



CPT/Inf (2006) 4

**Response of the Icelandic Government  
to the report of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
on its visit to Iceland**

**from 3 to 10 June 2004**

The Icelandic Government has requested the publication of this response. The report of the CPT on its June 2004 visit to Iceland is set out in document CPT/Inf (2006) 3.

Strasbourg, 26 January 2006



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**A. Police establishments**

**1. Ill-treatment**

**comments**

- *The Icelandic authorities are invited to exercise particular vigilance with a view to ensuring that no more force than is strictly necessary is used by police officers when effecting an arrest (paragraph 10).*

Reply: The Icelandic Government attaches very high importance to the protection of the citizens against unnecessary force used by the police. The unequivocal provisions of Sections 13 and 14 of the Police Act, No. 90/1996, state that police activities are subject to the principle of proportionality. Furthermore, Section 101 of the Code of Criminal Procedure, No. 19/1991, provides that when arresting a person, no more inconvenience shall be caused to him than necessary. As stated in the visit report Icelandic authorities have taken certain steps to prevent ill-treatment by the police, such as issuing rules in February 1999 on the use of force by the police, circulated to all police precincts. Also, additional training was provided by the State Police College. The Code of Police Ethics, issued in June 2003, stipulates that the excessive use of force, both physical and verbal, is prohibited. Furthermore it should be pointed out that the police are under active restraint in this area, e.g. by the courts, which examine, when there is reason to do so, questions as to whether an arrest was lawful or whether the police used excessive force against the person arrested. Under Article 72 of the Code of Criminal Procedure, the police are required to make a report on every arrest, and the customary procedure is that the person arrested is questioned and is then able to state any criticisms that he may have. In the view of the Government of Iceland, the legal provisions in this area are effective and give the ordinary citizen ample legal protection.

request for information

- *in respect of 2004, on:*
- *the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;*
- *an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 11).*

Reply: In 2004 the Director of Public Prosecutions received 27 cases involving complaints under Article 35 of the Police Act. Two of these are still unresolved. Of the cases that have been processed, 10 were dropped under Article 112 of the Code of Criminal Procedure. In 12 cases the complaints were dismissed, or their investigation discontinued under the first paragraph of Article 76 of the same Act. Prosecution actions were brought in the following three cases.

- An indictment was issued on 27 July 2004 against a police deputy in the Drug Squad of the Reykjavík Police for embezzling ISK 870,000 which had been confiscated and which had been placed in his keeping following its confiscation from an accused person. This was considered to be a violation of the first paragraph of Article 247 and of Article 138 of the Criminal Code. The accused was convicted by the district court and sentenced to 9 months' imprisonment, of which 6 months were suspended. In its judgement of 12 May 2005, on the other hand, the Supreme Court acquitted him of the charge.
- An indictment was issued on 26 January 2005 against a policeman for having driven in front of a motorcycle in order to try to stop the motorcyclist from speeding. This was considered to be a violation of Article 132 of the Criminal Code and also of the Traffic Act. In its judgement of 14 April 2005 the Reykjavík District Court convicted the accused and sentenced him to pay a fine of ISK 200,000 to the Treasury. An appeal has been lodged against this judgement.
- An indictment was issued on 9 February 2005 against a superintendent at the Office of the National Commissioner of Police for embezzlement and other offences involved in putting at the disposal of his cohabitational partner a car owned by the Office of the National Commissioner and using another car for his own purposes without authorisation. It is alleged that these actions constituted violations of the first paragraph of Article 247 and of Articles 137 and 138 of the Criminal Code. The case has been accepted for judgement by the Reykjanes District Court.

## 2. Safeguards against ill-treatment

### recommendations

- *the Icelandic authorities to adopt formal provisions regarding the right of persons in police custody to have access to a doctor, including – if they so wish – the right to be examined by a doctor of their own choice (in addition to any medical examination carried out by a doctor called by the police). Further, the information sheets provided to persons upon their apprehension by the police should be amended, so as to refer also to the right to have access to a doctor (paragraph 14).*

Reply: The Icelandic Government regards the principle of providing medical assistance to an arrested person as fundamental. Since medical services to arrested persons are subject to the same rules as are generally applicable within the health care system, the Icelandic authorities have not found it necessary to adopt formal provisions regarding the right of persons in police custody to have access to a doctor. An arrested person who requests, or is in need of, medical services, is either brought to a place where general emergency services are provided to the public, or else his needs are met by summoning a doctor responsible for emergency medical services. It follows that an arrested person does not enjoy any further rights to consult a particular doctor than are provided under the general rules applying to health care.

The Icelandic Government will consider amending the information sheets in question as recommended by the CPT to ensure that an arrested person is aware of the right of access to a doctor.

### comments

- *Any delay in the exercise of a detained person's right to notify someone of his situation should require the approval of a senior police officer or a public prosecutor (paragraph 13).*

Reply: The Regulations No. 395/1997, on the legal standing of arrested persons and interrogations by the police, are under review. The comments of the CPT in this connection will be given consideration in the course of this review.

- *The Icelandic authorities are invited to establish a system of regular visits to police establishments by an independent authority (paragraph 16).*

Reply: The Parliamentary Ombudsman is the official whose function it is to monitor public administration and ensure the right of the ordinary citizen in dealings with the authorities in Iceland. In his work, the ombudsman acts independently of all instructions from other parties. The ombudsman is able to examine cases both in response to complaints and also on his own initiative. He can also make general examinations of government actions and the handling of cases by the government authorities. The ombudsman has free access to all government workplaces in connection with inspections forming part of his work, including law-enforcement establishments, and employees are required to provide him with all the assistance necessary in that connection. The Icelandic authorities therefore consider that an independent authority already exists to perform this function.

request for information

- *further clarification on whether any formal provisions have been adopted subjecting the return to police custody of persons on remand held in prison to the authorisation of a prosecutor (paragraph 15).*

Reply: As is stated above, the Regulations No. 395/1997, on the legal standing of arrested persons and interrogations by the police, are under review. The comments of the CPT in this connection will be given consideration in the course of this review.

