



CPT/Inf (2001) 6

**Report to the Government of the United Kingdom
on the visit to Northern Ireland
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 29 November to 8 December 1999

The United Kingdom Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2001) 7.

Strasbourg, 3 May 2001

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Copy of the letter transmitting the CPT's report

Strasbourg, 21 July 2000

Dear Ms MacKenzie,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Northern Ireland from 29 November to 8 December 1999. The report was adopted by the CPT at its 42nd meeting, held from 4 to 7 July 2000.

I would like to draw your attention to paragraph 138 of the report, in which the CPT requests the United Kingdom authorities to provide within six months a report on the measures taken upon its report. It would also be most helpful if the United Kingdom authorities could provide a copy of the report in a computer-readable form.

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

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Silvia CASALE
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Ms Catherine MacKENZIE
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GB - LONDON SW1 2AH

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 carried out a visit to Northern Ireland from 29 November to 8 December 1999.

The visit formed part of the Committee's programme of periodic visits for 1999. It was the CPT's second visit to Northern Ireland, an ad hoc visit having been carried out in July 1993.

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

- Ms Ingrid LYCKE ELLINGSEN, First Vice-President of the CPT (Head of Delegation)
- Mr Zdenek HÁJEK
- Ms Renate KICKER
- Mr Miklós MAGYAR.

They were assisted by:

- Mr Gisli GUDJONSSON (Professor of Forensic Psychology, University of London) (expert)
- Mr Claude NICOLAY (First Advocate General at the Supreme Court of Justice, Luxembourg) (expert)

and were accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY
- Mr Jan MALINOWSKI.

B. Establishments visited

3. The delegation visited the following places:

Police establishments

- Castlereagh Holding Centre, Belfast
- Gough Barracks Holding Centre, Armagh
- Musgrave Street Police Station, Belfast

Prisons

- Maghaberry Prison
- Magilligan Prison

Juvenile Justice Centres

- Lisnevin Juvenile Justice Centre
- Rathgael Juvenile Justice Centre

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with other authorities including the Chief Commissioner of the Northern Ireland Human Rights Commission (Professor Brice DICKSON), the Independent Commissioner for the Holding Centres (Sir Louis BLOM-COOPER Q.C.), the Independent Reviewer of the operation of counter terrorist legislation (Mr John Jermyn ROWE Q.C.), and the Police Ombudsman Designate for Northern Ireland (Mrs Nuala O'LOAN). As regards non-governmental organisations, the delegation met representatives of the Committee for the Administration of Justice (CAJ), the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), Law Centre (NI) and the Northern Ireland Council for Ethnic Minorities (NICEM).

In addition, numerous meetings were held with local officials in charge of the places visited.

D. Cooperation between the CPT and the United Kingdom authorities

5. The co-operation received by the CPT's delegation before, during and after the visit can be qualified as excellent.

Particular reference should be made to the fact that the delegation was granted unrestricted access to all of the files which it requested from the Royal Ulster Constabulary's Complaints and Discipline, and Legal Services Departments. As was the case during the Committee's 1997 visit to England, the approach adopted by the United Kingdom authorities to the provision of this information - which was necessary for the CPT's delegation to carry out its task - was entirely in accordance with the provisions of Article 8 (2)(d) of the Convention.

The CPT also wishes to acknowledge the valuable assistance which its delegation received from the liaison officer appointed by the Northern Ireland Office, Mr Steven SMITH.

6. The delegation's talks with the national authorities, both at the beginning and at the end of the visit, were marked by a spirit of co-operation. The delegation was received by the Right Honourable Adam INGRAM MP, Minister of State with responsibility for security including policing, criminal justice and prisons, and held fruitful discussions with senior officials from the Northern Ireland Office.

7. The delegation also received a very satisfactory reception from management and staff in all of the places of detention visited, including those which had not been notified in advance. The information which had been distributed by the national authorities had been effective in ensuring that they were aware of the possibility of a CPT visit and had some knowledge of the terms of the Committee's mandate.

E. Immediate observations under Article 8 (5) of the Convention

8. In the report on its 1993 visit to Northern Ireland, the Committee recommended that conditions of detention at Castlereagh Holding Centre be substantially improved without delay. It added that, were such an improvement not to prove possible, the Holding Centre should be relocated elsewhere, in premises capable of offering better detention facilities. In its response, the Government accepted that conditions at Castlereagh were "unsatisfactory", and indicated that relocation of the Centre remained under "active consideration".

However, during the 1999 visit, conditions of detention at Castlereagh were found to be virtually identical to those which had been observed six years previously. The single most significant defect identified by the CPT in 1993 - the total lack of natural light in the cells and interview rooms - remained unremedied, and the Centre as a whole was as cramped and claustrophobic as ever. Although detainees were being offered outdoor exercise, the nature of the exercise facility - a caged corridor which was too small to enable them to exert themselves physically and which offered no shelter from inclement weather - rendered it unsatisfactory.

Consequently, during the meeting held with the United Kingdom authorities at the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention, and made an immediate observation, calling upon the United Kingdom authorities to close Castlereagh without further delay. On 10 December 1999 - i.e. two days later - the Chief Constable of the Royal Ulster Constabulary announced that Castlereagh was to close by the end of that month. The United Kingdom Government subsequently confirmed that Castlereagh Holding Centre did indeed close on 31 December 1999.

The Committee welcomes the prompt and decisive action taken by the United Kingdom Government in the light of its delegation's immediate observation.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Detention by the security forces

1. Preliminary remarks

9. There has been little change in the legal basis for detention by the security forces since the CPT's 1993 visit to Northern Ireland (cf. paragraphs 54 to 71 of document CPT/Inf (94) 17).

As regards persons suspected of ordinary criminal offences, the relevant provisions of the Police and Criminal Evidence (NI) Order 1989 (PACE (NI)) remain in force. The situation of persons suspected of offences related to terrorism is regulated by provisions virtually identical to those which were in force in 1993, which were re-enacted in the form of the Northern Ireland (Emergency Provisions) Act 1996 (the EPA)¹.

10. During the CPT's 1999 visit, the Home Secretary introduced draft legislation (the "Terrorism Bill"), intended to reform and extend existing counter-terrorist legislation, and to place it on a largely permanent basis. Among the provisions of particular interest to the Committee, the Bill envisages that a detained person's rights to have someone informed and to legal advice will be governed by PACE (NI), regardless of the nature of the offence of which he/she is suspected. However, this change will not take effect immediately since Schedule 1 of the Bill provides for the extension of the operation of the EPA beyond its automatic expiry date of 24 August 2000, for a period of time to be determined by the Secretary of State in the light of the prevailing security situation.

Consequently - at least for the time being - a twin-track approach to the operation of formal legal safeguards against ill-treatment will be retained.

11. One important development which should be highlighted is the introduction of electronic recording of interviews with persons suspected of offences related to terrorism.

Silent video recording of all interviews at holding centres was introduced in early 1998, and audio taping of such interviews began in January 1999. Both procedures are the subject of detailed Codes of Practice (Codes III and IV) issued under the EPA. The operation in practice of these additional safeguards is discussed in detail in the section of this chapter which deals with electronic recording (paragraphs 48 to 53).

¹ The automatic expiry of the EPA on 24 August 1998 was postponed to 24 August 2000 by the Northern Ireland (Emergency Provisions) Act 1998.

2. Ill-treatment

a. introduction

12. During its visit, the CPT's delegation collected information from a wide variety of sources concerning the manner in which detained persons are treated while held by the security forces.

Although only one person was being detained in a holding centre at the time of the delegation's visit (and no detainees were being held at the PACE police station visited), the delegation had unrestricted access to the video and audio tapes made of interviews at the holding centres. As far as the CPT is aware, this was the first occasion on which anyone other than the detective officers and detainees concerned have both seen and heard holding centre interviews.

Further, in the prisons visited, the delegation interviewed a number of inmates remanded for, or convicted of, offences related to terrorism, and persons held in relation to ordinary criminal offences.

The delegation also examined a range of documents, including formal complaints against the police, information relating to the settlement of civil cases on grounds including allegations of assault, and medical records.

13. The steep reduction in the number of persons being detained for offences related to terrorism in Northern Ireland, has been matched by a decline in the volume of allegations of ill-treatment which emanate from such persons. Nevertheless, some allegations of ill-treatment persist, both in relation to the time of arrest, and during detention at the holding centres.

As had been the case during the CPT's 1993 visit, the delegation found that there were only a small number of allegations of ill-treatment of persons held in relation to ordinary criminal offences, most of which related to rough treatment / verbal abuse at the time of arrest.

b. ill-treatment at the time of arrest

14. The most common forms of alleged ill-treatment at the time of arrest remained blows and kicks inflicted after detained persons had been restrained and placed on the ground. Such ill-treatment was said to have been inflicted by both the police and the Army. Further, a number of detainees again complained about a method of restraint employed by members of the security forces, namely standing on the backs of the legs of arrested persons while they were in a kneeling position.

15. Amongst the most serious allegations which were examined by the CPT's delegation were those concerning the detention of a group of five persons suspected of offences related to terrorism, during a joint military/police arrest operation near Crossmaglen on 10 April 1997.

Upon their arrival at Gough Barracks Holding Centre, all of the persons concerned complained that they had been ill-treated by the soldiers who detained them, and two of the five alleged additional assaults by RUC officers. All five detainees were found by the medical officer at Gough Barracks to bear injuries consistent with their allegations.

16. By way of example, one of the above-mentioned detainees made the following statement of complaint:

"I wish to advise police that on 10 April 1997 at [...] I was the victim of repeated and significant assaults upon me by British Soldiers prior to the time of my arrest. These attacks were unwarranted and unprovoked. I offered no resistance to the soldier in question and I was assaulted in an upright and kneeling position. I was struck with rifle butts and barrels, boots and fists. I suffered injuries to both temples, nose, eyes, head, ear, shoulder, arm, back, leg and knees. I was lacerated and required hospital treatment and stitching. The police doctor recorded particulars of my injuries."

The relevant medical form (PACE 15) contained the following entries:

Allegations of ill-treatment: "States was beat up by soldiers - hit by boots/fists and rifle butts on numerous occasions".

Allegedly caused by: "Service Personnel".

Details of injuries sustained: "Has (1) laceration top of right ear (2) lacerations back of scalp (3) bruising right temple area (4) injury to right upper arm (5) ? Tiny left ear-drum perforation."

Is medical evidence consistent with allegations: "Yes".

17. The above-mentioned complaints were investigated by the RUC, and a report was submitted to the Director of Public Prosecutions (DPP). The CPT's delegation requested to be informed of the findings of that investigation, and of any criminal / disciplinary action against soldiers / police officers which had been taken in response.

In a letter dated 30 June 2000, the United Kingdom authorities informed the Committee that "the complaints against the police and army have been fully investigated and no criminal or disciplinary procedures were directed by either the ICPC or the DPP." **The CPT would like to receive a copy of the report prepared by the RUC investigating officer(s) in this case, together with details of the reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against soldiers / police officers.**

18. The Committee has also been informed that police investigations of alleged criminal behaviour by members of the armed forces cannot be supervised by the Independent Commission for Police Complaints for Northern Ireland (the ICPC) or the Independent Assessor of Military Complaints Procedures. It appears that the ICPC can only become involved if there is a - quite distinct - complaint about the manner in which the police conduct a given investigation into the behaviour of the Army.

