (except those in Class 1, for whom access to the Internet was subject to certain limitations). They also had access to two large indoor sports halls, an outdoor sports area and several smaller gyms (six times a week for up to 45 minutes).

However, the Clinic's management acknowledged that a lot of patients did not participate in activities, reportedly because they were too ill or not sufficiently compliant. Some patients complained to the delegation that there were not enough activities available; for example, one patient alleged that he could participate in work therapy at most twice a week. The figures made available to the delegation (in respect of the month of March 2015[116]) tend to give some credence to these allegations.[117]

Consequently, **the Committee invites the Swedish authorities to make efforts to involve more patients at Växjö Forensic Psychiatric Clinic – and at more frequent intervals – in therapeutic and rehabilitative activities.** This should be possible given the current staffing levels (see paragraph 114 below).

113. As regards somatic care, a GP and a dentist visited Växjö Forensic Psychiatric Clinic once a week. For other specialist consultations and treatments, patients were taken to outside health-care institutions in Växjö; occasionally, specialists also visited the Clinic (e.g. a specialist in infectious diseases).

All patients underwent a medical examination on admission, which included a clinical examination and blood and urine tests. The Clinic possessed some diagnostic equipment (among other things, two ECG machines and a bladder scanner) and for other examinations (X-ray, CT scan, MRI, etc.) patients were taken to the nearby civil psychiatric hospital.

However, the delegation was concerned to note that no screening for transmissible diseases (TB, hepatitis, HIV, etc.) was performed, although doctors and nurses knew that there were patients with such conditions at the Clinic (e.g. two with hepatitis C and two with HIV, as declared by the patients concerned spontaneously upon their admission).

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113 Mostly cognitive behavioural therapy.

114 Woodwork, leatherwork, weaving, sewing, cooking, etc.

115 Painting, drawing, drama and music (with a music therapist who visited once a week).

116 The most recent monthly statistics available at the time of the delegation's visit.

117 In the course of March 2015, patients made use of the following rehabilitative activities: work therapy (50 occasions); cognitive therapy (19 occasions); drug addiction therapy (19 occasions); school activities (27 occasions); social therapy (28 occasions); psychological therapy (13 occasions); social therapy (two occasions); and physiotherapy (one occasion).

The CPT recommends that a systematic screening for tuberculosis and hepatitis of all newly-arrived patients be introduced at Växjö Forensic Psychiatric Clinic and, as applicable, in all other psychiatric establishments in Sweden; further, newly-arrived patients should be systematically offered HIV tests on a confidential basis.

114. As regards the staff complement, the Clinic employed two full-time psychiatrists (including a forensic psychiatrist)[118] and three part-time forensic psychiatrists (one working on a 60% basis and two working on a 20% basis); in fact, the time of presence of the psychiatrists was equivalent to 2 full-time positions (which could explain why patients were not seen by doctors very frequently, see paragraph 110 above). There were two vacant posts for psychiatrists.

The nursing staff comprised 50 full-time nurses (including approximately 40% specialised in psychiatric nursing); there were 10 vacant posts. Further, there were 170 junior nurses (auxiliaries).[119]

After 5 p.m., there was no doctor at the Clinic but one of the psychiatrists was on call (he/she would reportedly be able to visit the establishment within approximately 30 minutes). As regards the nurses and auxiliaries, there were ten nurses present between 5 p.m. and 10 p.m. and three thereafter (until 7 a.m. the following day), and 30 auxiliaries. In addition, each shift had a 10 to 15-person reserve team (composed of nurses and auxiliaries) which was on call and supposed to arrive quickly in the case of any incident.

As regards other staff qualified to provide therapeutic activities, at the time of the visit, there were four psychologists, two socio-therapists, five occupational therapists, three special pedagogues, six social workers and 30 treatment pedagogues. There was also a full-time physiotherapist.

115. To sum up, the psychiatrist/patient ratio at the time of the visit was *de facto* 1:60 and could thus not be considered as sufficient to meet the patients' needs. **The CPT recommends that the Swedish authorities take steps at Växjö Forensic Psychiatric Clinic to increase the number and the times of presence of psychiatrists on the units; in the first place, efforts must be made to fill the two vacant posts.**

By contrast, the number of nurses and auxiliaries could be considered satisfactory, although **it would be advisable to seek to fill the 10 vacant nurses' posts**.

