



CPT/Inf (99) 15

**Report to the Irish Government
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 31 August to 9 September 1998**

The Irish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (99) 16.

Strasbourg/Dublin, 17 December 1999

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Copy of the letter transmitting the CPT's report

Strasbourg, 8 April 1999

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 have the honour to 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 31 August to 9 September 1998. The report was adopted by the CPT at its 38th meeting, held from 9 to 12 March 1999.

I would like to draw your attention to paragraph 149 of the report, in which the CPT requests the Irish authorities to provide an interim and a follow-up report on the measures taken upon its report. It would be most helpful if the Irish authorities could provide a copy of the reports in a computer-readable form.

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

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

Yours sincerely,

Ivan ZAKINE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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cc. Mr Justin HARMAN, Ambassador, Permanent Representative of Ireland to the Council of Europe

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 31 August to 9 September 1998.

The visit formed part of the CPT's programme of periodic visits for 1998 and was the Committee's second periodic visit to Ireland.¹

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

- Mr Ivan ZAKINE, President of the CPT, Head of the Delegation;
- Mr Jón BJARMAN;
- Ms Pirkko LAHTI;
- Mr Pieter STOFFELEN;
- Mr Demetrios STYLIANIDES.

They were assisted by:

- Mr Wolfgang BONTE, Director of the Institute for Forensic Medicine, Heinrich Heine University, Düsseldorf, Germany (expert);
- Mr Daniel GLEZER, Head of the Regional Psychiatric and Psychological Medical Service at Marseilles "Les Baumettes" Prison, France (expert);
- Mr Eoghan O'LOINGSIGH (interpreter);
- Ms Melanie ROE (interpreter);

and were accompanied by Mr Mark KELLY and Mr Edo KORLJAN of the CPT's Secretariat.

¹ The Committee's first periodic visit to Ireland took place from 26 September to 9 October 1993. The CPT's report on that visit was published on 13 December 1995, together with the response of the Irish Government (cf. documents CPT/Inf (95) 14 and 15). The follow-up report of the Irish Government (document CPT/Inf (96) 23) was published on 19 September 1996.

B. Establishments visited

3. The delegation visited the following places of detention:

Police (Garda Síochána) establishments

- Finglas Garda Station, Dublin
- Fitzgibbon Street Garda Station, Dublin
- Pearse Street Garda Station, Dublin
- Henry Street Divisional Headquarters, Limerick
- Immigration Service, Shannon Airport
- Shannon Garda Station

Prisons

- Mountjoy Prison, Dublin
- Limerick Prison
- Portlaoise Prison

Psychiatric establishments

- Central Mental Hospital, Dundrum

C. Consultations held by the delegation

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

A list of the authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.

D. Co-operation encountered during the visit

5. The CPT wishes at the outset to underline that the degree of co-operation which prevailed during the visit was exemplary.

The CPT's delegation was received by the Minister for Justice, Equality and Law Reform, Mr John O'DONOGHUE TD and the Minister for Health, Mr Brian COWEN TD, together with certain of their senior officials. These meetings were conducted in a highly constructive spirit.

Further, the delegation had interesting discussions with members of the Garda Síochána Complaints Board, with representatives of the Prison Officers' Association and with each of the police associations in Ireland.

6. The CPT also wishes to express its gratitude for the assistance provided to its delegation by Mr Denis O'NEILL, the liaison officer appointed by the Department of Justice, Equality and Law Reform.

7. It should be added that the delegation received a very satisfactory reception at - and in particular rapid access to - all of the establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit. Indeed, it would appear that the management of all of the places of detention visited had been informed of the possibility of a visit by the Committee and were reasonably knowledgeable about its mandate.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police (Garda Síochána) establishments

1. Preliminary remarks

8. The Garda Síochána falls under the authority of the Department of Justice, Equality and Law Reform. As indicated above (cf. paragraph 3), the CPT's delegation visited five Garda Síochána establishments and, in addition, the Immigration Service at Shannon Airport, which is staffed by immigration officers who are serving members of the Garda Síochána.

9. The maximum possible period of police custody without charge is an issue of direct relevance to the CPT's mandate. Prolonged periods of detention of criminal suspects on police premises can lead to high-risk situations.

The legislative framework as regards the detention by the police of ordinary criminal suspects remains essentially unchanged since the CPT's first visit (cf. paragraphs 10 and 12 and 40 to 57 of document CPT/Inf (95) 14). In this context, it might be recalled that, under the Criminal Justice Act 1984, such persons may spend up to an absolute maximum of twenty hours in police custody. However, the Criminal Justice (Drug Trafficking) Act 1996 has extended this to a maximum of one hundred and sixty-eight hours (i.e. seven days) in the case of persons suspected of drug-trafficking offences. In terms of sections 2(2)(g) and (h) of the 1996 Act, detention beyond 48 hours must be authorised by a court; nevertheless, seven days in police custody without charge is a long period of time.

The CPT would like to receive the comments of the Irish authorities on why the introduction of such a power has been deemed necessary.

10. Persons detained under the Criminal Justice Act 1984 enjoy a range of formal legal safeguards set out both in the Act itself, and in the 1987 Regulations issued under section 7 of that Act². In terms of sections 2(9)(b) and 5 of the Criminal Justice (Drug Trafficking) Act 1996, these provisions are to apply, "with any necessary modifications", to persons detained under the 1996 Act. **The CPT would like to receive confirmation that the full range of safeguards set out in the 1984 Act and the 1987 Regulations apply to persons held under the Criminal Justice (Drug Trafficking) Act 1996.**

² The Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987.

11. As regards persons suspected of offences related to terrorism, at the time of the Committee's 1993 visit, such persons could be held by the police on their own authority for a maximum of 48 hours (cf. section 30(3) of the Offences Against the State Act 1939). During the 1998 visit, the Irish Parliament adopted new legislation³ which *inter alia* amends section 30 of the 1939 Act by authorising the police to request a judge to extend police custody by a further 24 hours (i.e. to an absolute maximum of 72 hours). Such an extension is to be granted "if, but only if, the judge is satisfied that such further detention is necessary for the proper investigation of the offence concerned and that the investigation is being conducted diligently and expeditiously".⁴

In their response to the CPT's 1993 visit report, the Irish authorities indicated that the police are "under a legal duty" to apply the full range of safeguards set out in the above-mentioned 1987 Regulations to all persons detained under section 30 of the Offences Against the State Act. **The CPT would like to receive confirmation that this remains the case.**

2. Ill-treatment

12. In the report on its first periodic visit to Ireland 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 - and more particularly in Dublin - ran a not inconsiderable risk of being physically ill-treated.

In the five years since that visit, the CPT has continued to receive allegations of physical and psychological ill-treatment of persons held in police custody in Dublin and elsewhere in the country.

13. Particular reference should be made to the numerous detailed allegations received from a variety of sources regarding the conduct of police officers based at Henry Street Divisional Headquarters in Limerick, following the death of one of their colleagues in June 1996.

By letter of 26 June 1996, the CPT asked the Irish authorities for copies of the records of all medical examinations performed on certain of the persons arrested on suspicion of involvement in the police officer's death. A number of medical reports relating to one such person recorded that he had alleged that he was subjected to physical and psychological ill-treatment whilst detained at Henry Street Divisional Headquarters from 9 to 12 June 1996. In particular, he alleged that he was kicked in the groin, repeatedly slapped on the ears, on the right side of the face, on the chin and on the mouth and had his head banged against a wall by police officers. He also alleged that police officers subjected him to verbal abuse, including of a sexual nature directed at his girlfriend, and to death threats.

Certain of those medical reports included descriptions of injuries consistent with the detainee's allegations of physical ill-treatment by the police. It might be added that, in the course of its 1998 visit, the CPT's delegation was able to confirm from official records that the person concerned had been held at Henry Street Divisional Headquarters during the period to which those injuries could be ascribed.

³ The Offences Against the State (Amendment) Act, 1998.

⁴ *Ibid*, section 10.

14. In the course of the 1998 visit, the CPT's delegation again spoke to many persons about their experiences while in police custody. A significant number of those interviewed alleged that they had been physically ill-treated by police officers. As had been the case in 1993, their allegations tended to be consistent as regards the forms of ill-treatment involved (namely, slaps, punches, kicks and/or blows with batons). The following cases are of particular interest.

- A prisoner interviewed in Limerick Prison alleged that, on 3 September 1998, he had been punched and kicked by four police officers at Shannon Garda Station.

On examination by the delegation's doctor, he displayed the following injuries: a superficial abrasion below the left ear measuring 2 by 0.5 cm; six superficial abrasions above the throat; five superficial penny-sized abrasions on the backside of the left shoulder, surrounded by a bluish bruise measuring 8 cm in diameter; two superficial abrasions on the backside of the right shoulder of pin-point size; two superficial scratches on the upper part of the left upper arm laterally, measuring 8 by 0.3 cm; six superficial scratches on the upper part of the left upper arm laterally, parallel and slightly oblique, measuring 3 by 0.2 cm and surrounded by a bluish bruise measuring 5cm in diameter; six very superficial abrasions on the middle part of the left upper arm laterally of pin-point size and surrounded by a bluish bruise measuring 6 cm in diameter; ten pea-sized abrasions with small bluish bruises on the above backside joints of the left hand; a penny-sized bluish bruise on the upper part of the right upper arm laterally; a penny-sized superficial abrasion on the right elbow and two circular superficial abrasions around the right wrist.

- An inmate held in Mountjoy Prison alleged that, after his arrest on 31 August 1998, he was repeatedly kicked by a police officer or officers whilst held in a police vehicle. He also claimed to have been the victim of a further assault by police officers whilst held at Pearse Street Garda Station in Dublin.

On examination by a medical member of the CPT's delegation, he displayed the following injuries: two relatively fresh superficial lacerations of the left upper orbita measuring 2 and 1 cm respectively; one relatively fresh superficial laceration of the upper part of the nose measuring 1 cm; three superficial scratches on the frontal part of the left shoulder measuring 6 to 8 cm; four pea-sized greyish-blue bruises and three pea-sized superficial abrasions on the front side of the upper part of the right upper arm; swelling/bluish discoloration with yellow margins on the medial side of the left thigh measuring 10 by 5 cm; swelling/reddish discoloration on the front of the left knee of 8 cm in diameter; two swellings/reddish discolorations below the left knee, frontal, each of 3 cm in diameter; swelling/brownish discoloration with yellow margins below the right knee of 3 cm in diameter; and two circular abrasions around the right wrist.

Admittedly, in both of the cases described above, there are possible alternative explanations for at least certain of the injuries sustained by the persons concerned. In the first case, police officers at Shannon Garda Station advanced that the detainee had assaulted one of their number at the time of his arrest; in the second, the inmate himself admitted to having been in a state of some inebriation when arrested (and that, a few days prior to his examination by the delegation's doctor, he had suffered an epileptic fit). Nonetheless, **the persistence of such allegations regarding the use of excessive force by police officers highlights the need for the Irish authorities to remain particularly vigilant in this area.**

15. The CPT would add that it recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest 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 them being struck by police officers. **The CPT recommends that members of the Garda Síochána be reminded of these precepts.**

Further, it is clear that exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. **The CPT would like to be informed of whether any preventive measures have been taken with a view to providing support for members of the Garda Síochána who are exposed to such situations.**

16. One of the most effective means of preventing ill-treatment by police officers lies in the diligent examination of complaints of such treatment and the imposition of suitable penalties. In this respect, the Committee's 1993 report stressed that to be fully effective a complaints procedure must be, and be seen to be, independent and impartial. Having regard to the presence of serving police officers amongst the members of the Garda Síochána Complaints Board, and of disciplinary tribunals appointed by it, the CPT recommended that the composition of those bodies be reviewed (cf. paragraph 55 of document CPT/Inf (95) 14).

In their response, the Irish authorities indicated that the "operation of the Board and of disciplinary tribunals will be reviewed shortly in the light of the recommendation" (cf. page 56 of document CPT/Inf (95) 15). During the 1998 visit, Department of Justice, Equality and Law Reform officials confirmed that the Act under which the Garda Síochána Complaints Board operates⁵ is currently being reviewed. **The CPT would like to receive further and better particulars regarding the nature of any reforms which may be envisaged and on the timescale within which they may be introduced.**

⁵ The Garda Síochána (Complaints) Act, 1986.

17. **The CPT would also like to receive the following information for the period 1996 - 1998:**
- **the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
 - **an account of disciplinary/criminal sanctions imposed on the grounds of treatment by the police.**

18. Effective inspection procedures are another important component of any strategy for the prevention of ill-treatment. In the report on its first visit, the Committee noted that senior officers only rarely made unannounced visits to police stations (cf. paragraph 56 of document CPT/Inf (95) 14). It recommended that the Irish authorities explore means of enhancing the supervision by senior police officers of the work of Gardai responsible for the treatment of persons in custody.

In their response, the Irish authorities informed the CPT that the Garda Commissioner had "arranged for more frequent monitoring of the performance of supervisory members responsible for the care of persons in custody; regular reports on special inspections of accommodation for detainees to be made to the Commissioner; and greater emphasis to be placed during in-service training courses on the need for proper treatment of persons in custody" (cf. CPT/Inf (95) 15, pages 6 and 7). The CPT welcomes these arrangements; however, its delegation's findings during the 1998 visit suggested that there had been no significant augmentation in the intensity with which senior officers were pursuing these supervisory tasks. **Consequently, the Committee would like to receive detailed information about the practical measures which have been taken to implement the arrangements proposed by the Garda Commissioner.**

19. The Committee has also previously recommended that the Irish authorities explore the possibility of introducing a system of independent inspection of police establishments (cf. paragraph 57 of document CPT/Inf (95) 14).