Further, it remains unclear whether the recently-appointed Police Ombudsman is to be granted the necessary mandate to remedy this apparent lacuna in the oversight of investigations of alleged ill-treatment. **The CPT would like to receive the comments of the United Kingdom authorities on this subject.**

19. The delegation also gathered a substantial body of more recent allegations of the use of excessive force by RUC officers at the time of arrest.

For example, a male detainee complained that, at the time of his arrest on 23 August 1999, an RUC officer applied his foot to the back of his head and then sat on his back, causing him considerable pain. The medical form (PACE 15) completed some four hours after his arrival at Castlereagh Holding Centre contained the following entries:

Allegations of ill-treatment: "Says RUC officer stood on back of head, then sat on his back. Since then his back + leg L. has been sore".

Allegedly caused by: "RUC".

Details of injuries sustained: "Bruising over L. hamstring, general abrasions to back."

Is medical evidence consistent with allegations: "Yes".

A subsequent PACE 15 form, completed some two days later, charts the development of these injuries as follows: "linear haematoma sloping 45° down medially over back left hamstring area. Some fresh spread of haematoma". Greater detail is to be found in the Medical Report Forms (MRF 1), which form part of the private medical notes of doctors working at the holding centres. In particular, a body chart dated 23 August 1999 records a "linear bruise + abrasion 15cm x 3cm" on the left leg which, by the time a further body chart was completed on 26 August 1999, had become a "linear bruise 10cm x 8cm, purple + yellow ++".

20. Reference should also be made to the numerous civil cases examined by the delegation in which the Chief Constable of the RUC has made out-of-court settlements to persons alleging ill-treatment at the time of arrest, on the basis of legal advice that medical evidence was consistent with the allegations of the persons concerned.

21. To take just one example, in an internal note dated 4 March 1999, the RUC's Legal Services Department records the settlement of a case in which "the Plaintiff alleged he was struck by police batons sustaining 2 lacerations to the head, bruising to the back and shoulder and a fracture to the left thumb. The medical evidence was consistent with the allegations."

That medical evidence was summarised by a Consultant in Emergency Medicine as follows:

"Dr. [A] from the Mater Accident and Emergency describes a laceration to the right front side of the scalp, a 3cm x 3cm haematoma to the occipital region, a compound fracture of the thumb and "pattern bruising on the right upper back x2 in keeping with a baton".

Dr. [B] lists 6 groups of injuries which are the same as those described by Dr. [A] but in greater detail. In addition, he also describes an injury not mentioned by Dr. [A]; no. 3 a diffuse area of redness 9cm x 9cm on the left lower lateral back. Dr. [B] also describes: 2 parallel raised bruises 16cm x 2.5cms and 10cms x 2.5cms across the right lower shoulder blade and right lower lateral back. These two injuries are pathognomic of blows with a police truncheon and I have photographs of virtually identical injuries in other patients. The blows are usually to the back and arms as the victim is initially facing the assailant and puts his arms up to protect himself and then as he turns his back to the assailant to protect his face and blows are sustained to the back of the trunk and the back of the head."

22. According to the aforementioned RUC Legal Services note: "the Defence was unable to offer any explanations for the injuries and all officers denied any physical contact with the Plaintiff other than the arrest itself. In the circumstances, and with particular regard to the strong medical evidence, the case was settled in the sum of £5000."

Notwithstanding the above, no police complaints and discipline investigation was carried out into this case, either before or after the out-of-court settlement. This issue is discussed in greater depth in the section of this chapter which deals with complaints and disciplinary procedures (cf. paragraphs 54 to 57).

23. In the light of the information gathered during the visit, **the CPT must reiterate the recommendation made in the report on its 1993 visit, that members of the security forces in Northern Ireland be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for them being struck.**

c. ill-treatment during detention at the holding centres

i. *physical ill-treatment*

24. The CPT's delegation found that, as compared with the situation observed during the 1993 visit, there had been a very significant reduction in the number of complaints of physical ill-treatment made by persons detained at the holding centres.

Many of the delegation's interlocutors (including non-governmental organisations, lawyers and the Independent Commissioner for the Holding Centres) indicated that, since the introduction of silent video recording of interviews at the holding centres in early 1998, there had been virtually no allegations of physical ill-treatment of detainees by police officers.

The Committee welcomes this development; however, its delegation's on-the-spot findings indicate that the problem of physical ill-treatment of persons detained at the holding centres has yet to be completely eradicated.

25. Specific reference should be made to the case of a male detainee held at Castlereagh Holding Centre between 29 October and 3 November 1999 (i.e. some three weeks before the delegation's visit). The person concerned alleged that, at around 10.00am on 30 October 1999, having refused to voluntarily leave his cell to attend an interview, he was physically assaulted in his cell and in an interview room. He was medically examined immediately after the alleged incidents, and the relevant PACE 15 form contains the following entries:

General state of health: "Angry and hostile re situation".

Allegations of ill-treatment: "Yes. States he was assaulted by police in cell and interview room."

Allegedly caused by: "RUC".

Details of injuries sustained: "Superficial bruising in keeping with a violent struggle."

Is medical evidence consistent with allegations: "Possibly".

General observations: "Upset and at times weepy. Very angry re his perceived treatment".

Further detail is included on the MRF 1 body chart completed during the same medical examination, which shows areas of redness on the detainee's left and right shoulderblades, left shoulder and chest, over the upper third of the tibia, lateral third of the right side of the abdomen, and lower left leg.

26. Given that the detainee's allegations related - at least in part - to an incident in an interview room, the delegation viewed the video tape which corresponded to the period in question. The tape contains clear images of the detainee being physically ill-treated by both uniformed and detective officers.

The initial images show two detective officers sitting in an interview room, apparently waiting for the detainee to arrive. After a brief interval, they abruptly leave the room, entering a corridor area which is not covered by a video camera. They return shortly afterwards, and one of the detectives removes his jacket and hangs it on the back of a chair. He then moves the interview room desk towards the wall, thus clearing a space in the centre of the floor. When - a few moments later - the detainee enters the picture, he is being dragged by two uniformed officers (one of whom is holding his right arm, the other his left leg), who proceed to throw him against the interview room wall, on which he bangs his head. As the detainee lies prone, holding his head in his hands, the detective officers are seen to lift the desk, strike him with it, and then hold it down on top of him for nearly a minute. Afterwards, the detainee is carried out of the interview room (and out of the picture) by uniformed officers.

27. This incident was the subject of a formal complaint by the detainee which, at the time of the delegation's visit, was being investigated by the RUC's "G" (Complaints and Discipline) Department. The CPT's delegation requested to be informed of the outcome of that investigation, and to receive details of any criminal/disciplinary action which has been taken against the police officers involved.

By letter of 30 June 2000, the United Kingdom authorities informed the Committee that "the RUC do not accept that the video shows a series of assaults on the prisoner ... In the confined interview room the prisoner was slid along the floor and at this point banged his head on the wall. When uniformed officers left the room, as shown by detailed examination of the video and the chronology, he began to kick at the Detective Officers, grabbing the desk in the room and pushing it up and back towards one of the officers who then held the desk down ... These matters were the subject of a criminal and disciplinary investigation supervised by the Independent Commission for Police Complaints. No criminal or disciplinary proceedings were detected."

The Committee is not convinced by this reply. It should be stressed, in this connection, that the description of events set out in paragraph 26 is based on at least three separate viewings of the video footage in question (manually adjusted to real time) by three different members of the CPT's delegation. Moreover, even according to the RUC's version of events, there would appear to be no dispute about the fact that the detainee banged his head on the interview room wall as a result of action by uniformed officers, and that a detective officer held a desk down on him.

The CPT would like to receive a copy of the report prepared by the RUC investigating officer(s) in this case. It would also like to be informed of whether the matter was referred to the Director of Public Prosecutions and, if so, to receive details of the reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against the police officers involved.

28. More generally, the above-mentioned letter of 30 June 2000 indicates that "the RUC are of course fully aware of the need to review and, where possible, improve systems in the light of such complaints. The RUC have identified areas for improvement in respect of policy, training and equipment in respect of detainee handling and intend to put this into effect alongside general training issues arising from the Patten report."

The CPT would like to receive further and better particulars regarding the "areas for improvement" which have been identified by the RUC, together with details of the improvements which are to be made in those areas.

29. It is also noteworthy that, some three weeks after the event, the CPT's delegation was the first body to request to view the video tape of this incident. Neither the Deputy Independent Commissioner for the Holding Centres (who had made a brief note of the detainee's allegations in his logbook), nor an investigating officer from G Department (to which a formal complaint had been submitted), had sought to have access to material which proved to corroborate at least some of the detainee's allegations of ill-treatment. **The CPT would like to receive the comments of the United Kingdom authorities on this matter.**

30. More generally, the delegation found that only one out of over two hundred video tapes recorded at Castlereagh in 1999 had been seen by an outside body (the ICPC).

It is axiomatic that, **in order to maximise the potential of the current video recording system, all relevant monitoring and investigatory bodies should systematically seek access to any video tapes which may support (or contradict) a detainee's complaints of ill-treatment.**

ii. psychological ill-treatment

31. The information gathered by the CPT's delegation suggests that, in recent years, there has also been a significant reduction in the volume of complaints of psychological ill-treatment at the holding centres. Those allegations which are made appear to be more limited in scope than was the case during the CPT's first visit.

Abusive behaviour which would be visible on video tape (such as banging the table in the interview room) is now very rarely alleged. Further, as from the introduction of audio-taping of interviews in January 1999, allegations of threats by detectives to include compromising material in interview notes seem to have come to an end. More generally, complaints about the verbal conduct of police officers during formal interviews in the holding centres seem to have slowed to a trickle.

32. These are positive developments; however, allegations persist of threats (e.g. to arrange that persons detained or members of their families will become targets of paramilitary groups), intimidation / improper suggestions (e.g. attempting to pressurise detainees to become police informers) and other forms of psychological ill-treatment by interviewing officers, before the beginning and after the end of taped interviews.

33. It should be noted, in this connection, that the audio tapes of interviews in the holding centres are not automatically synchronised with the video recordings of interview rooms. At present, the (silent) video recording begins before the detainee enters the room (and can be monitored by a uniformed officer from a remote location), but the audio taping is started (and can be stopped) by the interviewing officers once the detainee is present in the room. By manually synchronising the silent video footage of interviews with the relevant audio tapes, the CPT's delegation was able to ascertain that some detectives are indeed conducting unauthorised "off-tape" interviews of up to five minutes with detainees.

34. For example, a female detainee who had been held at Castlereagh Holding Centre shortly before the delegation's visit in September 1999 complained to her solicitor that she had been interviewed "off-tape" at approximately 12.30pm on day two of her detention.

According to her custody record, the interview in question took place from 12.18 to 13.05pm. The relevant video recording shows the detainee entering the interview room at 12.17:55. A detective immediately begins talking to her, while the blank audio cassettes intended to tape the interview remain visible on the desk in the room. The video shows the detective inserting the cassettes into the audio recorder at 12.22:06 (i.e. some 4 minutes after discussions with the detainee have begun), at which point he can be heard to formally caution her.

In a number of other cases where "off tape" interviewing had been alleged, the delegation observed delays of two to three minutes between a detainee entering/leaving an interview room and detectives starting/stopping the audio recording.