As regards other staff qualified to provide psycho-social rehabilitative activities, its complement could certainly be considered as adequate; however, **the Committee invites the Swedish authorities to explore ways to make more efficient use of the available staff resources** (see paragraph 112 above).

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118 However, one of the psychiatrists had completed his specialisation only recently (in April 2015) and had so far been mainly involved in administrative work; furthermore, he had just taken parental leave.

119 The units with the highest security level had more auxiliary staff, e.g. 26 in Units 59 and 60, and 35 in Unit 61.

116. The Clinic also employed some security staff.[120] Their task was exclusively to control the main entrance and the perimeter of the establishment (they were not allowed to enter the premises) and they were not equipped with any special means (truncheons, handcuffs, etc.). Given the above, the CPT has no concerns about their presence.

4. Means of restraint/seclusion

117. Recourse to means of restraint (including seclusion) did not appear excessive at Växjö Forensic Psychiatric Clinic, bearing in mind the profile of the patients.[121]

All restraint/seclusion measures had to be ordered by a doctor (whenever possible, by the Clinic's medical director or deputy)[122] and mechanical restraints (i.e. five-point restraint) were generally applied for brief periods (of up to a few hours). A nurse had to be present continuously whenever a patient was mechanically restrained.

As for patients in seclusion, they were seen by a doctor at least every 4-5 hours during the day, and after the working day nurses were instructed by the doctors to check the patient's situation at least every 15 minutes. The Clinic had a written policy on restraint and staff in direct contact with patients received initial and ongoing training in manual control and other means of restraint vis-à-vis agitated or violent patients.

However, the delegation was concerned by the practice of doctors authorising (or confirming) recourse to means of restraint by telephone, without actually seeing and examining the patient. This was in particular a routine practice after the doctors' normal working hours (i.e. after 5 p.m.). **The CPT recommends that the above-mentioned practice be stopped. All doctors' decisions regarding the application of means of restraint (or its continuation) must be taken after the doctor has personally seen and examined the patient.**

118. The Clinic did not have a uniform policy as regards the debriefing of the patients after the end of the restraint measure. While this was practised systematically on some of the units, there was no such practice on the other units.

The Committee is of the view that the debriefing of the patient should take place systematically, on all units, at the end of the application of any means of restraint. This debriefing provides an opportunity for the doctor to explain the need for the measure and thus helps to relieve uncertainty about its rationale. For the patient, such a debriefing provides an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

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120 Fifteen in total, with six or seven present during the day and two during the night.

121 E.g. there had been 54 instances of restraint (both mechanical restraint and seclusion) in the first 4 months of 2015, and there was a downward trend as compared with the analogous period in 2014. On the day of the visit, three patients were in seclusion, of whom none were mechanically restrained.

122 In an emergency, the initial decision could be taken by a nurse but the doctor had to be called immediately thereafter in order to confirm the measure.

The CPT recommends that steps be taken at Växjö Forensic Psychiatric Clinic to ensure that the debriefing with the patient after the end of a restraint measure always takes place, irrespective of the unit where the patient concerned is accommodated.

119. Växjö Forensic Psychiatric Clinic had 8 seclusion rooms which were spacious (measuring approximately 25 m² each), bright, well ventilated and equipped with a bed (with a special tear- and fire resistant mattress) to which the restraint belt could be attached if necessary, and an unscreened sanitary annexe. The Committee has no concerns regarding the conditions in these rooms, which offered adequate privacy to patients.

In most cases, seclusion did not last more than a day, although occasionally it could last longer (up to 72 hours). In this context, it was unclear what the maximum authorised period of seclusion would be; **the Committee would like to receive this information from the Swedish authorities.** In addition, **the CPT would like to receive confirmation that the rules applicable to the use of seclusion at Växjö Forensic Psychiatric Clinic (as well as in all other psychiatric establishments in Sweden) provide for the obligation to review the measure at regular intervals.**

120. As for recording and reporting instances of restraint, the situation observed at the Clinic was better than that described in the report on the 2009 visit to Sweden,[123] namely that mechanical restraints lasting less than 4 hours and instances of seclusion lasting less than 8 hours were also recorded and reported, although the recording was done internally (not in the national online database) and reported to the National Board of Health and Welfare (*Socialstyrelsen*) rather than to the Social Care Inspectorate (IVO).[124] The CPT welcomes this positive development.

