



CPT/Inf (2002) 23

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

from 10 to 26 September 2000

The Ukrainian Government has agreed to the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2002) 24.

A Ukrainian translation of the visit report, provided by the Ukrainian authorities, is also available on the CPT's website (www.cpt.coe.int).

Strasbourg, 9 October 2002

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Copy of the letter transmitting the CPT's report

Strasbourg, 17 April 2001

Dear Mr Shtanko,

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 Ukraine drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Ukraine from 10 to 26 September 2000. The report was adopted by the CPT at its 44th meeting, held from 6 to 9 March 2001.

I would draw your attention in particular to paragraph 192 of the report, in which the CPT requests the Ukrainian authorities to provide **within six months** a response setting out the action taken upon its visit report. The CPT would ask, in the event of the response being forwarded in Ukrainian, that it be accompanied by an English or French translation. It would also be most helpful if the Ukrainian authorities could provide a copy of the response 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,

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

Mr Ivan SHTANKO
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for the Execution of Sentences
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Ukraine from 10 to 26 September 2000.

The visit formed part of the Committee's programme of periodic visits for 2000. It was the CPT's third visit to Ukraine, the previous visits having taken place respectively in 1998 and 1999¹.

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

- Silvia CASALE, President of the CPT and Head of the Delegation
- Adam LAPTAŚ
- John OLDEN
- Veronica PIMENOFF
- Ole Vedel RASMUSSEN
- Pierre SCHMIT
- Davor STRINOVIĆ.

They were assisted by:

- Clive MEUX (Consultant Forensic Psychiatrist, Littlemore Mental Health Centre, Oxford, United Kingdom) (expert)
- Mr Oleksander HULIDOV (interpreter)
- Mr Vadim KASTELLI (interpreter)
- Mr Boris KOVALTCHOUK (interpreter)
- Mr Vikentiy Sergeevish SHIMANSKIY (interpreter)
- Mrs Larissa SYCH (interpreter)

¹ See documents CPT/Inf (2002) 19 and CPT/Inf (2002) 21.

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

- Geneviève MAYER, Deputy Executive Secretary
- Hugh CHETWYND.

B. Establishments visited

3. The delegation visited the following places:

Police establishments

Donetsk

- Militia Central Holding Facility (ITT)
- Kvibyshskiy and Leninskyi District Police Stations

Kyiv

- Militia Central Holding Facility (ITT)²
- Zaliznichnyi District Police Station²

Vinnytsia

- Militia Central Holding Facility (ITT) in Lytne
- Starimskyi District Police Station, Vinnytsia

Autonomous Republic of Crimea

• **Bakchisaray**

- Militia Central Holding Facility (ITT)

• **Inkermann**

- Municipal Police Station

• **Sebastopol**

- Militia Central Holding Facility (ITT)
- Gagarinskyi and Leninskyi District Police Stations

² Follow-up visit.

- **Simferopol**

- Militia Central Holding Facility (ITT)
- Kyivskiy District Police Station

Prisons

- Colony No. 85, Boutcha³
- Pre-trial prison (SIZO No. 5) (units for prisoners sentenced to life imprisonment), Donetsk
- Colony No. 52, Yenakyevo, Donetsk region
- Pre-trial prison (SIZO No. 15), Simferopol
- Prison No. 176, Vinnytsia

Psychiatric establishments

- Vinnytsia Psychiatric Hospital No. 2
- Autonomous Republic of Crimea Psychiatric Hospital No. 1 (Wards 6 and 16), Simferopol

Military detention facilities

- Military Command of the Sebastopol garrison
- Garrison and guardhouse of Simferopol

C. Consultations held by the delegation

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

A list of the national authorities, other instances and non-governmental organisations with whom the delegation held talks is set out in Appendix II to this report.

³ Follow-up visit.

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

5. As had been the case during the CPT's two previous visits to Ukraine, the delegation's meetings with the national authorities at the beginning and the end of the visit took place in a spirit of close co-operation.

