

CPT/Inf (2003) 36

**Report to the Government of Ireland
on the visit to Ireland
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 20 to 28 May 2002**

The Government of Ireland has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2003) 37.

Strasbourg, 18 September 2003

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Copy of the letter transmitting the CPT's report

Strasbourg, 20 December 2002

Dear Mr Mellett,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Ireland drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Ireland from 20 to 28 May 2002. The report was adopted by the CPT at its 49th meeting, held from 5 to 8 November 2002.

I would draw your attention in particular to paragraph 147 of the report, in which the CPT requests the Irish authorities to provide **within six months** a response setting out the action taken upon its visit report. It would be most helpful if the Irish authorities could provide a copy of the response in electronic form.

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

Yours sincerely,

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

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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 Ireland from 20 to 28 May 2002. The visit formed part of the Committee’s programme of periodic visits for 2002. It was the CPT’s third visit to Ireland.¹

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

- Ingrid LYCKE ELLINGSEN, Head of the delegation
- Maria Teresa BELEZA
- Pétur HAUKSSON
- Anhelita KAMENSKA
- Jagoda POLONCOVÁ
- Rudolf SCHMUCK.

They were assisted by:

- Eric DURAND, Medical doctor, former head of medical services at Fleury-Mérogis Prison, France (expert)
- Eoghan O’LOINGSIGH (interpreter)

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

- Jan MALINOWSKI
- Hanne JUNCHER.

¹ The first two visits took place in September/October 1993 and in August/September 1998. The CPT’s reports on those visits have been published together with the responses of the Irish Government as documents CPT/Inf (95) 14 and 15, CPT/Inf (96) 23, and CPT/Inf (99) 15 and 16.

B. Establishments visited

3. The delegation visited the following places:

Police (Garda Síochána) establishments

- Cobh Garda Station
- Bridewell of the Garda Síochána, Cork
- Gurrabraher Garda Station, Cork
- Bridewell of the Garda Síochána, Dublin
- Store Street Garda Station, Dublin

Prisons

- Cork Prison
- Cloverhill Prison, Dublin
- Mountjoy Prison (including the Dóchas Centre for women), Dublin

Mental health establishments

- Central Mental Hospital, Dundrum
- Grove House Intellectual Disability Service, Cork
- St Joseph's Intellectual Disability Service, Portrane
- St Raphael's Centre, Youghal

Detention centres for children

- Trinity House School, Lusk

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A complete list of the authorities and non-governmental organisations with which the delegation held talks is set out in Appendix II to this report.

D. Co-operation between the CPT and the Irish authorities

5. The co-operation received by the CPT's delegation from the Irish authorities both before and during the visit was excellent.

The CPT is grateful to John O'DONOGHUE, Minister for Justice, Equality and Law Reform, Micheál MARTIN, Minister for Health and Children, and Michael WOODS, Minister for Education and Science for the time they devoted to the delegation. During the visit, the delegation also met the General Secretaries and other senior officials from the aforementioned ministries. In addition, the delegation held useful talks with members of the Irish Human Rights Commission and with the newly appointed Inspector of Prisons and Places of Detention.

6. All establishments which could be visited by the delegation had been informed of that possibility and, in many of the establishments visited, a notice about the CPT's visit to Ireland had been displayed, providing some information about the Committee's mandate.

Further, the CPT is pleased to note that officials in some of the establishments which received a follow-up visit were familiar with the report on the Committee's 1998 visit.

7. The CPT also wishes to express its appreciation for the assistance received from the liaison officers appointed by the Irish authorities, and for the extensive written materials provided to the CPT in advance of the visit, as well as the comments provided by the Irish authorities by letter of 3 October 2002, in response to the preliminary remarks made by the delegation at the end of the visit.

E. Immediate observation under Article 8, paragraph 5, of the Convention

8. At the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention as regards the use at Cork and Mountjoy Prisons of padded cells to hold prisoners in need of psychiatric care and, more particularly, of in-patient hospital treatment. The delegation called upon the Irish authorities to take immediate steps to discontinue this practice (cf. paragraphs 38 and 39).

By letter of 6 August 2002, the Irish authorities provided information on measures taken in the light of the delegation's immediate observation. This response, which is fully consistent with the principle of co-operation set out in Article 3 of the Convention, has been taken into account in the relevant section of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

9. The CPT's delegation visited five police (Garda Síochána) establishments, namely Cork Bridewell and Cobh and Gurrana Braher Garda Stations in the Cork area, as well as the Bridewell and Store Street Garda Station, in Dublin. In addition to persons held by the police at the time of the visit, the delegation interviewed many persons in other places - especially in prisons - about their recent experience in police custody.

10. The basic rules which apply to detention by the police were summarised in previous CPT visit reports (cf., inter alia, CPT/Inf (99) 15, paragraphs 9 et seq.). Reference will be made in relevant parts of this report to certain recent positive developments, particularly as regards the formal safeguards offered to detained persons.

It might be added that the introduction of an independent police inspection and complaints system continues to be on the Government's agenda (cf. paragraph 18); the information gathered during the 2002 visit concerning ill-treatment by the police, summarised in the following paragraphs, highlights the need for such a system.

2. Ill-treatment

11. Many of the persons interviewed by the CPT's delegation about their experience while in police custody stated that they had been treated correctly by the police.

However, a not inconsiderable number of persons claimed that they had been physically ill-treated by police officers (Gardaí). Most of the allegations received concerned the time of arrest, including after the detained person had been brought under control, or during transport to a police station; some complaints related to ill-treatment in cells or detention areas in police stations. In certain cases the ill-treatment alleged was said to have been inflicted by officers trying to obtain information or secure a confession from the detained person.

The allegations involved in the main blows with batons, as well as kicks and punches to various parts of the body. On occasion, the ill-treatment alleged was of a severe nature. In a few cases, the delegation was told that the ill-treatment had been administered in such a way as to avoid leaving visible marks, e.g. baton blows to a telephone directory placed against the detainee's head or pressure with a baton behind the knee.

12. The number and consistency of the allegations of ill-treatment heard by the delegation lend them credibility. Moreover, in some cases, the delegation's doctors gathered medical evidence consistent with the allegations received. By way of example, the CPT would like to make reference to the following cases:

One person interviewed in Cork Prison alleged that, the day before, four or five police officers had dragged him down the stairs at the Anglesea Street police facilities and repeatedly struck him with batons. Following his arrival at Cork, the prison doctor had noted "4 fresh marks on back, prior to committal". Upon medical examination by the delegation's doctors, the person concerned was found to display two recent red horizontal bruises measuring approximately 3 x 9 cm, respectively in the left and right upper lumbar/kidney area, and a further similar bruise in the left shoulder region; he also displayed a number of abrasions and smaller bruises on the legs.

One person interviewed in Cloverhill Prison alleged that, a few days earlier, at the time of his arrest, the police had twisted his wrist and that, subsequently, at Store Street Garda Station, a police officer had delivered several baton blows in the direction of his head which he had stopped with his left arm. The police reported no physical force/violence or injuries at any time of this person's custody, and the doctor who examined him on police premises approximately five hours after his arrest only found handcuff marks on the right wrist and injection marks on the lower arms. However, during medical screening on arrival in prison the following morning, he was found to display "superficial haematomas and contusions on the lower left arm". A medical examination by the delegation's doctors revealed a purple 6 x 3 cm haematoma along the antero-external face of the lower left arm in the proximity of the elbow and, next to it, another haematoma of similar size and characteristics.

Another person (who at the time of the visit was no longer deprived of his liberty) interviewed by the delegation in Dublin alleged that, one week previously, the police had treated him roughly at the time of his arrest and that, subsequently, at Store Street Garda Station, police officers had assaulted him several times (kicks to the legs and blows to the head) and that, on one occasion, while he was being manually restrained, an officer had struck him six or seven times on the right thigh with a baton. He claimed that, despite his requests, he had not been medically examined during custody. A medical examination by the delegation's doctors revealed a yellowish 4 x 2 cm haematoma on the right thigh in the proximity of the groin, a yellow and red 10 x 8 cm haematoma with a blue central part on the middle section of the right thigh, a similar 7 x 7 cm haematoma immediately above the right knee, and a further 6 x 3 cm haematoma on the inner part of the central section of the lower right leg; he displayed a number of other smaller bruises on both legs.

It should also be noted that, in certain of the cases examined during the visit, other evidence gathered by the CPT's delegation (e.g. from custody records, information provided by police officers) tended to support the allegations of ill-treatment received.

13. Further, the attention of the CPT's delegation was drawn to allegations of use of excessive force by the police during a demonstration in Dublin on 6 May 2002 and, more particularly, to claims, apparently supported by video footage, that persons who had already been brought under control were repeatedly struck with batons in a potentially dangerous manner (e.g. on the head and side of the neck).

The CPT was subsequently informed that, following investigations by the Garda Síochána, the Director of Public Prosecutions had directed that seven officers face charges in relation to assault. Further, the Committee understands that the Garda Síochána Complaints Board is considering disciplinary charges against more than thirty officers as part of their investigation.

The CPT would like to be informed in due course of the results of the criminal and disciplinary proceedings related to the policing of the demonstration on 6 May 2002 and of the outcome of any individual complaints of ill-treatment.

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* *

14. After the 1993 visit, the CPT was led to conclude, in the light of all the information at its disposal, that persons held in certain police establishments in Ireland ran a not inconsiderable risk of being physically ill-treated. In 1998, the CPT also gathered considerable evidence of police ill-treatment.

The information gathered by the CPT's delegation during the 2002 visit highlights the need for the Irish authorities to intensify their efforts to prevent ill-treatment by the police.

Irish law makes clear that the ill-treatment of detained persons is not acceptable². Further, the CPT has noted the measures adopted by the Irish authorities to "promote the fundamental nature of human rights in [...] policing" in general (cf. *inter alia* CPT/Inf (99) 16, paragraph 39). Nonetheless, in view of the delegation's findings, there is clearly a need to ensure that all police officers become aware, through concrete action, that the Irish Government is resolved to stamp out ill-treatment of persons deprived of their liberty.

The CPT recommends that the message that the ill-treatment of detained persons is not acceptable - and will be severely sanctioned - be vigorously recalled to police officers in an appropriate manner at regular intervals (cf. CPT/Inf (95) 14, paragraph 22, third sub-paragraph).

As regards more specifically the use of force at the time of arrest, the CPT has previously recognised (cf. CPT/Inf (99) 15, paragraph 15) that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for striking them. **Police officers should be unequivocally reminded of these precepts.**

² Cf., *inter alia*, Regulation 20, paragraphs 1 and 2, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987.

15. The best possible guarantee against ill-treatment is for its use to be rejected by law enforcement officials themselves. This implies strict selection criteria at the time of recruitment of such officials and the provision of adequate professional training (cf. also CPT/Inf (95) 14, paragraph 22); the training should be pursued at all levels of the police force's hierarchy, and should be ongoing. **The CPT recommends that the Irish authorities seek to integrate human rights concepts into practical professional training for high-risk situations, such as the arrest and interrogation of suspects.** This will prove more effective than separate courses on human rights.

16. Another effective means of preventing ill-treatment by the police lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty (cf. CPT/Inf (99) 15, paragraph 16). This will have a very strong deterrent effect. Conversely, if the relevant authorities do not take effective action upon complaints referred to them, those minded to ill-treat persons deprived of their liberty will quickly come to believe that they can act with impunity.

In this connection, several of the persons interviewed by the delegation stated that they had tried to complain about the manner in which they had been treated by the police to the judge before whom they had been brought at the end of their custody, but that the judge had shown little interest in their complaints. Similarly, some persons told the delegation that they had displayed bruises on visible parts of their body, but claimed that their injuries had met with no reaction from the judge (and other authorities present).

The CPT recommends that whenever criminal suspects brought before a judge allege ill-treatment by the police, the competent authority present during those proceedings record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the competent authority should request a forensic medical examination whenever there are other grounds to believe that the person brought before the judge could have been the victim of ill-treatment.

17. It should also be noted that existing legal provisions require police officers systematically to report force used by them and to bring to the attention of their superiors the unreported or unlawful use of force by fellow officers; such reports must be investigated by a senior officer. It is further required that a detained person who complains of physical ill-treatment by the police or who is injured be promptly examined by a doctor at the initiative of the officer responsible for custody, i.e. the "officer in charge".³ The information gathered during the visit indicated that these requirements were not always being complied with.

The CPT recommends that police officers be firmly reminded of their duties under Regulation 20, paragraphs 3 to 7, and Regulation 21, paragraph 1, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987. The Committee would like to be informed of the criminal and/or disciplinary consequences of a failure to comply with the above-mentioned provisions.

³ Cf. Regulation 20, paragraphs 3 to 7, and Regulation 21, paragraph 1, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987.

18. The information gathered by the delegation confirmed that the existing internal accountability mechanism for the police, the Garda Síochána Complaints Board, enjoys little public confidence. Indeed, the CPT's delegation heard accounts of solicitors discouraging clients from filing a complaint. In the circumstances, the CPT can only conclude that this mechanism, which has been under review for a number of years (cf. CPT/Inf (99) 15, paragraph 16), is failing to contribute to the prevention of ill-treatment.