35. The CPT also has reservations about the manner in which certain formal interviews at the holding centres are conducted. For example, the female detainee mentioned in the previous paragraph had been interviewed five times over a two day period, on each occasion for around 45 minutes. The following summaries are based on the observations of the delegation's clinical psychologist after he had viewed the video footage of the interviews, synchronised with the relevant audio tapes:

interview 1 Conducted by two police officers, between 7.47 and 8.32pm on day one of her detention.

Both officers leant over the desk as they questioned the detainee and they appeared to be staring at her. On several occasions, one of the officers stood, leant over the detainee and shouted at her. Amongst the statements made by the officers during this interview were: "Do you want to go to Maghaberry²? They will push you and treat you like dirt. How would you feel about your children visiting you there, crying saying 'mummy, mummy, come home'. You think of your children, do you understand?"

² The only prison for women in Northern Ireland.

interview 2 Conducted by the same team of two police officers, between 10.43 and 11.27pm on day one of her detention.

This interview was conducted using similar methods to the first, but with noticeably greater verbal aggression. Amongst the statements made to the detainee were: "You pathetic face sitting there"; "Look at your face"; "You are shaking like a leaf"; "You know you are going to go down for this. Are you going to send your sick husband to jail?"; "Your husband will die and suffer in hospital".

interviews 3 to 5 Conducted by a different team of two officers between 10.04 and 10.46am, 12.22 and 12.59am, 3.43 and 4.26pm on day two of her detention.

These interviews were conducted in a less intimidating fashion than the first two. In particular, the officers neither stood over the detainee nor shouted at her. However, there was a similar pattern of repeated and sustained challenges to the detainee's denials, including calling her a liar on dozens of occasions.

36. The above-mentioned detainee was examined by a Medical Officer, who assessed her fitness for continued detention and interview, five times during her two day detention.

Before interview one, he recorded her general state of health as "anxious ++/headache", but found that she had "normal cognition". He prescribed Paracetamol and Diazepam, and certified her as fit for detention and interview. After interview two, he recorded that she was "anxious++ tearful" and prescribed further doses of Diazepam, to be administered at 2.00am and, if necessary, 4.00am.

Before interview three, another Medical Officer recorded that she was "Tearful. Looks nervous". He prescribed 5mg of Diazepam, three times a day, and certified her as fit for detention and interview ("2 hours on, 1 hour off"). After interview four, the same Medical Officer again found her to be "Tearful, Nervous", and recommended "only interview 1 hour on, 1 hour off". He added, "I will interview this patient at tea time; to check if there is any deterioration in her condition". Seen for a final time after interview five, she was said to be "well physically, but anxious and agitated."

These findings tally with the delegation's own observations of the detainee's physical appearance during interviews; she frequently looked very distressed and, on occasion during interviews 3 and 4, broke down in tears.

37. Reference might also be made to the complaints of a detainee held at Gough Barracks Holding Centre in June 1999, who alleged that, in an "off tape" interview:

"My interviewers told me that I was going to end up like [C] "with a snooker cue up my arse". [C] was killed in the Maze Prison. My interviewers said this would be done by the Loyalist Volunteer Force. My interviewers told me they would let the Loyalist Volunteer Force know that I was giving information to the Special Branch and the "boys" would sort me out."

The fact that this detainee had alleged verbal abuse had also been recorded by a medical officer who had examined him during his detention.

38. As the CPT acknowledged in the report on its first visit to Northern Ireland, the questioning of persons detained in relation to terrorist offences cannot be expected to be a pleasant process. However, shouting at detainees, insulting them and attempting to browbeat them into making confessions is behaviour which has no proper place in the interrogation process. **The Committee recommends that police officers conducting interviews with persons detained in relation to terrorist offences be clearly reminded of this.**

The Committee would also like to be informed of whether police officers who conduct interviews with persons detained in relation to terrorist offences receive any specialist training for this task, and - if so - to receive details of the training concerned.

39. Further, as the CPT remarked in its 1993 visit report, in the absence of a means of hearing what is said during the interview process, tangible evidence of psychological ill-treatment is difficult to obtain. It is plain that the present system of unsynchronised silent video recording and detective-controlled audio-taping - while a vast improvement on the monitoring system observed during the 1993 visit - could still provide a window of opportunity for police officers minded to engage in psychological ill-treatment of detainees. This issue is addressed in a later section (cf. paragraphs 48 to 53).

d. safeguards against the ill-treatment of detained persons

40. The CPT's delegation's findings in the course of the 1999 visit once again highlight the importance of an effective system of safeguards against ill-treatment of persons deprived of their liberty by the security forces in Northern Ireland. In this section, the Committee recommends the strengthening of certain key safeguards: access to a lawyer, electronic recording of police interviews and complaints and disciplinary procedures³.

i. *access to a lawyer*

41. It remains the case that persons detained under PACE (NI) and under counter-terrorist legislation are entitled to consult a lawyer, in principle, in private. The exercise of this right may be delayed for 36 hours (in the case of a PACE (NI) detainee) or 48 hours (in the case of a person detained under counter-terrorism legislation).

The CPT's report on its 1993 visit recognised that, in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, it stressed that this should not result in the right of access to a lawyer being totally denied during the period in question. The Committee recommended that, in such cases, access to another, independent, lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be arranged. The Committee's report added that guaranteeing such access should render superfluous the possibility to deny access to a solicitor for successive 48 hours periods between consultations (cf. section 47 (6) (b) of the EPA), and for police officers to be authorised to listen to consultations between lawyers and their clients (cf. section 47 (11) of the EPA).

The CPT also suggested that the right to have a lawyer present during police interrogations is a useful supplementary safeguard.

42. In their 1994 response, the United Kingdom authorities indicated that, having regard to the special situation in Northern Ireland, they were not inclined to grant persons detained under PACE (NI) and under counter-terrorist legislation a fully-fledged right of access to an independent lawyer, as from the outset of their detention. The response added that "in any event, in Northern Ireland the reasons for delay of access to a suspect's lawyer would, in many cases, apply equally to an 'independent' [*quotation marks in the original*] lawyer"⁴.

As regards the presence of a lawyer during questioning, the response indicated that it was "felt that the presence of a lawyer would inhibit interviews and lead to a reduction in information about serious terrorist crimes given by detainees."⁵

³ The CPT's views on the other safeguards which should be offered to persons deprived of their liberty, and the responses of the United Kingdom Government are set out in paragraphs 52 to 102 of document CPT/Inf (94) 17 and pages 10 to 21 of document CPT/Inf (94) 18.

⁴ Cf. page 13 of document CPT/Inf (94) 18.

⁵ Cf. page 15 of document CPT/Inf (94) 18.

43. Thus, as matters stand, persons deprived of their liberty in Northern Ireland under PACE (NI) and counter-terrorism legislation still do not benefit from a right to have access to another lawyer, when access to a specific solicitor is delayed (although such a right does exist in England and Wales, including for detainees held under counter-terrorist legislation).

Moreover, it remains open to the police to deny access to any lawyer for successive periods of 48 hours between consultations, and to request the authorisation of a senior officer to listen to consultations between lawyers and their clients.

Further - unlike their counterparts in England and Wales - solicitors in Northern Ireland are still not entitled to be present during police interrogations.

44. In recent times, there have been signs of a softening of attitudes on these points, in response to the improved security situation in Northern Ireland.

For example, in the 1998 consultation paper "Legislation Against Terrorism", the Government indicated that it has "reservations about the existence of different regimes in each of the jurisdictions for governing the delay of access [to a lawyer]. As far as practicable, it would like to see a single regime in place right across the UK." The Government further proposed that, under such a regime, "once access has been granted it should not subsequently be withheld and that, once granted, all suspects would have the right to have their solicitor present during police interviews".⁶

However, as already indicated, the recently-published Terrorism Bill stops short - for the time being - of proposing the introduction of a single United Kingdom-wide regime as regards the right of access to a lawyer.

45. The United Kingdom Government would appear to be of the view that, once a lasting peace has been established, the different regime in Northern Ireland as regards the right of access to a lawyer can be abolished. Naturally, the Committee hopes that such a position will be reached in the very near future. However, it is also very important that any new nationwide regime should accord the highest possible level of protection against ill-treatment of persons deprived of their liberty. In other words, it should at least match the best protection currently offered by regimes in less troubled jurisdictions of the United Kingdom.

In this connection, **the CPT recommends that the planned nationwide regime as regards the right of access to a lawyer include the following features:**

- **a legally-binding provision (at least in the form of a full provision of a Code of Practice) granting all detainees the right to have access to another, independent, lawyer when access to a specific solicitor is delayed;**
- **the repeal of provisions which permit denial of access to a lawyer for successive periods of 48 hours between consultations, and which enable police officers to seek authorisation to listen to interviews between lawyers and their clients;**
- **an entitlement for lawyers in all jurisdictions of the United Kingdom to be present during police interrogations.**

⁶ CM 4178, paragraphs 8.31 and 8.33.

46. In the meantime, and for so long as the current Northern Ireland legislation remains in force, the CPT wishes to make clear that **it retains serious reservations about the absence of a formal right for detained persons to have access to another, independent, lawyer when access to a specific solicitor is denied.**

In this respect, **it would like to receive clarification from the United Kingdom authorities as to the precise meaning of the statement in their 1994 response to the effect that "in any event, in Northern Ireland the reasons for delay of access to a suspect's lawyer would, in many cases, apply equally to an 'independent' lawyer".**

47. Reference should also be made to the recent judgments of the European Court of Human Rights in the cases of *Averill v. the United Kingdom*⁷ and *Magee v. the United Kingdom*⁸, in each of which the Court found that there had been a violation of Article 6 (1) of the European Convention on Human Rights, in conjunction with Article 6 (3) thereof as regards the denial of access to a solicitor.

The Committee would welcome the views of the United Kingdom authorities on the implications of these judgments.

ii. electronic recording

48. In the report on its 1993 visit, the CPT stressed that the electronic recording of interviews represents an important safeguard for detainees, as well as offering advantages for the police. If the recording system used is capable of providing a complete and authentic record of the interview process, it can greatly facilitate the investigation of allegations of ill-treatment and the correct attribution of blame.

49. At present, interviews with persons held under counter-terrorist legislation in Northern Ireland are subject to two distinct forms of electronic recording. **Silent video recording** of interviews conducted in the holding centres was introduced in early 1998 . The operation of the video recording system is regulated by Code of Practice III to the EPA.⁹ In addition, as from January 1999, interviews at the holding centres have also been recorded on **audio tape**; this is regulated by Code of Practice IV to the EPA.¹⁰

⁷ Application No. 36408/97, Judgment of 6 June 2000.

⁸ Application No. 28135/95, Judgment of 6 June 2000.

⁹ Code of Practice Governing the Silent Video Recording of Police Interviews of Persons Detained Under Section 14(1)(a) or (b) of the Prevention of Terrorism (Temporary Provisions) Act 1989.

¹⁰ Code of Practice Governing the Audio Recording of Police Interviews of Persons Detained Under Section 14(1)(a) or (b) of the Prevention of Terrorism (Temporary Provisions) Act 1989 and such other Police Interviews as may be specified by Order.

50. The delegation's on-the-spot findings suggest that there is a direct correlation between the introduction of these additional safeguards and a reduction in the volume of complaints of ill-treatment at the holding centres. As already mentioned, abusive behaviour which would be visible on video tape is now very rarely alleged (cf. however, paragraph 26), and complaints about the verbal conduct of police officers during formal interviews seem to have slowed to a trickle since audio taping was introduced.