6. The delegation was received by the First Deputy Minister for Foreign Affairs, Mr Olexandre CHALYI, the Deputy Minister for the Interior, Mr Petro COLIADA, the Deputy Minister for Health, Mr Anatoly KARTYSH, and the Head of the Department Service of Troops and Regime of the General Staff of the Armed Forces, Major General Usman URAZOV, and met other senior officials from these different ministries. The delegation also held discussions with Messrs Ivan SHTANKO and Olexandre PTASHYNSKIY, respectively Director and First Deputy Director of the State Department for the Execution of Sentences, Mr Volodymyr PRISTAİKO, Head of the Department of Investigation of the State Security Service, and Major-General Vladimir Petrovich DORDIUK, Deputy to the President of the Committee for the Protection of National Borders of Ukraine.

Further, in the course of the visit, the delegation held fruitful meetings with other authorities, including the Deputy Prosecutor General, Mr Valeriy RADZİOKHA, and the National Ombudsman, Ms Nina KARPACHOVA.

7. With one exception, the delegation received a satisfactory reception at - and rapid access to - the establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit.

The exception relates to the denial of access for over an hour to the Militia Central Holding Facility (ITT) in Sebastopol, during the evening of 20 September 2000. The CPT wishes to stress that under Article 8 of the Convention, the Committee has an unlimited right of access, at any time, to any place of deprivation of liberty. **It trusts that the Ukrainian authorities will take steps to ensure that the existence of this right is clearly explained to all relevant persons.**

8. Further, the CPT would like to return to one particular incident which raises important questions of co-operation. The issue concerns the refusal by the State Security Department of Sebastopol to disclose the place in which two detainees under their authority were being held.

In the course of the visit to the Sebastopol Militia Central Holding Facility (ITT) on 22 September, the CPT's delegation learnt that two Ukrainian detainees were being held in a military garrison in Sebastopol. The Head of the State Security Service (SBU) for Sebastopol assured the President of the CPT, upon the latter's insistence, that she would be taken to see these persons. Instead, the detainees were brought to the ITT. Thereafter, the SBU officials not only refused to disclose the exact place where these persons were being held but attempted to conceal all documentation relating to their transfer from the ITT.

On 26 September 2000, the CPT received a letter from the Deputy Director of the State Security Service of Ukraine, Mr Vandin, explaining that there existed a special bilateral agreement with the Russian Federation permitting Ukrainian civilian detainees to be placed in the guardhouse of military formations of the Black Sea Fleet of the Russian Federation in Crimea. While this clarification is welcomed, the refusal to disclose the whereabouts of this place of detention constitutes a serious breach of Articles 2, 3 and 8 of the Convention.

Moreover, the clarification does not address the central concern of the Committee. The CPT's delegation received detailed reports that other Ukrainian civilian detainees had been held in the guardhouse of the Black Sea Fleet of the Russian Federation at various periods during the previous year and a half, and in particular during the months of January and February 1999. During their stay in the guardhouse, they were allegedly denied access to their relatives or to a lawyer.

9. **The CPT would like to receive precise information as to the exact criteria for the transfer of a Ukrainian civilian detainee to the guardhouse of military formations of the Black Sea Fleet of the Russian Federation. The Committee would also like to be informed of the steps taken by the Ukrainian authorities to ensure that, in future, CPT delegations will be guaranteed immediate access to all persons deprived of their liberty by decision of the Ukrainian authorities, including those held in the above-mentioned guardhouse.**

Further, it would like to receive details about the supervisory role that the Ukrainian prosecutor's office or other independent bodies play in ensuring that conditions of detention in the guardhouse of military formations of the Black Sea Fleet of the Russian Federation are in accordance with Ukrainian legal norms and that the appropriate fundamental safeguards (e.g. access to relatives and a lawyer) are in place.

10. More generally, the CPT's delegation had the clear impression that many detained persons whom it met in both the Militia central holding facilities and the prison establishments visited were afraid to talk to members of the delegation or be examined by its medical members, because of the repercussions that such an action might have on their subsequent treatment. This was particularly obvious in Colony No. 52 in Yenakyevo. Further, the delegation gathered credible evidence of verbal warnings issued to inmates in penitentiary establishments by the regional administration and staff prior to its visit.

The CPT recommends that the Ukrainian authorities ensure that senior management and personnel refrain from issuing threats to detainees and prisoners in the days preceding a visit by a delegation of the Committee. Such action can only undermine the co-operation and trust that is gradually being established between the CPT and the Ukrainian authorities.

11. The only liaison officers whom the delegation could contact when it needed assistance in the course of the visit were those from the Department for the Execution of Sentences. Despite their efforts, they did not always possess the necessary authority vis-à-vis persons belonging to other Ministries.