The introduction of an independent inspection and complaints system continues to be on the Irish Government's agenda⁴. The declared objective is to put in place a mechanism independent of the Garda Síochána that enjoys public confidence and enables complaints against the police to be properly and fully investigated in an open and transparent manner⁵. The CPT has been informed that the necessary legislation is being drafted as a matter of priority. **The Committee can only encourage the Irish authorities to continue to give a very high priority to establishing an inspection and complaints mechanism which is, and is seen to be, independent and impartial.**

3. Conditions of detention

19. The material conditions of detention observed by the CPT's delegation were on the whole acceptable. In particular, all of the cells and holding facilities seen were of an adequate size for the number of persons they were intended to accommodate (e.g. one person to a cell measuring 6 m² or more), had at least some access to natural light and, in general, had adequate artificial lighting and ventilation. The cells were equipped with a plinth, and detained persons required to remain in custody overnight were provided with a mattress and blanket. Cells were fitted with a lavatory, and persons held in multi-occupancy cells also had ready access to adequate sanitary facilities. The detention facilities at Cobh and Store Street Garda Stations were of a particularly good standard.

However, the cells at the **Dublin Bridewell** (and the holding facilities at the Municipal Courts) were dirty and in a poor state of repair. The Irish authorities have subsequently informed the CPT that these shortcomings have been remedied. Further, **the lighting and ventilation in certain of the cells at Cork Bridewell left something to be desired.**

⁴ Cf. CPT/Inf (95) 14, paragraphs 54 et seq., CPT/Inf (99) 15, paragraphs 16, 18 and 19, as well as CPT/Inf (95) 15, page 56, and CPT/Inf (99) 16, paragraph 27.

⁵ Cf. "Measures relating to inspection arrangements for the Garda Síochána and for dealing with complaints against members of the Garda Síochána by the public" published by the Minister for Justice, Equality and Law Reform in October 2001, and other information provided to the CPT by the Planning Division of the police prior to the 2002 visit.

4. Safeguards against the ill-treatment of detained persons

- a. notification of custody, access to a lawyer and access to a doctor

20. As had been the case during previous visits, the three fundamental safeguards advocated by the CPT, namely the rights of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer and to have access to a doctor, on the whole operated in a satisfactory manner (cf. for example, CPT/Inf (99) 15, paragraphs 20 and 21).

The delegation heard no complaints about notification of custody (and many persons recognised that they had themselves been able to call their relatives to inform them of their situation), access to a lawyer appeared to function well in practice, and very few complaints were heard about access to a doctor. Further, the persons interviewed by the delegation confirmed that they had been promptly informed of their rights including, in most cases, in writing.

21. As regards more particularly the right of access to a lawyer, the CPT welcomes the fact that legal aid is now in principle available as from the outset of custody. **The CPT would like to be informed of the legal/administrative basis for this extension of the right to legal aid to include persons detained in police stations.**

Notwithstanding the above, formal arrangements are not yet in place for the choice/appointment of solicitors for detained persons who do not have their own lawyer (cf. CPT/Inf (95) 16, paragraph 50, and CPT/Inf (99) 15, paragraph 23); this continues to be organised informally by the police. Some persons told the delegation that they had chosen to waive their right to legal assistance because they felt that the solicitors proposed to them were not independent from the police.

Further steps are required to ensure that detained persons who do not have their own lawyer feel that they can trust the solicitor proposed to them; this may well require creating panels of solicitors prepared to attend police stations, as proposed by the Law Society (cf. CPT/Inf (99) 15, paragraph 23).

22. In the CPT's opinion, the right of access to a lawyer should include the right to have the lawyer present during police interrogations. While the Irish authorities do not dispute the merits of the approach advocated by the CPT, they consider that audio-video recording of police interviews, which was being tested at the time of the visit, is a preferable alternative (cf. CPT/Inf (99) 16, paragraphs 47 and 48).

The CPT considers that the introduction of audio-video recording of interviews as an *additional* safeguard is a most welcome development; however, it remains persuaded of the importance, in the interests of the prevention of ill-treatment, of the possibility for lawyers to be present during interviews. In this context, the Committee has noted the information provided by the Irish authorities that the Irish courts have not so far held that there is a right to have a lawyer present during questioning. **The Irish authorities are invited to give further consideration to this issue, including as regards the legislative measures which may be required in order to establish this right.**

23. The delegation received a few allegations to the effect that the police had not granted access to a doctor to detained persons who attempted to exercise that right and of the police's failure to arrange for a medical examination of detained persons who alleged ill-treatment or who bore injuries. The CPT has already recommended that police officers be firmly reminded of their duties in this connection (cf. paragraph 17).

The CPT also wishes to recall that the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, should be recorded in writing by the doctor and made available to the detainee and his lawyer (cf. CPT/Inf (95) 14, paragraph 47). Having regard to the information gathered during the 2002 visit, **the CPT recommends that steps be taken to ensure that these requirements are met.**

b. other safeguards

24. In general, custody sheets, i.e. a single and comprehensive custody record for each detained person (cf. CPT/Inf (95) 14, paragraph 53), were being kept accurately.

However, **at Cobh Garda Station, records were incomplete** (e.g. entries concerning information on rights and required signatures had been omitted from many records).

25. As already indicated, electronic (audio-video) recording of interrogations was being tested, at least for more serious offences⁶, and major police establishments had already been fitted with the necessary equipment. Preference was apparently given to taking persons detained in respect of serious criminal offences to facilities where such equipment was available. The Irish authorities have subsequently informed the CPT that the system is now almost complete and that 117 police stations have been fitted out and are fully operational.

The CPT welcomes these developments; however, it has received somewhat contradictory information concerning the range of offences to which the new recording requirements will apply and the circumstances when recording might be omitted because it "is not possible or desirable" to record an interrogation (cf. CPT/Inf (99) 15, paragraph 48). **The CPT would like to receive clarification concerning these issues.**

⁶ Cf. Criminal Justice Act, 1984 (Electronic Recording of Interviews) Regulations, 1997.

B. Prisons

1. Preliminary remarks

26. Since the CPT's previous visit to Ireland, two sizeable new prisons have been brought into service: Cloverhill and Midlands Prisons. There are plans to create a further 700 prison places in the near future⁷.

Another development concerns progress being made towards the adoption of new Prison Rules. The CPT was pleased to learn that this protracted process (cf., *inter alia*, CPT/Inf (99) 15, paragraph 31) is expected to bear fruit shortly; the Government's proposal has been approved and is now being considered by officials in the Attorney General's Office. **The Committee recommends that the Irish authorities persevere in their efforts to adopt new Prison Rules at the earliest opportunity.**

27. During the 2002 visit, the CPT's delegation visited the new male remand establishment in Dublin, Cloverhill Prison, and carried out follow-up visits to Cork Prison and Mountjoy Prison (including the Dóchas Centre for Women).⁸

28. **Cloverhill Prison** is located in Clondalkin, on the outskirts of Dublin, adjacent to Wheatfield Detention Centre. This modern prison has been built to John Haviland's (Pennsylvania) radial design, which gives an impression of space and airiness. Cloverhill began receiving prisoners in 1999 and became fully operational in 2000. The prison has an official capacity of 460 and, on the first day of the visit, was holding 417 inmates; the vast majority were untried prisoners, including a few immigration detainees.

29. **Cork Prison** is a former military detention centre which started operating as a prison in 1972; the establishment's main building dates back to 1806. It has an official capacity of 150 (on the basis of single cell occupancy) and, at the time of the visit, was holding 276 male prisoners, 30 of whom were untried. It is envisaged to expand the prison's capacity within 3 to 4 years.

30. The general characteristics of **Mountjoy Prison** have been described in previous visit reports (cf., *inter alia*, CPT/Inf (99) 15, paragraph 34).

⁷ At the time of the visit, the Irish Prison Service had an official capacity of 3,576.

⁸ Cork Prison was first visited in 1993 and Mountjoy Prison was visited in 1993 and 1998.

The Prison for Men has an official capacity of 670. However, one wing had been closed for some time awaiting a decision concerning the upgrading of the establishment or the redevelopment of the Mountjoy complex as a whole⁹. The delegation was told that, in view of the unused wing, the prison for men had a maximum uncrowded capacity of 440; at the time of the visit, it was holding 424 prisoners (as compared to 582 in 1993 and 676 in 1998).

Mountjoy's new section for women, the **Dóchas Centre**, entered into service in 1999. According to written information provided to the delegation, it has an official capacity of 77 (calculated on the basis of single cell occupancy) and, at the time of the visit, was accommodating 93 inmates; approximately one third were untried prisoners and two were immigration detainees.

2. Ill-treatment

31. Many of the inmates interviewed by the delegation indicated that they had reasonably good and constructive relations with most of the prison staff.

However, in all three prisons visited, the delegation heard complaints of verbal abuse. In Dublin, it also heard some allegations of physical ill-treatment (kicks, slaps and rough treatment) of prisoners by staff, frequently relating to placements in the padded cells - in **Cloverhill Prison** - or cell searches - in **Mountjoy Prison for Men**.

32. By way of example, one person interviewed at Cloverhill Prison claimed that, shortly before the visit, prison officers had pushed him roughly backwards into his cell and that he had fallen against the frame of a bed. The delegation's doctor found that he displayed a recent 7 x 0.2 cm vertical excoriation on the right shoulder-blade area and a similar 5 cm longitudinal excoriation on the right elbow, lesions which are consistent with his allegation.

33. The CPT has also been put in possession of extensive documentation concerning the alleged assault of an inmate by prison officers following a disturbance at Mountjoy Prison on 18 September 1999.

The prisoner (who was not met by the delegation) apparently complained that he had been punched and kicked by prison officers and, in particular, that "while his head was being held it was 'kicked like a football'." Several officers declared that, while being carried under restraint in a prone position some 30 to 40 cm from the ground, the prisoner in question had been violently kicked twice in the face by another officer. Following his transfer to hospital, he was diagnosed with "bilateral mandibular fracture".

The CPT understands that the failure on the part of five prison officers who witnessed the assault to report it, or their attempt to conceal the assault, tarnished their credibility as witnesses in the ensuing criminal proceedings; it would appear that, as a result, the officer charged with the assault was acquitted. Nonetheless, the Committee has been informed that all six officers are facing disciplinary action.

⁹ The complex comprises Mountjoy Prison for Men and the Dóchas Centre, as well as two adjacent but independent establishments, namely St Patrick's Institution (for young persons) and the Training Unit (for prisoners nearing the end of their (long) sentences).

34. In the report on its first visit to Ireland, the CPT highlighted the importance of the Ministry of Justice and prison governors delivering the clear message that ill-treatment of inmates is not acceptable and will be dealt with severely (cf. CPT/Inf (95) 14, paragraph 72). In the light of the information gathered during the 2002 visit, **the CPT can only encourage the Irish authorities to continue to reiterate at regular intervals the message that all forms of ill-treatment - including verbal abuse - are not acceptable** (cf. also the comments transmitted by the Irish authorities by letter of 3 October 2002).

35. The CPT recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for striking them. **The Committee recommends that prison officers also be reminded of these precepts.**

The CPT has already stressed the importance of appropriate training in control and restraint techniques (i.e. manual control) (cf. CPT/Inf (95) 14, paragraphs 75 and 76) and has welcomed that such training is now widely available to prison officers in Ireland (cf. CPT/Inf (99) 15, paragraph 42). Indeed, control and restraint techniques will enable staff to choose the most appropriate response when confronted with difficult situations, thereby significantly reducing the risk of injuries to both prisoners and staff. This, in turn, is likely to lead to a decrease in the number of complaints of ill-treatment made by inmates.

The importance of inter-personal communication skills in this context should not be underestimated. Such skills will often permit prison officers to defuse situations which could otherwise become violent, and will help to reduce tensions and improve the quality of life in the prison concerned, to the benefit of all. The CPT notes with some concern that existing problems as regards the provision of ongoing training to prison officers - particularly in inter-personal communication skills - have not yet been resolved (cf. CPT/Inf (99) 15, paragraph 44, and CPT/Inf (99) 16, pages 48 and 49). The Irish authorities have a responsibility to ensure that their decision in principle to develop training in interpersonal communication skills is effectively translated into practice; **the CPT recommends that those authorities redouble their efforts to overcome the enduring impasse in this area.**

36. The delegation formed the impression that senior management were determined to take appropriate action when allegations of ill-treatment of inmates by staff came to their attention. Complaints were investigated at internal level and prisoners were given the opportunity also to complain to outside bodies, in particular to the police; the prisons' management often referred complaints directly to the Garda Síochána for investigation. The CPT welcomes this approach; the diligent examination of complaints of ill-treatment and, where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties will have a considerable deterrent effect (cf. CPT/Inf (95) 14, paragraph 72).