### **3. Conditions of detention**

recommendations

- *the metal bar seen at Búðardalur Police Station, intended to secure highly agitated/intoxicated persons with the help of handcuffs and/or foot cuffs, to be removed. In cases where a person in police custody is or becomes highly agitated, the police should immediately contact a medical doctor and act in accordance with his opinion (paragraph 18).*

Reply: A response will be made to this by recommending to the Búðardalur District Commissioner that another satisfactory solution be found. The CPT's recommendation regarding contacting a doctor will be passed on.

comments

- *the Icelandic authorities are invited to review conditions of detention at Búðardalur, Grundarfjörður, Ólafsvík, Selfoss and Stykkishólmur Police Stations, in the light of the remarks made in paragraph 17 (paragraph 17).*

Reply: Every effort will be made to take the CPT's comments into account.

### **4. Persons detained under aliens legislation**

recommendations

- *the Icelandic authorities to introduce written forms setting out the rights of foreign nationals, as well as to adopt provisions on the right to have access to a doctor and specific safeguards for unaccompanied minors (paragraph 22).*

Reply: The Ministry of Justice has recommended to the Icelandic Directorate of Immigration that it prepare an information sheet on the rights of foreign nationals who are subjected to a deprivation of their freedom in Iceland under the Act on Foreigners No. 96/2002, as the CPT has recommended.

Regarding unaccompanied minors in Iceland, increasing numbers of cases have come up in Iceland's neighbouring countries that unaccompanied foreign minors have requested asylum or have been found in these countries without any record of their entry. There are various indications that the same trend could develop in Iceland, though few cases have occurred to date. This problem has received attention in collaborative work under the administration of the Baltic Council, of which Iceland is a member.

There have been no clear rules or harmonised programme of action on dealing with matters of this type in Iceland; the cases that have arisen have been resolved under the current legislation on foreign nationals and child protection and by means of co-operation with the parties involved. In view of this, the Minister of Justice appointed a working group on 9 January 2004, which completed its work in April 2004. The group was entrusted with drawing up a draft programme of action on how to respond if unaccompanied foreign minors were found in Iceland, this including a definition of the government agencies or non-governmental organisations that would be responsible for their care in Iceland at any given stage of proceedings, and what measures would be taken to return them safely to their home countries. The group submitted proposals on a programme of action and also on the Regulations No. 53/2004, on foreign nationals, in accordance with its proposals. In addition, emphasis will be placed on using the remedies and working procedures already in place in Iceland and adapting them to the special requirements applying in cases such as these. The group recommends that individually tailored methods be applied, with primary consideration given to the needs of the minors. In its proposals, the group also recommends that cases involving minors who are found in Iceland without residence permits and not under the care of their parents or guardians should be treated in the same way as the cases of applicants seeking asylum under the 1951 UN Convention Relating to the Status of Refugees.

The programme of action outlined in the group's report includes a detailed analysis of the roles and responsibilities of the parties involved in each stage of the processing of these cases. These parties are the police, the Directorate of Immigration, the child welfare committees and the Icelandic Red Cross, and also the Reykjanesbær Social Services, which have undertaken to care for minors in accordance with the programme of action. The report states that the main task facing the authorities in connection with unaccompanied foreign minors in Iceland is to establish their origin and to reunite them safely with their families in their homelands. It is seen as essential that the processing of these cases should take the shortest possible time and that permanent solutions be effected as quickly as possible. If it does not prove possible to reunite the child with its family in its home country, then the child must be found a suitable future home in Iceland. The group proposes that this be done by the child welfare authorities, and that the Department of Immigration can grant children residence permits on humanitarian grounds under such circumstances, or asylum if they qualify for asylum under the 1951 UN Convention Relating to the Status of Refugees. The working group recommends that the long-term cost of such foster-placements be met by the Treasury; for this to be possible, it would be necessary to make amendments to the Child Welfare Act, No. 80/2002.

- *all persons required to stay for an extended period (24 hours or more) at the air terminal of Keflavík International Airport to be offered at least one hour of outdoor exercise per day (paragraph 23)*

Reply: No special outdoor facilities have been provided at the air terminal for foreign nationals who are obliged to spend extended periods there. Nevertheless, those who wish are able to go outside with accompanying personnel. This summer, on the other hand, it is planned to establish a special outdoor area for this purpose.

- *detailed instructions to be issued on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorised in the context of deportation operations. Such instructions should draw upon the principles set out in the CPT's 13<sup>th</sup> General Report, reproduced in Appendix I to this visit report (paragraph 27).*

Reply: On 9 July 2003, the National Commissioner of Police issued detailed procedural rules on dismissals and deportations in the cases of foreign nationals who arrive in Iceland and seek asylum or residence permits (see Appendix 1). These include rules on the use of force when it proves necessary. In the view of the Government of Iceland, these rules are in conformity with the principles set out in the CPT's 13<sup>th</sup> General Report and reproduced in Appendix 1 to its visit report.