These are welcome developments; nevertheless, the Committee considers that the effectiveness of the existing systems of electronic recording as safeguards against ill-treatment could be further enhanced.

51. As matters stand, the video recordings of holding centre interviews are not automatically synchronised with the audio tapes of the interviews concerned. Although it is possible manually to synchronise a given video cassette with the series of audio tapes which relate to it, this is a painstaking and time-consuming exercise.

52. Moreover, even after interview sounds and images have been manually synchronised, they do not provide a complete record of every exchange between interviewing officers and detainees.

As regards **silent video recording**, the relevant Code of Practice specifies that, "the video recording shall record the entire period the detained person is in the interview room; in other words, the entire period the detained person is in the company of the interviewing officers. The video recording will also record the interviewing officers on their own in the interview room before the commencement and at the end of each interview, that is to say, before the detained person has been escorted to the interview room by uniformed officers and after he has been escorted away by uniformed officers."¹¹

Whereas the **audio taping** procedure requires that, "when the detained person is brought into the interview room the interviewing officer ... shall without delay, but in the sight of the detained person, load the recorder ... The tapes must be unwrapped or otherwise opened in the presence of the detained person" and "at the conclusion of the interview ... the time shall be recorded and the tape switched off ... The interviewing officer shall sign the label and ask the detainee ... to sign it also."¹²

Thus, silent video recording always begins before, and ends after, audio taping of an interview. Even if the audio tapes were always started "without delay" (which is not the case, cf. paragraphs 33 and 34), the current system would still provide a window of opportunity for police officers minded to engage in psychological ill-treatment of detainees before the beginning and after the end of taped interviews; that window should be closed.

¹¹ Paragraph 5.4 of Code III to the EPA (supra).

¹² Paragraphs 4.1 and 4.7 of Code IV to the EPA (supra).

53. The two systems of electronic recording currently in use at the holding centres could be said to fulfil two different, albeit potentially complementary, purposes. **Silent video recording** is explicitly designed to protect detainees against ill-treatment, and to protect police officers against malicious allegations that they have engaged in ill-treatment. The **audio taping system**, on the other hand, is primarily intended to provide an impartial and accurate record of an interview, which may be relied upon in subsequent criminal proceedings. The rules on handling and disclosure of the cassettes vary accordingly, it being far more straightforward for a detained person or his/her lawyer to obtain a copy of an audio tape, than to view a video recording.

The Committee accepts that, with a view to subsequent criminal proceedings, there are good reasons why audio tapes should be unwrapped/started and stopped/sealed in the presence of a detainee; it would not suggest that this procedure be changed. However, in the interests of the prevention of ill-treatment, it can see no reason why there could not be - in addition - a sound band on the video recording which covers the entire period for which a detainee is in the company of interviewing officers. The existing - very stringent - rules on the handling/disclosure of video recordings ought to be sufficient to meet any legitimate security concerns to which this proposal may give rise. **The CPT recommends that a sound facility be added to the system used to video record interviews with persons detained under counter-terrorist legislation.**

iii complaints and disciplinary procedures

54. As already mentioned, the CPT's delegation examined numerous cases in which the Chief Constable of the RUC has made out-of-court settlements to persons alleging ill-treatment at the time of arrest, on the basis of legal advice that medical evidence was consistent with the allegations of the persons concerned. Information about the outcome of such cases was routinely sent by the RUC's Legal Services Department to its Complaints and Discipline Department but, in none of the cases examined by the delegation, had this led to any (re)consideration of the need for disciplinary and/or criminal proceedings against the police officers allegedly involved.

On the basis of these findings, it would appear that the manner in which police complaints and disciplinary procedures have operated in the past in Northern Ireland would be open to many of the same criticisms as the Committee levelled at the system in operation in England and Wales at the time of its 1997 visit to that jurisdiction (cf. CPT/Inf (2000) 1).

However, as in England and Wales, potentially far-reaching reform of the system in Northern Ireland is envisaged. In particular, an office of independent Police Ombudsman has been created, a new Police Board is to be set up and the procedures for police disciplinary hearings are to be revised. The CPT welcomes these reforms, but would like to receive further clarification about the manner in which they will operate in practice.

55. Following the January 1997 report by Senator Maurice Hayes, "A Police Ombudsman for Northern Ireland? A Review of the Police Complaints System in Northern Ireland", the Police (Northern Ireland) Act 1998 made provision for the creation of the office of Police Ombudsman, and it is expected that the person appointed to this post will begin work in Summer 2000.

The 1998 Act provides a framework within which a proactive and properly-resourced Ombudsman could oversee the independent investigation of complaints against the police. However, at the time of the CPT's 1999 visit, a number of questions regarding the manner in which this mandate will be discharged by the Ombudsman remained unanswered. In this connection, **the CPT would like to receive clarification on the following matters:**

- **the date on which the office of the Ombudsman will become fully operational;**
- **the level of staffing and other resources which will be allocated to the Ombudsman's Office, as compared to those allocated to the bodies (i.e. the Independent Commission on Police Complaints and the RUC's Complaints and Discipline Department) which it replaces;**
- **whether it is intended that all investigators employed by the Ombudsman will be genuinely independent from the security forces in Northern Ireland;**
- **whether the Ombudsman will have a power to initiate inquiries or investigations even if no specific complaint has been received.**

56. The Ombudsman's role in relation to police complaints and disciplinary procedures will be complemented by that of a new Police Board, which is proposed by the Police (Northern Ireland) Bill, submitted to Parliament by the Secretary of State on 16 May 2000. Amongst the general functions of the Board which are of specific interest to the CPT, Clause 2, subsection 3 of the Bill provides that it shall:

"(a)... hold the Chief Constable to account for the exercise of his functions and those of the police force...

(b) monitor the performance of the police force in:

...

(ii) complying with the Human Rights Act 1998...

(c) keep itself informed as to -

(i) the workings of Part VI of the 1998 Act (police complaints and disciplinary proceedings) and trends and patterns in complaints under that Part."

As regards the last-mentioned function, Clause 59 of the Bill proposes to amend Section 61A of the Police (Northern Ireland) Act 1998 to provide that the Ombudsman shall compile, and supply the Board with, such statistical information as is required to enable the Board to carry out this function.

The CPT would like to receive further information about the precise nature of the interlock between the activities of the Ombudsman and those of the Police Board in this area.

57. Lastly, as regards the procedures for police disciplinary hearings, the Committee has been informed that consideration is being given to altering the standard of proof required at such hearings from the criminal (beyond a reasonable doubt) to the civil (on the balance of probabilities), and to introducing a range of other reforms similar to those which have recently taken effect in England and Wales.

The CPT would like to receive detailed information about the precise nature of the reforms which are envisaged.

3. Conditions of detention

58. The Committee has already welcomed the closure of Castlereagh Holding Centre (cf. paragraph 8).

Conditions of detention at Gough Barracks Holding Centre remained better than at Castlereagh, and action had been taken to implement the CPT's 1993 recommendation that cells and interview rooms be provided with access to natural light. Further, the establishment's exercise yard was of a reasonable size, and detainees held for lengthy periods were apparently being granted access to it. Nonetheless, conditions of detention remained very spartan.

In this respect, the CPT has noted that, in September 1999, the Independent Commission on Policing for Northern Ireland (the "Patten" Commission) recommended that all holding centres be closed "forthwith". **The CPT considers that this would be a desirable development, and would like to be informed of any steps being taken to implement this recommendation.**

59. Conditions of detention in the only PACE designated police station visited - at Musgrave Street in Belfast - were quite satisfactory. The cells were of an adequate size, suitably equipped, and had access to natural light.

B. Prisons

1. Preliminary remarks

60. In July 1993, the CPT visited Belfast Prison and Maghaberry Prison for Women (Mourne House). At that time, the Northern Ireland prison estate also consisted of Maghaberry Prison for Men and Magilligan Prison, the Maze Prison and the Young Offenders Centre at Hydebank Wood.

In all, there were some 2000 prisoners in Northern Ireland at the time of the CPT's first visit. By contrast, at the beginning of the 1999 visit, the Northern Ireland Prison Service housed some 1200 prisoners. Belfast Prison had ceased to accommodate prisoners in 1996. As for the Maze Prison, following inter alia the Good Friday Agreement, the number of prisoners held there had gone down from 500 in mid-1998 (with even higher inmate population figures in the past) to 150; moreover, this establishment is to be withdrawn from service altogether during the second half of the year 2000.

Having regard to these developments, the CPT's 1999 delegation visited the two prisons for adults which are considered to have a long-term future: Maghaberry Prison (excluding Mourne House) and Magilligan Prison.

61. **Maghaberry Prison**, which is located in Ballinderry Upper, Lisburn, some 30 km south of Belfast, was brought into service in 1987. At the time of the visit, three of the four original blocks were in use, while the fourth was being refurbished. In addition, a new block had recently been brought into service and a further block was still under construction. The prison had a capacity of 420 (on the basis of single cell occupancy) and an inmate population of 492. About 300 of the prisoners were awaiting trial or sentence.

62. **Magilligan Prison** is situated in a remote sea-side location, the Foyle peninsula, 25 km from the town of Coleraine. The prison had a capacity of 377 (on the basis of single cell occupancy) and was holding 341 prisoners. The vast majority of persons committed to Magilligan Prison were sentenced, with up to a maximum of six years of their sentences remaining to be served. However, at the time of the visit, the establishment was also accommodating six immigration detainees, who were neither charged with, nor convicted of, criminal offences.

2. Ill-treatment

63. Staff-inmate relations in both prisons visited appeared to be, on the whole, of a constructive nature and relatively relaxed. Indeed, the delegation heard many positive remarks concerning staff from the prisoners interviewed.

64. However, at **Maghaberry Prison**, the delegation received some allegations of ill-treatment of prisoners by prison staff. It also noted that official records contained a number of allegations of ill-treatment and that, in certain cases, complaints of such treatment had been lodged with relevant authorities and/or outside supervisory bodies.

65. A significant proportion of allegations related to the manner in which Control and Restraint - C&R - teams carried out their tasks. In particular, the delegation heard allegations of punches having been inflicted by C&R officers and of the use of excessive force when restraining prisoners. Some such allegations were supported by medical information gathered by the delegation.

By way of example, according to a medical record dated 4 March 1999, an inmate claimed that, on that day, he was grabbed by the throat and immobilised by a prison officer using a baton and then restrained by a C&R team who “applied pressure to [his] wrists, bent and twisted [his] arms and stomped on [his] ankles and knees.” He was found to display a “swollen and tender proximal right ulna with bruising Unable to extend right elbow ... Three parallel linear bruises (purple) measuring 3 cm × 1 cm over right sternomastoid. Small abrasions to ... both knees.” The prisoner concerned alleged that he had been physically ill-treated and verbally abused on several other occasions by prison officers.

According to another medical record, dated 3 November 1999, a prisoner who alleged to have been “booted in the face whilst on the floor” was found to display “grazing under the chin and red marks to the left side of the face.”

66. At **Magilligan Prison**, the delegation also gathered information concerning recent allegations of ill-treatment - principally rough handling/use of excessive force - of inmates by prison staff.

Further, the CPT has acquired a number of documents concerning allegations made by a prisoner of severe ill-treatment by staff at Magilligan Prison on 19 May 1999. The person in question claimed that he was assaulted in the segregation unit, in particular that he was stripped naked, forced to lie down on the ground and that three prison officers repeatedly struck him with batons on the back of the head, arms, back and legs. Further he alleged that an object was forced into his anus.