On two occasions, the Irish authorities have informed the CPT that they were giving consideration to introducing a system of independent inspection of Garda stations (cf. page 18 of document CPT/Inf (95) 15 and page 4 of document CPT/Inf (96) 23). However, no such mechanism was in place at the time of the 1998 visit. **The CPT would like to be informed of any progress which has been made towards the introduction of such a system.**

3. Safeguards against the ill-treatment of detained persons

a. introduction

20. The CPT wishes to recall that it attaches particular importance to three rights for persons detained by the police:

- the right of those concerned to inform a close relative or third party of their choice of their situation;
- the right of access to a lawyer;
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (i.e. as soon as those concerned are obliged to remain with the police).

21. In the report on its first periodic visit, the CPT observed that the formal safeguards offered to persons detained by the police in Ireland appeared, on the whole, to be adequate. Nevertheless, the Committee made a number of comments and recommendations in this area, to certain of which it wishes to return.

b. access to a lawyer

22. Persons deprived of their liberty by the police in Ireland have a right of access to a lawyer as from the outset of their custody. However, that right does not extend to having the lawyer present during interrogations. In the report on its 1993 visit, the CPT recommended that the Irish authorities explore the possibility of providing arrested persons with such a right. The Government subsequently undertook to consult interested parties, including the Incorporated Law Society, with a view to giving "careful consideration" to this recommendation. However, at the time of the 1998 visit, it remained the case that arrested persons did not have such a right and, in practice, lawyers were not present during interrogations. **The CPT invites the Irish authorities to take appropriate action with a view to introducing a right for arrested persons to have a lawyer present during interrogations.**

23. The Committee has also stressed that the right of access to a lawyer should extend to those who may not have their own lawyer.

On the basis of information provided by the Irish authorities, the CPT understands that "there are informal arrangements at Garda stations under which Garda members who know of solicitors who are willing to attend at the Garda station will provide the names to a suspected person who does not know of a solicitor".⁶ However, a long-standing proposal by the Incorporated Law Society to create panels of solicitors prepared to attend police stations has yet to be formally implemented. Nor have steps been taken to render mandatory the practice of police officers providing a list of solicitors to detainees who do not know the name of a lawyer. In the view of the CPT, these matters ought to be the subject of more formal arrangements.

The Committee recommends that appropriate action be taken formally to guarantee the right of access to a lawyer for detained persons who do not have their own lawyer.

24. If the right of access to a lawyer is to be fully effective in practice, appropriate provision must be made for those who are not in a position to pay for legal services. In this respect, the Irish authorities have confirmed that, at present, "there is no provision for granting legal aid to persons detained at a Garda station".⁷ However, this restriction is currently being reconsidered in the context of a "review of the entire operation of the Criminal Legal Aid Scheme."⁸ The CPT understands that the Committee charged with this review is expected to report in early 1999, and **would like to be informed of its findings at the earliest possible opportunity.**

c. information on rights

25. Persons taken into police custody should be expressly informed without delay of all of their rights in a language which they understand. At the time of the CPT's first periodic visit, detainees were being provided with a written information notice concerning their rights. However, the notice did not expressly refer to their right of access to a doctor, and it was only available in English.

The Committee recommended that these shortcomings be remedied, and is pleased to record that, by the time of the 1998 visit, this had been done. Indeed, information notices including an explicit reference to the right of access to a doctor were available in the police stations visited in no less than nine languages.

⁶ cf. page 59 of document CPT/Inf (95) 15.

⁷ cf. page 56 of document CPT/Inf (95) 15.

⁸ cf. page 10 of document CPT/Inf (96) 23.

d. electronic recording of police interrogations

26. The electronic recording of police interrogations represents another important safeguard for detainees, as well as offering advantages for the police.

Pilot trials in the use of audio and video recording technology, overseen by a Steering Committee, are currently underway at six Garda establishments. The CPT has been informed that "once the Pilot Scheme has been evaluated and the Steering Committee submits its report to the Minister there will be no delay in moving to the introduction of a national scheme if the Pilot Scheme shows that an effective and economic basis can be found for so doing".⁹

The CPT would appreciate being kept informed of developments in this area.

e. custody records

27. The CPT's 1993 delegation found that police officers were diligently completing a single and comprehensive custody record for each person detained.

With one exception, this was also the case at the establishments visited in 1998. At Finglas Garda Station, the majority of records had been meticulously completed; however, in certain cases the time of release or transfer had not been recorded and, in one case - of an arrested minor - there was no record of his parents or guardian having been notified. Such omissions serve once again to highlight the need for effective supervision by senior police officers of the manner in which Gardai responsible for the treatment of persons in custody are discharging their duties (cf. paragraph 18); **the Committee recommends that custody record-keeping practices at Finglas Garda Station be subject to closer supervision.**

⁹ cf. Government Briefing Note on electronic recording, August 1998.

4. Conditions of detention in the police establishments visited

a. introduction

28. The CPT wishes to recall the general criteria which guide its activities in this area (cf. also paragraph 24 of its report on the first visit to Ireland).

29. Custody by the police is in principle of relatively short duration. Consequently, physical conditions of detention cannot be expected to be as good in police establishments as in other places of detention where persons may be held for lengthy periods. However, certain elementary material requirements should be met.

All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

b. situation in the establishments visited

30. The material conditions of detention observed by the CPT's delegation were on the whole acceptable. Nevertheless, the cellular accommodation at Henry Street Divisional Headquarters in Limerick, and at Fitzgibbon Street and Finglas Garda Stations in Dublin was found to be in a rather dirty and/or dilapidated state. The CPT recalls that, at the time of the 1993 visit, its delegation also found the cells at the last-mentioned establishment to be in a filthy condition.

The CPT recommends that the Irish authorities:

- **review the cleanliness and state of repair of cellular accommodation at Henry Street Divisional Headquarters in Limerick, and at Fitzgibbon Street and Finglas Garda Stations in Dublin;**
- **take appropriate steps to ensure that the conditions of detention in all police establishments meet the requirements indicated in paragraph 29.**

B. Prison establishments

1. Preliminary remarks

31. Much of the legislation governing the operation of the prison system - including the Rules for the Government of Prisons, 1947 - is more than half a century old. The Irish authorities recognise that the 1947 Rules have long been outdated and, in June 1994, published a set of draft Prison Rules designed to replace them.¹⁰

In their interim report, the Irish authorities indicated that their aim was that the new Rules should enter into force "in the latter half of 1995"¹¹; however, at the time of the CPT's visit in August / September 1998, the 1947 Rules remained in force. The delegation raised this issue with officials of the Department of Justice, Equality and Law Reform, who indicated that it was now intended that the new Rules should enter into force in early 1999. **The CPT would like to be informed of whether the new Rules have now been brought into force and, should that not be the case, recommends that this be done without further delay.**

32. The Irish authorities have also informed the Committee that, together with local management in the Prison Service, the Department of Justice, Equality and Law Reform is preparing to establish a Prisons Agency to administer the prison system.¹²

The CPT considers that this is an interesting development, and **would like to receive further information about the progress being made towards the creation of such an authority.**

33. In the course of the 1998 visit, the CPT's delegation visited Mountjoy, Limerick and Portlaoise Prisons.

34. Mountjoy and Limerick Prisons, which were first visited by a CPT delegation in 1993, are committal prisons¹³ for male and female prisoners over the age of seventeen.

Mountjoy Prison in Dublin remains the largest prison in Ireland. The main prison building dates from 1850 and is built to a radial design, with four main wings (A to D Blocks) and a separate "segregation unit" (E Block) located within the perimeter of the establishment. At the time of the 1993 visit, material conditions were found to be poor in most areas of the prison, and none of the cells seen in the areas for male prisoners was equipped with integral sanitation. On 1 September 1998, it was holding 676 male prisoners (519 sentenced and 157 on remand) and 58 female prisoners (48 sentenced and 10 on remand).

¹⁰ cf. Appendix I to the Management of Offenders, A Five Year Plan, Department of Justice, 1994.

¹¹ cf. pages 96 to 97 of document CPT/Inf (95) 15.

¹² cf. page 2 of the Irish Prison System, Government Briefing Paper, 1998. cf. also Towards an Independent Prisons Agency, Report of Expert Group, Government of Ireland, 1997.

¹³ i.e. prisons which receive remand and sentenced inmates directly from the courts.

The oldest prison in Ireland, **Limerick Prison** consists of four main wings (A, B, D and E Blocks) built to a radial design, and a smaller unit for women prisoners (C Block). Material conditions of detention at the time of the 1993 visit left a great deal to be desired: none of the cells seen were equipped with integral sanitation, and conditions in C Block - where women were held two to cells measuring around 5m² - were a cause of particular concern. On 3 September 1998, the population was 198 male prisoners (171 sentenced, 28 remand) and 9 female prisoners (8 sentenced and 1 remand).

The 1998 follow-up visits to these establishments afforded an opportunity to review the progress which has been made in implementing the recommendations set out in the report on the CPT's first periodic visit.

35. Portlaoise Prison - visited for the first time by a CPT delegation - is also a committal prison, holding male prisoners aged over seventeen, including inmates classified as requiring highly-secure conditions. The focus of the delegation's visit was the six-place "defaulters' area" (which had been created to receive a small number of inmates who were facing criminal charges in respect of a hostage-taking incident at Mountjoy Prison).

2. Ill-treatment

36. As had been the case during the 1993 visit, the CPT's delegation observed that the great majority of prison officers were attempting to deal in a humane manner with the prisoners in their charge.

Notwithstanding this positive finding, the delegation did hear a number of allegations from inmates at Mountjoy and Limerick Prisons to the effect that they had been physically ill-treated (punched/kicked) and/or verbally abused by prison officers at those establishments. None of the prisoners concerned bore injuries consistent with their allegations; however, given the time which had elapsed since the alleged ill-treatment, any injuries which they might have sustained would almost certainly have healed.

Once again, senior staff at both establishments openly acknowledged the existence of ill-treatment of inmates by certain prison officers. As a Deputy Governor at Mountjoy Prison put it, "we recognise and know the rogue officers in the system". However, they asserted that they had no effective power to deal with such officers, other than by re-assigning them "in the interests of the service" to posts which do not involve contact with prisoners.

37. There is no lack of awareness of this problem at governmental level. Indeed, in response to the CPT's 1993 finding that certain prison officers at Mountjoy and Limerick Prisons had a propensity to ill-treat prisoners, the Government stated that it was "seriously concerned that there are individual prison officers [at Mountjoy Prison] whose attitude towards prisoners is the subject of suspicion by prison management"¹⁴, and acknowledged "probable wrongdoing by some staff at Limerick Prison."¹⁵

As the President of the CPT has indicated¹⁶, the Committee appreciates the frankness of such replies. Nevertheless, it was - and is - concerned that most if not all of the prison officers in question still work at Mountjoy and Limerick Prisons and that little or no effective action has been taken against them.

38. In response to the CPT's concerns, the Irish authorities have inter alia indicated that, on 1 October 1996, a new Disciplinary Code for Prison Officers was implemented by way of Statutory Instrument¹⁷. The objectives of the Code are "to provide an agreed clear and structured procedure to deal with disciplinary issues; to ensure that officers against whom allegations are made are dealt with in a fair and equitable manner; and to provide an adequate means by which impropriety can be dealt with effectively and the highest standards of conduct can be maintained."¹⁸

The Code vests the authority to conduct disciplinary proceedings in prison governors; however, with the exception of "awarding" a reprimand, the power to impose penalties (including reduction in rank or pay, and deferment of a salary increment) remains vested in the Minister, and the power to dismiss a prison officer is the sole prerogative of the Government.

39. The CPT has previously recommended that prison governors be provided with the necessary means to enable them effectively to manage the prisons of which they have charge (cf. paragraph 169 of document CPT/Inf (96) 14).

¹⁴ cf. page 24 of document CPT/Inf (95) 15.

¹⁵ Ibid, page 30.

¹⁶ cf. the President of the CPT's letter of 12 April 1996 to the Irish authorities, as set out in the appendix to document CPT/Inf (96) 23.

¹⁷ cf. the Prison (Disciplinary Code for Officers) Rules, 1996, S.I. No. 289 of 1996. Amongst the offences proscribed by the Code are "8. Improper relations with prisoners or former prisoners, that is to say - ... (b) using obscene, abusive or insulting words to, or indulging in obscene, abusive or insulting behaviour towards, a prisoner ...11. Unlawful or unnecessary exercise of authority, that is to say - (a) deliberately and unnecessarily acting in a manner calculated or likely to provoke a prisoner, or (b) using force unnecessarily in dealing with a prisoner or, where the application of force is necessary, using undue force."

¹⁸ cf. "Measures for the Prevention of Ill-Treatment of Prisoners - Role of Governors in relation to Personnel", Government Briefing Note, 1998.