#### comments

- *Were the number and/or length of detentions under the provisions of the Act No. 96/2002 to increase, the Icelandic authorities should consider setting up centres specifically designed for that purpose.*

Reply: In the light of the growing numbers of asylum seekers, the idea of having one specific place as a general reception centre has been under consideration in the Ministry of Justice over the past few years. No decision on a single reception facility has yet been taken, however, since the numbers involved have not yet called for such a facility. Authorisation to establish a general reception centre exists in Article 94 of the Regulations No. 53/2003, on foreign nationals. This states that asylum seekers and their families shall stay in a specific reception centre in accordance with the decision of the police and/or the Department of Immigration while their cases are being examined. The Ministry of Justice determines what places are to be used as reception centres, in accordance with the agreement between the ministry and the party or parties to whom the ministry has entrusted the care of asylum seekers at any given time. Acting in consultation with the Department of Immigration the police may locate asylum seekers and their families at places outside such reception centres, e.g. in guesthouses, at the beginning of the investigation of their cases if this is considered necessary.

request for information

- *clarification as to whether foreign nationals are offered free legal aid only at the stage of appeal against the decision on their case (paragraph 22).*

Reply: A new Foreign Nationals Act, No. 96/2002, took effect on 1 January 2003. Provision is made in Article 34 of the new act for the right of foreign nationals to receive legal aid when certain matters regarding their legal status are under examination. This covers the appointment of a spokesman to assist, on the one hand, with the handling of cases before the courts, and on the other, in the administrative (executive) system. The role of the spokesman is to represent the foreign national and give him assistance. When cases are handled by a court, the spokesman appointed must be a qualified lawyer. When detention is requested under the sixth paragraph of Article 29, or the fifth paragraph of Article 33 of the Act, then a judge is to appoint the foreign national a spokesman who is a qualified lawyer. The same applies when a demand is made before a court to apply the investigative measures provided for under the third and fourth paragraphs of Article 33, except where this would result in particular complications or delays or where the judge does not consider it questionable to omit to appoint a spokesman.

When an appeal is lodged against a decision on the dismissal of an application, deportation or the withdrawal of a residence permit, and in cases regarding applications for asylum, foreign nationals has the right to have the authorities appoint a spokesman for them. This does not apply, however, in cases involving deportation under items *b* and *c* of the first paragraph of Article 20, item *b* of Article 21 and the second paragraph of Article 43, in cases involving conduct of the type referred to in the second sentence, in appeals against refusals, based on items *d* and *e* of the first paragraph of Article 46, to treat asylum applications or when a foreign national who has applied for asylum complains that he has received only a residence permit under the second paragraph of Article 11.

Under Article 34, the provisions of Section VI of the Code of Criminal Procedure, No. 19/1991 apply, as appropriate, to legal aid. From this it follows that the fee to the legal advisor or spokesman is paid by the Treasury. On the other hand, the foreign national is to be presented with a demand for the reimbursement of the cost of legal aid, in part or in its entirety, if he can afford it. The Act is submitted as Appendix 2.

## **B. Prisons**

### **1. Preliminary remarks**

#### comments

- *The CPT trusts that the recommendations and comments made in the report will be taken into consideration in the course of the legislative process. The adoption of the new Prison Act should also provide an opportunity to formulate and implement a nationwide policy on imprisonment and rehabilitation (paragraph 28).*

Reply: At a meeting with the Minister of Justice in May 2004, it was agreed that the Prisons and Probation Administration should present its objectives concerning the prisons and its ideas on the future development of the prisons. It presented a report on these matters to the minister on 12 October 2004. Concurrently with the preparation of this report, the Prisons and Probation Administration worked with the Ministry of Justice on the revision of draft legislation on the Service of Prison Sentences, which was submitted to the Althingi (parliament) and passed as law on 4 May 2005. This comprised a complete review of the laws and regulations on the service of prison Sentences in criminal cases. Reference was made in the general comments accompanying the bill to the work that the administration was doing on policy planning and to its report on future development. Consideration was given in that work to the CPT's comments and the trends in the legislation of Iceland's neighbouring countries on prison issues. The new act clarifies the rules and improves the legal basis of various provisions, and also introduces various innovations (see Appendix 3).

- *The Committee trusts that the Icelandic authorities will attach a high priority to finding an appropriate solution to the problem of accommodation for remand prisoners from the Reykjavík area (paragraph 29).*

Reply: The Icelandic Government's desire is to have a new reception prison built in the Reykjavík area which would also be used for remand prisoners and for those serving short sentences. In accordance with the objectives and plans for the future development of the prisons, priority is being placed on solving the problems that have existed regarding facilities for remand prisoners.

### **2. Ill-treatment and inter-prisoner violence**

- *the Icelandic authorities to seek to promote constructive relations between staff and prisoners at Litla-Hraun Prison; in particular, staff should be reminded that inmates must always be treated in a respectful manner (paragraph 31).*

Reply: The aforementioned report by the Prisons and Probation Administration, dated 12 October 2004, states amongst other things the following aim: "That prisoners be ensured prisoners properly structured conditions in which to serve their sentences, with the emphasis on communications based on respect ...". The Prisons and Probation Authority has taken the following steps to implement this policy.

Communications between the Prisons and Probation Administration, on the one hand, and prison warders and individual prisoners, on the other, were examined at the Nordic Prison Warders' Congress in Reykjavík in May 2004, with the aim of placing these communications in a particular channel.

On 15 May 2004 the Director of the Prisons and Probation Administration sent a letter to all prisoners warning them about victimisation of all types between prisoners. They were urged to desist from such conduct and were warned that action would be taken if cases of victimisation and ostracism came to light. Rules were then issued on this matter (see Appendices 4 and 5). After this, a course for prison warders was held to enable them to identify and deal with cases of such conduct among prisoners in a balanced and professional manner.