According to the conclusions drawn up by a doctor following the prisoner's examination on the following day: "This patient exhibited extensive bruising which would normally be consistent with an assault. These findings, and any subsequent conclusions, are confused by the fact that he is taking anti-coagulant therapy which would render him more susceptible to bruising. It may be possible that they were caused by the use of reasonable force, but I accept that this may be an issue of contention. There were no bruises typical of those caused by blunt instruments, e.g. batons. There were no positive findings to support his allegation of a rectal assault."

67. Reference should also be made to the death of a prisoner on 30 March 1996 at Maghaberry Prison. This apparently occurred following an incident during which the prisoner had been restrained by prison officers. Both in statements given shortly after the incident, and when interviewed by the CPT's delegation, certain inmates indicated that they had spoken to the deceased prisoner during the interval between his being restrained and his death, and he had told them that he had been beaten by prison officers and thought that his ribs were broken.

The CPT has been provided with documents which show that the prisoner in question sustained various injuries (bruising to various parts of the body, including the neck; a bony projection on top of the voice-box had been broken; fractures of the breastbone and of six left and five right ribs).

Inquest proceedings in this case are still active; **the CPT would like to be informed of the findings of the inquest as soon as it is completed.**

68. The Committee recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, **force should only be used as a last resort and must not be more than strictly necessary.** In the light of its delegation's findings, **the CPT recommends that prison officers in Northern Ireland be reminded of these precepts.**

69. Further, **in order to have an overview of the situation in Northern Ireland, the CPT would like to receive the following information for the period 1998 to 2000:**

- **the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence or sanction imposed).**

3. Conditions of detention

a. material conditions

70. At both establishments visited, the material environment was on the whole capable of offering adequate conditions of detention. Cells had access to natural light and ventilation, and were mostly in a good state of repair. They were adequately furnished (beds, tables and chairs or stools) and inmates could have their own music equipment and rent a television.

At Maghaberry Prison, cells were equipped with integral sanitation (comprising a lavatory and washbasin); however, they were not partitioned from the rest of the cell.

71. Most cells seen by the delegation measured just under 7 m² (at Maghaberry Prison) or slightly over 6 m² (at Magilligan); at both establishments, a small number of double-sized cells were available and, at Magilligan, some inmates were accommodated in dormitories.

Cells of 6 to 7 m² can be considered acceptable for one inmate, and 12 m² cells for two. However, in both prisons, a small number of inmates were being accommodated two to a 6 to 7 m² cell. Further, at Magilligan Prison, the delegation noted that three inmates shared a 12 m² cell, equipped with four beds.

At Maghaberry Prison, the situation in the shared 7 m² cells was aggravated by the lack of partitioning of the in-cell lavatories. Even in the event of single occupancy, prisoners held in these cells could be said to be living in a lavatory. Inmate accommodation at Magilligan Prison was not equipped with in-cell sanitation and, despite the existence of an electronic system designed to permit the opening of cells (in particular at night), it emerged that prisoners were often obliged to rely on chamber pots, including in shared cells; “slopping out” continued to be a regular feature of the morning routine.

72. **The CPT recommends that:**

- **steps be taken to bring an end to the practice of accommodating two prisoners in 6 to 7 m² cells; further, 12 m² cells should never be used to accommodate more than three prisoners and preferably no more than two;**
- **prisoners be guaranteed access to sanitary facilities at all times, including at night;**
- **in those cases where in-cell sanitation is provided, the lavatory be adequately partitioned.**

73. Reference should also be made to the small cubicles, a number of which measured no more than 0.75 m², seen in the reception (“committals”) unit at Maghaberry Prison. The delegation was told that prisoners might be held in these facilities for up to an hour or more. Having regard to the reservations expressed by the CPT’s delegation about this practice, the prison governor indicated that he would review existing reception arrangements.

The Committee wishes to make it clear that, in view of their size alone, such cubicles are not acceptable for the detention of a person for any length of time. **The CPT would like to receive confirmation that the cubicles concerned are no longer being used and to be informed of current arrangements for holding prisoners in the reception unit at Maghaberry Prison.**

b. regime

74. At both Maghaberry and Magilligan Prisons, regime activities offered to prisoners included work, sports activities, vocational training and educational activities. Developing such activities features highly amongst the targets and objectives of the Northern Ireland Prison Service.

The average time per week during which inmates were occupied in work and other forms of organised activities varied from some 37 hours at Magilligan’s semi-open unit, to 22 hours in the main part of that establishment. At Maghaberry Prison, the average dropped to 13 ½ hours for sentenced prisoners and to a mere 1 ¾ hours per week for remand prisoners. Moreover, the time involved was not evenly distributed throughout the prisoner population; as a result, a significant proportion of the inmates held at Magilligan and a large majority of those held at Maghaberry Prison did not have work or participate in other forms of organised activities.

75. The CPT wishes to recall that a satisfactory programme of activities is of crucial importance for the wellbeing of both remand and sentenced prisoners. The provision of activities in remand establishments, where there is likely to be a rapid turnover of inmates, poses particular challenges. While there can be no question of individualised treatment for such prisoners, it is unacceptable for them to be left languishing for weeks or even months on end, regardless of how good material conditions might be in the establishment.

The aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities (work, preferably with vocational value, education, sport, recreation/association). Regimes in establishments for convicted prisoners should be even more favourable.

The CPT recommends that priority continue to be given to developing regime activities for prisoners, having regard to the above remarks.

76. The CPT also wishes to stress that the provision of individualised custody plans and appropriate support is particularly important for prisoners serving lengthy sentences. Such measures can help to lend meaning to their period of imprisonment, assist them to come to terms with their incarceration and, in due course, prepare them for release.

The CPT's delegation was told that a sentence planning scheme was successfully in operation at Magilligan Prison (i.e. for inmates with less than six years of their sentences remaining to be served). However, it appeared that the situation was less favourable for sentenced prisoners at Maghaberry Prison, certain of whom were serving lengthy terms of imprisonment.

The CPT invites the United Kingdom authorities to pursue their efforts to expand the sentence-planning scheme, particularly as regards inmates serving long sentences at Maghaberry Prison.

4. Association restrictions / special security arrangements

a. association restrictions under Rule 32

77. Pursuant to Rule 32 of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995, “where it is necessary for the maintenance of good order or discipline, or in his own interests that the association permitted to a prisoner should be restricted, either generally or for particular purposes, the governor may arrange for the restriction of his association.”

78. At Maghaberry Prison, inmates subject to association restrictions under Rule 32 were being held at the segregation unit, which also accommodated prisoners segregated for disciplinary reasons. The delegation found that the material conditions of detention of such prisoners were, on the whole, acceptable: they were equivalent to those prevailing in the rest of the prison, and prisoners were being held one to a cell.

However, as regards the regime, the prisoners interviewed by the delegation stated that they remained locked in their cells for up to 23 hours every day. They claimed that their only out of cell time consisted of one hour of outdoor exercise (which they took in the company of a maximum of two or three fellow-inmates), access to the shower and telephone, and visits. The delegation’s own observations tended to confirm the accounts given in this respect by prisoners. Further, it appeared that few efforts were being made to provide the inmates concerned with an adequate level of stimulation and appropriate support.

Such a restrictive regime would be undesirable even if inmates were to be held under Rule 32 for short periods; however, many such prisoners were kept under these conditions for months on end.

79. The CPT wishes to stress that association restrictions under Rule 32 should only be applied when absolutely necessary, and for the shortest possible period of time. In order to ensure that this is the case, it considers that the formal procedural safeguards offered to inmates to whom this rule is applied should be strengthened. **It recommends that any prisoner against whom the measure of removal from association for reasons of good order and discipline is applied should have a right:**

- **to be informed in writing of the reasons for that measure (it being understood that those reasons need not include facts which it would be reasonable to withhold from a prisoner on security grounds);**
- **to present his views on the matter to the deciding authority;**
- **to lodge an appeal to a relevant authority against the decision on removal from association and against any renewal of that decision.**

b. close supervision regime

80. In addition to those undergoing association restrictions under Rule 32, at Maghaberry Prison, a number of prisoners who had “proved themselves to be either potentially or actually dangerous to staff or other inmates”¹³ were held under a so-called "close supervision regime" in Landing 5 at Erne House. As was the case for inmates to whom Rule 32 was applied, these prisoners had a very impoverished regime.

81. In every country there will be a number of so-called "dangerous" prisoners (a notion which covers a variety of types of person) in respect of whom special conditions of custody are required. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, in view of the fact that the need to take exceptional measures concerning such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

82. Prisoners held in a special security unit should enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation. Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Success in this area requires that the staff assigned to work in such units must be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to the exercise of their skills in a more than usually challenging environment.

The existence of a satisfactory programme of activities is just as important - if not more so - in a special detention unit as on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found in ordinary prison units. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation No. R(82)17 of the Committee of Ministers of the Council of Europe.

¹³ Cf. Synopsis of Erne 5, Erne House Governor, 5 March 1999.

83. It is axiomatic that a prisoner should not be held in a special security unit any longer than the risk which he presents makes necessary. This calls for regular reviews of the placement decision. Further, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal.

84. Maghaberry Prison's management intimated that they were dissatisfied with the regime in Erne 5, which they considered lacked a sound legal basis; apparently it had been decided that the "close supervision regime" should be reviewed. **The CPT recommends that steps be taken, without delay, to bring the regime in Erne 5 into accordance with the criteria set out by the CPT in paragraph 82.**

c. self-imposed association restrictions

85. The situation of vulnerable prisoners, who may be fearful of fellow inmates, should also be addressed.

At Maghaberry Prison, a small number of such prisoners chose to exclude themselves from certain - if not all - activities. These prisoners were accommodated in Erne 5, the close supervision unit. However, this measure did not resolve the problem, given that the inmates concerned continued to refuse to take outdoor exercise or participate in other association activities in the company of close supervision regime prisoners placed there because they had "proved themselves to be potentially or actually dangerous". Certain vulnerable prisoners remained in this situation for months. It is axiomatic that it is not appropriate to hold prisoners requesting segregation for their own protection together with prisoners considered as dangerous.

Similarly, some inmates at Magilligan Prison - e.g. certain of the persons convicted of sex-related offences and immigration detainees - also excluded themselves from activities which involved coming into contact with other prisoners.

86. Although a number of incidents had been recorded in recent times, the CPT's delegation did not find evidence to suggest that there was a significant problem of inter-prisoner violence vis-à-vis vulnerable inmates in the establishments visited.

Nor would the CPT wish to call into question the policy of the Northern Ireland prison authorities to integrate vulnerable prisoners into mainstream prison regimes. However, it wishes to underline that the placement of different categories of prisoners in shared living areas can create a risk to the safety and well being of certain of the inmates concerned. Measures should be taken to provide all of the different regime and security conditions which will be required for diverse categories of prisoners.

The CPT recommends that further efforts be made to resolve the predicament of vulnerable prisoners; the objective should be to address their fears by providing them with a secure environment and to encourage them to fully participate in the normal regime.

87. It might be added that both Maghaberry Prison's management and officials from the Northern Ireland Prison Service expressed concern about the difficulties posed by a small number of prisoners held in connection with the activities of dissident paramilitary groups. Certain of the prisoners concerned refuse to integrate with the general prison population or claim that they require to be segregated for their own safety.