At the time of the 1998 visit, the Irish authorities indicated that "the question of delegating greater responsibility and accountability to Governors in respect of staff is consistent with Government policy on Human Resource Management, which is a key feature of the Strategic Management Initiative for the Civil Service. ... However, as Prison Officers are Civil Servants, and as disciplinary powers in relation to Civil Servants are vested in Secretaries General of Departments, legislation will be required to support any delegation to Governors in relation to penalties. In the context of a review of the Code, prison Governors have been asked to outline what powers they would propose should be delegated, having regard for the need for consistency and uniformity in relation to discipline throughout the Service."¹⁹

The CPT considers that delegation of greater responsibility and accountability to Governors in respect of staff would be a positive development. **It would like to be kept informed of the progress made in this respect.**

40. The introduction of a new Disciplinary Code is a potentially positive development. However, the CPT was concerned to learn that the Department of Justice, Equality and Law Reform has agreed with the Prison Officers' Association that "disciplinary complaints against an officer arising from an allegation by a prisoner would be dealt with by way of a circular outside the Code".²⁰

For the time being, the circular has not been issued "because of a legal/administrative issue which arose from the provisions of paragraph 12 of the draft circular which indicated that the prisoner who made the complaint against the officer can be called to give evidence in an oral hearing only if requested to do so by the officer who is the subject of the complaint."²¹

The CPT considers that it would be highly questionable for a prison officer who is the subject of a complaint to be empowered to prevent an adjudicator from holding an oral hearing with the prisoner who has lodged that complaint. Moreover, the CPT wonders whether the Disciplinary Code as adopted is not sufficiently comprehensive as to obviate the need for additional, non-statutory provisions for processing certain (but not other) types of disciplinary complaints. **It would like to receive the comments of the Irish authorities on these matters.**

41. The CPT also wishes again to emphasise the great importance which it attaches to the education and professional training of prison staff. There is arguably no better guarantee against ill-treatment of a prisoner than a properly trained prison officer, capable of adopting an appropriate attitude in his relations with inmates. Particular attention should be given to training in the art of handling, and more especially of speaking to, prisoners i.e. to interpersonal communication skills. The possession of such skills can enable prison officers to deal with the difficult situations which may arise in prisons, without resort to violence.

¹⁹ cf. "Measures for the Prevention of Ill-Treatment of Prisoners" [supra], paragraph 12.
²⁰ cf. Brief for CPT re. Prison (Disciplinary Code for Officers) Rules, 1996, paragraph 8.
²¹ cf. Brief for CPT [supra], paragraph 8.

In this context, the Committee recommended in its 1993 report²², that:

- training in control and restraint techniques be made more widely available to prison officers and that all prison officers be made aware of the contents of the recently-produced instruction manual on this subject;
- much greater priority be given to professional training, including an appropriate human rights element, for prison officers of all ranks and categories. Experts who are not employed by the Prison Service should be involved in this training;
- an aptitude for interpersonal communication be a major factor in the process of recruiting prison officers and that, during the induction and in-service training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills.

42. The CPT has been informed that the majority of prison staff have now received appropriate training in control and restraint techniques. The Committee welcomes this development and **would like to receive further details regarding the content of the training concerned.**

43. Moreover, the importance of professional training at the induction stage has been emphasised in a recent report commissioned by the Department of Justice, Equality and Law Reform²³, which recommends the redesign of the selection process and the administration of the new process by trained assessors, in order to ensure that "candidates of the highest quality will be recruited into the Prison Service at the Prison Officer level"²⁴. **The CPT would like to receive further information about the practical measures being taken to implement this recommendation.**

²² cf. paragraph 76 of document CPT/Inf (95) 14.

²³ cf. the confidential Report on the Prison Officer Job Analysis (PKO), April 1998, which inter alia identifies "key behaviours" required for effective performance of the prison officer's role. These are said to include: people orientation and caring (i.e. shows respect for others by treating them in a fair and non-judgmental manner, having due regard to maintaining confidentiality. Builds rapport by conversing and listening. Is sensitive to others and responsive to their needs); assertive and controlled (i.e. is prepared to deliver firm instructions, outlining clear boundaries and follows through on the consequences of actions taken. Remains independent, objective and level headed in challenging situations); team-working (i.e. works towards the team objectives by consulting with other team members, and recognising when it is appropriate to involve others. Assists and supports team members when required).

²⁴ Ibid, page 40.

44. As regards in-service training in interpersonal communication skills, the Irish authorities have informed the Committee that: "It is acknowledged that formal training should be developed to support this. However, the overtime cost of releasing staff for training has been the major constraint in this regard. This specific problem was addressed in a 1996 Strategy Paper on Training which was approved by senior management in the Prison Service and the Department. The principle of the paper was that inter-personal skills training must be developed. The objective was to seek POA agreement to the release of staff for inter-personal skills training without being replaced, within certain parameters. So far, it has not been possible to reach an agreement with the POA to this"²⁵.

This, in the CPT's view, is a regrettable state of affairs. 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 concerted efforts be made to resolve the current impasse in this area.**

45. **The CPT would also like to receive the following information for the period 1996 - 1998:**

- **the number of complaints of ill-treatment by prison staff lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff.**

²⁵

cf. Staff Numbers, Recruitment and Staff Training, Government Briefing Note, 1998.

3. Conditions of detention

a. material conditions

46. The physical fabric of Mountjoy and Limerick Prisons was described in paragraphs 77 to 90 of the report on the Committee's first visit (document CPT/Inf (95) 14). In the intervening period, the Irish authorities have embarked on major renovation works at both establishments.

47. At **Mountjoy Prison**, the B Block basement and the segregation unit had been renovated and equipped with integral sanitation. A new 60 bed medical unit had been built, and a new 70 place women's prison was nearing completion.

48. Further, the CPT has been informed that the establishment's four main cellblocks are to be refurbished and modernised as a part of 4 to 5 year "rolling programme" of work, which is due to commence by mid-1999. This work is to include:

- "(i) installation of integral sanitation facilities or provision of 24-hour access to toilets for prisoners;
- (ii) provision of on-block ablution facilities;
- ...
- (iv) provision on-block of appropriate additional prisoner facilities/services".²⁶

49. The CPT greatly welcomes the renovation work which has been carried out at Mountjoy Prison and the Irish authorities' future plans for the establishment. However, at the time of the visit the situation in many parts of the prison still left much to be desired. On the Irish authorities' own figures, at any one time, some 150 inmates were accommodated two to a 9.5m² cell designed for single occupancy. Further, "due to overcrowding the number of prisoners using mattresses on the floor was on average between 40 and 50 per night and prisoners are regularly placed in the Governor's Offices and Welfare Offices on each wing, and the holding cells in the B base [i.e. the basement of B Block]".²⁷

50. As regards **Limerick Prison**, a newly-renovated accommodation unit - D Block - had been brought into operation in early 1998, all 60 cells in which were equipped with integral sanitation. At the time of the visit, toilet and washing facilities in A and E Blocks were undergoing renovation, which was due to be completed by October 1998.

²⁶ Major Improvement Works Planned for Existing Prisons 1998 Onwards, Government Briefing Paper, 1998.

²⁷ cf. The Irish Prison System, Government Briefing Paper, 1998.

51. In addition, the Irish authorities have informed the Committee that they plan to:

"(1) (a) Refurbish part of E Block to provide a self-contained unit to accommodate the 10 to 12 female prisoners presently held in C Block.

The section of E Block to be used for accommodation of females will have the following facilities after refurbishment:

- integral sanitation
- self-contained recreational (indoor and outdoor), education, training, visiting and medical facilities
- general improvement of buildings and cell interior finishes/fittings
- screening from the remainder of E Block and the male prison generally.

(b) Demolish and replace the existing C Block with a purpose-designed, modern cellblock to accommodate 70 to 80 male prisoners in predominantly single-occupancy cells and having a comprehensive range of on-block prisoner facilities.

(2) Replace the existing temporary visiting facilities with a modern purpose-designed unit".²⁸

52. The Committee can only welcome these developments, in particular as regards the women's unit. Although steps had been taken to comply with the CPT's 1993 recommendation that no prisoner be held two to a 5m² cell in that area, cells of such size are scarcely adequate as a living area for one person.

b. regime

53. Once allowance is made for the increased prisoner population at **Mountjoy Prison**, as compared to the situation in 1993, the regime activities for male inmates remain limited. The Irish authorities themselves accept "that there is a shortfall in education, training and recreation facilities for the increased prisoner population."²⁹

For an average population of 750 to 800 prisoners, there were only 270 work places (as compared to 240 work places for an average population of some 600 prisoners in 1993). During the school year 1997-1998, a mere 180 prisoners (out of the many thousands received in the establishment during that period) took part in education activities. The sports facilities included four gymnasiums - each staffed by instructors qualified in physical education - and exercise yards attached to each cellblock. A daily average of some 180 prisoners took part in organised sports and physical training.

²⁸ Major Improvement Works Planned for Existing Prisons 1998 Onwards, Government Briefing Paper, 1998

²⁹ Ibid.

54. The situation was better in the establishment's female section. Out of 60 prisoners, some 40 were employed (in the laundry, kitchen, shoe making, cleaning, craft room). Educational activities included courses in languages, typing, shorthand and computing. Home economics, handicrafts and pottery courses were also available. Sports facilities were located in a small gymnasium, where female prisoners were able to participate in aerobics, yoga and weight training.

55. Even if the proportion of inmates involved in purposeful activities has not significantly augmented, the CPT's delegation was pleased to note improvements in the quality of certain of the facilities in which those activities took place. It was particularly impressed by the newly-built auditorium, the upgraded prisoner workshops on A and D Blocks, and the improved library facilities.

56. At **Limerick Prison**, the official figures transmitted to the delegation indicated that the majority of prisoners were offered work. However, certain members of staff suggested that the number of inmates actually employed was significantly lower. This was borne out by the delegation's own on-the-spot findings; for example, records held in the fabrics unit indicated that not more than 12 prisoners worked there on any given day (as against an official figure of 30), that an average of 6 inmates worked in the craft unit (official figure, 10), and an average of 7 in the upholstery unit (official figure, 10).

Some two thirds of all prisoners participated in educational activities. The delegation was impressed by the quality of the new education facility located in the recently-opened D Block, as well as by the range of courses available and the evident commitment of the teaching staff. However, it was concerned to learn that, in the absence of the prison officer responsible for the library, who held the only set of keys to that facility, prisoners had no access to it. On one recent occasion, such a situation had persisted for some three weeks.

Facilities for sport remained of a reasonable standard, and the delegation was pleased to note that an additional small gymnasium featured amongst the new facilities in D Block. A daily average of some 60 prisoners took part in sports activities.

c. assessment

57. In the five years since the CPT's first periodic visit, efforts have been made to improve the living conditions of inmates and the working conditions of prison staff. The Committee particularly welcomes the renovation work which has been carried out in certain sections of Mountjoy and Limerick Prisons.

Nevertheless, the potentially positive impact of such measures continues to be undermined by overcrowding, which would appear to be an endemic feature of the Irish prison system.

58. A number of attempts have been made to tackle this problem at a system level. In June 1994, the Department of Justice produced a "Five Year Plan"³⁰, which inter alia proposed the creation of 210 new prison places. In so doing, the Department expressed the view that "the aim should be to set an upper limit of between 2,200 and 2,300 on the number of offenders in custody".

However, by the time of the CPT's 1998 visit, it was apparent that the Five Year Plan had had no demonstrable impact on the level of overcrowding. Indeed, on the first day of the visit, the total "bed capacity" of the prison system stood at 2,793 places (which is more than 400 places above its "design capacity") and, in the four main committal prisons³¹, 1,435 inmates were being held in a bed capacity of 1,384. In practice, this meant that areas which were not designed as cells were being used to hold prisoners, and that many inmates were being held two to cells designed for single occupancy. In Mountjoy Prison alone, 42 prisoners were sleeping on mattresses on the floor.

Faced by this situation, the Irish authorities have embarked upon a prison building programme, which is scheduled to provide an additional 1,100 prison places by August 1999, and a further 900 places by the year 2002.

59. While noting the ambitious scale of the action planned by the Irish authorities, the CPT considers it unlikely that providing additional accommodation will alone provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

In this context, reference might usefully be made to Recommendation R (92) 17 of the Committee of Ministers' of the Council of Europe concerning consistency in sentencing, and more particularly to recommendation B 5(i), according to which "custodial sentences should be regarded as a sentence of last resort, and should therefore be imposed in cases where, taking due account of other relevant circumstances, the seriousness of the crime would make any other sentence clearly inadequate".

The Explanatory Memorandum to Recommendation R (92) 17, inter alia provides the following commentary on this recommendation: "In view of the clear adoption by the Council of Europe of the policy of restraint in the use of imprisonment, this might be a topic suitable for legislative restrictions on sentencers. But, whatever the method used to implement the policy, it should be linked with more detailed guidance for judges."

Reference might also be made to Recommendation R (80) 11 of the Committee of Ministers, which stresses that custody pending trial is to be regarded as an exceptional measure.

The CPT recommends that the Irish authorities develop and implement a multi-faceted strategy designed to bring about a permanent end to overcrowding, taking into account the above remarks.

³⁰ cf. The Management of Offenders, A Five Year Plan.

³¹ i.e. Mountjoy, Limerick and Cork Prisons and St. Patrick's Institution.

60. As regards, more particularly, the additional renovation work which is planned at Mountjoy and Limerick Prisons, **the CPT recommends that every effort be made to ensure that this is completed as rapidly as possible; provision of new facilities for women inmates at Limerick Prison should be accorded a particularly high priority.**

The Committee would like to receive regularly-updated information on the progress of the work concerned.