The CPT's recommendation on this point was examined at a meeting with the directors of the prison in January 2005 and possible changes were discussed. Amongst other things, the Director of the Prison and Probation Administration urged the prison governor to make more frequent tours of inspection of the prison. In his written reply to the administration he stated his belief that the prison warders were generally well aware of the need to treat the prisoners well and that good relations between warders and prisoners was a key element in the execution of prison warders' work. Priority will be given to urging prison staff to bear this in mind. The Prison and Probation Administration has taken steps to implement this policy. It should also be mentioned that a committee appointed by the Minister of Justice is currently working on a revision of the training of prison warders. In the new, revised training programme, great emphasis will be placed on increasing prison warders' ability to avoid and reduce violence and stressful relations in prisons, in addition to which particular emphasis will be placed on communication with, and warders' conduct towards, prisoners serving sentences. The committee is also to examine whether special retraining programmes should be established for prison warders who have already completed their training, in which special emphasis would be placed on these matters.

- *the existing arrangements for urine testing at Litla-Hraun Prison be reviewed; other means could and should be found to reconcile the legitimate aim of combating drug abuse with the inherent dignity of the persons concerned (paragraph 31).*

Reply: Action has been taken on the CPT's recommendation and the mirrors referred to have been removed. Now, when urine samples are taken, prison warders stand beside the prisoner at a suitable distance.

- *staff at Litla-Hraun Prison be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation, bearing in mind the remarks made in paragraph 34 of the visit report (paragraph 34).*

Reply: Please refer to what is stated above in the reply to paragraph 31.

- *existing procedures to be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him. A centralised system for recording injuries also to be introduced (e.g. specific register kept by the prison health-care service) (paragraph 34).*

Reply: No formal procedures have existed for responding to situations such as these; this has not been considered necessary since such matters are, without exception, to be reported to the relevant authorities. Nevertheless, the matter has been given attention within the Prisons and Probation Authority, as there was a recent case of inter-prisoner violence in which one of the prisoners received visible injuries. He was given assistance in reporting the matter to the police who are investigating it, in addition to which statements were taken from those involved in the incident and from all prisoners in the same department of the prison. Similar procedures will be followed in future.

It should also be stated that attention is being given to establishing a centralised database to record the injuries/visible injuries that prisoners receive and that may have been caused by their fellow-prisoners. Attention is also to be given to a revision of the current arrangement for reporting such incidents to staff of the health-care services.

#### request for information

- *the outcome of the police investigation into the case referred to in paragraph 33 (paragraph 33).*

Reply: Proceedings were instituted by an indictment issued by the Selfoss Commissioner of Police dated 15 September 2004 against two prisoners serving sentences at Litla-Hraun for having, jointly, struck the prisoner referred to several blows with their fists in a cell at Litla-Hraun, with the result that he sustained various visible injuries. The prosecution demanded that the defendants be sentenced to punishment. The judge considered that the defendants' guilt had been established. However, the defendants were not sentenced to any separate punishment in this case because the offence was committed before they received their last sentence for other offences, and thus they were given a supplementary punishment under Article 78 of the Criminal Code. As what was involved was a punishment supplementary to terms of imprisonment which in the one case totalled two years and three months, and in the other case two years and eight months, it was considered clear that the offence discussed here would not have resulted in an addition to those sentences. Thus, the defendants were not given any separate punishment in this case.

### **3. Conditions of detention**

- *the in-cell toilets in House 3 of Litla-Hraun Prison to be provided with partitions (paragraph 35).*

Reply: Work is being carried out on separating the toilet facilities in House No. 3 in the Litla-Hraun Prison from other parts of the cells, and will be completed shortly.

- *the Icelandic authorities seek to develop the programme of activities for prisoners at Litla-Hraun Prison, in the light of the remarks made in paragraph 36 of the report. The aim should be to integrate these activities into individual custody plans (paragraph 36).*

Reply: Following the submission to the Minister of Justice of the report by the Prisons and Probation Administration on policy concerning the prisons and their future development on 12 October 2004, the minister requested a more detailed presentation of the administration's ideas regarding the prisons. The administration submitted a report to the minister dated 26 January 2005. This contains a proposal for a large-scale upgrading of facilities at Litla-Hraun in which great emphasis is placed on increasing the number of jobs in the prison and maintaining steady employment there. It is proposed that a new building be built in connection with this. Furthermore, a substantial improvement in outdoor facilities is proposed.

It has now been announced that prisoners are to receive more time out of doors this spring. Also, three new jobs are to be added in the metalworking shop shortly due to an increase production of screw sections. It should be mentioned that additional entertainment courses are on offer, e.g. chess, choral singing, visits by artists, etc. Of the 75 prisoners who were in the prison at the beginning of February 2005, 52 pursued jobs/education. Two prisoners were on the waiting list for permanent employment and meanwhile undertook occasional tasks including window-washing, snow-clearance and clearing up the grounds, etc. Thus, 20 prisoners were not employed for various reasons, according to information supplied by the governor of the prison.

- *the Icelandic authorities to improve significantly the regime of activities offered to inmates at Skólavörðustígur Prison. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association (paragraph 37).*

Reply: In the view of the Prisons and Probation Administration, the prison functions of the Skólavörðustígur Prison should be abolished over the next few years. It is envisaged that in place of this prison and the Kópavogur Prison, further development and improvement be carried out at the Litla-Hraun, Kvíabryggja and Akureyri prisons, together with the building of a new prison. At present it is not possible to give dates for particular stages of these developments or to say when the Skólavörðustígur Prison will be closed. Until then, attempts will be made to increase the scope for sports activities in the prison courtyard. Due to circumstances, however, it is difficult to comply with this recommendation in other respects.