5. Safeguards

121. The applicable legal provisions[125] were duly followed in practice at Växjö Forensic Psychiatric Clinic. For example, involuntary patients were systematically invited to attend court review hearings[126] (which took place on the Clinic's premises) and benefited in this context from free-of-charge legal assistance.

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123 See paragraph 103 of CPT/Inf (2009) 34.

124 As was the case for restraints of over 4 hours and seclusion of over 8 hours.

125 See paragraph 103 above.

126 For patients hospitalised pursuant to the LPT, there was an initial review by the administrative court after 4 months and then every 6 months; for forensic patients hospitalised pursuant to the LRV, the court review was every 6 months, but for those whose hospitalisation was based on the LRV-SUP, discharge from the Clinic also necessitated separate court proceedings.

Another positive practice was that patients were provided with written information on their rights (including on complaints procedures[127]) and the house rules.[128] Further, the Clinic actively encouraged the maintenance of patients' contacts with their families and friends, through unrestricted visits[129] (which took place in pleasantly furnished visiting rooms) and telephone calls.[130]

However, some aspects of the current system continue to give rise to concern on the part of the CPT.

122. To begin with, patients at Växjö Forensic Psychiatric Clinic were deprived (*de jure* or *de facto*) of a possibility for an independent psychiatric opinion (external to the Clinic) in the context of review of the placement.[131] **The Committee recommends that the LPT and the LRV be amended so as to specifically provide for an obligatory psychiatric expert opinion (independent of the establishment in which the patient is placed) in the context of the review of the measure of involuntary hospitalisation.**

In the Committee's view, this additional safeguard is needed because persons admitted to a psychiatric establishment against their will are not always in a position to appreciate whether it is necessary (or not) to request a second opinion.

123. Further, despite the Committee's recommendation made in the report on the 2009 visit, involuntary hospitalisation of a psychiatric patient continued to be construed as automatically authorising treatment without his/her consent. In practice, doctors at the Clinic sought to obtain patients' *verbal* consent to treatment, but there was no *written* proof that such informed consent had been given.[132] Further, a patient's refusal or subsequent withdrawal of consent to treatment did not result in an external independent psychiatric review as to whether treatment could be provided against the patient's will.

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127 Patients could send complaints to one of the county-based complaint boards, to IVO or to the Parliamentary Ombudspersons. Further, patients hospitalised pursuant to LPT could also complain to the administrative court. That said, there were few complaints in practice, e.g. 15 in total in 2013, and then only to the complaints board.

128 There were several brochures at the patients' disposal (in a range of languages including Swedish, English, German and Arabic), as well as unit-specific information on the daily routine.

129 Except for those patients who were legally prisoners subjected to restrictions, see paragraph 124 below.

130 Patients in Class 3 and 4 were allowed to use their mobile phones, those in Class 1 and 2 received a mobile phone from the staff upon request and could make calls under supervision, up to 3 times per day for 20 minutes each time.

131 Admittedly, the new Act on Patients' Rights contains a general provision granting patients such a right at their request; that said, it is still the case that patients at the Clinic were not aware of this new possibility, and there were no practical arrangements in place to facilitate patients' access to a psychiatric opinion which is independent of the establishment.

132 A patient's refusal of treatment resulted in the patient being treated without his/her consent, but with a note made of refusal of treatment in the patient's file by the treating doctor, and a report sent by the doctor to the National Board of Health and Welfare.

The CPT calls upon the Swedish authorities to introduce at Växjö Forensic Psychiatric Clinic (as well as in all other psychiatric establishments in Sweden), without further delay, a procedure whereby patients and (if they are legally incompetent) their legal representatives are placed in a position to give their free and informed consent to treatment (prior to its commencement), for example by signing a special form with information about the suggested course of treatment.

The relevant legislation should be amended so as to require an external psychiatric opinion in any case where a patient does not agree with the treatment proposed by the establishment's doctors; further, **patients should be able to appeal against a compulsory treatment decision to an independent outside authority and should be informed in writing of this right.**

124. As already mentioned above, several patients at the Clinic were legally considered as prisoners, and some of them were on remand and subjected to restrictions.[133] In the Committee's view, such an approach vis-à-vis persons with severe mental disorders (necessitating a period of hospitalisation) is likely to be detrimental to their mental health and treatment prospects; **the imposition of restrictions on such patients should be avoided as far as possible**.