61. On the basis of the information which has been provided by the Irish authorities, it would appear that the new prison accommodation which is being built will be equipped to a high standard. However, the CPT was concerned to learn that it is intended to accommodate up to three prisoners in cells measuring 10.65m² at the new remand prison near Wheatfield. At that level of occupancy, cells of such a size would provide very cramped living conditions.

The CPT recommends that the planned occupancy levels of the cells concerned be revised accordingly. No more than two prisoners should be accommodated within them.

62. As for the enhancement of regime activities, to a large extent this will be contingent on the success of the Irish authorities in tackling the problem of overcrowding. Nevertheless, concerted efforts are required to improve the current situation.

The CPT recognises that the provision of organised activities in remand prisons, where there is a high turnover of inmates, poses particular challenges. However, it is not acceptable that so many inmates are essentially left to their own devices for months at a time. The aim should be to ensure that all prisoners (whether on remand or sentenced) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

The regime offered to prisoners serving lengthy sentences should be even more favourable. Such prisoners should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psychological support are important elements in assisting such prisoners to come to terms with their period of incarceration and, in due course, to prepare for release.

The Committee recommends that a very high priority be given to improving the regime activities offered to prisoners at Mountjoy and Limerick Prisons, and at all other prisons in Ireland where a similar situation obtains.

4. Medical services

a. staff and facilities

63. At the time of the CPT's first periodic visit, the staffing levels observed in at least certain parts of **Mountjoy and Limerick Prisons** left something to be desired. The Committee recommended that the number of hours for which doctors were present in those establishments be increased. As regards, more particularly, Mountjoy Prison, given the number of prisoners held in the male accommodation areas, the Committee recommended that steps be taken to provide at least the equivalent of one full-time doctor in those areas.

The absence of qualified nursing staff in both establishments was also a matter of concern. The CPT stressed that the presence of medical orderlies did not remove the need for qualified nursing staff, who have an essential role to play in providing somatic and preventive health care, and in supervising the work of unqualified health care staff. It recommended that qualified nursing staff be employed in both prisons.

64. In their interim report, the Irish authorities accepted the Committee's findings, and indicated their willingness to review the level of medical and nursing provision in both establishments.³² However, by the time of the 1998 visit, there had been no noticeable increase in the number of hours for which doctors were present at Limerick Prison, or in the male accommodation areas at Mountjoy Prison. Moreover, at both establishments, nursing services to prisoners were still being provided by medical orderlies (i.e. prison officers with, in many cases, no more than basic first aid training).

It should be added that, as had been the case in 1993, the Director of Prison Medical Services frankly acknowledged that - in particular in the male accommodation areas at Mountjoy Prison - the number of hours for which doctors were present remained inadequate. He also affirmed that the absence of qualified nursing staff causes "problems in relation to various aspects of health care, such as professional and legal standards in the control of medicines, the availability of healthcare staff who meet required community standards etc."³³

65. The CPT recommends that the Irish authorities take immediate steps to:

- **provide at least the equivalent of the services of one full-time doctor for prisoners held in the male accommodation areas at Mountjoy Prison and increase the number of hours for which a doctor is present at Limerick Prison;**
- **secure the services of at least three full-time qualified nurses at Mountjoy Prison and at least one full-time qualified nurse at Limerick Prison.**

³² cf. pages 78 to 79 of document CPT/Inf (95) 15.

³³ cf. CPT Briefing Material, Prison Medical Services, 16 April 1998.

66. More generally, the CPT has noted that, according to the Director of Prison Medical Services, "the long term aim would be to replace unqualified staff by professionally qualified nurses on a prison by prison basis".³⁴ The Committee considers that this should be regarded as a matter of priority and **recommends that efforts be made to introduce qualified nursing staff into all prison establishments in Ireland.**

67. The health care facilities seen by the CPT's delegation at Mountjoy and Limerick Prisons in 1993 were acceptable, with the exception of the doctors' rooms in the male accommodation areas of **Mountjoy Prison**. The Irish authorities' interim report indicated that the rooms in question were being upgraded and, during the 1998 visit, they were found to be of an acceptable standard.

Limerick Prison had a well-equipped surgery, located in the recently-renovated D Block; however, conditions were much less satisfactory in the on-wing doctors' rooms in C and E Blocks. These former cells were equipped with only a bed and a chair, and had no running water. **The CPT recommends that the facilities in question be upgraded.**

b. equivalence of care

68. The Committee wishes to recall that a prison health care service should be able to provide medical treatment and nursing care, 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. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.

69. The CPT's delegation's findings in the course of the 1993 visit suggested that health care services in Irish prisons were still some way from attaining the goal of equivalence of care with the outside community. This disparity was most marked in the male accommodation areas in **Mountjoy Prison**, where doctors spent very little time on consultations and kept inadequate medical records, and a number of tasks which were properly those of a nurse were performed by unqualified medical orderlies.

The Committee recommended a number of measures designed to address this problem, including the systematic completion by doctors of a standardised medical file for each patient (containing diagnostic information as well as an ongoing record of the patient's evolution and of any special examinations he had undergone), and the swift introduction of a standardised contract of employment capable of rendering doctors working in prisons accountable to an appropriate medical authority.

³⁴ Ibid.

70. The CPT's 1998 delegation found that a standardised Inmate Medical Record File which meets the Committee's requirements was being used by the doctors at **Limerick Prison**. Further - in common with the majority of their colleagues working in other prisons - those doctors had accepted a standardised contract of employment which, in principle, renders them accountable to the Director of Prison Medical Services.

By contrast, the situation in the male accommodation areas at **Mountjoy Prison** was unchanged since 1993. Many complaints were heard, from inmates and prison staff, about the quality of the medical service provided by the doctors working in those areas. The doctors concerned continued to insist upon recording their visits to inmates in a rudimentary ledger, rather than on a proper medical file and, for reasons upon which they declined to elaborate, have refused to accept a standardised contract of employment. The Director of Prison Medical Services accepts that "there are major problems in relation to the organisation, provision, and accountability of medical services in this prison and discussions are presently in train aimed at resolving this impasse."³⁵

71. In the view of the CPT, the duty of care which is owed by the Irish authorities to those committed to prison by the courts extends to ensuring that they are properly medically screened on reception and that, thereafter, they receive an adequate quality of medical care. As matters stand, the medical service in the male accommodation areas at Mountjoy Prison signally fails to meet these criteria.

The Committee is particularly concerned that such a situation - which has been openly acknowledged by the Irish authorities since at least the time of the CPT's 1993 visit - should have been allowed to persist for so long. **The Committee recommends that decisive action be taken to ensure that an adequate quality of care is provided by the doctors employed to work in the male accommodation areas at Mountjoy Prison.**

c. psychiatric services

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

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

³⁵ Ibid.

73. In-house psychiatric services for Irish prisons are provided by visiting psychiatrists, in the Dublin area by psychiatrists attached to the Forensic Service at the Central Mental Hospital and, outside Dublin, by local general psychiatrists on a sessional basis.

Six psychiatrists worked in the male accommodation areas at **Mountjoy Prison** on a rota basis, thus ensuring that a psychiatrist was present for two to three hours per day from Monday to Friday. In addition, a psychiatrist was present for two to three hours per week in the women's prison (and in the medical and separation units).

Limerick Prison had the services of a psychiatrist for one session a week.

74. In its 1993 report, the CPT commented that the provision of between six and nine hours per week of in-house psychiatric services was quite inadequate for an establishment the size of **Mountjoy Prison**. It recommended that this level of provision be reinforced.

The Committee is pleased that the level of in-house psychiatric input in the male accommodation areas at Mountjoy Prison has been augmented (to between ten and fifteen hours per week). However, having regard to the increased prison population and to the burgeoning incidence of psychiatric disturbance amongst that population, this level of provision remains unsatisfactory.

Attention is also required to the manner in which psychiatric care is delivered to prisoners. At present, a different psychiatrist is present every weekday in the male accommodation areas at Mountjoy, an arrangement which impinges upon the continuity of the care which can be delivered to inmates.

The CPT recommends that the level of in-house psychiatric care in the male accommodation areas at Mountjoy Prison be further reinforced. In so doing, efforts ought to be made to enhance the continuity of care which is delivered to inmates (for example, by employing a smaller number of psychiatrists for longer periods of time).

75. The only in-patient psychiatric service available to prisoners is the Central Mental Hospital. In this connection, the Director of Prison Medical Services has informed the Committee that:

"The lack of adequate in-house facilities, both in terms of the availability of trained psychiatric nursing staff and adequate input by dedicated psychiatric staff, together with the lack of any observation or support type facilities has led to a situation where, not infrequently, mentally vulnerable or ill prisoners are incarcerated for significant lengths of time in padded or unfurnished cells while awaiting transfer to the Central Mental Hospital. These difficulties have been exacerbated by the apparent lack of sufficient beds in the Central Mental Hospital to enable a rapid response to be made to requests that a bed be made available."³⁶

³⁶ Ibid.

This was borne out by the delegation's own observations, both in the prisons visited, and at the Central Mental Hospital. A number of inmates being held in prison were found to be suffering from conditions which required treatment in an in-patient psychiatric setting (e.g. serious post-traumatic cerebral sequelae). Further, apparently due to the shortage of beds at the Central Mental Hospital, a number of prisoners who had been placed there were found to have been returned to prison before their conditions had fully stabilised.

76. The Irish authorities recognise that to resolve these problems will require a greater degree of coordination between relevant services under the authority of the Department of Justice, Equality and Law Reform, and those under the authority of the Department of Health and Children.

In a recent letter to the President of the CPT, the Department of Health and Children has indicated that "a significant element of the access problem relates to the lack of appropriate consultant forensic assessment within the prisons. We are currently trying to rectify this problem in the short-term by the appointment of an additional consultant forensic psychiatrist with a sessional commitment to Mountjoy Prison and in the longer term through the development of a more comprehensive forensic psychiatric service for both the prisons and health board psychiatric units."³⁷ For his part, the Director of Prison Medical Services has stated that, "given that goodwill now exists on both sides it is hoped that this reorganisation of prison psychiatric provision will occur in the near future."³⁸

The CPT recommends that the provision of prison psychiatric services be reorganised as matter of urgency. The aim should be to ensure that it is always possible to transfer mentally ill inmates to an appropriate psychiatric facility without delay.

³⁷ cf. the letter of 26 November 1998 from the Department of Health and Children to the CPT.

³⁸ cf. CPT Briefing Material - Prison Medical Services [supra].

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

a. complaints and inspection procedures

77. In the report on its 1993 visit, the CPT emphasised the importance of effective complaints procedures within the prison system. It stressed that prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to have confidential access to an appropriate authority.

In their response, the Irish authorities indicated that "the draft new Prison Rules provide that prisoners may write to the Minister for Justice, the Courts or the Garda Síochána and be given the means to communicate with members of the Visiting Committee. It is accepted that such contact may, in certain circumstances, need to be dealt with on a confidential basis and the necessary arrangements will be made in this regard."³⁹ Further, the follow-up report confirmed that "the Government proposes to include the President of the CPT amongst those to whom confidential correspondence may be sent by prisoners. This will be done eventually by inclusion of an appropriate provision in the draft new Prison Rules. In the meantime, Prison Governors have been instructed to inform all prisoners, by Governors Order, that they may communicate on a confidential basis with the President of the CPT".⁴⁰

The Committee welcomes the approach of the Irish authorities to this question and recalls its recommendation that the new Prison Rules ought to be brought into force without further delay (cf. paragraph 31).

78. The CPT has also highlighted the value of regular visits to prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out such inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises.

In Ireland, this role is currently filled by a Visiting Committee for each prison, the members of which are appointed by the Minister for Justice, Equality and Law Reform. The CPT's 1993 report expressed misgivings about the perceived independence of politically-appointed Visiting Committee members and about the fact that the Secretary of each Visiting Committee is a serving prison officer.

In their interim report, the Irish authorities made reference to a number of proposed reforms in the operation of Visiting Committees (establishment of a Visiting Committee Chairpersons Group to "pool" the knowledge and experience of each Visiting Committee; revoking the power of Visiting Committees to impose disciplinary sanctions (thus removing a possible conflict of interest in their role vis-à-vis inmates); conferring on Visiting Committees limited powers to consider appeals in respect of sanctions imposed by Governors).⁴¹ In addition, the Government has proposed the creation of an independent Prisons Inspectorate.

³⁹ cf. page 91 of document CPT/Inf (95) 15.

⁴⁰ cf. page 17 of document CPT/Inf (96) 23.

⁴¹ cf. page 92 of document CPT/Inf (95) 15.

79. The CPT would welcome any measures which are designed to enhance the effectiveness and impartiality of current complaints and inspection procedures. However, if the impact of the proposed reforms is to be maximised, it will clearly be important to ensure that there is an appropriate degree of co-ordination between the work of the different bodies which may be active in this area.

In this respect, **the CPT would like to receive detailed information about the role and functions which it is intended to attribute to the Prisons Inspectorate and to the reformed Visiting Committees. It would also like to be informed of the timescale within which the Irish authorities envisage that the Prisons Inspectorate will become operational.**

b. discipline

80. The CPT's concerns about the manner in which disciplinary adjudications were being conducted at the time of the first periodic visit led it to formulate a number of detailed recommendations in this area.

In their interim report, the Irish authorities indicated that they accepted the "broad thrust" of the CPT's recommendations and pledged that they would be "fully considered in the context of the current review of the new Rules for Prisons ...".⁴² However, by the time of the 1998 visit, there had been no discernible change in the manner in which adjudications were being conducted in the prisons visited. It remained the case that inmates were not given advance notice in writing of the charges against them, were obliged to stand between prison officers while being questioned by the person conducting the adjudication, could not call witnesses on their own behalf and could not cross-examine evidence against them or make statements in mitigation if found guilty.