#### comments

- *the Icelandic authorities are invited to maintain all cells at Kópavogur Prison in a good state of repair (paragraph 39).*

Reply: An immediate response has been made to the CPT's comments. The cells and corridors have been painted and the furniture has been replaced. New kitchen units have been installed in the prisoners' canteen. It is planned that the building will be pulled down within a few years as part of town planning changes in Kópavogur, and plans for future developments of the prison system have taken account of this.

- *the Icelandic authorities to consider the possibility of converting Kópavogur Prison into a female prison. Such a measure would have the additional advantage of permitting more living space per prisoner and more possibilities for activities adapted to the needs of female inmates, in particular those serving long sentences.*

Reply: In the report by the Prisons and Probation Administration on policy concerning the prisons and their future development on 12 October 2004, to which frequent mention is made in this report, great priority is attached to having a sufficient number of prison places available at all times so that prisoners can begin serving their sentences soon after they are sentenced. The administration regards this as being not less important, from the point of view of the convicted persons, than the right of having their cases heard by a court within a reasonable time, which is guaranteed under Article 6 of the European Convention on Human Rights. Up to now this aim has been achieved by utilising all the prison space available in Iceland. Only 2-3 men have been placed in the Kópavogur Prison in the past few months due to an increase in the number of women prisoners; half of these are foreign women from a variety of countries. Particular care is taken in selecting the male prisoners who are placed there.

- *the Icelandic authorities are invited to explore ways to increase the range of work opportunities for inmates at Kvíabryggja Prison, in order to make it less dependant on seasonal variations in demand. Efforts might also be made to enhance the vocational dimension of the existing productive work. Further, the Icelandic authorities are invited to pursue their efforts to offer some form of education to prisoners held at the establishment (paragraph 44).*

Reply: The Government of Iceland concurs with the CPT in its concern in this area, and the Director of the Prisons and Probation Administration has discussed the matter with the governor of the prison. The question has arisen whether it would be better to entrust a single party with the overall supervision of the provision of tasks for all the prisons; there has been little collaboration or consultation between the prisons regarding work-related issues. The administration's report of 12 October 2004 mentions specifically the need to improve internet contact with the prison and to increase the range of educational activities, in collaboration with the new comprehensive school in Grundarfjörður.

#### **4. Health care**

##### recommendations

- *the practice of prescribing medication to prisoners without their being physically seen by a doctor to be discontinued without further delay (paragraph 46).*

To begin with, it must be stated by way of information that under the newly-passed Service of Prison Sentences Act, prisoners enjoy access to the health services that is comparable with that enjoyed by other citizens, in addition to the special health services prescribed under the laws and regulations applying to prisoners in prison.

Regarding the CPT's recommendation in paragraph 46, it may be stated that it has been customary for prisoners in the Litla-Hraun Prison who are beginning their sentences or periods of remand to receive a specific dose of medication in the case of addicts who are suffering withdrawal symptoms. A health-service worker is on duty in the prison during the week; during the evenings and at weekends there is a stand-by shift service. A nurse examines prisoners on admission, and a doctor examines them at the first opportunity, which may be the same day. The prison staff always contact the doctor who is on shift, who takes a decision on medication or an immediate examination. In view of the fact that there is no treatment ward in the prison, this arrangement is seen as acceptable by the doctors, and no problems have arisen.

- *the practice of medication prescribed to prisoners being distributed by medically untrained custodial staff to be stopped (paragraph 48).*

Reply: In the view of the Government of Iceland, there is nothing to prevent prison staff from distributing marked boxes to prisoners containing their medications, providing that the medications have been prepared by pharmacists or health-service workers. Medications in the duty office are marked with the names of the prisoners concerned, and details of administration are stated on the containers.

- *steps be taken to ensure that all prisoners have access to adequate dental treatment, including those without the means to pay for such treatment (paragraph 50).*

Reply: A review is currently under way of the rules on dental services to prisoners and attention is being given to raising the payment made by the Prisons and Probation Administration for dental services to each prisoner, which has been unchanged for some time now at ISK 32,000 per year. The administration considers that the health-service authorities should participate in paying the cost of dental care of long-term prisoners; discussions on this have been begun with the relevant authorities.

- *the Icelandic authorities to take steps to eliminate the delays in the medical screening of newly admitted inmates; save for exceptional circumstances, the screening should be carried out on the day of admission, especially in so far as remand prisoners are concerned (paragraph 51).*

Reply: Prisoners are examined on admission to the prison. As there is no doctor at the prison on a permanent basis, it is unavoidable that in some cases 2-3 days may pass before a medical examination is carried out.

- *the provision of psychiatric care to be improved at Skólavörðustígur and Kópavogur Prisons, and the attendance of a psychologist to be increased at Kvíabryggja Prison (paragraph 53).*

Reply: One psychologist has been employed at the Prisons and Probation Administration, and another at the Litla-Hraun Prison. At the beginning of this year a structural change was made; now both psychologists work at the administration, attending to the needs of the prisons from there. At present, the administration's psychologists visit the Skólavörðustígur and Kópavogur prisons at least once a week and give the prisoners psychological assistance.

Workers at these prisons have easy access to the psychologists and can call them in when the need arises. Other changes that have been made involve an increase in group treatment, but individual treatment is also administered. This arrangement must be seen as an improvement in psychological care for prisoners.