In this connection, the CPT has already had occasion to emphasise that all forms of segregation - including self-imposed isolation - without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in changes in social and mental faculties (cf. paragraph 134 of the CPT's report on the 1993 visit to Northern Ireland).

Attempts should continue to be made to persuade the persons concerned to rejoin the prison community and, in the meantime, to provide them with purposeful activities and appropriate human contact.

5. Immigration detainees held in prison

88. Magilligan Prison had been designated as a holding facility for male immigration detainees in Northern Ireland and, at the time of the visit, was accommodating six such detainees.

These detainees were accommodated in wings C and D of Block H3, which were also holding persons convicted of a variety of criminal offences. Their material conditions of detention left something to be desired. By way of example, three such prisoners shared a 12 m² cell, which could accommodate up to four persons. Although they could use some of the facilities available in the prison (gymnasium, library, outdoor exercise yard), certain of the foreign nationals interviewed by the delegation claimed that no information had been provided to them in this respect and that they had only learned about the possibilities open to them some considerable time after their admission. Further, it appeared that they were not offered educational activities or work.

To sum up, immigration detainees held at Magilligan Prison lived a monotonous existence in cramped and potentially overcrowded conditions. This situation is of all the more concern, given that the delegation was told that such persons could remain in prison for periods equivalent to those imposed by the criminal courts in respect of comparatively serious offences.

89. The CPT wishes to stress that, even if the conditions of detention were to be adequate - which was not the case at Magilligan - a prison is, by definition, not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence. In the view of the CPT, in those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably-qualified personnel.

The CPT recommends that the existing immigration detainee placement policy in Northern Ireland be reviewed, having regard to these remarks, and to the general criteria enunciated by the CPT in its 7th general report. For so long as immigration detainees continue to be held at Magilligan Prison, the CPT recommends that they be strictly separated from persons suspected or convicted of criminal offences.

90. The remote location of Magilligan Prison also created certain difficulties, in particular as regards access to lawyers and contact with relatives and friends.

Further, the CPT's delegation was told that, upon receipt of an order to that effect, the prison service had to release immigration detainees, but had no further former legal obligation towards them. It would appear that, as a result, certain foreigners had found themselves outside the prison walls with no resources, and had to rely on the goodwill of prison officers or other third parties to pay for their transport.

The CPT would like to receive the comments of the United Kingdom authorities on this subject.

6. Health care services

a. health care in general

91. The CPT fully agrees with the declared aim of the Northern Ireland Prison Service “to provide a level of health care equivalent to that available in the community.” The Committee's delegation noted that efforts were being made to ensure that prison health care services have the necessary resources to enable them to provide such a level of health care. In particular, the delegation found that, on the whole, somatic health care services in the two prisons visited were of an acceptable standard.

92. **Maghaberry Prison** had two full-time general practitioners (GPs) and a further seven GPs were present in the establishment for one half day per week each. The health care team also consisted of some forty other staff, about half of them trained nurses. As for **Magilligan Prison**, there was one half-time doctor, assisted by 11 staff, including 4 trained nurses.

A number of specialists visited both prisons on a regular basis (e.g. dermatologists, radiologists, STD and ENT specialists). The Prison Service also employed a dentist, providing care in all of Northern Ireland's prison establishments, on a full-time basis.

Further, the premises and other facilities available to the health care services were of a high standard.

93. It should also be noted that newly-arrived inmates were promptly seen by a member of the health care team and, within 24 hours from their admission, by a doctor. Requests to see the doctor at other times were met without undue delay. Further, the assistance of outside specialists and civil hospitals was available in case of need (however, as regards psychiatry, see the section which follows).

b. psychiatric care

94. In comparison with the general population, there is a high incidence of mental health problems among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health care service of every prison, and some of the nurses employed should have had training in this field.

95. At **Maghaberry Prison**, two forensic psychiatrists attended the prison for the equivalent of four half-days per week, and offered ambulatory and in-patient psychiatric care. They also provided forensic psychiatric expertise to the courts in respect of prisoners. About one third of the nurses employed in the prison had psychiatric training. In addition, there were five full-time psychologists in the establishment, although their involvement with in-patients appeared to be rather limited.

The establishment also had its own in-patient “psychiatric unit”; however, at the time of the visit, somatic and psychiatric patients were sharing the same facilities. The delegation was informed that there were plans to provide separate accommodation and daytime facilities for psychiatric patients by February 2000. **The CPT would like to receive confirmation that this has been done.**

96. **Magilligan Prison** was visited by one psychiatrist every three weeks, although more frequent attendance could apparently be arranged. In addition, a psychologist attended the prison twice a week. This level of psychiatric input is not sufficient for the needs of Magilligan’s inmate population; **the CPT recommends that it be reinforced.**

97. The most significant shortcoming observed at both establishments concerned delays in transferring prisoners to in-patient psychiatric facilities. Given that there is no secure psychiatric hospital unit in Northern Ireland, prisoners might have to wait for some considerable time before being transferred to other parts of the United Kingdom, in principle to Carstairs in Scotland or Broadmoor in England. The delegation was told that, in the case of remand prisoners this situation could, on occasion, take up to a year.

The CPT recommends that steps be taken to remedy this deficiency. A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of a mentally ill prisoner to a psychiatric facility should be treated as a matter of the highest priority.

C. Juveniles Justice Centres

1. Preliminary remarks

98. Under Article 13 of the Criminal Justice (Children) (Northern Ireland) Order 1998, children awaiting trial may be remanded in a juvenile justice centre or, in certain circumstances, in a young offenders centre. Further, in terms of Article 39 of the 1998 Order, a child found guilty of an offence which would be punishable with imprisonment if it were committed by an adult can be subject to a period of detention in a juvenile justice centre.

99. Juvenile justice centre orders are for a period of six months, unless the court specifies a longer term not exceeding two years. The period of detention which the child is liable to serve under a juvenile justice centre order is one half of the term of the order; the other half taking the form of supervision in the community. Consequently, children subject to a juvenile justice order will normally remain in a juvenile justice centre for three months and are unlikely to remain there for more than one year.

However, young persons on remand may spend longer periods in juvenile justice centres. For example, at Rathgael, the delegation met one girl who had already been in custody for eighteen months awaiting trial in respect of a serious offence.

100. In addition, a child who has been arrested by the police can be placed in a juvenile justice centre whilst waiting to be brought before a judge; the child must be brought before the competent magistrate's court within a period of 36 hours from his/her arrest (Article 8 of the 1998 Order).

101. It should also be noted that the juvenile justice system in Northern Ireland is currently subject to significant reform, both as regards the statutory framework (including the nature and duration of detention measures), and the manner in which such measures are to be implemented (accommodation and education arrangements).¹⁴ In this context, in March 2000, the Northern Ireland Office released a consultation paper on the "Future of the Juvenile Justice Centre Estate", requesting that replies be submitted by 30 June 2000.

¹⁴ In particular, the new Criminal Justice (Children) (Northern Ireland) Order 1998 entered into force in early 1999, together with the Juvenile Justice Centre Rules (Northern Ireland) 1999. Further, the Northern Ireland Office has issued fresh guidance on the aims of the juvenile justice system and the standards and criteria to be observed in juvenile justice centres.

102. The delegation visited two detention centres for young persons, Lisnevin and Rathgael Juvenile Justice Centres. Both establishments are under the authority of the Juvenile Justice Branch of the Northern Ireland Office.

Lisnevin Juvenile Justice Centre is located in Millisle, some 30 km from Belfast. It occupies premises designed as a Class C (low security) prison. Lisnevin is regarded as the only detention facility providing fully secure accommodation for young persons. Although, at the time of the visit, the centre had an official capacity of 40, there were plans to reduce this to a theoretical maximum inmate population of 25 boys, aged 10¹⁵ to 17. At the time of the visit, the centre was accommodating 18 male residents.

Rathgael Juvenile Justice Centre, in the outskirts of Bangor, around 20 km from Belfast, was originally designed as a training school; the scale of the centre's extensive grounds and premises corresponds to the establishment's previous official capacity of some 50 children. However, at present, the authorities consider that Rathgael Juvenile Justice Centre should accommodate only a small number of children. At the time of the visit, it had six female residents and one male inmate.

2. Ill-treatment

103. The delegation gained the impression that relations between inmates and staff in both of the juvenile justice centres visited were, on the whole, of a constructive nature.

104. No allegations were heard of ill-treatment of young persons in custody by staff at **Rathgael**. Further, no child protection cases were processed by the authorities at central level regarding that establishment in 1999. However, an investigation was initiated in late 1998 into allegations of inappropriate behaviour concerning three staff members; the case was referred to the Department of Public Prosecutions in respect of one of them.

105. At **Lisnevin**, the delegation gathered information concerning several complaints lodged by children against members of staff in recent times. Moreover, one child who was interviewed during the visit alleged that he had been grabbed by the throat by a member of staff and pushed into his cell. The CPT understands that this case was the subject of an investigation shortly before its delegation's visit; **it would appreciate receiving information on the outcome of that investigation.**

In 1999, formal investigations were completed into three other cases of alleged assault at Lisnevin. In two of those cases, following an investigation by the police, the Department of Public Prosecutions concluded that prosecution was not justified and an internal investigation found no grounds for disciplinary action; in the other, a member of staff was charged with assault, but was acquitted in court and no grounds for disciplinary action were found.

¹⁵ However, the Criminal Justice Review Group recommended that "children aged 10-13 inclusive who are found guilty of criminal offences should not be held in juvenile justice centres" (cf. paragraph 10.69 of the report of that group).

3. Conditions of detention

a. material conditions

106. Establishments where minors may be deprived of their liberty ought to be specifically designed for young persons and should provide a positive and personalised environment. In addition to being of an adequate size, well lit and ventilated, juveniles' sleeping and living areas should be properly furnished, well decorated and offer appropriate visual stimuli. Unless there are compelling security reasons to the contrary, juveniles should be allowed to keep a reasonable quantity of personal items.

The standards laid down by the Northern Ireland authorities for juvenile justice centres are consistent with those set out above. They seek to ensure that "within the constraints of safety and security", each centre shall provide "an attractive, relaxed and homely living environment."

107. **Rathgael Juvenile Justice Centre** fully complied with the above criteria. Residents were accommodated in individual rooms measuring between 7 and 12 m², which were well kept and decorated; they had large windows with curtains, carpeted floors and, in all of the rooms which were occupied at the time of the visit, personal belongings were plentiful. Communal areas were of the same high standard.

A somewhat less attractive unit, offering a more secure environment, had been withdrawn from service several months before the visit.

108. By contrast, **Lisnevin Juvenile Justice Centre** provided a far more carceral living environment. Landings were secured by a grill and the cells, which measured some 6 m², were sparsely furnished (bed, shelf). Although some of the cells had been recently painted, they were devoid of all decoration and personal items were few and far between. Conditions in the disciplinary unit, the so-called "Scrabbo", were even worse. However, the unit had recently been withdrawn for service with a view to its renovation.

The premises set aside for organised activities and the communal areas at Lisnevin were found to be of a much higher standard.

109. It is clear that Lisnevin Juvenile Justice Centre did not offer "an attractive, relaxed and homely living environment" to its residents. This was openly recognised by both the management of the centre and the authorities at central level, and the delegation was told that discussions were underway in order to redress this situation.