81. Clearly, this is another area in which the entry into force of the new Prison Rules could have a significant impact. In this connection, the CPT has noted that the 1994 draft version of the Rules only provides that:

"V.3 Care shall be taken by the Governor to apply the principles of natural justice when dealing with disciplinary reports, due regard being had to the need to maintain safe custody, good order and security ..." and, "V.5 The Governor shall interview the prisoner alleged to have been in breach of prison discipline, make clear to him/her the precise nature of the alleged breach and indicate the basis for the allegation. The alleged offender shall be heard in his/her own behalf if he/she so chooses".

⁴² cf. page 89 of document CPT/Inf(95) 15.

In the view of the CPT, these provisions do not constitute an adequate set of procedural safeguards for prisoners facing disciplinary charges. **The Committee recommends that such inmates be formally guaranteed the following rights:**

- to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;
- **to call witnesses on their own behalf and to cross-examine evidence given against them;**
- **to be heard in mitigation of punishment, in cases where found guilty by the Governor;**
- **to remain seated during adjudications and to have facilities to take notes;**
- **to appeal to a higher authority against any sanctions imposed.**

c. drug problems

82. It is important that the prison authorities make efforts to provide an environment in which prisoners without drug problems do not develop them and those who have such problems are helped to overcome them.

Because of their everyday contact with inmates, prison officers are ideally placed to assist inmates to avoid or overcome problems associated with the use of drugs. It follows that a high priority should be accorded to effective drug awareness training of prison staff, which would provide a basis for establishing constructive, helping relationships with prisoners. Further, more consideration should be given to the introduction of effective programmes of education, counselling and other forms of support for prisoners, as well as the setting up of drug-free units and prisons. It is clear that any preventive measures must also be accompanied by a genuinely multidisciplinary therapeutic programme to help drug addicted prisoners.

The CPT would like to receive the comments of the Irish authorities on these issues.

6. Special unit at Portlaoise Prison

a. introduction

83. During an examination of disciplinary records at Mountjoy Prison, the CPT's delegation noted that, in January 1997, six prisoners who had been involved in a hostage-taking incident at that establishment were transferred to Portlaoise Prison in order to serve a disciplinary sanction of three days cellular confinement, accompanied by two months deprivation of all privileges. The delegation was told that, at the time of the visit (i.e. some twenty months after the original disciplinary sanction had been imposed), those inmates were still being held at Portlaoise Prison, by all accounts subject to a very restricted regime.

In the light of this information, the delegation decided to carry out a visit to the special unit at Portlaoise Prison in which the prisoners concerned were being held.

b. conditions of detention

84. The six aforementioned prisoners were being held in a special unit - known by staff as the "defaulter's area" - on the lowest floor (D1) of D Block at Portlaoise Prison. The unit consisted of six cells, a shower and lavatory, two television rooms and a small fitness room.

85. Material conditions of detention in the special unit were somewhat spartan. The cells measured between 6.5 m² and 8 m² and, in addition to a bed, each was equipped with a table, stool, call bell and radio. Artificial lighting and ventilation were of an acceptable standard in all of the cells; however, natural light was poor in two out of the six cells (the windows of which were fitted with additional layers of security mesh). None of the cells were equipped with integral sanitation ("slopping out" buckets being provided).

86. All of the inmates held in the unit were subject to a so-called "barrier-handling regime", under which they were handcuffed whenever in direct contact with staff. Prison officers wore "protective clothing" (i.e. riot gear, including helmets with full-face visors) during all day-to-day contacts with inmates and a minimum of three such staff escorted every prisoner. No more than two inmates were released from their cells at any one time.

Inmates were offered the option of being out of their cells for up to a maximum of six hours and forty-five minutes per day; however, the programmes of activities which they were offered during those periods were limited to watching television and taking exercise with one other prisoner. Two cells had been fitted with benches and equipped with televisions and video recorders (located behind perspex screens). In addition, a (17 m²) former laundry had been converted to provide a cramped fitness room, which contained exercise equipment. By contrast, outdoor exercise was taken in a yard which was large enough to enable prisoners to exert themselves physically.

The only other out-of-cell activity available to prisoners was attending weekly communion. This took place in a small lobby area (measuring some 12 m²), the officiating priest and inmates sitting on the floor.

87. The CPT's delegation was informed that there was no legal basis for the "barrier-handling regime", which had apparently been introduced after discussions between senior officials at the Ministry of Justice, Equality and Law Reform and the Prison Officers' Association.

c. assessment

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

89. The CPT considers that prisoners who are thought to present a particularly high risk should, within the confines of their special unit, enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely - as in the special unit at Portlaoise Prison - to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation.

Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Success in this area requires that the staff assigned to work in such units be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to the exercise of their skills in a more than usually challenging environment.

The existence of a satisfactory programme of activities is just as important - if not more so - in a special unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.) As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation (No. R (82) 17) on the custody and treatment of dangerous prisoners, adopted by the Committee of Ministers of the Council of Europe on 24 September 1982.⁴³

90. It is quite clear that the situation encountered in the special unit at Portlaoise Prison does not meet the criteria set out above.

Prisoners were held in a cramped facility, were offered virtually no purposeful activities and had very limited human contact. Further, their relations with staff could be qualified as tense. In this respect, the CPT wishes to stress that it is quite unacceptable for riot gear to be worn by prison staff in their day-to-day contacts with prisoners. That practice certainly served to foster confrontational attitudes on the part of both staff and prisoners.

91. It should be added that the delegation's interviews with five of the six prisoners held in the special unit at Portlaoise Prison indicated that the regime as a whole was having harmful psychological consequences for those subjected to it. Indeed, the interviews revealed a consistent association of psychological symptoms which appeared to have been induced by the regime. The inmates concerned displayed the following symptom profile: aggressive behaviour directed against self and others, regressive behaviour (withdrawal from social interaction), and difficulties in verbal expression (logorrhoea).

In the case of two of the five inmates, depressive tendencies were clearly in evidence with, in particular, repercussions upon the cognitive faculties of the prisoners concerned (disturbed concentration, confused memory etc.).

⁴³ Which reads as follows: "Risks to security are reduced if heavy fixed plant, rather than machines and tools, is used. Further processing or assembling of manufactured components eliminates the riskier previous stage of tool or machine work on the components. Highly-mechanised industrial laundry combined with dry-cleaning is regarded as being relatively safe. There is also scope for arrangements with libraries and related institutions for indexing of material. Cleaning and catering chores can be given a greater relevance to working realities outside if they can be structured to conform with industrial and commercial methods. Agricultural work is contra-indicated by the latitude of movement required but not grounds work or gardening and limited horticulture within perimetered precincts. Work for mentally or physically disadvantaged or handicapped or disabled people might be considered. Despite the need, it is rarely undertaken in the private industrial sector and voluntary endeavour is often unable to overtake the need fully. Illustrative is production of Brailled material in sufficient quantity for the visually handicapped; creation in volume of stimulating educational and recreation material for the audio-vocally handicapped or for the mentally handicapped; adaptation of toys, table-games, play and recreational items for the disabled; soft toys. Work of this nature can be uniquely suitable for reinforced security units, and satisfying for prisoners."

92. When the delegation raised its concerns regarding this situation during the talks held with the Irish authorities at the end of the visit, it was assured by the Minister for Justice, Equality and Law Reform that the barrier-handling regime would be reviewed "as a matter of urgency". **The CPT recommends that, in the context of that review, immediate measures be taken to bring the regime into conformity with the criteria set out in paragraph 89, and to place it on a firm legal basis.**

It also recommends that the practice of prison staff wearing riot gear in all day-to-day contacts with prisoners be discontinued forthwith.

93. The CPT would add that it is doubtful whether a regime of the sort envisaged in paragraph 89 could be operated within the existing confines of the special unit at Portlaoise Prison. Nevertheless, if inmates continue to be held on those premises, **the Committee recommends that measures be taken to:**

- **improve access to natural light in those cells where it is deficient;**
- **ensure that prisoners have ready access to a lavatory at all times, including at night.**

C. The Central Mental Hospital, Dundrum

1. Preliminary remarks

94. Originally opened in 1850, the 84-bed Central Mental Hospital, Dundrum, is the only forensic psychiatric hospital in Ireland. It falls under the responsibility of the Department of Health and Children, funding and supervision of the hospital being the responsibility of the Eastern Health Board.

Patient accommodation is located in four units - 1, 4, 5 and 7 - in the hospital's original three-storey building (units 2, 3 and 6 in that building having been taken out of service), in a single-storey building housing two units - A and B - (dating from, respectively, 1996 and 1992), and in a detached house - the hostel - which had formerly served as the Director's residence.

Upon admission, patients are accommodated either in unit A or (if deemed to require more secure conditions) in unit 1, each of which offer ten beds. After a period of observation, male patients may progress to units 5 (seventeen beds), 7 (fourteen beds) or B (twenty-one beds), and female patients to unit 4 (7 beds). The hostel provides an additional nine beds for the establishment's most trusted patients.

95. Patients may be admitted to the Central Mental Hospital either through the criminal justice system (on transfer from a prison for assessment/treatment; after a court verdict of "guilty but insane"⁴⁴; after having been found "unfit to plead"⁴⁵) or under the Mental Treatment Act 1945⁴⁶.

Of the 82 patients (75 men and 7 women) being held at the hospital on 26 August 1998, 62 had been admitted through the criminal justice system (37 prison transfers, 18 with verdicts of guilty but insane, and 7 who had been found unfit to plead), and the remaining 20 under the Mental Treatment Act (11 under section 207, and 9 under Section 208).

⁴⁴ cf. Section 2 of the Trial of Lunatics Act, 1883, which provides that "where such a verdict is found, the court shall order the accused to be kept in custody as a criminal lunatic" for an indeterminate period. All persons thus sentenced are admitted to the Central Mental Hospital.

⁴⁵ cf. Section 17 of the Lunacy (Ireland) Act, 1821. Persons found unfit to plead are detained at the Central Mental Hospital until the Executive decides whether they should be released or, in the event that they become fit to plead, stand trial.

⁴⁶ Either under Section 207 of that Act, which provides for the transfer of a patient detained in a psychiatric hospital who has committed an indictable offence, or under Section 208, which provides for the transfer of patients from district mental hospitals to "any hospital or other place where treatment not available in the district mental hospital is obtainable".

96. The CPT wishes to make clear at the outset that its delegation heard no allegations of torture or other forms of ill-treatment of patients at the Central Mental Hospital; nor was any other evidence of such treatment found by the delegation during the visit. Relations between staff and patients were generally positive and tension-free.

2. Staffing issues

97. The Central Mental Hospital was managed by a tripartite team, composed of a Clinical Director, a Chief Nursing Officer and an Area Manager from the Eastern Health Board. The establishment's resident medical team included two consultant psychiatrists as well as four full-time and two part-time registrars (i.e. middle-ranking hospital doctors). Other patient care tasks were the responsibility of two assistant chief nursing officers, four nursing officers, forty-one registered psychiatric nurses, two superintendent care officers, nine charge care officers and fifty-nine care officers. This staffing level was found to be sufficient to enable an adequate quality of care to be provided to patients held at the Central Mental Hospital.

In addition, a part-time psychologist and a social worker were employed at the hospital, and a dentist and an optician visited on a regular basis. Consultations with other specialists could be arranged if required.

98. The health care team in a psychiatric institution should include an adequate number of qualified psychiatric nurses, and specialised psychiatric nursing training should be available to other care staff who may wish to develop their skills; this can have a positive impact upon the quality of care which can be delivered to patients. In this respect, the CPT welcomes that fact that a concerted effort has been made to increase the number of qualified psychiatric nurses working at the Central Mental Hospital. Over the past six years, a total of 36 registered psychiatric nurses have been recruited, and a further 13 care workers have retrained as psychiatric nurses; staff thus qualified now constitute approximately 40 % of all care staff.

However, as the Irish authorities have themselves recognised, the "introduction of nursing staff to the Central Mental Hospital has created difficult industrial relations problems, some of which are still outstanding".⁴⁷ In particular, at the time of the visit (and contrary to the wishes of the hospital's management), qualified psychiatric nurses were working only in the more modern units (A and B), while the hospital's old building remained the preserve of the care officers. The Eastern Health Board has now laid this question before the Labour Relations Commission.

The CPT considers that, in the interests of enhancing patient care, it would be highly desirable for the proportion of staff with specialised psychiatric nursing training at the Central Mental Hospital to continue to be increased, for such staff to be deployed throughout the establishment, and for cooperation between psychiatric nurses and care officers to be enhanced.

⁴⁷ cf. the letter of 26 November 1998 from the Department of Health and Children to the CPT.

3. Treatment of patients

99. Psychiatric treatment at the Central Mental Hospital followed an individualised approach, each patient being the subject of a detailed "nursing care plan", drawn up following an assessment of his or her physical and affiliation needs, level of self-esteem and self-actualisation, and having regard to safety and security considerations.