- *immediate steps be taken to ensure that mentally disturbed prisoners who require in-patient psychiatric treatment are kept and cared for in appropriate facilities (paragraph 54).*

Reply: The Director of the Prisons and Probation Administration drew the attention of the Ministry of Health to the situation in this area in June 2004 and said that the administration considered it unacceptable. Following on from this, meetings have been held by the Office of the Director-General of Public Health with staff of the Prisons and Probation Administration, the Ministry of Health and the senior staff of the Psychiatric Department of the National and University Hospital, but without visible results. The Prisons and Probation Administration has pointed out that a situation like this cannot be countenanced any longer and has urged that when a new prison is built in the metropolitan area, it should include a medical ward where prisoners of this type could be placed, but that responsibility for their care would rest with the Psychiatric Department of the National and University Hospital.

#### comments

- *the Icelandic authorities are invited to consider the possibility of finding another, more appropriate, facility for medical consultations at Kópavogur Prison (paragraph 49).*

Reply: Due to circumstances in the prison, it has not proved possible to find another facility.

- *the Icelandic authorities are invited to take steps to ensure that the guidelines for suicide prevention are known to, and applied by, all categories of staff involved (paragraph 55).*

Reply: Action has been taken to respond to this comment by holding courses for prison warders and other prison workers. They have been made aware of a response procedure to deal with suicidal behaviour, in which attention is given to the question of how prison workers are to respond when it is considered that a prisoner is at risk of committing suicide. A special booklet on this matter has been published and distributed to the staff of all the prisons (see Appendix 6). In addition, it should be mentioned that the committee appointed by the Minister of Justice, which has been mentioned above in this document, is specifically examining means of improving this aspect of teaching and training in the National Police College.

request for information

- *comments of the Icelandic authorities on complaints received by the delegation from prisoners at Litla-Hraun Prison about considerable delays in access to the doctor (paragraph 46).*

Reply: The Prisons and Probation Administration has examined these cases and considers that prisoners' requests for access to a doctor meet with quick responses. Doctors visit the prisons twice a week, and respond to call-outs between visits. There is also a nurse at the Litla-Hraun Prison. The prison doctors assess whether it is necessary for prisoners to consult specialists, and see to booking appointments in cases of urgent necessity. Otherwise, the prison handles the booking of appointments with specialists. The waiting period for appointments with specialists is the same for prisoners as for other members of the community.

In the opinion of the Ministry of Health, there is no substantial waiting period for consultations with a doctor in the regular service at the Litla-Hraun Prison. Repeated requests by some prisoners to see a doctor again and again may result in a reduction in the frequency of appointments, in which case the directions of the doctor concerned, or of the nurse, are followed. Under other circumstances, the waiting period is minimal.

- *confirmation that steps have been taken to ensure full respect of medical confidentiality at Litla-Hraun Prison (paragraph 52).*

Reply: Prison staff have not had access to prisoners' medical records. All prisoners' medical records are kept in locked cabinets to which only health-care workers have access, and this has long been the case. The health-care authorities have confirmed that the theoretical possibility that prison staff could gain access to these medical records no longer exists.

- *comments of the Icelandic authorities on the fact that special forms for making a declaration to opt out from the Icelandic Genome Project were not available at any of the prisons visited (paragraph 52).*

Reply: Presumably, this is a reference to the proposed centralised health-sector database. For information, this database has not gone into operation, and probably will not do so in the future.

## **5. Other issues related to the CPT's mandate**

recommendations

- *the police to be required to record in writing the specific reasons justifying the imposition of restrictions on a remand prisoner, and the prisoner to be informed of those reasons (it being understood that the reasons given might not include details which in the interests of the investigation it is reasonable to withhold from the prisoner). Further, the same procedure to be followed when decisions to remand in custody are reviewed by the court, and the police wish to prolong the restrictions in respect of the prisoner concerned (paragraph 58).*

Reply: In connection with the entry into force of the new Service of Prison Sentences Act, the regulations issued under the older legislation, including the Regulations No. 179/1992, on remand custody, are under review. The CPT's recommendations will be given full consideration in the course of this review.

- *prisoners facing disciplinary charges be formally guaranteed the following rights:*

- *to be informed in writing of the charges against them, to be given sufficient time to prepare their defence, and to be given a hearing and an opportunity to present their case;*
- *to call witnesses on their behalf and to cross-examine evidence given against them (paragraph 59).*

Reply: Section VI of the newly-passed Service of Prison Sentences Act contains provisions on breaches of discipline, disciplinary measures, etc. Disciplinary measures are defined and the breaches or attempted breaches for which solitary confinement or other penalties may be imposed are defined. The Act states that before a decision is taken regarding disciplinary measures, the facts of the case are to be investigated and the prisoner is to be given an opportunity to acquaint himself with the evidence in the case and to express his views. Reasons are to be stated for decisions on disciplinary measures, and the decisions are to be recorded in writing and announced to the prisoner in the presence of a witness. Besides the Service of Prison Sentences Act, the provisions of the Administrative Procedure Act also apply here, including those relating to investigation, proportionality and prisoners' right of objection. In the opinion of the Government of Iceland, the provisions of Icelandic law cover the considerations presented in paragraph 59 of the CPT's report.

- *every instance of use of the three isolation cells in House 2 be properly recorded, no matter the length of their use (paragraph 60).*

Reply: This recommendation has been acted upon, with the result that all use of the isolation cell in House 2 is now recorded in a special register in the duty office in House 3.