However, in all of the establishments visited, prisoners appeared to have very little confidence in the complaints system. The delegation found that, notwithstanding the allegations of ill-treatment received by it, very few prisoners actually filed a complaint. Moreover, the records examined at Mountjoy Prison showed that inmates who did complain of having been physically ill-treated often subsequently withdrew those complaints.

The CPT agrees with the Irish authorities that staff is entitled to protection from vexatious accusations (cf. CPT/Inf (99) 16, page 41); however, **complaints procedures should offer appropriate guarantees of independence and impartiality, and persons who may have been ill-treated should not be discouraged from pursuing a complaint** (cf. also paragraphs 73 and 74).

37. **The CPT would like to receive the following information in respect of 2001 and 2002:**

- **the number of complaints lodged concerning ill-treatment by prison officers 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/sanction imposed).**

The CPT would also like to be informed in due course of the outcome of the disciplinary action taken in connection with the case referred to in paragraph 33.

38. The use of padded cells for the management of persons in need of psychiatric care and, more particularly, of in-patient hospital treatment, is a source of great concern.

The CPT's delegation found that, at Cork and Mountjoy Prisons, and to a lesser extent at Cloverhill, prisoners in need of psychiatric care were frequently placed in unfurnished padded - or so-called cladded - cells (e.g. following their discharge from, or awaiting transfer to, the Central Mental Hospital). In general, the cells had poor lighting and were dirty. The persons concerned were provided with disposable chamber pots and with a mattress and blankets; however, the latter were often filthy. It would appear that on occasion the prisoners were left naked or in their underwear. In most cases, the persons concerned remained in the padded cells throughout the day.

Prison staff verified regularly (every 15 minutes) the state of the persons concerned and a doctor, often a psychiatrist, visited them daily. Some of them continued to receive drugs previously prescribed to them, but others received no pharmacological treatment; it was explained to the delegation that, because of their condition, they were not deemed capable of giving consent to treatment and that treatment without consent could only be dispensed in hospital. As a result of the difficulties in securing transfer to a suitable establishment (cf. CPT/Inf (99) 15, paragraphs 75, 76 and 119), persons in need of in-patient psychiatric treatment remained in a padded cell for days and, on occasion, for longer periods (e.g. up to a few weeks).

The practice observed in the prisons visited will frequently contribute to the deterioration of the mental state of the prisoners concerned and can therefore only be described as anti-therapeutic.

In the CPT's opinion, the treatment described above could well be characterised as inhuman and degrading.

39. In pursuance of Article 8, paragraph 5, of the Convention, at the end of the visit, the delegation requested that the Irish authorities take immediate steps to bring to an end the practice of holding mentally ill patients in padded cells in prison and to ensure their transfer, without delay, to an establishment capable of offering them the treatment required by their condition.

By letter of 6 August 2002, the Irish authorities informed the CPT of their undertaking to the effect that “no mentally ill prisoner who is awaiting transfer to the Central Mental Hospital will be held in a padded cell in prison, unless this is unavoidably necessary as an immediate and time-limited measure” and that instructions had been given to create special observation cells in prisons, and more particularly at Mountjoy and Cork Prisons, for the holding of mentally ill prisoners awaiting such transfers. Further, steps were being taken to “eliminate delays in the provision of in-patient psychiatric care to mentally ill prisoners”.

The CPT welcomes the steps being taken by the Irish authorities in this connection; **it looks forward to receiving information on further developments concerning this subject.**

40. The CPT’s mandate is not limited to the prevention of ill-treatment inflicted by prison staff. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence.

In all of the establishments visited, the CPT’s delegation heard accounts of inter-prisoner violence and/or bullying. As regards more particularly Cloverhill Prison, health-care staff indicated that they frequently had to treat prisoners for injuries following assaults by, or altercations with, fellow inmates.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. Addressing the phenomenon of inter-prisoner violence requires that prison staff be alert to signs of trouble, and both determined and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context.

The CPT would like to receive information on strategies developed with a view to addressing the problem of inter-prisoner violence in the Irish prison system.

3. Conditions of detention

a. material conditions

41. Mountjoy's section for women, the **Dóchas Centre**, provided very good material conditions of detention to the vast majority of inmates. Prisoner accommodation consisted of single cells measuring about 13.5 m² or more; all cells had good lighting (including natural light) and ventilation, had a fully-partitioned sanitary annexe and were adequately furnished; the larger cells' sanitary facilities included a shower. The premises were in a good state of repair and impeccably clean.

However, at the time of the visit, the establishment was operating above its capacity, and a score of inmates were being accommodated in rooms in the infirmary, many of them sleeping on mattresses placed directly on the floor. The delegation was told that, on occasion, for want of space, newly-arrived prisoners had also been accommodated in padded cells. **The CPT would like to receive information on the measures taken to ensure that all prisoners at the Dóchas Centre are provided with appropriate accommodation.**

42. **Cloverhill Prison** is also capable of offering good living conditions to inmates. Cells had good lighting and ventilation, were equipped with a washbasin and a semi-partitioned lavatory, and were furnished with beds, table and stools/chairs. They were clean and in a good state of repair. It is also to be welcomed that certain cells were designated as non-smoking.

Single occupancy cells were of an adequate size (9.5 m²). However, the larger cells in the prison (measuring approximately 11 m²) were being used to hold up to three inmates; **efforts should be made to limit their occupancy to two prisoners** (cf. CPT/Inf (99) 15, paragraph 61). Further, **the CPT recommends that the partitioning of in-cell lavatories be improved.**

43. The decrease in the inmate population at **Mountjoy Prison for Men** had considerably improved the situation in the establishment as compared to that observed during previous visits. However, many prisoners continued to be accommodated two to a 9.5 m² cell designed for single occupancy.

Further, in the absence of a final decision in respect of the upgrading of the establishment or the redevelopment of the Mountjoy complex, the "rolling programme" of refurbishment and modernisation which should have commenced in mid-1999 (cf. CPT/Inf (99) 15, paragraph 48) had not been implemented and little other work had been carried out in the establishment. The premises were in a poor state of repair and in-cell sanitation was still not available in most parts of the prison. **The CPT recommends that a decision concerning the future of Mountjoy be taken at the earliest opportunity.**

44. The situation at **Cork Prison** was mostly unchanged, or had deteriorated, as compared to that observed at the time of the 1993 visit (cf. CPT/Inf (95) 14, paragraph 92). Inmate accommodation consisted principally of cells designed for single occupancy, measuring 7.5 or 9 m²; however, the vast majority of prisoners were being held two to a cell. The cells used to hold newly arrived inmates, for up to two weeks, also offered only cramped accommodation (6 persons in 21 m² cells designed for 3 persons). Further, most cells benefited from very little natural light and had poor artificial lighting, the overall state of repair of the establishment left a lot to be desired, and cells were not equipped with lavatories.

The CPT recommends that the 7.5 m² cells cease to be used to accommodate more than one prisoner and that the 21 m² cells accommodate no more than four persons.

Efforts should also be made to avoid as far as possible placing two prisoners in the 9 m² cells. Further, the Committee recommends that Cork Prison be kept in an appropriate state of repair.

45. In the report on its 1993 visit (cf. CPT/Inf (95) 14, paragraphs 100 and 101), the CPT made clear that it strongly disapproves of the practice of requiring prisoners to use chamber pots or buckets and of the ensuing slopping out process. In their response, the Irish authorities indicated that they were striving to eradicate this practice but anticipated that it might take seven to eight years to achieve it (cf. CPT/Inf (95) 15, page 72).

Although at the time of the 2002 visit most parts of Cork and Mountjoy Prisons were not equipped with integral sanitation, efforts were being made to provide inmates with access to a lavatory in decent conditions for most of the day (i.e. between 8 am and 10 pm). However, the delegation heard some complaints that prisoners were seldom released from their cells in order to go to the lavatory after 8 pm. Consequently, prisoners in those establishments were often obliged to rely on buckets or chamber pots, including in shared cells; slopping out continued to be a regular feature of the morning routine. It might be added that complaints were heard that eating utensils had to be cleaned in the same place as buckets or chamber pots.

The CPT recommends that the Irish authorities vigorously pursue their efforts to provide prisoners with better access to proper sanitary facilities. The Committee would recall that, in its view, either a toilet facility should be located within cellular accommodation (preferably in a sanitary annexe) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times (including at night).

b. activities

46. The programme of activities at the **Dóchas Centre** was well developed. Inmates were offered a wide range of educational/training activities (e.g. cooking, sewing, hairdressing, industrial cleaning, computer studies) and some work (e.g. cleaning duties). The centre's library, sports and computer facilities were also of a high standard. The vast majority of the women held at the Dóchas Centre at the time of the visit spent a significant part of the day outside their cells engaged in motivating activities.

Mountjoy Prison for Men was providing work to about 200 (of the 424) prisoners (cleaning and kitchen duties, workshops), and a further 160 participated in educational activities; prisoners also had access to the library, were offered some cultural activities and could use sports facilities. The delegation was told that the obstacle to broadening the range of activities and increasing the number of inmates involved in them was related to a lack of space and premises rather than other resources (e.g. staff or financial resources).

47. According to the information provided to the delegation, at **Cork Prison**, some 100 prisoners (out of 276) were being offered work in the prison's general services, kitchen and workshops (joinery, clothes manufacture). In addition, a considerable number of prisoners participated in educational activities. However, it appeared that these activities only occupied a small part of the day. Prisoners also had access to computer rooms and to sports facilities.

48. The operation of the "Connect Project" is particularly praiseworthy. It consists of a 14-week course aimed at preparing inmates for life in the community, through training in personal discipline, confidence building, stress management, communication skills, job seeking and interview skills, decision making and healthy lifestyle. However, at the time of the visit, only a few prisoners benefited from this training (12 men and 5 women at Mountjoy and about 8 prisoners at Cork). **The CPT encourages the Irish authorities to increase the number of places available on the project.**

49. By contrast, at **Cloverhill Prison**, a mere 87 prisoners (out of 417) were being offered work, mostly cleaning duties; certain of the 16 inmates employed in the kitchen were receiving training leading to an officially recognised qualification. At the time of the visit, no other organised activities were being offered to inmates, although the delegation was informed of plans to build facilities for educational activities. The majority of prisoners at Cloverhill spent their time talking to other inmates or playing games (snooker, etc.), and reading or watching television in their cells; in short, they were left to their own devices for weeks and on occasion for months on end.

50. The CPT welcomes the efforts being made by the Irish authorities to develop the programmes of activities for prisoners. However, with the exception of the Dóchas Centre, a significant number of prisoners in all the establishments visited were still not being offered a regime worthy of the name; the regime provided at Cloverhill Prison was particularly underdeveloped.

It should be stressed that the provision of appropriate work to sentenced prisoners is a fundamental part of a constructive regime capable of having a rehabilitative effect. Further, in the interest of their psychological well-being, remand prisoners should as far as possible also be offered work.

The CPT recommends that efforts to develop the programmes of activities for prisoners be redoubled. As already indicated in the report on the 1998 visit (cf. CPT/Inf (99) 15, paragraph 62), **the aim should be to ensure that all prisoners, whether on remand or sentenced, spend 8 hours or more outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).**

4. Health-care services

a. introduction

51. A prison health-care service should be able to provide nursing care and medical and psychiatric treatment, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community.

52. During its previous visits, the CPT observed important shortcomings as regards the health-care services of the prisons visited (cf. CPT/Inf (95) 14, paragraphs 114 to 136, and CPT/Inf (99) 15, paragraphs 64 to 77). The delegation which carried out the 2002 visit found improvements in certain areas (e.g. an increased number of prison doctors, recruitment of qualified nurses, medical screening of all prisoners on arrival, access to drug substitution treatment). However, further action is required in order to meet the objective of equivalence of care.

In this connection, the CPT has taken note of the comprehensive report drawn up by the group established by the Minister for Justice, Equality and Law Reform in November 1999 to review the structure and organisation of prison health-care services. It sets out a large number of specific recommendations for further improving prison health-care services. **The Committee would like to be informed of the authorities' intentions with respect to implementation of the group's recommendations, as well as the timeframe therefor.**

b. medical examination on admission, and confidentiality

53. The CPT is pleased to note that prisoners were being medically examined promptly upon arrival in all of the establishments visited.

54. Medical confidentiality should be respected in prison in the same way as in the outside community. This requirement was being complied with in the prisons visited in respect of medical files and records. However, at Cork and Mountjoy Prisons, complaints were heard to the effect that medical consultations took place in the presence of prison officers.

The CPT recommends that steps be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

c. somatic care

55. In 1993 and 1998, the CPT found that staffing levels in the health-care services of the prisons visited left something to be desired in terms of both doctors and qualified nurses. The Irish authorities recognised these shortcomings and informed the CPT of measures being taken to remedy them (cf. inter alia CPT/Inf (99) 15, paragraphs 64 to 66, and CPT/Inf (99) 16, page 65).

56. As regards the prisons visited in 2002, at the **Dóchas Centre** there was one doctor working half-time, and a prison officer was working as a medical orderly. Such a staffing level is not sufficient; an establishment holding almost one hundred female prisoners should have at least a full-time qualified nurse in addition to the existing staff complement.