The delegation found no evidence that patients were receiving inappropriate medication, or that they were being over-medicated. In addition to psychopharmacological treatment, the hospital provided occupational therapy, as well as rehabilitative and recreational activities. A number of impressive recreation facilities were available, including a gymnasium, a swimming pool and a Snoozlen (a relaxation device, which promotes positive sensory experiences). It is particularly noteworthy that six new "vocational officer" posts had recently been created, with a view to providing patients with a structured daily programme of therapeutic and rehabilitative activities, based on their individual needs and capacities. The intention is to involve the majority of patients in a range of recreational activities (designed to promote the development of social skills), in horticulture, woodwork and educational activities (adult numeracy and literacy, music, art and preparation for educational certificates).

The CPT welcomes this approach; however, as the Irish authorities have recognised⁴⁸, additional capital and revenue funding will be necessary if these plans are to be fully realised. The funding required is to be identified in an "overall capital plan" which is currently being prepared by the Eastern Health Board. **The CPT would like to receive a copy of the Health Board's capital plan, and trusts that the funds identified as necessary will be made available at the earliest possible opportunity.**

100. The CPT is pleased to note that all patients interviewed by the delegation at the Central Mental Hospital were well informed about - and declared themselves happy with - the treatment, including the medication, which they were receiving. This situation is greatly to the credit of the establishment's health care team.

⁴⁸ cf. the letter of 26 November 1998 from the Department of Health and Children to the CPT.

4. Patients' living conditions

101. There were marked differences between the quality of patient accommodation offered in the more modern units (A and B) at the Central Mental Hospital, and that available in the older building (and, in particular, in units 1, 5 and 7).

Patients' rooms in units A and B were well lit, and adequately heated and ventilated. Rooms in unit A were equipped with integral sanitation, whereas in unit B patients had ready access to sanitary facilities located in the corridors. Both units were scrupulously clean and, as might be expected of buildings of such recent construction, in a good state of repair. By contrast, notwithstanding the limited redecoration / refurbishment work which has been carried out in recent years, patients rooms in units 1, 5 and 7 in the old building retained a decidedly antiquated appearance. Unit 4 in the old building (the women's unit) had been refurbished to a somewhat higher standard; however, as was the case in the other closed units in the old building, patients who needed to comply with the needs of nature at night were obliged to use chamber pots in their rooms.

The establishment's hostel provided very good living conditions for patients.

102. Decoration and furnishings throughout the hospital were of a variable standard. With the exceptions of the hostel and the women's unit, little effort had been made to personalise patients' rooms, and they had not been provided with a lockable space in which to keep their belongings.

103. The aim in any psychiatric establishment should be to offer material conditions which are conducive to the treatment and welfare of patients; in psychiatric terms, a positive therapeutic environment. Creating a positive therapeutic environment involves, first of all, 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.

Particular attention should be given to the decoration of both patients' rooms and recreation areas, in order to give patients visual stimulation. The provision of bedside tables and wardrobes is highly desirable, and patients should be allowed to keep certain personal belongings (photographs, books, etc). It is also important that patients be provided with lockable space in which they can keep their belongings; the failure to provide such a facility can impinge upon a patient's sense of security and autonomy.

104. The CPT recommends that urgent steps be taken to upgrade the quality of patient accommodation in the old building at the Central Mental Hospital, having regard to the criteria enunciated in paragraph 103; ensuring that all patients have ready access to a lavatory at all times should be regarded as a particularly high priority.

It also recommends that efforts be made to:

- **provide patients with lockable space within which they can keep their belongings;**
- **improve the decoration of patients' rooms throughout the establishment.**

5. Seclusion

105. In any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. This is an area of special concern to the CPT, given the potential for abuse and ill-treatment.

As regards, more particularly, seclusion (i.e. confinement alone in a room) of violent or otherwise "unmanageable" patients, the Committee considers that this practice should be the subject of a detailed policy spelling out, in particular: the types of cases in which it may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact; the need for staff to be especially attentive. Every instance of the seclusion of a patient should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. Seclusion should never be used as a punishment.

The CPT's delegation was pleased to note that the Central Mental Hospital had such a comprehensive seclusion policy, and that appropriately detailed seclusion registers were maintained.

106. In the majority of the units visited, the rooms used for seclusion of patients provided satisfactory material conditions. However, the six seclusion rooms in unit 1 - which had no furnishings whatsoever - had a distinctly carceral aspect. Moreover, the establishment had a padded cell, located in unit 4, which was of an antediluvian design and in a state of some dilapidation.

The CPT recommends that the facilities used for seclusion in unit 1 at the Central Mental Hospital be upgraded, and that the padded cell located in unit 4 be taken out of service.

6. Safeguards in the context of involuntary placement

a. during placement

107. An introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

At the Central Mental Hospital, a helpful information booklet was given to patients' relatives and friends, but no introductory brochure was issued to patients. **The CPT recommends that such a brochure be produced and systematically issued to patients on admission.**

108. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

Patients at the Central Mental Hospital could submit complaints to the Inspector of Mental Hospitals (cf. paragraph 110, below), the Minister for Health and Children and the President of the High Court. However, as far as the delegation could ascertain, no specific arrangements had been made within the hospital itself for the processing of patients' complaints. **The CPT would like to be informed of whether it is intended to address this matter under the new mental health legislation** (cf. paragraph 118).

109. The maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint.

Patients at the Central Mental Hospital were able to send and receive correspondence and to receive half-hour visits from their family and friends six days a week. Confidential access to a lawyer was also guaranteed. However, telephone calls to or from a patient were only allowed in exceptional circumstances, with the permission of the doctor in charge. **The CPT invites the Irish authorities to review this restriction.**

110. Lastly, the CPT attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

In Ireland, this role is fulfilled by the Inspector of Mental Hospitals who, together with an Assistant Inspector, visits all psychiatric hospitals and services at least once a year. The Committee welcomes the existence of this mechanism and, henceforth, **would like to receive copies of the Inspector's annual reports.**

b. discharge

111. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed by an appropriate authority at regular intervals. In addition, the patient himself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

- *Mental Treatment Act patients*

112. In terms of section 207 of the Mental Treatment Act 1945, the Minister for Justice, Equality and Law Reform may order that a patient in a civil psychiatric hospital who is charged with a criminal offence be transferred to the Central Mental Hospital and "be detained therein until he is sent to a district mental hospital or other institution or discharged under this section or his death."

In making such placement orders, the Minister is obliged to have regard to a report on the patient's mental state prepared by the Inspector of Mental Hospitals. There is no automatic review at regular intervals of such placements. Section 207 orders can be rescinded by the Inspector of Mental Hospitals, on the advice of the Clinical Director of the Central Mental Hospital. That said, at the time of the visit, of the 11 patients subject to section 207 placements a number had been held on that basis for periods in excess of twenty years.

As a matter of policy, no new placements have been made under section 207 for several years, preference being given to the use of section 208 of the same Act (cf. paragraphs 113 and 114 below).

113. Section 208 of the Mental Treatment Act provides for the transfer, on the authority of a "mental hospital authority", of patients held in civil psychiatric hospitals to "any hospital or other place" where treatment not available in the civil psychiatric hospital may be obtained.

In terms of section 208 (5), "A person removed under this section to a hospital or other place may be kept there so long as is necessary for the purpose of his treatment and shall then be taken back to the place from which he was removed unless it is certified by a registered medical practitioner that his detention is no longer necessary."

114. In July 1994, the Supreme Court delivered a judgement upholding the legality of a patient's transfer to the Central Mental Hospital under section 208. However, the Court considered that the indeterminate nature of the detention order was unsound. Following the judgement, guidelines were produced on "procedures for the transfer, extension of transfer and discharge of patients" under section 208.

The guidelines provide *inter alia* that, the Inspector of Mental Hospital must be informed of every **admission** to the Central Mental Hospital under section 208, and that patients and their next of kin must be informed - at least 24 hours in advance of admission - of their right to have their case investigated by the Inspector. As regards the **length of transfer**, the guidelines provide that this is to be for an initial period of 28 days, which may be extended by the Clinical Director of the Central Mental Hospital by successive "treatment periods" of three months. The Inspector of Mental Hospitals must be informed of each extension of a treatment period, and receives copies of the "treatment plans" which must be drawn up for each such period. The **discharge** of a patient held under section 208 is a matter to be determined by the Clinical Director of the Central Mental Hospital.

- *criminal justice system patients*

115. Section 2 of the Trial of Lunatics Act 1883 provides that a jury may return a "special verdict" where it finds that an accused person committed the act with which he or she was charged, but was insane at the time. All persons with these so-called guilty but insane verdicts are transferred to the Central Mental Hospital, there to be held "until the Pleasure of the Government of Ireland be known".

There is no automatic review of such placements, the question of a patient's discharge lying within the sole discretion of the Minister for Justice, Equality and Law Reform. In this respect, the delegation's attention was drawn to the case of a patient admitted with such a verdict in 1990 who, in the opinion of psychiatrists at the Central Mental Hospital, has been completely sane for many years. Nonetheless, the Department of Justice, Equality and Law Reform has refused to countenance his discharge. This has led to suggestions that the Department may find it politically unpalatable to order the release of certain high-profile patients, even though they no longer require treatment at the Central Mental Hospital.

116. Further, if an accused person does not have sufficient intellect to comprehend the trial proceedings the court may determine that he or she is unfit to plead⁴⁹. In such cases, the court will order that the person concerned be transferred to the Central Mental Hospital "until further order".

It is the responsibility of the court to ensure that such placements are reviewed. Although no time limit is laid down in law, the delegation was informed that it has become usual for the court to ask psychiatrists at the Central Mental Hospital to review such cases within three to six months of the initial court order. The court may subsequently find that a person is "irretrievably unfit to plead", in which case criminal charges will be dropped. However, the person concerned may then remain at the Central Mental Hospital for far longer than any sentence which might have been imposed by a court. There is no automatic review of such placements at regular intervals. One particularly striking case of such a placement involved an 85 year old man who, since having been found unfit to plead in October 1937, has spent sixty-one years at the Central Mental Hospital. The delegation also noted a number of other cases in which patients had been held as unfit to plead for very long periods (ranging from twenty-five to thirty-eight years). In the view of psychiatrists at the establishment, the persons concerned had become so institutionalised that it was unlikely they could ever be discharged.

⁴⁹ cf. Section 17 of the Lunacy (Ireland) Act, 1821.

117. At any one time, around half of the patients at the Central Mental Hospital are there on transfer from prison.

If a prisoner requires treatment which "cannot properly be given in a prison", the Minister for Justice, Equality and Law Reform may direct that he or she be transferred to the Central Mental Hospital **for assessment**⁵⁰. If the treatment of such a prisoner-patient without his or her consent is in issue, steps will be taken to have that person **certified**⁵¹. In the latter case, a certificate in the appropriate form is completed by two general practitioners working in the prison concerned (based on the advice of psychiatrists at the Central Mental Hospital), following which the Minister may order that the prisoner be "removed to the Central Mental Hospital".

In practice, the forms authorising transfers from prisons are signed by a senior official on behalf of the Minister. There is no automatic review of such placements, which may last for years. The decision as to whether a patient should be returned to prison is treated as a purely medical matter, lying within the sole discretion of psychiatrists at the Central Mental Hospital.

* * *

118. In the light of the information set out above, the CPT entertains misgivings about the lack of an automatic review on a regular basis of the necessity to continue involuntary placements at the Central Mental Hospital.

Consequently, the Committee was pleased to learn that the Irish authorities are currently drawing up new Mental Health legislation. In a letter dated 26 November 1998, the Department of Health and Children confirmed that it is "preparing a new Mental Health Bill which will provide for an automatic independent review of every patient admitted on an involuntary basis to a psychiatric facility ... It is hoped to have this Bill completed shortly and introduced to Parliament as early as possible in the new year."

The CPT welcomes this development and **recommends that legislation introducing an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment be brought into force at the earliest possible opportunity. The Committee would also like to receive a copy of the new Mental Health Bill, and to be informed of whether patients will be able themselves to request at reasonable intervals that the necessity for placement be considered by a judicial authority.**

⁵⁰ cf. Section 17 (6) of the Criminal Justice Administration Act, 1914.

⁵¹ cf. Section 13 of the Lunatic Asylums (Ireland) Act 1875, as amended by the Criminal Justice Act, 1960.

7. Transfer of patients

119. Medical staff at the Central Mental Hospital identified the transfer of patients as a source of problems. It was suggested that civil psychiatric hospitals were often highly reluctant to accept patients who were detained at the Central Mental Hospital. Moreover, as the Inspector of Mental Hospitals has recently emphasised, there is a lack of "community residential facilities of a rehabilitatory nature"⁵² to which Central Medical Hospital patients may be transferred.

As a result of these problems, a number of patients who no longer required to be held in highly-secure conditions continued to be detained at the Central Mental Hospital. In turn, this meant that the Central Mental Hospital did not always have the capacity immediately to receive patients who required to be transferred there from prisons or civil psychiatric hospitals (cf. paragraph 75).

The Irish authorities have informed the Committee that their plans to develop mental health services in Ireland are based upon the reduction of the number of beds in large hospitals, the transfer of psychiatric care from such hospitals to smaller units attached to general hospitals, the extension of community-based services and the promulgation of new mental health legislation. The CPT welcomes this approach and **recommends that, in the context of these reforms, urgent attention be given to resolving the problems associated with the transfer of patients to and from the Central Mental Hospital.**

⁵² cf. the Report of the Inspector of Mental Hospitals for the year ending 31 December 1997, page 8.