The Northern Ireland Office consultation paper referred to in paragraph 101 above examines various alternatives for the future of the juvenile justice centre estate, including single and two centre options, which could involve maintaining one or two of the existing establishments. However, it notes that "it is open to question whether a refurbished Lisnevin, with the existing accommodation merely upgraded so that the physical fabric of the buildings was sound, would produce physical accommodation of a type that would be suitable for children."

It should be added that the Criminal Justice Review Group, while being impressed by some of the programmes offered to residents, consider that "Lisnevin is not suitable for holding juveniles" and recommended that the centre be closed.

110. The CPT shares the reservations about the suitability of Lisnevin which have been expressed in the juvenile justice consultation paper, and by the Criminal Justice Review Group. For so long as the Centre remains in service, **the CPT recommends that efforts be made to render inmate accommodation more attractive and welcoming (e.g. permitting residents to keep a reasonable amount of personal belongings and to personalise their living environment).**

The Committee would also like - in due course - to be informed of the outcome of the review of the juvenile justice estate.

b. regime

111. Juveniles have a particular need for physical activity and intellectual stimulation. The Northern Ireland authorities' standards for juvenile justice centres (cf. Standard 5: Education and Vocational Training) are fully in line with the CPT's criteria in this respect. In particular, they provide that juveniles are to be offered adequate education, and access to cultural, sporting and leisure activities.

112. The delegation's findings suggest that the above-mentioned objectives were being met in the two establishments visited. The regimes offered to residents appeared to be well developed and provided education and a variety of association activities, occupying most of the children's day. Moreover, both establishments had ample and well-equipped facilities for activities (including in the case of Lisnevin, a ropes course and a full-size football pitch and, at Rathgael, a swimming-pool). However, certain of the facilities at both establishments (e.g. some of the classrooms) would benefit from maintenance and repair work.

113. It might be added that, at Rathgael Juvenile Justice Centre, children who were regarded as an escape risk could be sanctioned with "restriction" as regards movement outside the building where they were accommodated. The delegation was concerned to note that these inmates were being deprived of access to certain of the sports facilities and, more importantly, they were not guaranteed access to daily outdoor exercise for want of secure facilities.

The CPT recommends that measures be taken to ensure that all children in juvenile justice centres are guaranteed the possibility to take outdoor exercise for at least one hour every day.

4. Segregation

114. As already indicated, at the time of the visit, Lisnevin's disciplinary unit, the "Scrabbo", was out of service. The delegation was told that, at both establishments, aggressive children could be placed in their own room or cell until they calmed down. The CPT wishes to stress in this respect that the placement of children in conditions resembling solitary confinement must be regarded as a highly exceptional measure. If juveniles are held separately from others, this should be for the shortest possible period of time and, in all cases, they should be guaranteed appropriate human contact, granted access to reading material and offered at least one hour of outdoor exercise every day.

The Committee would like to receive confirmation that this is the case as regards all categories of persons who may be held in juvenile justice centres (including those detained under Article 8 of the Criminal Justice (Children) (Northern Ireland) Order 1998).

5. Complaints and inspection procedures

115. Effective complaints and inspection procedures are basic safeguards against ill-treatment in juvenile establishments.

Juveniles should have avenues of complaint open to them, both within and outside the establishments' administrative system, and be entitled to confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to all juvenile establishments by an independent body (for example, a visiting committee or a judge) with authority to receive - and, if necessary, take action on - juveniles' complaints and to inspect the accommodation and facilities.

116. In Northern Ireland, juvenile justice centres are visited on a regular basis by a so-called Independent Representative, a service provided under an agreement with the non-governmental organisation NIACRO. This service enables children held in juvenile justice centres to lodge complaints to persons who are independent of the juvenile justice system. In addition, under the 1995 child protection policy, any complaints made by residents are examined at internal level and, whenever they involve allegations of assault (e.g. grabbing by the arm, violence, etc.) or other criminal offence, they are referred to the police.

Further, supervision of juvenile justice centres is carried out by each centre's Management Board (composed of five Northern Ireland Office officials). One Board member carries out at least one unannounced visit to each establishment every month. Formal inspection functions are also vested in the Social Services Inspectorate which, the CPT has been led to believe, has had a positive effect as regards the prevailing situation in juvenile justice centres (e.g. at Lisnevin, the withdrawal from service of the "Scrabbo" was the result of an inspection by the Social Services Inspectorate in April 1999). Finally, the Human Rights Commissioner and various other authorities may also - and from time to time do - carry out visits to establishments where young persons are deprived of their liberty.

The CPT welcomes the existence of these mechanisms.

6. Staff

117. The custody and care of juveniles deprived of their liberty is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff, including those with purely custodial duties, should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties. **The CPT would like to receive detailed information about the training which is being provided to staff working in juvenile justice centres.**

7. Medical issues

118. The standards and criteria laid down by the Northern Ireland authorities for juvenile justice centres in this respect (cf. Standard 8) fully meet those of the CPT: access to health care and provision of health education, medical examination upon admission, confidentiality of medical information, suicide and self-harm prevention.

The information gathered by the delegation indicated that the above-mentioned criteria were being respected in the establishments visited.

III. RECAPITULATION AND CONCLUSIONS

A. Castlereagh Holding Centre

119. In the report on its 1993 visit to Northern Ireland, the Committee recommended that conditions of detention at Castlereagh Holding Centre be substantially improved without delay. It added that, were such an improvement not to prove possible, the Holding Centre should be relocated elsewhere, in premises capable of offering better detention facilities.

However, during the 1999 visit, conditions of detention at Castlereagh were found to be virtually identical to those which had been observed six years previously. Consequently, during the meeting held with the United Kingdom authorities at the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention, and made an immediate observation, calling upon the United Kingdom authorities to close Castlereagh without further delay. On 10 December 1999 - i.e. two days later - the Chief Constable of the Royal Ulster Constabulary (RUC) announced that Castlereagh was to close by the end of that month. The United Kingdom Government subsequently confirmed that Castlereagh Holding Centre did indeed close on 31 December 1999.

The Committee has welcomed the prompt and decisive action taken by the United Kingdom Government in the light of its delegation's immediate observation.

B. Detention by the security forces

120. The steep reduction in the number of persons being detained for offences related to terrorism in Northern Ireland has been matched by a decline in the volume of allegations of ill-treatment which emanate from such persons. Nevertheless, some allegations of ill-treatment persist, both in relation to the time of arrest, and during detention at the holding centres.

As had been the case during the CPT's 1993 visit, the delegation found that there were only a small number of allegations of ill-treatment of persons held in relation to ordinary criminal offences, most of which related to rough treatment / verbal abuse at the time of arrest.

121. The most common forms of alleged ill-treatment at the time of arrest remained blows and kicks inflicted after detained persons had been restrained and placed on the ground. Such ill-treatment was said to have been inflicted by both the police and the Army. Further, a number of detainees again complained about a method of restraint employed by members of the security forces, namely standing on the backs of the legs of arrested persons while they were in a kneeling position.

In this connection, the CPT has reiterated the recommendation made in the report on its 1993 visit, that members of the security forces in Northern Ireland be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for them being struck.

122. As compared with the situation observed during the CPT's 1993 visit, there had been a very significant reduction in the number of complaints of physical ill-treatment made by persons detained at the holding centres. It would appear that, since the introduction of silent video recording of interviews at the holding centres in early 1998, there have been virtually no allegations of physical ill-treatment of detainees by police officers.

The Committee has welcomed this development; however, its delegation's on-the-spot findings indicate that the problem of physical ill-treatment of persons detained at the holding centres has yet to be completely eradicated.

123. Specific reference has been made to the case of a male detainee held at Castlereagh Holding Centre some three weeks before the visit, who alleged that, having refused to voluntarily leave his cell to attend an interview, he was physically assaulted in his cell and in an interview room. Given that these allegations related - at least in part - to an incident in an interview room, the CPT's delegation viewed the video tape which corresponded to the period in question. It was found to support the detainee's allegations.

By letter of 30 June 2000, the United Kingdom authorities informed the Committee that the RUC do not accept that the video shows a series of assaults on the person concerned, and that no criminal or disciplinary proceedings have been initiated against the police officers involved. The CPT has indicated that it is not convinced by this response, and has requested further information about the basis on which this decision was reached.

124. In recent years, there has also been a significant reduction in the volume of complaints of psychological ill-treatment at the holding centres. Abusive behaviour which would be visible on video tape is now very rarely alleged. Further, as from the introduction of audio-taping of interviews in January 1999, allegations of threats by detectives to include compromising material in interview notes seem to have come to an end. More generally, complaints about the verbal conduct of police officers during formal interviews in the holding centres seem to have slowed to a trickle.

However, allegations persist of threats (e.g. to arrange that persons detained or members of their families will become targets of paramilitary groups), intimidation / improper suggestions (e.g. attempting to pressurise detainees to become police informers) and other forms of psychological ill-treatment by interviewing officers, before the beginning and after the end of taped interviews. By manually synchronising the silent video footage of interviews with the relevant audio tapes, the CPT's delegation was able to ascertain that some detectives are indeed conducting unauthorised "off tape" interviews.

Further, in the light of information gathered during the visit, the CPT has expressed reservations about the manner in which certain formal interviews are conducted.

125. As the CPT acknowledged in the report on its first visit to Northern Ireland, the questioning of persons detained in relation to terrorist offences cannot be expected to be a pleasant process. However, shouting at detainees, insulting them and attempting to browbeat them into making confessions is behaviour which has no proper place in the interrogation process. The Committee has recommended that police officers conducting interviews with persons detained in relation to terrorist offences be clearly reminded of this.

126. The findings in the course of the 1999 visit once again highlight the importance of an effective system of safeguards against ill-treatment of persons deprived of their liberty by the security forces in Northern Ireland. The Committee has recommended the strengthening of certain key safeguards: access to a lawyer, electronic recording of police interviews and complaints and disciplinary procedures. For example, in order to address the issue of off-tape interviews, it has been recommended that a sound facility be added to the system used to video record interviews.

127. Action has been taken to address the CPT's concerns regarding material conditions in holding centres. Castlereagh Holding Centre has been closed and, at Gough Barracks Holding Centre, cells and interview rooms have been provided with access to natural light. Nonetheless, conditions of detention at the latter establishment remain very spartan.

In this connection, the CPT has noted that the Independent Commission on Policing for Northern Ireland (the "Patten" Commission) has recommended that all holding centres be closed "forthwith". The Committee considers that this would be a desirable development, and has asked to be informed of any steps being taken to implement this recommendation.

C. Prisons

128. The CPT's delegation visited the two prisons in Northern Ireland which are considered to have a long-term future: Maghaberry and Magilligan Prisons. Staff-inmate relations in both establishments appeared to be, on the whole, of a constructive nature and relatively relaxed. Indeed, the delegation heard many positive remarks concerning staff from the prisoners interviewed.

However, at both prisons, some allegations were received of ill-treatment by prison staff and, more particularly, of the use of excessive force when restraining inmates. The CPT recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, it has stressed that force should only be used as a last resort and must not be more than strictly necessary. The Committee has recommended that prison officers in Northern Ireland be reminded of these precepts.

129. At both prisons visited, the material environment was on the whole capable of offering adequate conditions of detention. Cells had access to natural light and ventilation, were adequately furnished and were mostly in a good state of repair.

Nonetheless, in the light of information gathered during the visit, the CPT has recommended that steps be taken to ensure that all inmates are held in cells which offer them sufficient living space, and that they are guaranteed access to adequate sanitary facilities at all times, including at night.