At **Cloverhill Prison**, there was the equivalent of 1.7 full-time general practitioners and 14 full-time qualified nurses; one nursing post was vacant. This staffing level is in principle adequate for the establishment.

The CPT's recommendation to increase doctors' presence at **Mountjoy Prison for Men** to at least the equivalent of one full-time doctor had not yet been implemented. At the time of the visit, two general practitioners provided the equivalent of 0.5 full-time doctor. This is not sufficient for over 400 prisoners. As regards nursing staff - three nurses and 25 medical orderlies - this can be considered as adequate.

At **Cork Prison**, a general practitioner visited most weekdays. However, the delegation found that the doctor spent very little time within the establishment's premises (an average of approximately five hours per week over the two months prior to the visit). Further, there were eight medical orderlies but no qualified nurses (cf. CPT/Inf (95) 14, paragraph 120). Such health-care resources are not sufficient to provide adequate health care to 276 prisoners. It is noteworthy in this connection that many inmates at Cork Prison made complaints about access to, and the quality of, health care.

All establishments had access to external specialist treatment and, at the Dóchas Centre, also to ante- and post- natal care.

57. The increase in the number of prison doctors and the shift towards employing more qualified nurses in prison are to be welcomed. However, **the CPT must reiterate its recommendation that Mountjoy Prison for Men benefit from the equivalent of a full-time doctor.** Further, **urgent action is needed to significantly increase the presence of the doctor in Cork Prison.**

The CPT also recommends that at least one full-time qualified nurse be assigned to the Dóchas Centre and that the health-care team at Cork Prison be reinforced by qualified nursing staff.

58. As had been the case at the time of previous visits, health-care facilities were on the whole found to be satisfactory. However, **at Mountjoy they were rather cramped and their state of cleanliness left something to be desired.**

59. Complaints were heard in all of the establishments visited about significant delays in access to dental care. More particularly, at Cloverhill, such complaints were supported by nursing staff who indicated that they frequently had to give painkillers to inmates awaiting treatment for dental problems; the presence of a dentist for three half-days per week was clearly insufficient. **The CPT recommends that the authorities take steps to reinforce dental-care services in Irish prisons.**

60. The task of the health-care service in any place of detention should not be limited to treating sick patients; it should also be entrusted with responsibility for preventive medicine. It is widely recognised that persons deprived of their liberty have a tendency to engage in risk-taking behaviour, especially with respect to drugs (including alcohol) and sex. In consequence, the provision of health education relevant to persons deprived of their liberty is an important element of a preventive health care programme. Such a programme should, in particular, include the provision of information about the risks of drug abuse and about transmissible diseases.

Information leaflets on general health issues (including drug misuse) were available to inmates (and staff) at Cloverhill; **the CPT recommends that this practice be extended to other prisons.**

d. psychiatric care

61. Reference has already been made to the lengthy delays in securing places for mentally ill prisoners at suitable establishments (in practice at the Central Mental Hospital) and to the Irish authorities' commitment to resolve this situation (cf. paragraphs 38 and 39).

62. As regards in-house psychiatric and psychological care, the delegation observed an increase in psychiatrists' input at Mountjoy Prison for Men in line with the CPT's recommendations (cf. CPT/Inf (99) 15, paragraph 74). At the time of the 2002 visit, the establishment was visited daily by psychiatrists from the Central Mental Hospital. A similar arrangement provided sufficient in-house psychiatric care at the Dóchas Centre and at Cloverhill Prison (which were visited by a psychiatrist two and three times per week, respectively). However, **the presence of a qualified psychiatric nurse during the day in the medical unit (D2) at Cloverhill would be desirable.**

At Cork, a psychiatrist visited the prison three times per week and could be called at other times if needed. Two medical orderlies had received psychiatric training. In the same way as in respect of the general practitioner, the delegation's doctors gained the impression that the psychiatrist's attendance was not sufficient to meet the demands of the prison's population, especially given the particular difficulty of securing the admission of prisoners from Cork to the Central Mental Hospital. Further, qualified psychiatric nurses could usefully be employed at the establishment.

The CPT recommends that the psychiatric services in Cork Prison be strengthened, in the light of the above remarks.

63. It might be added that, in all of the establishments visited, psychological support was very limited, and at Cloverhill non-existent. Such a situation will inevitably strain the prison's in-house psychiatric services. **The CPT recommends that the psychological services of the prisons visited be developed.**

e. the role of prison health-care services in the prevention of ill-treatment

64. Prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, when appropriate, the provision of general information to the relevant authorities.

The information gathered during the 2002 visit to Ireland indicates that the records made by prison doctors of injuries displayed by prisoners, including at the time of their admission to prison, were often imprecise; further, the statements of the prisoners concerned were very seldom noted down.

65. In this connection, the CPT considers that the record drawn up following a medical examination of a newly admitted prisoner should contain:

- i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
- ii) an account of objective medical findings based on a thorough examination, and
- iii) the doctor's conclusions in the light of i) and ii).

The CPT recommends that steps be taken to ensure that practice in Ireland is brought into line with the above considerations. Further, the result of the medical examination referred to above should be made available to the prisoner concerned. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

f. health policy regarding drug abuse

66. The presence in prisons of many inmates with drug-related problems gives rise to particular difficulties for prison authorities, including as regards the choice of appropriate medical and psychological services to be offered. The CPT considers that such services should be varied, combining medical detoxification, psychological support, life skills, and rehabilitation and substitution programmes for opiate-dependent patients who cannot discontinue taking drugs. Further, they should be associated with a prevention policy.

It is also important to provide staff (prison officers of all grades, as well as other staff, e.g. teachers, health assistants) with information and training concerning drug dependence and drug misuse.

67. The recent introduction of methadone substitution programmes in five prisons (including Cloverhill and Mountjoy) is a positive development. In Cloverhill and Mountjoy Prisons, about a third of the inmates were being treated with methadone; at the latter establishment, a general practitioner responsible for a local drug clinic attended the prison once a week. Prisoners receiving substitution treatment were also offered the possibility to follow a 21-day detoxification programme.

However, the information gathered during the visit shows that much remains to be done on other fronts. In particular, substitution programmes were not accompanied by adequate medical care/supervision, and inmates with drug problems were not being offered psychological support or other counselling. Further, none of the establishments visited had in place preventive measures (e.g. provision of bleach and information about how to sterilise needles) (cf. also CPT/Inf (99) 15, paragraph 82).

68. The CPT recommends the development and implementation of a comprehensive policy for the provision of care to prisoners with drug-related problems. It also recommends that, in the context of implementing such a policy, substitution treatment be introduced at the earliest opportunity in the prisons not currently providing it.

5. Other issues

a. immigration detainees

69. A number of immigration detainees were being held in prison, primarily at Cloverhill. Sometimes the detention period could extend to several weeks.

In the CPT's opinion, a prison is by definition not a suitable place in which to detain someone who is neither convicted nor suspected 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 noted the information provided by the Irish authorities concerning immigration detainees. However, the question of the material conditions and regime to be offered to persons detained for extended periods (e.g. several weeks) under aliens legislation has not been addressed.

The Committee recommends that the current arrangements for accommodating immigration detainees be reviewed, in the light of the foregoing remarks.

b. disciplinary procedures

70. In previous visit reports, the CPT made a number of recommendations regarding the procedural safeguards to be offered to prisoners during disciplinary proceedings (cf. CPT/Inf (95) 14, paragraph 148 and CPT/Inf (99) 15, paragraph 81). While at the time of the 2002 visit the situation was still unchanged, the delegation was informed that the new Prison Rules currently under preparation (cf. paragraph 26) would provide an up-to-date legal framework for disciplinary matters. **The CPT recommends that, having regard to its previously-made recommendations, the disciplinary system be developed without further delay.**

71. Segregation for disciplinary reasons was not being applied at Cloverhill Prison or Mountjoy Prisons (including the Dóchas Centre). On the other hand, the continued application of Article 69 (1) (d) of the 1947 Prison Rules (suspension of any of a prisoner's privileges for a period not exceeding two months) is a cause for concern. The delegation found that this type of punishment was still widely used in its harshest form: suspension of all privileges, in practice amounting to a placement in solitary confinement, for the maximum period. As had been the case in 1993, such prisoners were held in D Block at Cork Prison. The registers for 2002 showed that approximately half of the prisoners placed in that block were from Cork Prison itself, the others having been transferred from other prisons in Ireland.

The CPT understands that the new Prison Rules will not contain a provision equivalent to Article 69 (1) (d) of the 1947 Prison Rules. **The Committee recommends that, pending the adoption of the new Prison Rules, the above-mentioned provision cease to be applied.**

72. The delegation found that some improvements had been made to the material conditions of the cells in D Block at Cork Prison (now equipped with chair, table, bed and in-cell sanitation), in line with the CPT's recommendations (cf. CPT/Inf (95) 14, paragraph 153). However, access to natural light in the ground floor cells remained very poor. **The CPT recommends that this shortcoming be remedied.**

c. complaints and inspection procedures

73. The complaints procedures described in previous visit reports (cf. CPT/Inf (95) 14, paragraphs 156 and 157, and CPT/Inf (99) 15, paragraphs 77 to 79) remain basically unchanged. As already indicated, prisoners appeared to have very little confidence in the complaints system; the CPT has made clear in this connection that complaints procedures should offer appropriate guarantees of independence and impartiality (cf. paragraph 36). The Committee understands that such procedures will be reviewed, including as regards the role and powers of visiting committees, in the context of the adoption of new Prison Rules.

74. It might be added that the delegation heard some complaints that prisoners' correspondence with outside bodies and, at Cork and Cloverhill Prisons, with their lawyers (cf. also CPT/Inf (95) 14, paragraph 163) was subject to control by prison staff and that, as a consequence, prisoners had misgivings about addressing their grievances to such bodies. In this respect, the CPT has also noted that, despite instructions given to the effect that prisoners may communicate on a confidential basis with the CPT (cf. CPT/Inf (99) 15, paragraph 77), the Committee continues to receive prisoners' correspondence bearing the stamp "censored". Further, the CPT is concerned about complaints from prisoners who claim that they have written to the Committee but whose letters have not reached it. **The CPT would like to receive the Irish authorities' comments on these issues.**

75. As regards inspection procedures, the CPT wishes to emphasize once again the importance of regular visits to prison establishments by an independent body with authority to receive - and, if necessary, take action on - prisoners' complaints and to inspect the establishment's premises. In this context, the CPT welcomes the recent appointment of an Inspector of Prisons and Places of Detention. However, at the time of the visit, that authority had neither a statutory framework nor the resources needed to carry out inspectorate functions in a meaningful manner. The CPT was subsequently informed that the Inspector has been provided with office space and three support staff.

The CPT recommends that steps be taken to ensure that the Inspector is placed in a position to fulfil his functions in the most effective and independent manner.

d. contact with the outside world

76. The arrangements allowing prisoners to maintain contact with the outside world were examined in the report on the CPT's 1993 visit to Ireland (cf. CPT/Inf (95) 14, paragraphs 158 to 165). The most noteworthy development since then has been the introduction of telephones into detention facilities; at present, each prisoner is entitled to a six-minute call per day. This is a very welcome step.

77. At **Cloverhill Prison** and the **Dóchas Centre**, the visiting facilities were satisfactory; the latter in particular included a well-designed family-friendly visiting area and some prisoners were allowed to receive visitors in their cells.

Following the 1993 visit, the CPT recommended that the facilities at **Mountjoy Prison for Men** be substantially improved and, in 1998, it was informed that existing temporary visiting facilities would be replaced with a modern purpose-designed unit (cf. CPT/Inf (95) 14, paragraph 159-160, and CPT/Inf (99) 15, paragraph 51). **The Committee would like to receive information on the current situation in this respect.**

At **Cork Prison**, visiting arrangements remained unsatisfactory (cf. CPT/Inf (95) 15, paragraph 159). In particular, the visiting facilities offered no privacy and became very noisy when several prisoners received visits at the same time. In short, prisoners and their visitors are not yet able to meet under conditions conducive to the maintenance of positive relationships. **The CPT reiterates its recommendation that conditions in the visiting facilities at Cork Prison be improved.**

C. **Mental health establishments**

1. **Central Mental Hospital**

a. preliminary remarks

78. The delegation carried out a follow-up visit to the Central Mental Hospital, Dundrum, the only forensic psychiatric hospital in Ireland. The hospital's main features and organisation, as well as the rules governing the admission of patients, were described in the report on the CPT's 1998 visit (cf. CPT/Inf (99) 15, paragraphs 94 et seq.).

At the time of the 2002 visit, the 84-bed hospital was caring for 77 patients (72 men and 5 women): 58 had been admitted through the criminal justice system (31 remand and sentenced prisoners, 22 guilty but insane, and 5 unfit to plead), and 19 were civil patients (7 persons detained in a psychiatric hospital who had committed an indictable offence, and 12 referred from other mental institutions for treatment).