125. The CPT has repeatedly stressed in the past the importance it attaches to psychiatric establishments being visited on a frequent basis by an independent outside body responsible for the inspection of patients' care. In order to be fully effective, such supervision should also include unannounced visits, and the authority concerned should be empowered to interview patients in private, have access to all the necessary documentation, receive complaints, and make recommendations. Further, the management of all psychiatric establishments should be duly informed of the results of any inspections carried out on their premises.

The delegation was informed that inspections of psychiatric establishments were the task of the Social Care Inspectorate (IVO). However, the IVO (set up approximately 18 months prior to the delegation's visit) was reportedly still in its incipient phase and had not yet embarked on regular and unannounced visits. As for visits by the Parliamentary Ombudspersons (and/or OPCAT Unit), also empowered to carry out inspections of psychiatric establishments, these appeared to be very rare. **The Committee recommends that steps be taken by the Swedish authorities to ensure that Växjö Forensic Psychiatric Clinic (as all other psychiatric establishments in Sweden) is effectively visited on a regular basis by an independent outside body, meeting the above-mentioned requirements.**

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133 With a ban on association, correspondence, visits or phone calls.

APPENDIX

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Justice

Morgan JOHANSSON	Minister of Justice
Anneli SKOGLUND	Director
Susanne SÖDERSTEN	Director
Henrik SJÖLINDER	Deputy Director
Anna LINDBERG	Senior Adviser
Johanna PEYRON	Senior Adviser
Rikard GROZDICS	Legal Adviser
Charlotte MATTSSON	Legal Adviser
Helena TYNI	Legal Adviser
Annika KEMPAS	Desk officer
Charlotte Roth OLANDERS	Desk officer

Swedish Police Authority

Ebba Sverne ARVILL	Chief Commissioner, Internal Affairs Department
Lena BERGENSTRÅLE	Chief Superintendent, National Operations Department
Per ENGSTRÖM	Chief Superintendent, National Development Department
Fredrik LANDBERG	Expert, National Development Department
Fredrik SPIK	Expert, National Operations Department

Swedish Prosecution Authority

Agneta Isborn LIND	State Prosecutor

National Prison and Probation Service

Hanna Jarl KÄLLBERG	Director

Swedish Migration Agency

Fredrik BEIJER	Director for Legal Affairs
Torbjörn NYBERG	Director of Detention
Niclas AXELSSON	Legal Expert

Ministry for Foreign Affairs

Anna LEKVALL	Deputy Director, Department for International law, Human Rights and Treaty Law
Kaj LÖVSTEDT	Department for International law, Human Rights and Treaty Law

Ministry of Health and Social Affairs

Agneta KARLSSON	State Secretary
Martin FÄRNSTEN	Deputy Director
Hans HAGELIN	Senior Adviser
Kerstin EVELIUS	Special Adviser
Linda HINDBERG	Desk Officer

National Board of Institutional Care

Jesper SVEDBERG	Director
Åsa Hård av SEGERSTAD	Chief Legal Adviser
Anette SCHIERBECK	Head of Legal unit

National Board of Health and Welfare

Astrid LINDSTRAND	Medical Officer
Tina ISAKSSON	Programme Officer
Anders FEJER	Head of Unit

Health and Social Care Inspectorate

Linda ALMQVIST	Chief Legal Officer
Karl-Otto SVÄRD	Senior Medical Officer

Office of the Parliamentary Ombudsman

Elisabet FURA	Chief Parliamentary Ombudsman
Cecilia RENFORS	Parliamentary Ombudsman
Lilian WIKLUND	Parliamentary Ombudsman
Gunilla BERGERÉN	Head of NPM Unit

Office of the Ombudsman for Children

Fredrik MALMBERG	Ombudsman for Children
Anna Karin HILDINGSON BOQVIST	Office of the Ombudsman for Children

B. Non-governmental organisations

Civil Rights Defenders
National Association for Social and Mental Health
Swedish Network of Refugee Support Groups