The CPT wishes to stress the importance of State Parties to the Convention appointing liaison officers who have the authority to intervene rapidly and effectively, at any time.

12. As regards co-operation in order to improve the situation in the light of the CPT's recommendations, the Committee is concerned by the lack of progress in numerous areas. Many of the recommendations in this report reiterate those contained in earlier reports. This is true, for example, for the recommendations designed to prevent the ill-treatment of persons deprived of their liberty by law enforcement agencies, and to combat overcrowding both in Militia and penitentiary establishments. As already pointed out in paragraph 11 of the report on the 1998 visit, a number of the recommendations concerned have no important financial implications and could be implemented without delay.

The CPT must stress that, unless genuine efforts are made as of now to improve the situation, it will be obliged to consider having recourse to Article 10, paragraph 2, of the Convention⁴.

E. Immediate observations pursuant to Article 8, paragraph 5, of the Convention

13. At the end of the visit, the CPT's delegation made two immediate observations, pursuant to Article 8, paragraph 5, of the Convention.

The first immediate observation concerned conditions of detention in ITT facilities. The delegation requested the Ukrainian authorities to ensure that all persons detained in ITT facilities: are provided with a mattress and blanket at night; are guaranteed a minimum of one hour of outdoor exercise every day; have sufficient access to natural light (where access to sufficient natural light is obstructed by shutters (jalousies), they should be removed). Further, the delegation requested that steps be taken in order to ensure that no-one is detained in an ITT facility beyond the legal limit of ten days.

14. The second immediate observation related to the conditions of detention of prisoners serving life imprisonment. The delegation requested that the Ukrainian authorities modify immediately the rules governing this category of prisoner in order to ensure: that they are offered at least one hour of outdoor exercise every day; that the total prohibition on visits is lifted and the restrictions on sending letters eased; that the number and frequency of parcels they can receive, in particular food, is increased.

15. The above-mentioned immediate observations were subsequently confirmed in a letter of 16 October 2000 from the President of the CPT, in which the Ukrainian authorities were requested to submit, within three months, a report on the action taken.

By letter of 13 February 2001, the Ukrainian authorities informed the CPT of the measures taken. Those measures will be considered in detail in the body of the report.

⁴ Article 10, paragraph 2 reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Militia establishments

1. Preliminary remarks

16. The legal and administrative framework governing deprivation of liberty by the Militia in Ukraine remains essentially unchanged since the 1998 visit. The draft Law designed to bring the Code of Criminal Procedure into conformity with the norms of the Ukrainian Constitution, is still pending before the Verkhovna Rada (Parliament).

17. In the report on its 1998 visit (cf. document CPT/Inf (2002) 19, paragraph 17) the CPT recommended that the Ukrainian authorities review law and practice in the light of Recommendation No. R (80) 11 of the Committee of Ministers of the Council of Europe concerning custody pending trial. According to that text, "... no person charged with an offence shall be placed in custody pending trial unless circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure ...". This recommendation has still to be implemented. The information gathered by the delegation during the 2000 visit, including through discussions with prosecutors, shows that there continues to be a general policy of remanding criminal suspects in custody, with release pending trial being the exception. While many examples could be detailed, the following case is a striking illustration of the present situation:

A 16-year-old boy, who had gone to Zhelezhodorzhniy District Police Station in Simferopol for questioning about a fight with another juvenile, was sent to Simferopol ITT. According to Militia officers in the ITT, the boy had committed a "very minor offence". However, the prosecutor had refused to release him on bail and had told him that he would have to go to the pre-trial detention prison (SIZO) in Simferopol and would probably be sentenced to two years imprisonment.

The CPT calls upon the Ukrainian authorities to undertake without further delay the necessary review of the law and practice on this fundamental issue of custody pending trial.

2. Torture and other forms of ill-treatment

18. During its visit to Ukraine, the delegation once again heard numerous allegations of physical ill-treatment of persons deprived of their liberty by members of the criminal Militia ("opierativniki"). As was the case in 1998, the allegations of ill-treatment related both to the time of apprehension and to subsequent questioning. They were heard in all of the country's regions visited by the delegation. It should also be noted that, in all the regions visited, the persons who complained of ill-treatment almost invariably said that the ill-treatment had been inflicted in order to extract a confession.