79. The CPT has noted with interest that new legislation has been enacted, in particular the Mental Health Act 2001. **The CPT would like to receive confirmation that an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment, including the Central Mental Hospital, is now provided for by legislation** (cf. CPT/Inf (99) 15, paragraph 118).

b. ill-treatment

80. The delegation received no allegations of ill-treatment from the patients it met with during the visit to the Central Mental Hospital. However, the hospital's management indicated that there were ongoing investigations, including by the police, into recent allegations of sexual abuse of female patients by a male care staff member and by a nurse, and into the death of a patient while being restrained by staff in 2001. The Irish authorities subsequently informed the Committee that, in one of the cases of alleged sexual abuse, the police had referred the matter to the Director of Public Prosecutions who had decided not to bring charges; an administrative inquiry was still underway.

These matters underline the importance of staff entrusted with the care of mentally ill patients being carefully selected and possessing appropriate qualifications and training. Further, they also highlight the need, in the interests of the prevention of ill-treatment, for adequate supervision of staff.

The CPT would like to be informed in due course of the results of the investigations referred to above.

81. In relation to the first allegations referred to in paragraph 80, one of the two staff members concerned apparently claimed that sexual contact had been consensual. In this connection, **the CPT wishes to make clear that, given the inherent vulnerability of persons deprived of their liberty, there is no scope for consent in sexual contact between staff and inmates; this is no less true where mental patients are concerned. Such conduct on the part of staff should always be regarded as an abuse of their authority.**

82. As regards the second investigation referred to in paragraph 80, in any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. However, this is an area of special concern to the CPT, given the potential for abuse and ill-treatment.

All unit-based staff at the Central Mental Hospital had received training in modern control and restraint techniques and had been instructed that use of those techniques in managing violent and unco-operative patients should be a measure of last resort. The CPT welcomes this state of affairs. **The Committee would like to receive information on any additional measures taken as regards procedures for the restraint of patients, in the light of the result of the above-mentioned investigation.**

c. living conditions

83. As indicated in the report on the CPT's 1998 visit (cf. CPT/Inf (99) 15, paragraphs 103), the aim in any psychiatric establishment should be to offer material conditions which are conducive to the treatment and welfare of patients. This involves providing sufficient living space per patient as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements.

84. Conditions offered to patients accommodated in the more modern units at the Central Mental Hospital remained very good (cf. CPT/Inf (99) 15, paragraph 101), and some redecoration and refurbishment work had been carried out in the other units (i.e. in the main building).

However, in the last-mentioned units, the rooms had only limited access to natural light (e.g., windows were covered on the inside by shutters, apparently to prevent self-harm) and the furniture (bed, locker, television) did not include chairs. Further, they had not been equipped with integral sanitation and, at night, patients were required to use disposable chamber pots. The sanitary facilities used by patients during the day were very run down and offered little privacy. More generally, at the time of the visit, the hospital as a whole was poorly heated.¹⁰

¹⁰ Cf. also the report of the Inspector of Mental Hospitals on his December 2001 inspection of the Central Mental Hospital, in which he confirmed conclusions drawn following previous inspections and stated that "most of the old building was quite unsatisfactory for its current purpose and conditions in some parts were most unsatisfactory".

85. In short, the requirements set out in paragraph 83 above are not fully met in the Central Mental Hospital's main building. In this connection, a Review Committee for the hospital, set up in December 2000 by the East Coast Area Health Board, recommended the complete renovation of that building and the construction of a new accommodation wing. **The CPT recommends that favourable consideration be given to the Review Committee's proposal** (cf. also CPT/Inf (99) 15, paragraph 104).

Certain measures can - and should - be taken to improve patients' living conditions without waiting for the complete renovation of the hospital's main building: e.g., rooms can be furnished with chairs; the shutters covering windows can be removed, and, if necessary, windowpanes replaced by other transparent material; sanitary facilities can be upgraded; and patients' access to a lavatory at night can be improved. **The CPT recommends that action be taken accordingly.** Further, **consideration should be given to installing a call system in patients' rooms.**

d. staff resources and treatment

86. Since the previous visit, the number of consultant psychiatrists had been increased to five (from two in 1998), and there were also nine junior doctors. Further, in line with the CPT's recommendation (cf. CPT/Inf (99) 15, paragraph 98), the deployment of qualified nurses had continued; the delegation was informed that departing care staff were systematically replaced by fully qualified nurses.

However, due to recruitment difficulties, five psychologist, five occupational therapist and 25 nursing posts were vacant, as were four social worker posts. Further, working relations between nurses and care staff apparently remained somewhat strained. In an attempt to iron out difficulties, nursing and care staff had been entrusted with the supervision of alternate shifts; this situation could have a negative effect on the care provided to patients.

The CPT recommends that the Irish authorities pursue their efforts to resolve staff-related problems at the Central Mental Hospital and to fill all vacant posts.

87. During the 1998 visit, the CPT's delegation found no evidence of over-medication and noted the existence of individual care plans for patients. It also observed that there were good facilities for therapeutic activities for patients, and it welcomed plans to develop further such activities (cf. CPT/Inf (99) 15, paragraph 99).

The 2002 visit confirmed most of those positive findings. However, it also revealed that the plans to develop therapeutic activities for patients had not yet matured, apparently due to a lack of staff (cf. paragraph 86). Indeed, the number of patients who could attend occupational therapy and benefit from other programmes was limited, and the delegation observed that many patients spent their day unoccupied in the common rooms. A patient survey carried out in June 2001 indicated that many patients resented this state of enforced idleness¹¹.

¹¹ Cf. points 4, 5, and 11 of the survey "Experience of care and need for change".

The CPT recommends that further efforts be made to provide a larger number of patients with a structured daily programme of therapeutic and rehabilitative activities, based on their individual needs and capacities.

88. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of persons to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without their consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

However, psychiatrists met during the visit to the Central Mental Hospital stated that they did not need to seek patients' consent to treatment, arguing that their admission to the hospital amounted in itself to an authorisation for involuntary treatment. **The CPT would like to receive clarification from the Irish authorities on this point.**

e. seclusion

89. The CPT has already welcomed the comprehensive seclusion policy in place at the Central Mental Hospital (cf. CPT/Inf (99) 15, paragraph 105); seclusion is regarded as a medical intervention of last resort which must be authorised or confirmed by a doctor and adequately recorded. In most cases, these requirements were being complied with.

However, the CPT shares the hospital management's concern about the situation of one patient prone to aggression and self-harm. The patient had been secluded in the padded cell for some considerable time over the four months prior to the CPT's visit. The psychiatrists responsible for her treatment recognised that seclusion in a padded cell had not improved significantly her condition and stated that, in their opinion, it was no way to manage her conduct in the longer term; however, they were at a loss as to an alternative solution. **The CPT can only encourage the Irish authorities to continue exploring other means of managing such situations.**

90. The delegation observed that, on occasion, seclusion registers did not contain clear information about the reasons for the measure. Further, on one occasion the reason noted for a placement in the padded cell was "inadequate staffing [...] making it difficult to maintain a safe environment".

The CPT recommends that steps be taken to ensure that seclusion at the Central Mental Hospital is always properly recorded and only has to be resorted to because of medical considerations.

91. The delegation observed some improvement in the seclusion rooms which had been criticised following the 1998 visit (cf. CPT/Inf (99) 15, paragraph 106); the rooms and corridor had been painted in warm colours and mattresses were being provided to patients held in them. However, the rooms were rather small (5.8 m²) and bare, and continued to be carceral in appearance. Further, the padded cell in Unit 4, which the CPT had recommended be taken out of service, was still in use, unchanged.

The CPT reiterates its recommendations that the seclusion facilities in Unit 1 of the Central Mental Hospital be upgraded and that the padded cell in Unit 4 be taken out of service.

2. Establishments for mentally disabled persons

a. preliminary remarks

92. Persons with mental disabilities have, in the past, been held in psychiatric institutions in Ireland. In more recent times, such persons have been transferred to distinct facilities, or the psychiatric hospitals' units accommodating them have been re-designated as non-psychiatric units.

The CPT also understands that efforts are being made to relocate more autonomous persons with mental disabilities to community-based facilities; this process is expected to be completed by 2006. The Committee can only encourage these measures; **it would like to receive further information on this subject.**

93. The CPT's delegation visited three establishments for mentally disabled persons: Grove House Intellectual Disability Service in Cork, St Joseph's Intellectual Disability Service in Portrane and St Raphael's Centre in Youghal.

Grove House occupies a former residence for nurses on the grounds of St Mary's Orthopaedic Hospital in Cork. It has 32 beds and, at the time of the visit, was caring for 16 men and 14 women.

St Joseph's is located within the compound of St Ita's Hospital in Portrane, in an attractive seaside setting on Dublin Bay. In addition to its 19th century listed main building, it includes several separate buildings used for accommodation. At the time of the visit, it was caring for 146 men and 90 women.

St Raphael's is situated in extensive grounds on the coast in Youghal. It occupies an 18th century former workhouse as well as several separate buildings. At the time of the visit, it was caring for 103 men and 73 women, including 18 persons in community-based accommodation. Funding has been provided for the development of a new purpose-built 30-bed unit.

Residents' ages in the establishments visited ranged from 19 to 80 or older. Many of them had been in institutional care for several decades (e.g. at St Raphael's, 7 residents had been in the institution for more than 50 years).

94. The CPT wishes to stress at the outset that the delegation heard no allegations, and gathered no other evidence, of ill-treatment of residents by staff in the establishments for mentally disabled persons visited. The attitude of the staff working in close contact with residents was found to be professional and caring, and staff spoke with sensitivity about their work.

The CPT is nonetheless concerned by the current absence of a clear legal or administrative framework for involuntary admission to establishments for mentally disabled persons. Despite often being severely mentally disabled, residents are generally regarded as voluntary admissions. Persons are apparently admitted to such facilities by decision of a general practitioner or upon referral from another mental health establishment and it appears that there are no avenues to appeal against such placements.

In the establishments visited, there was little or no trace of the decision-making process concerning each resident. Residents were examined by a psychiatrist shortly after admission, but there were no formal review procedures as to the need for placement to continue, nor any supervision by an independent (e.g. judicial) authority¹².

In this connection, the CPT has noted that it is intended to develop national standards for residential services for persons with disabilities. While welcoming this initiative, **the Committee recommends that the legal situation of persons placed in mental disability facilities be reviewed as a matter of urgency and that action be taken with a view to providing a comprehensive legal framework for such institutions, offering an adequate range of safeguards to persons placed in them.**

b. living conditions

95. Residents at **Grove House** were accommodated in single and double rooms, furnished with beds, a cupboard or chest of drawers, and a sink. The rooms remained open at night but were locked during the day. There were two large day rooms, each including a dining area. The premises were in a satisfactory state of repair, but communal areas were rather impersonal and unwelcoming in appearance. The state of cleanliness also left something to be desired.

The CPT invites the Irish authorities to remedy the shortcomings referred to above. Further, the Committee wishes to stress the importance of allowing patients, in appropriate cases, to have access to their own rooms during the day.

96. At **St Joseph's**, the detached buildings (hostels and bungalows) provided a comfortable and homely environment, and residents enjoyed a comparatively high degree of autonomy. Other accommodation consisted mostly of dormitories for 5 to 20 residents, as well as some single rooms. Efforts had been made to provide some privacy in the dormitories by creating partitions with the residents' cupboards and with curtains, and the rooms were clean and in a good state of repair. The communal areas were of a good standard.

¹²

Given that it had not yet been formally re-designated as a non-psychiatric unit, St Joseph's could apparently still be subject to scrutiny by the Inspector of Mental Hospitals.

97. The separate buildings (hostels) at **St Raphael's** also provided good living conditions for some residents. However, most residents were accommodated in the main building in 18 to 24 - bed dormitories. Furnished only with beds and a few cupboards, these dormitories were impersonal in appearance and offered no privacy, and they were not large enough for their occupancy levels; **the Irish authorities are invited to remedy these shortcomings.**

On a more positive note, the communal rooms, including a spacious and attractive dining hall, were in a satisfactory state of repair and cleanliness.

It should be added that St Raphael's main building had no lifts and the staircases were steep and narrow, making it difficult - and dangerous - for some of the residents to reach the upper floor.

98. In all three establishments, sanitary facilities were adequate, including special equipment for persons with limited mobility; residents had ready access to them at all times.

99. The CPT wishes to acknowledge the efforts being made, particularly at St Joseph's and St Raphael's, to provide a decent living environment to residents. However, it will be well-nigh impossible to offer satisfactory conditions in facilities which have not been purpose-built or adequately renovated to modern standards. Further, large-capacity dormitories are far from ideal for mentally disabled (or mentally ill) persons. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring residents' dignity, and also a key element of any policy for their psychological and social rehabilitation. Structures of this type also facilitate the classification of residents to relevant categories for therapeutic purposes.