130. At both Maghaberry and Magilligan Prisons, regime activities offered to prisoners included work, sports activities, vocational training and educational activities. Developing such activities features highly amongst the objectives of the Northern Ireland Prison Service. Nevertheless, a significant proportion of inmates at Magilligan, and a large majority of those held at Maghaberry Prison, did not have work or participate in other forms of organised activities.

The CPT has recommended that priority continue to be given to developing regime activities for prisoners. The aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities (work, preferably with vocational value, education, sport, recreation/association). Regimes in establishments for convicted prisoners should be even more favourable.

131. The CPT has also made a number of recommendations concerning the situation of prisoners subject to association restrictions/special security arrangements. These include strengthening the formal procedural safeguards offered to inmates whose association with others is restricted by the prison governor; bringing the so-called “close supervision regime” at Maghaberry Prison into accordance with criteria outlined by the Committee; and making further efforts to resolve the predicament of vulnerable prisoners who choose to exclude themselves from activities.

132. Magilligan Prison is designated as a holding facility for male immigration detainees in Northern Ireland. Such detainees lived a monotonous existence in cramped and potentially overcrowded conditions, in some cases for periods of time equivalent to sentences imposed by the courts for comparatively serious offences.

A prison is, by definition, an unsuitable place in which to detain someone who is neither suspected nor convicted of a criminal offence. In those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably-qualified personnel.

The CPT has recommended that the existing immigration detainee placement policy in Northern Ireland be reviewed, and that, for so long as immigration detainees continue to be held at Magilligan Prison, they be strictly separated from persons suspected or convicted of criminal offences.

133. Somatic health care services in the two prisons visited were found to be of an acceptable standard.

As regards psychiatric care, the most significant shortcoming observed concerned delays in transferring prisoners to in-patient psychiatric facilities. There is no secure psychiatric hospital unit in Northern Ireland, and prisoners might have to wait for some considerable time – on occasion, up to a year - before being transferred to hospitals in other parts of the United Kingdom. The CPT has recommended that steps be taken to remedy this deficiency.

D. Juvenile Justice Centres

134. In both of the juvenile justice centres visited – Lisnevin and Rathgael – the CPT's delegation gathered the impression that staff-inmate relations were, on the whole, of constructive nature.

135. While material conditions at Rathgael Juvenile Justice Centre were of a high standard, Lisnevin Juvenile Justice Centre provided a more carceral living environment, far less suitable for accommodating juveniles deprived of their liberty.

Reservations about the suitability of Lisnevin have also been expressed by a number of authorities in Northern Ireland, and the future of the Centre is currently under review. The CPT has recommended that, for so long as it remains in service, efforts be made to render the accommodation more attractive and welcoming (e.g. by permitting inmates to keep a reasonable amount of personal belongings and to personalise their living environment).

136. The regimes offered to residents at both centres appeared to be well developed and included education and a variety of association activities, occupying most of the children's day. Moreover, each establishment had ample and well-equipped facilities for sport, association and other activities.

However, at Rathgael Juvenile Justice Centre, inmates regarded as an escape risk were being deprived of access to certain sports facilities and, more importantly, were not guaranteed access to daily outdoor exercise. The CPT has recommended that all children held in juvenile justice centres be guaranteed the possibility to take outdoor exercise for at least one hour every day.

E. Action on the CPT's recommendations, comments and requests for information

137. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

138. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the United Kingdom authorities to provide within six months a report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the United Kingdom authorities to provide in the above-mentioned report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX

**SUMMARY OF THE CPT'S RECOMMENDATIONS,
COMMENTS AND REQUESTS FOR INFORMATION**

A. Detention by the security forces

recommendations

- members of the security forces in Northern Ireland to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for striking them (paragraph 23);
- police officers conducting interviews with persons detained in relation to terrorist offences to be clearly reminded that shouting at detainees, insulting them and attempting to browbeat them into making confessions is behaviour which has no proper place in the interrogation process (paragraph 38);
- the planned nationwide regime as regards the right of access to a lawyer to include the following features:
 - . a legally-binding provision (at least in the form of a full provision of a Code of Practice) granting all detainees the right to have access to another, independent, lawyer when access to a specific solicitor is delayed;
 - . the repeal of provisions which permit denial of access to a lawyer for successive periods of 48 hours between consultations, and which enable police officers to seek authorisation to listen to interviews between lawyers and their clients;
 - . an entitlement for lawyers in all jurisdictions of the United Kingdom to be present during police interrogations (paragraph 45);
- a sound facility to be added to the system used to video record interviews with persons detained under counter-terrorist legislation (paragraph 53).

comments

- the CPT welcomes the prompt and decisive action taken by the United Kingdom authorities in the light of its delegation's immediate observation regarding Castlereagh Holding Centre (paragraph 8);

- in order to maximise the potential of the video recording system currently used in the holding centres, all relevant monitoring and investigatory bodies should systematically seek access to any video tapes which may support (or contradict) a detainee's complaints of ill-treatment (paragraph 30);
- the CPT retains serious reservations about the absence of a formal right for detained persons to have access to another, independent, lawyer when access to a specific solicitor is denied (paragraph 46);
- closure of the remaining holding centres would be a desirable development (paragraph 58).

requests for information

- a copy of the report prepared by the RUC investigating officer(s) in the case to which reference is made in paragraph 17, together with details of the reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against the soldiers/police officers involved (paragraph 17);
- comments of the apparent absence of a means to supervise police investigations of alleged criminal behaviour by members of the armed forces (paragraph 18);
- a copy of the report prepared by the RUC investigating officer(s) in the case to which reference is made in paragraph 27. Whether this case was referred to the Director of Public Prosecutions and, if so, details of the reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against the police officers involved (paragraph 27);
- further and better particulars regarding the "areas for improvement" in the handling of detainees which have been identified by the RUC, together with details of the improvements which are to be made in those areas (paragraph 28);
- comments on the fact that, some three weeks after a detainee submitted a formal complaint about ill-treatment, the CPT's delegation was the first body to seek access to a video tape which corroborated at least some of his allegations (paragraph 29);
- whether police officers who conduct interviews with persons detained in relation to terrorist offences receive any specialist training for this task, and - if so - details of the training concerned (paragraph 38);
- clarification as to the precise meaning of the statement in the United Kingdom authorities' 1994 response to the effect that "in any event, in Northern Ireland the reasons for delay of access to a suspect's lawyer would, in many cases, apply equally to an 'independent' lawyer" (paragraph 46);
- the views of the United Kingdom authorities on the implications of the judgments of the European Court of Human Rights in the cases of *Averill v. the United Kingdom* and *Magee v. the United Kingdom* (paragraph 47);

- as regards the Police Ombudsman:
 - . the date on which the office of the Ombudsman will become fully operational;
 - . the level of staffing and other resources which will be allocated to the Ombudsman's Office, as compared to those allocated to the bodies (i.e. the Independent Commission on Police Complaints and the RUC's Complaints and Discipline Department) which it replaces;
 - . whether it is intended that all investigators employed by the Ombudsman will be genuinely independent from the security forces in Northern Ireland;
 - . whether the Ombudsman will have a power to initiate inquiries or investigations even if no specific complaint has been received (paragraph 55);
- the precise nature of the interlock between the activities of the Police Ombudsman and those of the Police Board in relation to police complaints and disciplinary procedures (paragraph 56);
- details of the envisaged reforms in procedures for police disciplinary hearings (paragraph 57);
- whether any steps are being taken to implement the Patten Commission recommendation that all holding centres be closed "forthwith" (paragraph 58).

B. Prisons

recommendations

- prison officers in Northern Ireland to be reminded that force should only be used as a last resort and must not be more than is strictly necessary (paragraph 68);
- steps to be taken to bring an end to the practice of accommodating two prisoners in 6 to 7 m² cells; further, 12 m² cells never to be used to accommodate more than three prisoners and preferably no more than two (paragraph 72);
- prisoners to be guaranteed access to sanitary facilities at all times, including at night (paragraph 72);
- in those cases where in-cell sanitation is provided, the lavatory to be adequately partitioned (paragraph 72);
- priority to continue to be given to developing regime activities for prisoners, having regard to the remarks set out in paragraph 75 (paragraph 75);

- any prisoner against whom the measure of removal from association for reasons of good order and discipline is applied to have a right:
 - . to be informed in writing of the reasons for that measure (it being understood that those reasons need not include facts which it would be reasonable to withhold from a prisoner on security grounds);
 - . to present his views on the matter to the deciding authority;
 - . to lodge an appeal to a relevant authority against the decision on removal from association and against any renewal of that decision (paragraph 79);
- steps be taken, without delay, to bring the regime in Landing 5 at Erne House, Maghaberry Prison, into accordance with the criteria set out by the CPT in paragraph 82 (paragraph 84);
- further efforts to be made to resolve the predicament of vulnerable prisoners, with the objective of addressing their fears by providing them with a secure environment and encouraging them to fully participate in the normal regime (paragraph 86);
- the existing immigration detainee placement policy in Northern Ireland to be reviewed, having regard to the remarks set out in paragraph 89, and to the general criteria enunciated by the CPT in its 7th general report (paragraph 89);
- immigration detainees held at Magilligan Prison to be strictly separated from persons suspected or convicted of criminal offences (paragraph 89);
- the level of psychiatric input at Magilligan Prison to be reinforced (paragraph 96);
- steps be taken to remedy the problem of delays in transferring mentally ill prisoners to in-patient psychiatric facilities (paragraph 97).

comments

- the United Kingdom authorities are invited to pursue their efforts to expand the sentence-planning scheme, particularly as regards inmates serving long sentences at Maghaberry Prison (paragraph 76);
- attempts should continue to be made to persuade inmates in self-imposed isolation to rejoin the prison community and, in the meantime, to provide them with purposeful activities and appropriate human contact (paragraph 87);
- a mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of a mentally ill prisoner to a psychiatric facility should be treated as a matter of the highest priority (paragraph 97).

requests for information

- the findings of the inquest in the case to which reference is made in paragraph 65 (paragraph 67);
- for the period 1998 to 2000:
 - . the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence or sanction imposed) (paragraph 69);
- confirmation that the small cubicles seen in the reception (“committals”) unit at Maghaberry Prison are no longer being used and information on the current arrangements for holding prisoners in that unit (paragraph 73);
- comments on the matters raised in paragraph 90 (paragraph 90);
- confirmation that patients in Maghaberry Prison’s “psychiatric unit” now have separate accommodation and daytime facilities (paragraph 95).

C. Juvenile Justice Centres

recommendations

- for so long as Lisnevin Juvenile Justice Centre remains open, efforts to be made to render inmate accommodation at the Centre more attractive and welcoming (e.g. permitting residents to keep a reasonable amount of personal belongings and to personalise their living environment) (paragraph 110);
- measures to be taken to ensure that all children in juvenile justice centres are guaranteed the possibility to take outdoor exercise for at least one hour every day (paragraph 113).

requests for information

- the outcome of the investigation into the case to which reference is made in paragraph 105 (paragraph 105);
- the outcome of the review of the juvenile justice estate (paragraph 110);
- confirmation that, if placed in solitary confinement, all categories of persons who may be held in juvenile justice centres (including those detained under Article 8 of the Criminal Justice (Children) (Northern Ireland) Order 1998) benefit from the safeguards identified in paragraph 114 (paragraph 114);
- detailed information about the training which is provided to staff working in juvenile justice centres (paragraph 117).