The allegations mainly concerned kicks, punches, and blows with a truncheon. However, a number of allegations were heard of even more severe forms of ill-treatment, such as: electric shocks; pistol-whips; burns using cigarette lighters; asphyxiation by placing a gas mask or plastic bag over a detained person's head; beating detained persons while they are handcuffed and suspended by the legs and/or arms or maintained in a hyperextended position (techniques known as "elephant", "swallow" and "parrot"); beatings on the soles of the feet. In many cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture.

19. Most of the allegations pre-dated the delegation's visit by several weeks or even months and thus any marks which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the intervening period. That being said, the delegation collected a certain amount of medical data consistent with allegations heard. By way of example, reference might be made to the following cases:

- At the Donetsk ITT, a man met by the delegation claimed to have been hit with a stick on the head, face, chest and legs upon apprehension by the Militia, a few days earlier. On examination by a medical member of the delegation, he displayed, in particular: a violet-blue haematoma under both eyes; a 1.5 by 0.3 cm excoriation on the bridge of the nose; a 0.5 by 0.3 cm excoriation on the right temple; on the left auricle, an excoriation with clotted blood as well as clotted blood in the left auditory meatus; a 5 by 4 cm violet-blue haematoma with a contusion focus at the 6th-7th rib of the left side of the chest; two 2 by 5 cm long transversal excoriations in the middle third of the front right upper leg and a 2 by 0.5 cm excoriation on the back upper leg.
- Another man met at the same ITT alleged that he had received electric shocks, inflicted by a baton device, and had been punched, kicked and beaten with truncheons by members of the Militia at his home and at the police station to which he had been transferred three weeks earlier. On examination by a medical member of the delegation, he was found to have the following injuries: on the right side of his back; a dark blue-greenish/brown 5 by 4 cm faint haematoma and excoriation as well as violet-greenish haematoma in the costal arch region and on the shoulder blade (in the area of the 10th-11th rib); a 2 x 3 cm excoriation with a skinless, pink area on the right hip; excoriations on the right upper leg, knee and lower leg.

- A man, who was arrested by the Organised Crime Department of the Militia in the town of Makeyevka, Donetsk Region, on 13 January 2000, alleged that he was beaten upon arrest in the presence of his wife and child. He further alleged that, in the course of his interrogation, he was beaten with fists and clubs, trussed up with belts around his feet, legs and neck, had a plastic bag and a gas mask (the latter filled with ammonia) put over his head. He was allegedly attached to a table and had wires put on his penis and right wrist; electric shocks were applied several times.

Upon arrival at SIZO No. 5, the feldsher failed to record any injuries. Further, the prisoner's complaint of ill-treatment was apparently not taken up by the prosecutor. However, further to a court order, he was examined by doctors from the Forensic Medicine Expertise Bureau in Donetsk between 12 July and 2 August 2000 (i.e. six months after the alleged ill-treatment took place). The following injuries were recorded: "on the neck there was a 2 by 1 cm pink-purple mark; on the back a 15 by 10 cm light brown mark consistent with injuries of the skin; traces of four injuries of the skin on the shoulder; whitish-reddish marks on the back of the hip which could be old injuries of the skin; 2.5 by 2 cm traces of injuries on the gluteus; on the radial-dorsal side of the right wrist was a 1 by 0.5 cm brown pigmented linear mark; on the dorsal left side of the penis a whitish scar was visible". The expertise concluded that the injuries dated from roughly six months previously, and were consistent with the allegations made by the man. Upon examination by a medical member of the delegation, the mark on the wrist and the scar on the penis, consistent with an allegation of electrical shocks, were found to be still visible.

20. In contrast, few allegations were received of physical ill-treatment by staff working in the ITTs visited. However, the delegation heard the same allegations as in 1998 in Kyiv ITT regarding the use of truncheons by guards to beat detainees when they were being moved to the "karzer" cells for the daily inspection (cf. document CPT/Inf (2002) 19, paragraph 27).

21. In the light of all the information at its disposal, the CPT can only reach the same conclusion as in the report on the 1998 visit, namely that persons deprived of their liberty by the Militia in Ukraine run a significant risk of being physically ill-treated at the time of their apprehension and/or while in the custody of the Militia (particularly when being interrogated), and that on occasion resort may be had to severe ill-treatment/torture.