The CPT recommends that these considerations be borne in mind when formulating future policies concerning mental disability services, and that large dormitories be gradually replaced by smaller units.

c. staff resources and level of care

100. Staff in establishments for mentally disabled persons should be adequate in terms of numbers, categories (psychiatrists, general practitioners, nurses, psychologists, occupational therapists, etc.), and experience and training. Deficiencies in staff resources will often seriously undermine efforts to offer activities or provide satisfactory care.

101. A psychiatrist attended **Grove House** once a week and could be called at other times; further, a general practitioner also visited the establishment when necessary. However, there was no psychologist and the total complement of 27 nurses and 2 auxiliary staff was barely sufficient to meet residents' needs. As for the post of occupational therapist, it had been vacant for three years.

At **St Joseph's**, there were four full-time psychiatrists, which is in principle sufficient for an establishment of its characteristics and capacity. However, once again, there were no psychologists. Further, although a general practitioner visited the establishment on a daily basis, it appeared that his presence was not sufficient to provide adequate somatic care to the residents. Moreover, although the official nursing (310) and auxiliary staff (246.5) complement appeared to be sufficient, at the time of the visit 55 nursing posts and 21 auxiliary staff posts were vacant, as was that of occupational therapist.

The presence of psychiatrists at **St Raphael's** (up to four half-days per week) was manifestly insufficient for the number and the profile of the residents involved. That said, unlike the other establishments visited, there was a part-time psychologist. The general practitioner post was being advertised at the time of the visit and, in the interim, there was an on-call medical service; given the number of residents, a general practitioner should visit the establishment on a daily basis. The overall number of nurses appeared to be satisfactory; however, night-time cover (e.g. in some units only one nurse and one care staff member) was low, in particular in units accommodating very demanding residents. As was the case for the other two establishments visited, St Raphael's post of occupational therapist was vacant.

102. As regards activities, **Grove House** had a well-equipped building for music and other therapeutic activities. Residents also participated in cleaning, cooking and other domestic duties. The CPT welcomes the fact that all residents had direct access to the garden during the day, and that they were also offered some organised leisure and sports activities.

Residents at **St Joseph's** could participate in a number of therapeutic activities, as well as educational activities (e.g. computer and domestic skills, cookery, Montessori teaching). There was an industrial workshop providing work to the more able residents, and residents could participate in organised outings and sports activities.

At **St Raphael's**, residents were offered various therapeutic activities, including music therapy, as well as outings and other organised leisure activities. Further, work (removing wool from spinners, assembling glue sets) was provided in a large building to residents able to participate; during the delegation's visit on a weekday morning the place was a veritable hive of activity. However, not all residents had access to the outdoor facilities on a daily basis, apparently because of their reduced mobility.

103. To sum up, staff in the three establishments were striving to provide the best care possible to the residents in their charge. However, their efforts were, to some extent, being undermined by staff shortages. This was the case, for example, as regards occupational therapy; there was also a need for speech therapy and physiotherapy (particularly for residents with limited mobility and for the more elderly residents). Physically disabled residents should also, to the extent possible, be provided with appropriate assistance so that they can benefit from access to outdoor facilities.

The Irish authorities have acknowledged these problems, due, in part, to shortages in certain professional categories in the labour market. The CPT has been informed that this matter is being addressed in co-operation with the Department of Education and Science and the Higher Education Authority.

The psychology services at the three establishments were particularly underdeveloped. At Grove House and St Raphael's, residents had not, or not recently, been psychologically evaluated. Further, it appeared that, in the absence of appropriate testing, some residents were assumed to be suffering from learning disabilities; the delegation's psychiatrists were concerned to find a person who appeared to have been wrongly categorised in this respect. Such a state of affairs is even more disquieting given the (informal) admission procedures in operation and the apparent absence of basic safeguards (cf. paragraph 94).

Further, there was also a high prevalence of psychiatric illness in the establishments visited and the majority of residents were being treated with psychoactive medication; certain residents would benefit from enhanced psychiatric services, on occasion extending to admission to an appropriate hospital/institution.

It should nevertheless be added that, in all three establishments, the delegation found no signs of overmedication, medical records were detailed, precise and easily readable, and medical confidentiality was being respected.

104. The CPT recommends that the Irish authorities review staffing levels in the three institutions visited, in the light of the above remarks.

Further, it recommends that an individualised assessment of residents in establishments for mentally disabled persons be carried out, with a view to ensuring that they receive the treatment they require or are transferred to a more appropriate establishment.

d. seclusion and physical restraint

105. At the time of the visit, the only seclusion room at Grove House was being used as a soft play room. Comprehensive seclusion policies were in place at St Joseph's and St Raphael's. At St Joseph's, seclusion in two padded rooms for up to 45 minutes at a time was used to help residents calm down; the two soft seclusion rooms at St Raphael's were also used occasionally, for short periods of time. Staff stressed that such measures were used as a last resort; this was borne out by the carefully kept registers.

Soft restraints (ribbons) were on occasion used at St Raphael's and, at St Joseph's, one resident was regularly restrained in a soft straitjacket for 10 to 15 minutes at a time to prevent self-injury; all such episodes were authorised by a doctor and carefully noted.

In short, the information gathered by the delegation does not give rise to concern as regards the use of seclusion and means of physical restraint in the three establishments visited.

D. Detention centres for children

1. Preliminary remarks

106. Under the Children Act 2001, which is being phased in, children aged 12 or over are criminally responsible. Nonetheless, the Act lays down the principle that a custodial sentence for children should be a measure of last resort. It also divides responsibility for children deprived of their liberty between the Department of Education and Science (children up to 16 years of age detained in the context of criminal proceedings), the Department of Justice, Equality and Law Reform (those aged 16 and over), and the Department of Health and Children (measures falling outside the criminal justice system).

At present, children aged 12 to 17 who have been convicted of an offence punishable in the case of an adult by imprisonment may be committed to a reformatory school for two to four years; detention in such a facility may continue until the young person reaches the age of 19¹³.

107. The CPT's delegation received information to the effect that police cells are from time to time designated as places of detention for children, for want of places in specialised establishments. **The CPT would like to stress that, even if material conditions of detention are good, police cells are not appropriate places for holding children for an extended period of time.**

Further, the CPT has learnt that consideration is being given to creating a new prison unit for 14 and 15 year old children in St Patrick's Institution. Such an initiative would raise a number of issues. The CPT would like to stress that children deprived of their liberty because they are accused or convicted of criminal offences ought to be held in detention centres specifically designed for persons of their age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons; particular vigilance is required to ensure that the physical and mental well-being of detained children is adequately protected.

In this context, the CPT has noted that the opening of the above-mentioned unit is intended only as a short-term measure pending an increase in the availability of places in the Department of Education and Science's detention facilities. Moreover, the Minister for Education and Science indicated that the opening of a detention unit for children aged 14 to 15 at St Patrick's Institution would only be authorised if the Ministry of Education's standards for establishments for children were fully met. The CPT welcomes this approach and **would like to receive further information on this subject.**

108. The CPT's delegation visited **Trinity House School**, in Lusk, the only secure detention facility operated by the Ministry of Education and Science. It is meant to accommodate children for whom no alternative to custody or alternative form of detention are deemed appropriate. Trinity House School has a capacity of 27 and, at the time of the visit, was holding 26 boys aged 14 to 16.

¹³

Cf. Section 57(1) of the Children Act 1908, as amended by Section 9(1) of the Children Act 1941; Section 65(a) of the 1908 Act, as amended by Section 11(1) of the 1941 Act; and Articles 147, 149 and 155 of the Children Act 2001.

109. It should be noted at the outset that the CPT's delegation heard no allegations, and gathered no other evidence, of ill-treatment of children by staff at Trinity House School.

It might be added that staff appeared to be motivated and well equipped to work with children deprived of their liberty. They were expected to rely on communication rather than discipline in their dealings with children; staff treated children in a respectful manner, with the declared aim of preserving their dignity and sense of personal identity and enhancing individual self-control. The CPT welcomes this state of affairs.

2. Material conditions

110. Places where children may be deprived of their liberty should provide a positive and personalised environment. In addition to being of an adequate size, well lit and ventilated, children's sleeping and living areas should be properly furnished, well-decorated and offer appropriate visual stimuli. Unless there are compelling security reasons to the contrary, detained children should be allowed to keep a reasonable quantity of personal items.

111. The above-mentioned requirements were being met at Trinity House School. Children were accommodated in good-sized, personalised single rooms grouped in units (one for new arrivals, two for longer term placements and a semi-open unit). The rooms had good access to natural light and ventilation, and were adequately furnished; however, **it would be preferable to replace the present masonry plinths with proper beds.** Each unit had a homely and comfortable television/sitting room, a dining room, a kitchen, a "quiet room" and sanitary facilities. All premises were clean and in a good state of repair.

3. Regime

112. Children have a particular need for physical activity and intellectual stimulation. Those deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

113. Trinity House School offered developed and individualised programmes of activities to children (each of whom had a key worker or contact person), the objective being to assist them in making up for any delay they might have experienced in their basic education. All boys were required to attend classes (which included literacy/numeracy, woodwork, metalwork, art, cookery, physical education, horticulture and computing) in small groups during normal school hours. Sports and other facilities (gym, computer room, library, leisure facilities) were of a high standard. Other activities included drug awareness and offending behaviour programmes and sex education.

114. An incentive scheme was in place rewarding children (e.g. with extra pocket money, more activities, access to the quiet room) for good behaviour; they were assessed daily, inter alia, on the state of their room and personal hygiene, verbal and physical attitudes and problem solving. The delegation was informed that the establishment's management intended to develop this scheme further. **The CPT would like to receive further information on this subject.**

115. The delegation was told that a child could not be separated from the other children as punishment. So-called "protection" (padded) rooms were used to hold children who became seriously disruptive, generally for a short spell, while staff attempted to assist them in regaining self-control. Staff were required to keep detailed written records of use of the padded rooms. The information gathered during the visit confirmed that those rooms were mostly used for brief periods (e.g. up to 30 minutes) and seldom for long periods; between January and May 2002, the maximum time spent by a boy in a padded room had been 12 hours.

According to the stated policy of the management of Trinity House, published in March 2001, it is intended to phase out the padded rooms in 2002; **the CPT would like to receive confirmation that this has been done.**

4. Health care

116. A general practitioner visited Trinity House School on a weekly basis, and was on call at other times, and there was a nurse who worked half-time. Further, a psychiatrist could be contacted when needed. Dental care was provided by community-based dentists. All new arrivals were promptly seen by the nurse and were examined by the general practitioner, usually within 24 hours. The medical files were well kept and medical confidentiality was respected.

117. The prevalence of behavioural and/or emotional problems tends to be high among detained children. It is therefore particularly important that the health-care team of a detention facility for young persons includes a psychologist working in close co-ordination with other health-care staff (doctors, nurses) and staff members (including teachers and social workers) who have regular contact with the children. The goal should be to ensure that the health care delivered to children deprived of their liberty forms part of a seamless web of support and therapy.

The CPT is therefore concerned to note that there was no psychologist attached to the health care team at Trinity House School; **it recommends that this be remedied.**

5. Contact with the outside world

118. At Trinity House School, considerable importance was attached to the maintenance of contact with the outside world. In particular, children were encouraged to correspond with, and make telephone calls to, their relatives, who could also visit them freely. In appropriate cases, visitors were offered practical assistance (e.g. accommodation, local transport).

The CPT welcomes this approach; indeed, the active promotion of such contacts can be very beneficial for children deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or a lack of social skills.

6. Complaints and inspection procedures

119. Effective complaints procedures are basic safeguards against ill-treatment in institutions where children are deprived of their liberty. Inmates in such institutions should have avenues of complaint open to them, both within the establishment's administrative system and to outside bodies, and be able to have confidential access to an appropriate authority.

At Trinity House School, new arrivals are provided with a comprehensive guide setting out in detail the rules of the establishment and explaining the ways to lodge complaints, and there is a child protection scheme laying down the procedures for dealing with complaints. Other avenues of complaint (e.g. the police) remain open to the children. Relevant information is also provided to the relatives of children committed to Trinity House School.

120. The CPT attaches particular importance to regular visits to all detention facilities for children by an independent body (for example, a visiting committee or a judge) with authority to receive - and, if necessary, take action on - children's complaints and to inspect the facilities.

The Ministry of Education and Science is putting in place a system of external inspection of reformatory schools and other places of detention for children under its authority, as foreseen in the Children Act 2001¹⁴. Draft standards and criteria for inspection have been drawn up and it is expected that an outside agency will be contracted to carry out the inspections¹⁵. The CPT welcomes these measures. **It would like to be kept informed of developments in this respect, and to receive copies of the draft standards and criteria for inspections.**

The CPT understands that it is also planned to establish an office of ombudsman for children entitled to visit detention facilities for children. **The CPT would like to receive further information on this subject, including clarification as to whether the ombudsman will also be empowered to inspect police stations, prisons or other establishments used from time to time to hold children deprived of their liberty.**

¹⁴ Cf. Articles 185 et seq. of the Children Act 2001.