- *guidelines concerning the use of the "secure cell" for the placement of agitated and/or violent prisoners at Litla-Hraun Prison, and a register recording its use, to be created (paragraph 61).*

- *the devices currently in use at the "secure cell" for securing agitated and/or aggressive prisoners to be removed immediately (paragraph 61).*

Reply: Clear rules, set in June 1999, exist regarding the use of the cell with camera surveillance in House 1. The iron rings will be removed as soon as a suitable solution has been found to the question of how prisoners can be restrained, when this is necessary; work on this is in progress.

- *the Icelandic authorities to reconsider the possibility of establishing a system under which each prison establishment would be visited on a regular basis by an independent body authorised to inspect the prisoners' premises and to receive complaints from inmates about their treatment in the establishment (paragraph 63).*

Reply: As is stated in the reply to the CPT's comments in Paragraph 16, it is the role of the Parliamentary Ombudsman to monitor public administration and ensure the right of the ordinary citizen in dealings with the authorities in Iceland. In his work, the ombudsman acts independently of all instructions from other parties. The ombudsman is able to examine cases both in response to complaints and also on his own initiative. He can also make general examinations of government actions and the handling of cases by the government authorities. The ombudsman has free access to all government workplaces in connection with inspections forming part of his work, including prisons, and employees are required to provide him with all the assistance necessary in that connection. Thus, the Icelandic authorities consider that an independent authority already exists who is able to visit the prisons and deal with complaints by prisoners concerning their treatment or conditions of imprisonment.

- *the Icelandic authorities to take steps to develop fully-fledged therapeutic programmes aimed at combating drug addiction (paragraph 65).*

Reply: The Government of Iceland considers it a matter of great importance that prisoners should have access to therapeutic programmes during their time in prison. Up to now, various measures other than body-searches for drugs have been employed to combat drug abuse in the prisons. Psychologists from the Prison and Probation Administration have attempted to give prisoners support and guidance in tackling their addiction in order to reduce their consumption. A programme of action has been drawn up on establishing a treatment section in the prisons where the care provided will include medical treatment of prisoners' drug abuse problems. The newly-passed Service of Prison Sentences Act includes an innovative provision on the drawing up of treatment and placement programmes at the beginning of the service of sentences. These programmes are to be reviewed as necessary during the terms of imprisonment.

#### comments

- *the Committee trusts that the use of closed visiting facilities (i.e. with a glass partition) during visits at Litla-Hraun Prison will remain the exception, limited to individual cases justified for security-related reasons or by the legitimate interests of the investigation (paragraph 56).*

Reply: The Government of Iceland assures the CPT that facilities such as those referred to above are used only in highly exceptional cases where they are demanded by the strictest necessity.

## **C. Psychiatric Department of Reykjavík National University Hospital**

### **1. Patients' living conditions**

#### recommendations

- *the Icelandic authorities to take steps to ensure that, as a matter of principle, all patients whose medical condition so permits are offered the possibility to take at least one hour of outdoor exercise on a daily basis (paragraph 70).*

#### comments

- *the ventilation in the rooms for children and adolescent patients at the Dalbraut facility left something to be desired (paragraph 68).*

Reply: The Ministry of Health has made the institutions referred to above aware of all the CPT's recommendations and comments, and checks will be made after they have had the opportunity to act on them. The Ministry of Health has also taken account of the CPT's comments and will use them in the further development of the health services provided in various institutions.

### **2. Staff and treatment**

#### comments

- *The Icelandic authorities are invited to make efforts also to provide physiotherapy at the Psychiatric Department of Reykjavík National University Hospital (paragraph 72).*

Reply: Please refer to the general statement made under item 1 of this paragraph above.

### **3. Means of restraint/seclusion**

#### recommendations

- *a register documenting all instances of the application of physical and chemical restraint to be established (paragraph 75).*
- *the Icelandic authorities to reconsider the practice of calling police officers into the child and adolescent psychiatry ward to help health-care staff restrain an agitated/aggressive juvenile patient. Alternative solutions could and should be found (e.g. assistance by health-care staff from other wards or by the city's medical emergency service) (paragraph 76).*

Reply: Please refer to the general statement made under item 1 of this paragraph above.

#### 4. Safeguards in the context of involuntary placement

##### recommendations

- *the Icelandic authorities to amend the existing legislation with regard to the review of involuntary placements; if the period of involuntary placement is unspecified, there should be an automatic review at regular intervals of the need to continue placement (paragraph 79).*

Reply: The Icelandic authorities share the view that it is essential to insure that an involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. The need for such a placement should indeed be under constant review. It should be noted in this context that involuntary commitment approved by the Ministry of Justice may never last longer than the chief physician considers necessary (Article 29 of the Act on Legal Competence). It should be kept in mind that a person possessing personal legal competence can only be committed to a hospital against his or her will for treatment for a period not exceeding 21 days (Article 19 (3)). During this period, this person is entitled to the counsel and support of a specially appointed councillor (Article 27) and enjoys the right to refer a decision of involuntary commitment or involuntary hospital treatment to the courts (Article 30). Thus, both the constant, professional review of the chief physician involved and the judicial review is provided for during this relatively brief period.

Under Article 5, a person can be deprived of legal competence for a limited period of time if deprivation unlimited in time is not considered necessary. Such time-limited deprivation of legal competence shall however not be ordered for more than six months at a time. Such a decision, depriving a person of legal competence for a limited period of time does not constitute a decision on involuntary placement in a psychiatric establishment for that period. Furthermore, it should be noted that under Article 15, a person who, under Article 7 can be a party to proceedings where deprivation of legal competence is requested, considers that the reasons underlying such deprivation no longer apply, can request the district court to cancel the deprivation in part or in whole by a court order. Even though the courts unavoidably enjoy a certain level of discretion when dealing with such requests, there is a clear opportunity of a judicial review of the question whether the circumstances calling for deprivation of legal competence still exist.