22. In its report on the 1998 visit, the CPT recommended that the relevant national authorities as well as senior police officers make it clear to personnel of the Militia that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely. It further recommended that Militia personnel be reminded that no more force than is strictly necessary should be used when apprehending a person and that once apprehended persons have been brought under control, there can never be any justification for them being struck.

Having regard to the information gathered during the 2000 visit, **the CPT recommends that Militia personnel be reminded, through a formal statement from the highest political level, that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions. In this statement, emphasis should be placed on the key role to be played by senior staff in managing and supervising police activities at all levels.**

23. As emphasised in the report on the CPT's 1998 visit, the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by members of the Militia themselves. This implies strict selection criteria at the time of recruitment of police personnel and the provision of adequate professional training.

As regards the former, **the CPT wishes to receive detailed information on the selection criteria currently applied.** As regards the latter, **the CPT recommends that the Ukrainian authorities seek to integrate human rights concepts into practical professional training for high-risk situations, such as the apprehension and interrogation of suspects.** This will prove more effective than separate courses on human rights.

Moreover, in the context of the prevention of torture and other forms of ill-treatment, it is of fundamental importance to develop more advanced methods of crime investigation capable of reducing reliance on information, evidence and confessions obtained via interrogations for the purpose of securing convictions. **The CPT would like to receive the comments of the Ukrainian authorities concerning the development of such methods.**

24. The existence of effective mechanisms to tackle police misconduct is a crucial safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a profound dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

In this connection, the CPT's delegation noted that in many cases detained persons were not brought before a prosecutor in person, the decision to remand a person in custody being taken on the basis of the file. The delegation was informed by several prosecutors that they "have a right not a duty" to see detainees in person. **The CPT reiterates the recommendation made in the report on the 1998 visit, that the Ukrainian authorities take appropriate steps to ensure that all criminal suspects taken into custody by the Militia are brought before the prosecutor responsible for taking a decision on their remand in custody or release.** This will provide a timely opportunity for a person who has been ill-treated to lodge a complaint.

25. Moreover, the delegation received allegations from numerous sources to the effect that complaints of ill-treatment filed with the prosecutor's office were systematically rejected or not followed up. It would appear that the assurance provided to the delegation by the Deputy Prosecutor General, that all complaints of ill-treatment were followed up by the competent prosecutor meeting the person making the allegation and, if necessary, ordering an immediate forensic examination, did not fully reflect the practice. The third case described above (paragraph 19) is illustrative of this state of affairs.

The CPT recommends that prosecutors be given instructions that whenever an apprehended person alleges ill-treatment by the Militia, they should immediately request a forensic medical examination of the person concerned, irrespective of whether he/she bears visible injuries. Moreover, even in the absence of an express allegation of ill-treatment, a prosecutor should request a forensic medical examination and inform the relevant prosecutor whenever there are grounds to believe that an apprehended person brought before him could have been the victim of ill-treatment.

Further, taking into consideration the changes to criminal procedure which must be introduced as of July 2001, the above recommendations should apply *mutatis mutandis* to judges.

26. In the light of the facts found during the 2000 visit, the CPT also wishes to recall the importance of the proper and timely recording of injuries observed upon medical examination of persons deprived of their liberty. **It recommends once again that a record should be drawn up after such an examination, containing:**

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

In addition, if the detained person so requests, the doctor should provide him/her with a certificate describing injuries observed.

The CPT also recommends that the practice of detainees with visible injuries being refused admission to an ITT and returned to the district police station from whence they came, if the police are unable to provide a medical certificate recording the injuries, be discontinued. The CPT understands the need in such cases to avoid ITT staff being held responsible for the injuries. However, this can be achieved by ensuring that detainees are medically examined upon their arrival at the ITT (cf. paragraph 57 below).

27. The delegation found the situation unchanged as compared to 1998 with regard to the frequency with which persons placed in pre-trial detention were returned to the custody of the Militia for the purposes of the investigation. As the CPT has previously pointed out, in the interests of the prevention of ill-treatment, it is far preferable for further questioning of persons committed to a SIZO to take place in that establishment rather than on Militia premises.