¹⁵ Information provided by the Irish authorities prior to the 2002 visit.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

121. Many of the persons interviewed by the CPT's delegation about their experience while in police custody stated that they had been correctly treated by the police. However, a not inconsiderable number of persons complained of physical ill-treatment by police officers. Most of the allegations received concerned the time of arrest, including after the detained person had been brought under control, or during transport to a police station; some complaints related to ill-treatment in cells or detention areas in police stations. In certain cases the ill-treatment alleged was said to have been inflicted by officers trying to obtain information or secure a confession from the detained person.

The allegations involved in the main blows with batons, as well as kicks and punches to various parts of the body. On occasion, the ill-treatment alleged was of a severe nature. In some cases, the delegation's doctors gathered medical evidence consistent with the allegations received.

122. The information gathered highlights the need for the Irish authorities to intensify their efforts to prevent ill-treatment by the police. The CPT has recommended that the message that the ill-treatment of detained persons is not acceptable - and will be severely sanctioned - be vigorously recalled to police officers in an appropriate manner at regular intervals. The Committee has also called for police officers to be unequivocally reminded that no more force than is strictly 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.

Further, the CPT has recommended that the Irish authorities seek to integrate human rights concepts into practical professional training for high-risk situations, such as the arrest and interrogation of suspects.

123. As regards accountability mechanisms, the existing internal mechanism - the Garda Síochána Complaints Board - enjoys little public confidence and is failing to contribute to the prevention of ill-treatment. The CPT has encouraged the Irish authorities to continue to give a very high priority to establishing an inspection and complaints mechanism which is, and is seen to be, independent and impartial.

Several persons stated that they had tried unsuccessfully to complain about the manner in which they had been treated by the police to the judge before whom they had been brought; some persons claimed that they had displayed bruises on visible parts of their body, but that their injuries had met with no reaction from the judge (and other authorities present). In this regard, the CPT has made detailed recommendations concerning the action to be taken by the competent authorities present during such proceedings when there are indications that ill-treatment may have occurred.

124. Material conditions of detention in the police establishments visited were on the whole acceptable. Certain shortcomings observed in the cells at the Dublin Bridewell have already been remedied.

125. As had been the case during previous visits, the three fundamental safeguards against ill-treatment advocated by the CPT, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer and to have access to a doctor, in the main operated in a satisfactory manner.

The CPT has welcomed the fact that legal aid is now in principle available as from the outset of custody. However, the choice/appointment of solicitors for detained persons who do not have their own lawyer continues to be organised informally by the police. The information gathered indicates that further steps are required to ensure that detained persons who do not have their own lawyer feel that they can trust the solicitor proposed to them.

The CPT has also reiterated its opinion that the right of access to a lawyer should include the right to have the lawyer present during police interrogations. The introduction of audio-video recording of interviews, while a welcome step, does not obviate the need for this right. The CPT has invited the authorities to give further consideration to this issue.

The CPT has also recommended that steps be taken to ensure that the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, are recorded in writing by the doctor and made available to the detainee and his lawyer.

126. Existing legal provisions requiring police officers systematically to report and investigate the use of force vis-à-vis detained persons and to arrange for the medical examination of those who bear injuries were apparently not always complied with. The CPT has therefore recommended that police officers be formally reminded of their duties under Regulation 20, paragraphs 3 to 7, and Regulation 21, paragraph 1, of the 1987 Garda Síochána regulations concerning persons in custody.

B. Prisons

127. Many of the inmates interviewed by the delegation indicated that they had reasonably good and constructive relations with most of the prison staff. However, in all three prisons visited, the delegation heard complaints of ill-treatment of prisoners, mostly verbal abuse; in Dublin, the delegation also received some allegations of kicks, slaps and rough treatment.

The Irish authorities should reiterate at regular intervals the message that all forms of ill-treatment are unacceptable, and prison officers should be reminded that any force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary.

Senior management appeared determined to take appropriate action when allegations of ill-treatment came to their attention; however, in all of the establishments visited, prisoners seemed to have very little confidence in the complaints system. The CPT has stressed that complaints procedures should offer appropriate guarantees of independence and impartiality, and persons who may have been ill-treated should not be discouraged from pursuing a complaint.

128. At Cork and Mountjoy Prisons, and to a lesser extent at Cloverhill, prisoners in need of psychiatric care were frequently placed in unfurnished padded cells. In general, material conditions in these cells, including sanitary arrangements, were very poor. Persons in need of in-patient psychiatric treatment remained in a padded cell for days and, on occasion, for longer periods. In the CPT's opinion, such treatment could well be characterised as inhuman and degrading.

The Committee has welcomed the steps taken by the Irish authorities after the visit to bring this practice to an end and to ensure the rapid transfer of mentally ill prisoners to an establishment capable of offering them the treatment required by their condition.

129. In all of the establishments visited, the delegation heard accounts of inter-prisoner violence and/or bullying. The CPT has requested information on strategies developed with a view to addressing this problem in the Irish prison system.

130. Material conditions of detention at the Dóchas Centre were very good. However, at the time of the visit, the establishment was operating above its capacity; as a result, some women were being accommodated in the infirmary. Conditions at Cloverhill Prison were also good, but occupancy levels in some cells were too high. At Mountjoy and Cork Prisons, conditions remained unsatisfactory in various respects; in particular, the establishment at Cork was found to be overcrowded and in a poor state of repair. The CPT has recommended that occupancy levels in cells at Cloverhill and Cork be reduced in line with criteria identified by the Committee, that a decision be taken about the future of the Mountjoy complex at the earliest opportunity, and that Cork Prison be kept in an appropriate state of repair.

Slopping out continued to be a regular feature of the morning routine for prisoners in most parts of Cork and Mountjoy Prisons. The CPT has recommended that the Irish authorities vigorously pursue their efforts to provide prisoners with better access to proper sanitary facilities.

131. With the exception of the Dóchas Centre, a significant number of prisoners in all of the establishments visited were not being offered a regime worthy of the name; the regime provided at Cloverhill Prison was particularly underdeveloped. The CPT has recommended that efforts to develop the programmes of activities for prisoners be redoubled.

132. Improvements were noted as regards the provision of health care to prisoners. However, further action is required to meet the objective of equivalence of care. The CPT has made recommendations concerning medical confidentiality, health-care staff resources and access to dental care. It has also recommended the development and implementation of a comprehensive care policy for prisoners with drug-related problems. The role of prison health-care services in the prevention of ill-treatment has also been addressed.

133. Various other issues falling within the CPT's mandate have been raised in the report. The CPT has again recommended that the Irish authorities persevere in their efforts to adopt new Prison Rules at the earliest opportunity; pending the adoption of those rules, Article 69 (1) (d) of the 1947 Prison Rules (which, in practice, permits placement in solitary confinement for up to two months) should cease to be applied. The Committee has also called for the practice of accommodating immigration detainees in prison to be reviewed, and recommended that steps be taken to ensure that the recently appointed Inspector of Prisons and Places of Detention is placed in a position to fulfil his functions in the most effective and independent manner.

C. Mental health establishments

134. The delegation received no complaints of ill-treatment from patients at the **Central Mental Hospital**. Nevertheless, it was informed of ongoing investigations into allegations of sexual abuse of female patients by certain staff members, and into the death of a patient while being restrained.

In this connection, the CPT has made clear that there is no scope for consent in sexual contacts between staff and persons deprived of their liberty, including mental patients. It has also underlined the importance of staff entrusted with the care of mentally ill patients being carefully selected and possessing appropriate qualifications and training, as well as the need, in the interests of the prevention of ill-treatment, for adequate supervision of staff.

135. Living conditions for patients accommodated in the more modern units at the Central Mental Hospital remained very good, and some work had been carried out in the other units, i.e. in the main building. However, in the latter, living conditions still left a great deal to be desired, including as regards access to, and the state of, sanitary facilities. The CPT has recommended that favourable consideration be given to a proposal by the Review Committee for the Central Mental Hospital to completely renovate the main building and construct a new accommodation wing; it has also identified certain specific measures to be taken to improve patients' living conditions without waiting for the implementation of that proposal.

136. The CPT has welcomed action taken to reinforce the staff resources at the Central Mental Hospital, both as regards psychiatrists and nurses. Nonetheless, the Irish authorities should pursue their efforts to resolve staff-related problems and to fill vacant posts.

137. The CPT's delegation found no evidence of over-medication and noted the existence of individual care plans for patients. However, the plans to develop therapeutic activities for patients, which date back several years, have not yet matured; in 2002, the number of patients who could attend occupational therapy and benefit from other programmes continued to be limited. The CPT has recommended that further efforts be made to provide a larger number of patients with a structured daily programme of therapeutic and rehabilitative activities.

138. One patient had spent some considerable time in seclusion (i.e. in a padded cell) over the four months prior to the visit; however, it was recognised that this measure had not significantly improved the patient's condition. The CPT has encouraged the Irish authorities to continue exploring other means of managing patients who are prone to aggression and self-harm. The Committee has also reiterated its recommendations that the seclusion facilities in Unit 1 of the Central Mental Hospital be upgraded and that the padded cell in Unit 4 be taken out of service.

139. The CPT's delegation heard no allegations, and gathered no other evidence, of ill-treatment of residents by staff in the **establishments for mentally disabled persons** visited. The attitude of staff working in close contact with residents was found to be professional and caring, and they spoke with sensitivity about their work.

The Committee has nonetheless expressed concern about the absence of a clear legal or administrative framework for involuntary admission to establishments for mentally disabled persons. It has recommended that the legal situation of persons placed in mental disability facilities be reviewed as a matter of urgency and that action be taken with a view to providing a comprehensive legal framework for such institutions, offering an adequate range of safeguards to persons placed in them.

140. Living conditions in the three establishments visited were on the whole acceptable. However, the CPT has recommended that large dormitories be gradually replaced by smaller units.

141. Efforts to provide the best care possible to residents were, to some extent, being undermined in the three establishments visited by staff shortages. The psychology services were particularly underdeveloped. The CPT has recommended that staffing levels be reviewed and that an individualised assessment of residents in establishments for mentally disabled persons be carried out, with a view to ensuring that they receive the treatment they require or are transferred to a more appropriate establishment.

142. In all three establishments, there were no signs of overmedication, medical records were detailed, precise and easily readable, and medical confidentiality was being respected. Further, the information gathered as regards the use of seclusion and physical restraint did not give rise to concern.

D. Detention centres for children

143. The CPT's delegation heard no allegations, and gathered no other evidence, of ill-treatment of children by staff at **Trinity House School**. Staff appeared to be motivated and well equipped to work with young persons deprived of their liberty.

144. Material conditions were quite satisfactory; inmates were accommodated in good-sized, personalised single rooms and all the premises were clean and in a good state of repair. Nevertheless, it would be preferable to replace the masonry plinths in the bedrooms with proper beds.

Trinity House School offered developed and individualised programmes of activities to inmates; sports and other facilities were of a high standard.

The CPT has also welcomed the considerable importance given at the establishment to the maintenance of inmates' contact with the outside world.

145. Moreover, health-care arrangements at Trinity House School were on the whole satisfactory. However, the CPT has recommended that a psychologist be attached to the establishment's health care team.

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

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

147. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Irish authorities to provide within **six months** a response giving a full account of action taken to implement them.

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

APPENDIX I

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

A. Police establishments

Ill-treatment

recommendations

- the message that the ill-treatment of detained persons is not acceptable - and will be severely sanctioned - to be vigorously recalled to police officers in an appropriate manner at regular intervals (paragraph 14);
- police officers should be unequivocally reminded that no more force than is strictly 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 14);
- the Irish authorities to seek to integrate human rights concepts into practical professional training for high-risk situations, such as the arrest and interrogation of suspects (paragraph 15);
- whenever criminal suspects brought before a judge allege ill-treatment by the police, the competent authority present during those proceedings to record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach to be followed whether or not the person concerned bears visible external injuries. Even in the absence of an express allegation of ill-treatment, the competent authority to request a forensic medical examination whenever there are other grounds to believe that the person brought before the judge could have been the victim of ill-treatment (paragraph 16);
- police officers to be firmly reminded of their duties under Regulation 20, paragraphs 3 to 7, and Regulation 21, paragraph 1, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 (paragraph 17).

comments

- the Irish authorities are encouraged to continue to give a very high priority to establishing an inspection and complaints mechanism which is, and is seen to be, independent and impartial (paragraph 18).

requests for information

- the results of the criminal and disciplinary proceedings related to the policing of the demonstration on 6 May 2002 and of the outcome of any individual complaints of ill-treatment (paragraph 13);
- the criminal and/or disciplinary consequences of a failure by police officers to comply with the provisions of Regulation 20, paragraphs 3 to 7, and Regulation 21, paragraph 1, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 (paragraph 17).

Conditions of detention

comments

- the lighting and ventilation in certain of the cells at Cork Bridewell left something to be desired (paragraph 19).