- *the legislation on treatment of involuntary psychiatric patients without their consent to be reviewed, in the light of the remarks made in paragraph 80. Further, detailed rules on involuntary treatment of psychiatric patients should be issued, as foreseen in Article 28 (4) of the Act on Legal Competence (paragraph 80).*

Reply: The Icelandic authorities share the view that any derogation from the principle of free and informed consent should only be applied in clearly and strictly defined exceptional circumstances. The problem is how best to define those circumstances. The Icelandic legislation referred to in paragraph 80 applies only to those patients that suffer from a serious psychotic disorder or those deemed highly probable to suffer in this way, or if the person's condition is reasonably deemed analogous to that leading from such disorder. This also applies if a person suffers from a serious craving for alcohol or excessive use of addictive drugs. While the Icelandic authorities remain open to suggestions, it seems hard to define the scope of derogation from the above-mentioned principle in terms narrower than these. Furthermore, the possibility of involuntarily placing persons in psychiatric establishments without realistic possibility of treating them for their disease seems to raise questions of its own.

The Icelandic authorities agree that they should issue rules in further detail on involuntary administration of medical preparations or other involuntary treatment as provided for in the legislation.

- *regular visits by an independent body to be organised to psychiatric establishments. Such a body should be authorised, in particular, to talk privately with patients, to receive directly any complaints and transmit them, if appropriate, to the competent authority, and to make recommendations. Further, the management of the establishments concerned should be duly informed of the results of any inspections carried out on their premises.*

It should be noted that more than one body is currently performing the functions described.

The Parliamentary Ombudsman is the official whose function it is to monitor public administration and ensure the right of the ordinary citizen in dealings with the authorities in Iceland. In his work, the ombudsman acts independently of all instructions from other parties. The ombudsman is able to examine cases both in response to complaints and also on his own initiative. He can also make general examinations of government actions and the handling of cases by the government authorities. The ombudsman has free access to all government workplaces in connection with inspections forming part of his work, including health services, and employees are required to provide him with all the assistance necessary in that connection.

According to Article 28 of the Act on the Rights of Patients no. 74/1997, the patient's comments regarding the service of a health institution shall be directed to the central administration of the institution concerned. If a patient wishes to make a complaint about his treatment, he may lodge his complaint with the Directorate General of Public Health or the Committee on Dispute Settlement, cf. Article 3 (5) of the Health Service Act, No. 97/1990. Employees of health institutions are under obligation to guide a patient, or his relative, who wishes to forward his comments or make a complaint. Furthermore, the management of a health institution is obliged to look into comments of workers who believe that the rights of patients are being infringed. A patient shall receive a reply to his comments and complaints in writing at the earliest opportunity.

The main hospital also has an ombudsman of patients working to ensure that patients rights are upheld.

While this falls somewhat short of the recommendations for regular visits made by the Committee, there is a functioning system of independent surveillance of the psychiatric establishments.

### Comments

- *the Icelandic authorities are invited to consider amending Article 19 of the Act on Legal Competence in order to spell out these criteria of “serious psychosis or analogous condition”, so as to ensure that involuntary hospitalisation takes place only when a patient’s placement is absolutely necessary to prevent a danger to prevent a danger to the patient or to other persons (paragraph 77).*

The formulation in Article 19 was set out after careful consideration, but it must be agreed that it is somewhat vague. This is partly due to the fact that the exact diagnosis is often difficult, even when there is plentiful evidence of a very serious and dangerous condition. It also seems without value to strengthen the definition of serious psychotic disorder but to hold on to the concepts of “highly probable” and “analogous condition”. The Icelandic authorities remain open to suggestions for improvements.

- *the Icelandic authorities are invited to remedy the situation as regards the lack of written information available to psychiatric patients in respect of the possibilities to lodge complaints to an outside body (paragraph 81).*

The Icelandic authorities agree that they should make written information as regards the possibilities to lodge complaints to an outside authority available to psychiatric patients.

request for information

- *clarification as to how the system of emergency 48-hour involuntary hospitalisation operates in practice (paragraph 77).*

Reply: No request for deprivation of legal competence is required for emergency hospitalisation lasting up to 48 hours: a decision on this rests entirely with the doctors. If hospitalisation for longer periods is required, then an application for the deprivation of legal competence must be submitted to the doctors by family members or the social welfare authorities. Those submitting such applications are not involved any further in the process of obtaining a place in a psychiatric ward; the doctor involved undertakes to contact the psychiatric ward and to place the individual there if, in his opinion, deprivation of legal competence or hospitalisation are necessary. Doctors in the reception facilities of the psychiatric wards may order deprivation of legal competence lasting up to 48 hours without receiving an application.

- *comments of the Icelandic authorities on the reservations expressed by the CPT as regards the automatic linking of involuntary hospitalisation to deprivation of legal competence (paragraph 78).*

Reply: It is important to stress that the “automatic linking” of involuntary hospitalisation to deprivation of legal competence does not mean that one of those two can be decided on the merits of the other. In order for a person to be deprived of his legal competence, the criteria of Article 4 must be met. Those deprived of their legal competence on the basis of Article 4 (c) (physical disability, health failure or other impairment, in addition to a request by the person), can not legally be involuntarily hospitalised in a psychiatric establishment. While the Icelandic authorities agree that it is important that the needs of each individual for adequate protection must be kept in mind at all times, it is worth pointing out that a person deemed to be in need of involuntary hospitalisation can in effect not manage the most basic of his or her personal affairs other than financial affairs, this being the very definition of legal competence.