Consequently, the CPT **again recommends that the return of prisoners to Militia premises should only be sought and authorised when it is absolutely necessary, and that such a measure should require the express authorisation of the competent prosecutor/judge.**

28. In the course of the visit, the delegation spoke with a number of female detainees who alleged that they had been searched by male Militia personnel, usually in the presence of other Militia staff and even of other male detainees. Such treatment could certainly be felt as degrading. **The CPT recommends that persons deprived of their liberty only be searched by staff of the same gender and that any search which requires a detained person to undress be conducted out of sight of both custodial staff of the opposite gender and other detainees.**

29. Finally, as regards the inspection of Militia detention facilities, **the CPT stresses again that, to be fully effective from the standpoint of preventing ill-treatment, visits by prosecutors to such establishments should be unannounced and include an inspection of the cellular facilities, as well as interviews in private with detained persons.**

3. Safeguards against the ill-treatment of persons deprived of their liberty

30. The CPT's delegation's findings during its 2000 visit again highlight the importance of an effective system of formal safeguards against ill-treatment which are both set out in law and applied in practice.

31. It should be recalled that the CPT attaches particular importance to three rights for persons deprived of their liberty by the Militia:

- the right of those concerned to inform a close relative or another 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 rights constitute three fundamental safeguards against the ill-treatment of persons detained, which should apply from the very outset of custody (that is, as soon as any person, whether a criminal suspect or an immigration or administrative detainee, is obliged to remain with the Militia).

It is also essential that those concerned be immediately informed of all their rights, including those referred to above, in a language which they understand.

a. notification of custody

32. Persons who are obliged to remain with the Militia should have the right to inform immediately a close relative or third party of that fact. The CPT's delegation noted that the situation had not changed over the last two years; many persons detained by the Militia alleged that they had not been expressly informed of the possibility to inform a relative of their situation or that they had been denied the right.

33. As from July 2001, Article 29 of the Constitution, which states that relatives of an arrested or detained person shall be informed immediately of his or her arrest or detention, will enter into force. The new Code of Criminal Procedure should reflect this provision.

The CPT recommends that the Ukrainian authorities take all necessary steps to ensure full compliance with the right of persons detained by the Militia to inform immediately a close relative of their situation.

b. access to a lawyer

34. The legal provisions governing access to a lawyer remain the same as those described in the report on the 1998 visit. The Ukrainian authorities' response to that report stated clearly that "from the moment of detention a person has the right to use the services of a lawyer". However, despite the provisions of Articles 106 and 431 of the Code of Criminal Procedure, the CPT's delegation repeatedly heard, in the course of the 2000 visit, that detainees were denied access to a lawyer until they had signed a statement admitting the offence with which they were charged. In a considerable number of cases, this period had apparently exceeded the first 24 hours and lasted up to 3 days or more.

Therefore, the CPT again recommends that the Ukrainian authorities immediately take the necessary measures to guarantee that all persons detained by the Militia have, as from the very outset of their deprivation of liberty, a right of access to a lawyer. Access to a lawyer should not be made subject to the authorisation of an investigator, and a lawyer should be able to meet with the detained person in private (i.e. not in the presence of the investigator or Militia officers).

35. As was the case in 1998 (cf. document CPT/Inf (2002) 19, paragraph 46), many detained persons informed the delegation that they did not possess the necessary financial resources to obtain a lawyer. It is, of course, axiomatic that for the right of access to a lawyer to be effective, there must be a system of legal aid for detained persons. The interim reply of the Ukrainian authorities to the report on the CPT's 1998 visit stated that, in those cases where the detained persons cannot afford a lawyer, the State guarantees access. **The CPT would like to receive clarification as to the practical application of the legal aid system in Ukraine.**

c. access to a doctor

36. In the report on its 1998 visit, the CPT recommended that the right of access to a doctor be given a firm legal basis. Action has yet to be taken to implement this recommendation. In the light of its delegation's most recent findings, the CPT remains convinced that such a measure is necessary and **recommends that the Ukrainian authorities take the necessary steps to introduce such a legal provision** (cf. also paragraph 26).

d. information on rights

37. In the course of the 2000 visit, the CPT's delegation noted, once again, that numerous detained persons whom it interviewed stated that they had not been informed of their rights. **Consequently, the CPT reiterates its recommendation that a form setting out those rights in a straightforward manner be drawn up and systematically given to all detained persons at the very outset of their deprivation of liberty.**

e. conduct of interviews

38. In paragraph 52 of the report on its 1998 visit, the CPT underlined the need to introduce a code of conduct for interviews of criminal suspects. It notes with concern that this is another recommendation which has yet to be implemented. The facts found during the 2000 visit serve once again to highlight the necessity of introducing such a code of conduct. **The CPT recommends that the Ukrainian authorities draw up a code of conduct for interviews without further delay.**

f. custody registers

39. The CPT's delegation noted that - as in 1998 - the detention of a person was not adequately recorded in most of the district police stations and ITTs visited.