Safeguards against the ill-treatment of detained persons

recommendations

- steps to be taken to ensure that the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, are recorded in writing and made available to the detainee and his lawyer (paragraph 23).

comments

- further steps are required to ensure that detained persons who do not have their own lawyer feel that they can trust the solicitor proposed to them by the police (paragraph 21);
- further consideration should be given to the possibility for lawyers to be present during interviews, including as regards the legislative measures which may be required in order to establish this right (paragraph 22);
- custody records at Cobh Garda Station were incomplete (paragraph 24).

requests for information

- the legal/administrative basis for the extension of the right to legal aid to include persons detained in police stations (paragraph 21);

- clarification concerning the range of offences to which the new electronic recording requirements will apply and the circumstances when recording might be omitted (paragraph 25).

B. Prisons

Preliminary remarks

recommendations

- the Irish authorities to persevere in their efforts to adopt new Prison Rules at the earliest opportunity (paragraph 26).

Ill-treatment

recommendations

- prison officers to be reminded that no more force than is strictly necessary should be used when controlling violent and/or recalcitrant prisoners and that, once they have been brought under control, there can be no justification for striking them (paragraph 35);
- the Irish authorities to redouble their efforts to ensure that their decision to develop training in interpersonal communication skills is effectively translated into practice (paragraph 35).

comments

- the Irish authorities are encouraged to continue to reiterate at regular intervals the message that all forms of ill-treatment - including verbal abuse - are not acceptable (paragraph 34);
- complaints procedures should offer appropriate guarantees of independence and impartiality, and persons who may have been ill-treated should not be discouraged from pursuing a complaint (paragraph 36).

requests for information

- for 2001 and 2002:
 - the number of complaints lodged concerning ill-treatment by prison officers 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/sanction imposed) (paragraph 37);
- the outcome of the disciplinary action taken in connection with the case referred to in paragraph 33 (paragraph 37);
- further developments concerning the management of prisoners in need of psychiatric care and, more particularly, of in-patient hospital treatment (paragraph 39);
- strategies developed with a view to addressing the problem of inter-prisoner violence in the Irish prison system (paragraph 40).

Conditions of detention

recommendations

- the partitioning of in-cell lavatories at Cloverhill Prison to be improved (paragraph 42);
- a decision concerning the future of Mountjoy (i.e. whether to refurbish and modernise the Prison for Men or to redevelop the Mountjoy complex as a whole) to be taken at the earliest opportunity (paragraph 43);
- at Cork Prison, the 7.5 m² cells to cease to be used to accommodate more than one prisoner; the 21 m² cells to accommodate no more than four persons (paragraph 44);
- Cork Prison to be kept in an appropriate state of repair (paragraph 44);
- the Irish authorities to pursue vigorously their efforts to provide prisoners with better access to proper sanitary facilities (paragraph 45);
- efforts to develop the programmes of activities for prisoners to be redoubled. The aim should be to ensure that all prisoners, whether on remand or sentenced, spend 8 hours or more outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) (paragraph 50).

comments

- efforts should be made to limit the occupancy of the larger cells at Cloverhill Prison (measuring approximately 11 m²) to two prisoners (paragraph 42);
- efforts should be made to avoid as far as possible placing two prisoners in the 9 m² cells at Cork Prison (paragraph 44);

- either a toilet facility should be located within cellular accommodation (preferably in a sanitary annexe) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times (including at night) (paragraph 45);
- the Irish authorities are encouraged to increase the number of places available on the “Connect Project” (paragraph 48).

requests for information

- measures taken to ensure that all prisoners at the Dóchas Centre are provided with appropriate accommodation (paragraph 41).

Health-care services

recommendations

- steps to be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 54);
- Mountjoy Prison for Men to benefit from the equivalent of a full-time doctor (paragraph 57);
- urgent action to be taken to significantly increase the presence of the doctor in Cork Prison (paragraph 57);
- at least one full-time qualified nurse to be assigned to the Dóchas Centre, and the health-care team at Cork Prison to be reinforced by qualified nursing staff (paragraph 57);
- the authorities to take steps to reinforce dental-care services in Irish prisons (paragraph 59);
- the practice of making information leaflets on general health issues available to inmates (and staff) at Cloverhill Prison to be extended to other prisons (paragraph 60);
- the psychiatric services in Cork Prison to be strengthened (paragraph 62);
- the psychological services of the prisons visited to be developed (paragraph 63);
- steps to be taken to ensure that practice in Ireland is brought into line with the considerations set out in paragraph 65 concerning the contents of the record drawn up following a medical examination of a newly admitted prisoner. The result of the medical examination to be made available to the prisoner concerned. The same approach to be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 65);
- a comprehensive policy for the provision of care to prisoners with drug-related problems to be developed and implemented. In the context of implementing such a policy, substitution treatment to be introduced at the earliest opportunity in the prisons not currently providing it (paragraph 68).

comments

- the health care facilities at Mountjoy Prison for Men were rather cramped and their state of cleanliness left something to be desired (paragraph 58);
- the presence of a qualified psychiatric nurse during the day in the medical unit (D2) at Cloverhill Prison would be desirable (paragraph 62).

requests for information

- the authorities' intentions with respect to implementation of the recommendations of the group set up to review the structure and organisation of prison health-care services, as well as the timeframe therefor (paragraph 52).

Other issues

recommendations

- current arrangements for accommodating immigration detainees to be reviewed (paragraph 69);
- the disciplinary system to be developed without further delay, having regard to recommendations already made by the CPT (paragraph 70);
- pending the adoption of new Prison Rules, Article 69 (1) (d) of the 1947 Prison Rules to cease to be applied (paragraph 71);
- the limited access to natural light in the ground floor cells in D Block at Cork Prison to be remedied (paragraph 72);
- steps to be taken to ensure that the Inspector of Prisons and Places of Detention is placed in a position to fulfil his functions in the most effective and independent manner (paragraph 75);
- conditions in the visiting facilities at Cork Prison to be improved (paragraph 77).

requests for information

- comments on the remarks in paragraph 74 concerning the confidentiality of prisoners' correspondence with outside bodies and with their lawyers (paragraph 74);
- the current situation as regards the replacement of temporary visiting facilities at Mountjoy Prison for Men with a modern purpose-designed unit (paragraph 77).

C. Mental health establishments

Central Mental Hospital

recommendations

- favourable consideration to be given to the proposal made by the Review Committee for the Central Mental Hospital, set up in December 2000 by the East Coast Health Board, that the main building be completely renovated and a new accommodation wing constructed (paragraph 85);
- action to be taken to improve patients' living conditions (furnishing rooms with chairs; removing shutters covering windows, and, if necessary, replacing windowpanes; upgrading sanitary facilities; and improving patients' access to a lavatory at night) without waiting for the complete renovation of the hospital's main building (paragraph 85);
- efforts to be pursued to resolve staff-related problems at the Central Mental Hospital and to fill vacant psychologist, occupational therapist, nursing and social worker posts (paragraph 86);
- further efforts to be made to provide a larger number of patients with a structured daily programme of therapeutic and rehabilitative activities, based on their individual needs and capacities (paragraph 87);
- steps to be taken to ensure that seclusion at the Central Mental Hospital is always properly recorded and only has to be resorted to because of medical considerations (paragraph 90);
- the seclusion facilities in Unit 1 of the Central Mental Hospital to be upgraded and the padded cell in Unit 4 to be taken out of service (paragraph 91).

comments

- given the inherent vulnerability of persons deprived of their liberty, there is no scope for consent in sexual contact between staff and inmates; this is no less true where mental patients are concerned. Such conduct on the part of staff should always be regarded as an abuse of their authority (paragraph 81);
- consideration should be given to installing a call system in patients' rooms (paragraph 85);
- the Irish authorities are encouraged to continue to explore means, other than seclusion in a padded cell for extended periods, of managing patients prone to aggression and self-harm (paragraph 89).

requests for information

- confirmation that an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment, including the Central Mental Hospital, is now provided for by legislation (paragraph 79);
- the results of the investigations into recent allegations of sexual abuse of female patients by certain members of staff at the Central Mental Hospital and into the death of a patient while being restrained by staff in 2001 (paragraph 80);
- any additional measures taken as regards procedures for the restraint of patients, in the light of the result of the investigation mentioned in paragraph 82 (paragraph 82);
- clarification concerning consent to treatment to be given by patients admitted to the Central Mental Hospital (paragraph 88).

Establishments for mentally disabled persons

recommendations

- the legal situation of persons placed in mental disability facilities to be reviewed as a matter of urgency and action to be taken with a view to providing a comprehensive legal framework for such institutions, offering an adequate range of safeguards to persons placed in them (paragraph 94);
- the considerations in paragraph 99 as regards residents' living conditions to be borne in mind when formulating future policies concerning mental disability services (paragraph 99);
- large dormitories to be gradually replaced by smaller units (paragraph 99);
- staffing levels in the three institutions visited to be reviewed (paragraph 104);
- an individualised assessment of residents in establishments for mentally disabled persons to be carried out, with a view to ensuring that they receive the treatment they require or are transferred to a more appropriate establishment (paragraph 104).

comments

- the shortcomings as regards living conditions at Grove House mentioned in paragraph 95 should be remedied (paragraph 95);
- in appropriate cases, patients should be allowed to have access to their own rooms during the day (paragraph 95);
- the shortcomings as regards living conditions at St Raphael's mentioned in paragraph 97 should be remedied (paragraph 97).

requests for information

- further information on the relocation of more autonomous persons with mental disabilities to community-based facilities (paragraph 92).

D. Detention centres for children

Preliminary remarks

comments

- even if material conditions of detention are good, police cells are not appropriate places for holding children for an extended period of time (paragraph 107).

requests for information

- further information on the opening of a detention unit for children aged 14 to 15 at St Patrick's Institution and the manner in which the standards of the Ministry of Education for establishments for children will be met (paragraph 107).

Material conditions

comments

- it would be preferable to replace the masonry plinths in children's rooms at Trinity House School with proper beds (paragraph 111).

Regime

requests for information

- information on the development of the incentive scheme at Trinity House School (paragraph 114);
- confirmation that the padded rooms have been withdrawn from service (paragraph 115).

Health care

recommendations

- the absence of a psychologist attached to the health care team at Trinity House to be remedied (paragraph 117).

Complaints and inspection procedures

requests for information

- developments concerning the putting in place of a system of external inspection of reformatory schools and other places of detention for children, and copies of the draft standards and criteria for inspections (paragraph 120);
- further information on the establishment of an office of ombudsman for children, including clarification as to whether the ombudsman will also be empowered to inspect police stations, prisons or other establishments used from time to time to hold children deprived of their liberty (paragraph 120).

APPENDIX II

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

A. National authorities

Department of Justice, Equality and Law Reform

John O' DONOGHUE T.D. Tim DALTON	Minister for Justice, Equality and Law Reform Secretary General
Michael FLAHIVE	Assistant Secretary, Garda, Prisons and Probation and Welfare Policy
Séan AYLWARD Enda DOOLEY Paul DILLON Denis O' NEILL Michael O' NEILL	Director General, Irish Prison Service Director of Medical Services, Irish Prison Service Deputy Director of Operations, Irish Prison Service Principal Officer, Prisons Estates, Irish Prison Service Assistant Principal Officer, Prisons Operations, Irish Prison Service
Anne O' GORMAN Martin TANSEY	Principal Officer, Prisons and Probation and Welfare Policy Division Principal Probation and Welfare Officer, Probation and Welfare Service
Dermot KINLEN	Inspector of Prisons and Places of Detention
Joe EGAN Gerard BLAKE	Assistant Commissioner, Garda Síochána Chief Superintendent, Garda Síochána
James MARTIN Michael KIRRANE Frank BOUGHTON Michelle SHANNON David COSTELLO Michael GLEESON John LOHAN Pat WYLIE	Garda Division Garda Planning Human Rights Division Crime Division Asylum Policy Division Immigration and Citizenship Operations Division Immigration and Citizenship Operations Division Reception and Integration Agency

Department of Health and Children

Micheál MARTIN T.D. Michael KELLY	Minister for Health and Children Secretary General
Donal DEVITT	Assistant Secretary, Mental Services, Disability Services, Services for Older People
Bairbre NIC AONGUSA Paul HOWARD	Principal Officer, Mental Health Division Assistant Principal Officer, Mental Health Division
Dermot WALSH Liam HANNIFFY Michael HUGHES	Inspector of Mental Hospitals Assistant Inspector of Mental Hospitals Assistant to the Inspector of Mental Hospitals
Frances FLETCHER	Assistant Principal Officer, Intellectual Disability Services
Noel USHER Dora HENNESSEY Kieran SMYTH	Director, Child Care Services Principal Officer, Child Care Policy Unit Assistant Principal Officer, Child Care Policy Unit
Michelle CLARKE	Chief Inspector, Social Services Inspectorate

Department of Education and Science

Michael WOODS T.D. John DENNEHY	Minister for Education and Science Secretary General
Eddie WARD	Principal Officer, Special Education Section
Tony O' DONOVAN	Child Care Adviser

Other authorities

Irish Human Rights Commission

B. Non-governmental organisations

Children's Rights Alliance
Human Rights Consultants
Irish Council for Civil Liberties
Irish Penal Reform Trust