D. Treatment of foreign nationals under aliens legislation

120. In the five years since the CPT's first periodic visit, there has been an exponential increase in the number of foreign nationals seeking asylum in Ireland (from some 91 in 1993 to over 3,800 in 1997). However, the information gathered by the Committee's delegation from a variety of official and non-official sources indicated that, at the time of the visit, foreign nationals were not being deprived of their liberty under aliens legislation. Persons who remained in Ireland pending the outcome of an asylum claim were generally allocated accommodation by the local social welfare services and, consequently, do not fall within the Committee's mandate.

Nevertheless, certain sections of the Refugee Act 1996 which have yet to be brought into force do provide for powers to detain foreign nationals. **The CPT would like to be informed of whether the Irish authorities intend to introduce such powers. Should that be the case, the Committee would like to receive detailed information about the conditions under which such immigration detainees would be held (accommodation, programmes of activities, etc.).**

121. The risk of persons detained under aliens legislation being ill-treated in the countries which the CPT visits, whether at the time of apprehension, whilst detained, or in the context of removal, is not the only subject of interest to the Committee. The prohibition of torture and inhuman or degrading treatment or punishment also embraces the obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

The applicable procedure should offer persons detained under aliens legislation a real opportunity to present their cases, and officials entrusted with handling such cases should be provided with appropriate training and have access to objective and independent information about the human rights situation in other countries (cf. also Recommendation No. R (98) 15 of the Committee of Ministers of the Council of Europe, on the training of officials who first come into contact with asylum-seekers, in particular at border points). Further, in view of the potential gravity of the interests at stake, the Committee considers that all decisions involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to their implementation.

122. The CPT's 1998 delegation carried out a follow-up visit to **Shannon Airport** and found that, by contrast with the situation observed at the time of its 1993 visit, potential asylum-seekers were being provided with written information on the procedure applicable to them, in a variety of languages, as from the outset of that procedure. They were allowed to make telephone calls, inter alia to inform a person of their choice of their situation and had access to a doctor under an arrangement with the local Health Board.

Another positive development since the Committee's first visit was that immigration officers had received specialised training in handling asylum requests. One demonstrable effect of that training was that, in marked contrast with the situation encountered in 1993, the immigration officers met at Shannon Airport were able to explain clearly to the delegation the procedures which they applied.

123. The CPT understands that the legislation governing asylum procedures in Ireland is currently in a state of flux.

Framework provisions are set out in the Aliens Act 1935 (as amended), and in numerous ministerial orders made pursuant to that Act. However, in practice, asylum procedures are conducted in accordance with a series of letters from the Department of Justice to the office of the United Nations High Commissioner for Refugees (UNHCR). The first such letter - dated 13 December 1985 - provided that an asylum application is to be examined in accordance with the 1951 Geneva Convention Related to the Status of Refugees and its 1967 Protocol. In that, and in subsequent similar letters, the Irish authorities undertook to consult UNHCR on every application; to provide an interpreter at asylum interviews; and not to refuse entry to, or remove a person from, Ireland pending the examination of their asylum application. However, the procedures established by letter contain no provisions for legal representation of asylum-seekers and foresee no right of appeal against a decision to refuse asylum.

Conscious of the need for a clearer regulatory framework in this area, the Irish Parliament passed the Refugee Act 1996, which establishes a structured asylum determination procedure, including a right to legal representation and a right of appeal. However, the principal provisions of this Act have never been brought into force.

The CPT considers that it would be highly desirable for the asylum determination procedure foreseen by the Refugee Act - and in particular the right to legal representation and right of appeal against a decision to refuse asylum - to be introduced without further delay.

III. RECAPITULATION AND CONCLUSIONS

A. Police (Garda Síochána) establishments

124. The delegation which carried out the CPT's visit to Ireland in 1998 spoke to many persons about their experiences while in police custody. A significant number of those interviewed alleged that they had been physically ill-treated by members of the Garda Síochána. As had been the case during the 1993 visit, those allegations tended to be consistent as regards the forms of ill-treatment involved (namely, slaps, punches, kicks and/or blows with batons). The persistence of such allegations regarding the use of excessive force by police officers highlights the need for the Irish authorities to remain particularly vigilant in this area.

125. As regards more particularly allegations of ill-treatment at the time of arrest, the CPT has recognised that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest 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 and, once arrested persons have been brought under control, there can be no justification for police officers striking them.

The Committee has recommended that members of the Garda Síochána be reminded of these precepts.

126. The CPT has also stressed that effective complaints and inspection procedures are essential components of any strategy for the prevention of ill-treatment.

In this respect, the CPT has requested information regarding envisaged reforms in the operation of the Garda Síochána Complaints Board, and of disciplinary tribunals appointed by that Board. It has also asked for details of the practical measures which have been taken with a view to enhancing supervision of the work of Gardai responsible for the treatment of persons in custody, and for information on the progress which has been made towards the introduction of a system of independent inspection of Garda stations.

127. The formal safeguards offered to persons detained by the police in Ireland appear, on the whole, to be adequate. However, although such persons can have access to a lawyer as from the outset of their deprivation of liberty, this does not extend to having the lawyer present during interrogations. The CPT has invited the Irish authorities to take appropriate action to introduce such a right. It has also recommended that action be taken formally to guarantee the right of access to a lawyer for detained persons who do not have their own lawyer.

Further, the Committee has sought confirmation that the full range of safeguards set out in the Criminal Justice Act 1984 and the 1987 Regulations issued under Section 7 of that Act, apply to persons held under the Criminal Justice (Drug Trafficking) Act 1996 or Section 30 of the Offences Against the State Act 1939, as amended.

128. The material conditions of detention observed by the CPT's delegation in the establishments visited were in the main acceptable. However, the Committee has recommended that the cleanliness and state of repair of cellular accommodation at Henry Street Divisional Headquarters in Limerick, and at Fitzgibbon Street and Finglas Garda Stations in Dublin, be reviewed. It has also recommended that steps be taken to ensure that conditions of detention in all police establishments comply with the requirements identified by the CPT in its report.

B. Prison establishments

129. As had been the case during the 1993 visit, the CPT's delegation observed that the great majority of prison officers were attempting to deal in a humane manner with the prisoners in their charge.

Notwithstanding this positive finding, the delegation did hear a number of allegations from inmates at Mountjoy and Limerick Prisons to the effect that they had been physically ill-treated (punched/kicked) and/or verbally abused by prison officers in those establishments. None of the prisoners concerned bore injuries consistent with their allegations; however, given the time which had elapsed since the alleged ill-treatment, any injuries which they might have sustained would almost certainly have healed.

The existence of ill-treatment of inmates by certain prison officers was openly acknowledged by senior staff at both establishments and there is no lack of awareness of this problem at governmental level. Nevertheless, the CPT is concerned that most if not all of the officers in question still work at Mountjoy and Limerick Prisons and that little or no effective action has been taken against them.

130. The CPT has reviewed the action which the Irish authorities intend to take in order to tackle this problem.

Recalling its previous recommendation that prison governors be provided with the necessary means to enable them effectively to manage the prisons of which they have charge, the Committee has requested further information about plans to delegate greater responsibility and accountability to governors in respect of staff.

The Committee has also stressed that there is arguably no better guarantee against the ill-treatment of a prisoner than a properly trained prison officer, capable of adopting an appropriate attitude in his relations with inmates. Particular attention should be given to training in the art of handling, and more especially of speaking to, prisoners i.e. to interpersonal communication skills. The possession of such skills can enable prison officers to deal with the difficult situations which may arise in prisons, without resort to violence. In this respect, the Committee has noted that the Irish authorities have decided in principle to develop training in interpersonal communication skills for prison staff, and has recommended that concerted efforts be made to translate that decision into practice.

The Committee has also sought information about the practical measures being taken to implement the recommendation, contained in a recent report commissioned by the Irish authorities, that the selection process for prison officers be redesigned and that the new process be administered by trained assessors.

131. In the period since the CPT's first periodic visit, efforts have been made to improve the living conditions of inmates and the working conditions of prison staff. The Committee has welcomed the renovation work which has already been carried out in certain sections of Mountjoy and Limerick Prisons and has recommended that completion of the remaining work - and, in particular, the provision of new facilities for women inmates at Limerick Prison - be accorded a high priority.

132. Nevertheless, the potentially positive impact of such measures continued to be undermined by overcrowding. A number of attempts have been made to tackle this problem at a system level, the latest of which involves a prison building programme scheduled to provide an additional 2000 prison places by the year 2002. While noting the ambitious scale of the action planned by the Irish authorities, the CPT has expressed the view that it is unlikely that providing additional accommodation will alone provide a lasting solution to the problem of overcrowding. It has recommended that the Irish authorities develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding.

133. The enhancement of regime activities for prisoners will, to a large extent, be contingent on success in tackling the problem of overcrowding. Nevertheless, concerted efforts are required to improve the current situation. It is not acceptable that so many inmates are essentially left to their own devices for months at a time. The aim should be to ensure that all prisoners (whether on remand or sentenced) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature. The regime offered to prisoners serving lengthy sentences should be even more favourable. Consequently, the Committee has recommended that a very high priority be given to enhancing regime activities for inmates at Mountjoy and Limerick prisons, and at all other prisons in Ireland where a similar situation obtains.

134. As far as medical services are concerned, the CPT has again recommended improvements in the staffing levels at both Mountjoy and Limerick Prisons.

In particular, it has recommended that immediate steps be taken to provide at least the equivalent of the services of one full-time doctor for prisoners held in the male accommodation areas at Mountjoy Prison and to increase the number of hours for which a doctor is present at Limerick Prison. Further, it has recommended that Mountjoy Prison secure the services of at least three full-time qualified nurses and Limerick Prison, at least one full-time qualified nurse. The introduction of qualified nursing staff into all prison establishments in Ireland has also been recommended.

135. Health care facilities at Mountjoy Prison had improved since the Committee's 1993 visit. However, the CPT has recommended that the on-wing doctors' rooms in C and E Blocks at Limerick Prison be upgraded.

136. As had been the case in 1993, many complaints were heard, from inmates and prison staff, about the quality of the medical service provided by the doctors working in the male accommodation areas of Mountjoy Prison. The CPT has indicated that the duty of care which is owed by the Irish authorities to those committed to prison by the courts extends to ensuring that they are properly medically screened on reception and that, thereafter, they receive an adequate quality of medical care. As matters stand, the medical service in the male accommodation areas at Mountjoy Prison signally fails to meet these criteria.

The Committee has expressed concern that such a situation - which has been openly acknowledged by the Irish authorities since at least the time of the CPT's 1993 visit - should have been allowed to persist for so long. It has recommended that decisive action be taken to ensure that an adequate quality of care is provided by the doctors employed to work in the male accommodation areas at Mountjoy Prison.

137. The level of in-house psychiatric services provided to prisoners in the male accommodation areas at Mountjoy Prison, albeit augmented since the 1993 visit, still left something to be desired. The CPT has recommended that it be further reinforced.

More generally, the Committee has recommended that in-patient psychiatric services for prisoners be reorganised as a matter of urgency, in order to ensure that it is always possible to transfer mentally ill inmates to an appropriate psychiatric facility without delay.

138. Particular attention has been paid to the situation of six inmates held in a special unit at Portlaoise Prison, subject to a so-called "barrier-handling regime". They were being kept in a cramped facility, were offered virtually no purposeful activities and had very little human contact. Their relations with staff - who wore riot gear in all day-to-day contact with them - were tense. Moreover, interviews with five of the six inmates indicated that the regime as a whole was having harmful psychological consequences for those subjected to it.

The CPT has outlined a number of criteria which should apply in such special units. It has recommended that immediate measures be taken to bring the regime at the special unit at Portlaoise Prison into conformity with those criteria, and to place it on a firm legal basis. The Committee has also recommended that the practice of prison staff wearing riot gear in all day-to-day contacts with prisoners be discontinued.

139. The CPT has made recommendations and requests for information on a number of other issues falling within its mandate (including complaints and inspection procedures, discipline, and drug problems). Of these, it would emphasise its recommendations that new Prison Rules be brought into force without delay, and that the procedural safeguards for prisoners facing disciplinary charges be reinforced.

C. The Central Mental Hospital, Dundrum

140. No allegations were heard of the ill-treatment of patients at the Central Mental Hospital; nor was any other evidence of such treatment found by the delegation during the visit. Relations between staff and patients were generally positive and tension-free.

141. Staffing levels were on the whole sufficient to enable an adequate quality of care to be provided to patients at the hospital. However, the CPT has expressed the view that, in the interests of enhancing patient care, it would be highly desirable for the proportion of staff with specialised psychiatric nursing training to continue to be increased, for such staff to be deployed throughout the establishment, and for cooperation between psychiatric nurses and care officers to be enhanced.

142. Psychiatric treatment at the hospital followed an individualised approach, and no evidence was found of patients receiving inappropriate medication or being over-medicated. In addition to psychopharmacological treatment, the hospital provided occupational therapy as well as rehabilitative and recreational activities. All of the patients interviewed were well informed about - and declared themselves happy with - the treatment which they were receiving.

Plans have been made further to develop therapeutic and rehabilitative activities for patients, and the CPT has expressed the hope that the funds identified as necessary for this purpose will be made available at the earliest opportunity.

143. There were marked differences between the quality of patient accommodation offered in the more modern units and that available in the hospital's older building. The CPT has recommended that urgent steps be taken to upgrade the quality of patient accommodation in the older building, giving a high priority to ensuring that all patients have ready access to a lavatory at all times. It has also recommended that efforts be made to provide patients with lockable space within which they can keep their belongings and to improve the decoration of patients' rooms throughout the establishment.