No safeguard against ill-treatment is more fundamental than the requirement that the fact of a person's detention be promptly (i.e. from the moment he/she is obliged to remain with the Militia) and properly recorded. Consequently, **the CPT reiterates its recommendation that the Ukrainian authorities ensure that whenever a person is detained in a Militia establishment, for whatever reason or length of time, the fact of his/her detention is recorded without delay.**

Further, **the Ukrainian authorities are invited to explore the possibility, already suggested in 1998, of introducing a single and comprehensive custody record for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; time of arrival on Militia premises; when informed of rights; sign of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when interviewed; when brought before a prosecutor; when remanded in custody or released, etc.).**

4. Conditions of detention

40. In the light of the delegation's findings during the 2000 visit, the CPT should reiterate some of the elementary material requirements with regard to conditions of detention.

All Militia 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 Militia custody should be allowed to comply with the needs of nature in clean and decent conditions, and 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 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.

41. Custody by the Militia should, in principle, be of relatively short duration. However, at present, criminal suspects and administrative detainees can still be held for prolonged periods in Militia establishments. Persons held for such periods of time are entitled to more than the elementary conditions of detention described above.

a. district police stations

42. The delegation visited eleven district police stations. In principle, they accommodate detained persons during the first 72 hours of their deprivation of liberty. However, in those stations visited outside Kyiv, the period of detention was of much shorter duration (usually several hours), although it was not uncommon for persons to be detained overnight.

43. In the course of the 2000 visit, the delegation came across a few district police stations with cells that were adequate for holding persons for short periods of time, and could, potentially, be suitable for detaining persons for up to 72 hours if a number of measures were introduced.

For example, the cell in Starimskiy District Police Station in Vinnytsia was of an adequate size (about 6.5 m²), clean and properly ventilated, with adequate artificial lighting. In general, the cell never accommodated more than 1 or 2 persons for more than a few hours. However, the delegation noted that on occasion persons had to spend a night in the cell, during which time they were provided with neither a mattress nor a blanket and were not given anything to eat.

44. As to the other district police stations visited, the conditions of detention were totally unsuitable for holding persons for the legal limit of 72 hours and in many instances were not even satisfactory for short periods of detention of several hours. The cells were often very small (3 m²) and/or in a bad state of repair; further, cell lighting (natural and artificial) and ventilation were frequently poor, and both the cells and communal sanitary facilities tended to be in a very dirty and unhygienic state. Moreover, none of the persons kept overnight were provided with a mattress and blanket. The delegation also observed that overcrowding was a regular feature in several police stations; for example, in Bakchisaray Central Police Station, four persons were kept overnight in a cell of 6 m².

45. The CPT recommends that the Ukrainian authorities take steps to ensure that all cells in district police stations enjoy adequate lighting (artificial or natural) and ventilation and that both cells and sanitary facilities are kept in a satisfactory state of cleanliness and repair. In addition, it recommends once again that all persons held overnight be provided with:

- a clean mattress and blankets;
- essential personal hygiene products (soap, towel, sanitary towels, etc.).

The CPT would add that cells measuring less than 4 m² are not suitable for use as overnight accommodation.

46. The CPT's delegation was concerned to learn that persons held in police stations continue to be denied access to drinking water and are not provided with any food. Previous reports on the visits in 1998 (cf. document CPT/Inf (2002) 19, paragraph 65) and 1999 (cf. document CPT/Inf (2002) 21, paragraph 13) were extremely clear on this matter.

With regard to access to drinking water, the CPT wishes to stress that to deprive a person of intake of fluids/water can rapidly have damaging consequences for his/her health and could easily be characterised as ill-treatment.

As regards food, the Ukrainian authorities informed the CPT, by letter of 16 September 1998, that a daily allowance of 3 hryvnas per person had been allocated for the provision of food. However, there was no such provision in Zalychnichniy District Police Station in Kyiv, to name but one example. Further, detained persons were not always allowed to receive food from relatives.