144. In the majority of the units visited, the rooms used for seclusion of patients provided satisfactory material conditions. However, the six seclusion rooms in unit 1 - which had no furnishings whatsoever - had a distinctly carceral aspect. Moreover, the establishment had a padded cell, located in unit 4, which was of an antediluvian design and in a state of some dilapidation. The CPT has recommended that the former facilities be upgraded, and that the latter be taken out of service.

145. The CPT has also made a number of remarks as regards safeguards during involuntary placement and in the context of discharge. It has, in particular, expressed misgivings about the lack of an automatic review on a regular basis of the necessity to continue involuntary placements at the Central Mental Hospital. The Irish authorities have indicated that legislation introducing an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment is being prepared; the Committee has recommended that such legislation be brought into force at the earliest possible opportunity.

D. Treatment of foreign nationals under aliens legislation

146. At the time of the visit, foreign nationals were not being deprived of their liberty under aliens legislation. Nevertheless, the CPT has asked to be informed of whether it is intended to introduce powers to detain foreign nationals, in which case it would like to receive detailed information about the conditions under which such immigration detainees would be held.

147. By contrast with the situation observed in 1993, potential asylum seekers at Shannon Airport were being provided with written information on the procedure applicable to them, in a variety of languages, as from the outset of that procedure. Further, immigration officers had received specialised training in handling asylum requests.

As for the legislation governing asylum procedures, it was found to be in a state of flux. In this context, the CPT has expressed the view that it would be highly desirable for the asylum determination procedure foreseen by the Refugee Act 1996 - and in particular the right to legal representation and the right of appeal against a decision to refuse asylum - to be introduced without further delay.

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

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

149. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Irish authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

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

APPENDIX I

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

A. Police (Garda Síochána) establishments

1. Preliminary remarks

requests for information

- the comments of the Irish authorities on why the introduction of a power to detain persons suspected of drug trafficking in police custody without charge for up to seven days was deemed necessary (paragraph 9);
- confirmation that the full range of safeguards set out in the Criminal Justice Act 1984 and in the 1987 Regulations issued under section 7 of that Act apply to persons held under the Criminal Justice (Drug Trafficking) Act 1996 (paragraph 10);
- confirmation that it remains the case that the police are under a legal duty to apply the full range of safeguards set out in the 1987 Regulations issued under the Criminal Justice Act 1984 to all persons detained under section 30 of the Offences Against the State Act 1939, as amended (paragraph 11).

2. Ill-treatment

recommendations

- members of the Garda Síochána to be 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 15).

comments

- the persistence of allegations regarding the use of excessive force by police officers highlights the need for the Irish authorities to remain particularly vigilant in this area (paragraph 14).

requests for information

- whether any preventive measures have been taken with a view to providing support for members of the Garda Síochána who are exposed to highly stressful or violent situations (paragraph 15);

- further and better particulars regarding the nature of any envisaged reforms in the operation of the Garda Síochána Complaints Board, and of disciplinary tribunals appointed by it, together with details of the timescale within which they may be introduced (paragraph 16);
- for 1996 - 1998:
 - . the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police (paragraph 17);
- detailed information about the practical measures which have been taken to implement the arrangements proposed by the Garda Commissioner with a view to enhancing the supervision by senior police officers of the work of Gardai responsible for the treatment of persons in custody (paragraph 18);
- information on any progress which has been made towards the introduction of a system of independent inspection of Garda stations (paragraph 19).

3. Safeguards against the ill-treatment of detained persons

recommendations

- appropriate action to be taken formally to guarantee the right of access to a lawyer for detained persons who do not have their own lawyer (paragraph 23);
- custody record-keeping practices at Finglas Garda Station in Dublin to be subject to closer supervision (paragraph 27).

comments

- invitation to take appropriate action with a view to introducing a right for arrested persons to have a lawyer present during interrogations (paragraph 22).

requests for information

- the findings of the Committee charged with reviewing the operation of the Criminal Legal Aid Scheme (paragraph 24);
- developments as regards the introduction of electronic recording of police interrogations on a nationwide basis (paragraph 26).

4. Conditions of detention in the police establishments visited

recommendations

- the cleanliness and state of repair of cellular accommodation at Henry Street Divisional Headquarters in Limerick, and at Fitzgibbon Street and Finglas Garda Stations in Dublin to be reviewed (paragraph 30);
- appropriate steps to be taken to ensure that the conditions of detention in all police establishments meet the requirements indicated in paragraph 29 (paragraph 30).

B. Prison establishments

1. Preliminary remarks

recommendations

- should the new Prison Rules not yet have been brought into force, this to be done without further delay (paragraph 31).

requests for information

- whether the new Prison Rules have been brought into force (paragraph 31);
- further information about the progress being made towards the creation of a Prisons Agency (paragraph 32).

2. Ill-treatment

recommendations

- concerted efforts to be made to develop training in interpersonal communication skills for prison staff (paragraph 44).

requests for information

- progress made in delegating greater responsibility and accountability to prison Governors in respect of staff (paragraph 39);

- the comments of the Irish authorities on the matters related to disciplinary complaints against prison officers referred to in paragraph 40 (paragraph 40);
- further details regarding the content of the training in control and restraint techniques provided to prison staff (paragraph 42);
- further information about the practical measures being taken to redesign the process of selecting prison staff and to have trained assessors administer the selection process (paragraph 43);
- for 1996 - 1998:
 - . the number of complaints of ill-treatment by prison staff lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff (paragraph 45).

3. Conditions of detention

recommendations

- a multi-faceted strategy designed to bring about a permanent end to overcrowding to be developed and implemented, taking into account the remarks in paragraph 59 (paragraph 59);
- every effort to be made to ensure that the additional renovation work which is planned at Mountjoy and Limerick Prisons is completed as rapidly as possible; provision of new facilities for women prisoners at Limerick Prison to be accorded a particularly high priority (paragraph 60);
- the planned occupancy levels of the 10.65 m² cells at the new remand prison near Wheatfield to be revised; no more than two prisoners to be accommodated within those cells (paragraph 61);
- a very high priority to be given to improving the regime activities offered to prisoners at Mountjoy and Limerick Prisons, and at all other prisons in Ireland where a similar situation obtains (paragraph 62).

requests for information

- regularly-updated information on the progress of renovation work at Mountjoy and Limerick Prisons (paragraph 60).

4. Medical services

recommendations

- immediate steps to be taken to:
 - . provide at least the equivalent of the services of one full-time doctor for prisoners held in the male accommodation areas at Mountjoy Prison and increase the number of hours for which a doctor is present at Limerick Prison;
 - . secure the services of at least three full-time qualified nurses at Mountjoy Prison and at least one full-time qualified nurse at Limerick Prison (paragraph 65);
- efforts to be made to introduce qualified nursing staff into all prison establishments in Ireland (paragraph 66);
- the on-wing doctors' rooms in C and E Blocks at Limerick Prison to be upgraded (paragraph 67);
- decisive action to be taken to ensure that an adequate quality of care is provided by the doctors employed to work in the male accommodation areas at Mountjoy Prison (paragraph 71);
- the level of in-house psychiatric care in the male accommodation areas at Mountjoy Prison to be further reinforced. In so doing, efforts to be made to enhance the continuity of care which is delivered to inmates (for example, by employing a smaller number of psychiatrists for longer periods of time) (paragraph 74);
- the provision of prison psychiatric services to be reorganised as matter of urgency. The aim to be to ensure that it is always possible to transfer mentally ill inmates to an appropriate psychiatric facility without delay (paragraph 76).

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

recommendations

- prisoners facing disciplinary charges to be guaranteed the rights to:
 - . be informed in writing of the charges against them and given sufficient time to prepare their defence;
 - . call witnesses on their own behalf and cross-examine evidence given against them;
 - . be heard in mitigation of punishment, in cases where found guilty by the Governor;
 - . remain seated during adjudications and have facilities to take notes;
 - . appeal to a higher authority against any sanctions imposed (paragraph 81).

requests for information

- detailed information about the role and functions which it is intended to attribute to the Prisons Inspectorate and to the reformed Visiting Committees (paragraph 79);
- the timescale within which it is envisaged that the Prisons Inspectorate will become operational (paragraph 79);
- the comments of the Irish authorities on the drug-related issues raised in paragraph 82 (paragraph 82).

6. Special unit at Portlaoise Prison

recommendations

- immediate measures to be taken to bring the regime in the special unit at Portlaoise Prison into conformity with the criteria set out in paragraph 89, and to place it on a firm legal basis (paragraph 92);
- the practice of prison staff wearing riot gear in all day-to-day contacts with prisoners to be discontinued forthwith (paragraph 92);

- if inmates continue to be held in the special unit at Portlaoise Prison, measures to be taken to:
 - . improve access to natural light in those cells where it is deficient;
 - . ensure that prisoners have ready access to a lavatory at all times, including at night (paragraph 93).

C. The Central Mental Hospital, Dundrum

1. Staffing issues

comments

- in the interests of enhancing patient care, it would be highly desirable for the proportion of staff with specialised psychiatric nursing training to continue to be increased, for such staff to be deployed throughout the establishment, and for cooperation between psychiatric nurses and care officers to be enhanced (paragraph 98).

2. Treatment of patients

comments

- the CPT trusts that the funds which the Eastern Health Board identifies as necessary in order to develop therapeutic and rehabilitative activities for patients will be made available at the earliest possible opportunity (paragraph 99).

requests for information

- a copy of the Eastern Health Board's overall capital plan (paragraph 99).

3. Patients' living conditions

recommendations

- urgent steps to be taken to upgrade the quality of patient accommodation in the hospital's old building, having regard to the criteria enunciated in paragraph 103; ensuring that all patients have ready access to a lavatory at all times to be regarded as a particularly high priority (paragraph 104);

- efforts to be made to:
 - . provide patients with lockable space within which they can keep their belongings;
 - . improve the decoration of patients' rooms throughout the establishment (paragraph 104).

4. Seclusion

recommendations

- the facilities used for seclusion in unit 1 to be upgraded, and the padded cell located in unit 4 to be taken out of service (paragraph 106).

5. Safeguards in the context of involuntary placement

recommendations

- an introductory brochure setting out the establishment's routine and patients' rights to be produced and systematically issued to patients on admission (paragraph 107);
- legislation introducing an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment to be brought into force at the earliest possible opportunity (paragraph 118).

comments

- invitation to review the restrictions upon telephone calls to and from patients (paragraph 109).

requests for information

- whether the new mental health legislation will address the issue of a complaints procedure for patients (paragraph 108);
- copies of all future annual reports of the Inspector of Mental Hospitals (paragraph 110);
- a copy of the new Mental Health Bill (paragraph 118);
- whether patients will be empowered themselves to request at reasonable intervals that the necessity for involuntary placement in a psychiatric establishment be considered by a judicial authority (paragraph 118).

6. Transfer of patients

recommendations

- urgent attention to be given to resolving the problems associated with the transfer of patients to and from the Central Mental Hospital (paragraph 119).

D. Treatment of foreign nationals under aliens legislation

comments

- it would be highly desirable for the asylum determination procedure foreseen by the Refugee Act 1996 - and in particular the right to legal representation and right of appeal against a decision to refuse asylum - to be introduced without further delay (paragraph 123).

requests for information

- whether the Irish authorities intend to introduce powers to detain foreign nationals. Should that be the case, detailed information about the conditions under which such immigration detainees would be held (accommodation, programmes of activities, etc.) (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

Mr John O'DONOGHUE TD Minister for Justice, Equality and Law Reform

Prisons

Mr Michael MELLETT	Assistant Secretary, Prisons Division
Mr Denis O'NEILL	Principal Officer, Prisons Planning, Liaison Officer to the CPT
Mr John GUINAN	Assistant Principal Officer, Prisons Planning
Mr Tommy MAGUIRE	Principal Officer, Prisons Personnel
Mr John KENNY	Assistant Principal Officer, Prisons Operations
Dr Enda DOOLEY	Director of Prison Medical Services
Mr Des O'MAHONY	Chief Psychologist
Mr Kevin WARNER	Co-ordinator of Education
Mr Martin HICKEY	Co-ordinator of Work and Training
Mr Noel CLEAR	Deputy Principal Probation and Welfare Officer

Immigration

Mr Sean AYLWARD	Assistant Secretary, Immigration Division
Mr John HURLEY	Principal Officer, Immigration and Nationality
Ms Bernice O'NEILL	Principal Officer, Asylum Policy

Human Rights

Mr Frank BOUGHTON	Principal Officer, Human Rights Division
Mr Michael KELLY	Assistant Principal Officer, Human Rights Division

Garda Division

Mr Brian PURCELL
Mr John CRONIN
Mr Jimmy MARTIN

Principal Officer, Crime Division
Principal Officer, Garda Planning
Principal Officer, Garda Administration

Garda Síochána

Mr Pat O'TOOLE
Mr Joe EGAN
Mr Pat CREGG
Mr John KELLY

Assistant Commissioner
Assistant Commissioner
Chief Superintendent
Superintendent

Department of Health and Children

Mr Brian COWEN TD

Minister for Health and Children

Mr Alan AYLWARD
Mr Brian HOWARD

Principal Officer, Continuing Care
Assistant Principal Officer, Mental Health Division

Mr Dermot WALSH

Inspector of Mental Hospitals

B. Non-governmental organisations

Irish Commission for Justice and Peace
Irish Council for Civil Liberties
Irish Penal Reform Trust
Irish Refugee Council