The CPT recommends that the Ukrainian authorities ensure that all detained persons have ready access to drinking water and, if detained for more than a few hours, are provided with something to eat.

b. Militia central holding facilities (ITT)

47. The CPT's delegation visited six ITTs. One of them, Vinnytsia City ITT, was closed for renovation work in order to bring it into "conformity with European standards" (i.e. taking into account the CPT's recommendations).

The CPT would like to receive detailed information concerning the conditions of detention in the renovated ITT in Vinnytsia: the number of cells as well as their size, official capacity and equipment; the sanitary facilities; the size and location of outdoor exercise facilities, etc.

48. The CPT's delegation visited Kyiv ITT for the third time. While a number of improvements had been carried out between the 1998 and 1999 visits, very little had altered since the most recent visit in July 1999 in respect of such matters as the metal shutters, provision of food and drinking water, lighting, ventilation, provision of mattresses and bedding, or outdoor exercise. There were also a considerable number of persons being held in the ITT for periods longer than the legal limit of 10 days, on occasion for as long as 4 months. On a positive note, the overcrowding was less acute, with 180 detainees for an official capacity of 156 places.

The delegation was interested to learn that two of the cells were in the process of being renovated. They had a completely partitioned sanitary facility and a hot water cistern outside the cell, and had recently been painted. Certainly, the renovation of all the cells along these lines would be welcomed and should be maintained as a goal for the future. In the meantime, given the lack of financial resources, a more basic renovation of the other cells should be carried out.

The CPT would like to receive more information about these experimental cells once they are in use (such as their official capacity and who is to be placed in them) as well as information concerning the timetable for the renovation of the other cells.

49. Despite the measures announced in the responses of the Ukrainian authorities to the recommendations made by the CPT in its two previous reports, the delegation could not identify any noticeable improvements in the conditions of detention of the ITTs visited (including Kyiv, as noted above). The Committee believes that it would be more useful to highlight the main deficiencies in the ITTs from an overall perspective, rather than to enter into an in-depth analysis of each ITT visited; indeed, the challenges facing ITT establishments are, to all intents and purposes, similar.

50. The majority of ITTs visited were overcrowded. For example, in Sebastopol ITT, up to 10 persons were being held in cells of 15 m² and in several cells there were more persons than beds.

51. In all the ITTs visited, access to natural light was obstructed by dense metal netting on the windows or jalousies and the artificial lighting was, in general, insufficient. Reading of any kind was a strain on the eyes. The ventilation was inadequate and the air in the cells visited heavy. The lack of ventilation was exacerbated by the fact that the cells tended to be fetid, detainees being provided with neither products for cleaning their cells nor the possibility of washing themselves other than in a basin of cold water. Only in Lytne ITT did all detainees have the possibility of a shower during their stay. Further, the sanitary facilities in nearly all the ITTs visited left something to be desired. A notable exception was Simferopol ITT, where the delegation noted the cells were clean and the detainees possessed basic hygiene products.

In several ITTs there was an insufficient quantity of mattresses and blankets for all the detainees, while the cleanliness of those available was questionable. Further, with one or two exceptions, the ITTs visited did not possess outdoor exercise facilities. Nor was there any provision for activities; in many ITTs, detainees were not even permitted newspapers.

52. In most ITTs, the single daily meal was supplemented by food parcels from relatives. Those without relatives shared the food of others. Given the fact that the Militia are unable financially to provide sufficient food to detainees, food parcels should not be subject to undue restrictions.

The CPT has already made its position clear (cf. paragraph 46) as regards ready access to drinking water; it is concerned that detainees in Kyiv ITT were denied such access.

53. In the light of the unacceptable conditions referred to above, the CPT was all the more concerned to learn that a significant number of detainees were being held in ITTs for periods much longer than the 10 day legal limit.

54. The CPT has noted the Ministry of Internal Affairs' refurbishment plan for ITTs in response to the recommendations made by the CPT following its previous visits, involving in particular the reconstruction, during the second half of 2000, of 25 ITTs which provide 4 m² of living space per person, the closure for major renovation of 33 establishments and the launch of the construction of 32 new ITTs. The Committee also wishes to acknowledge that conditions in the ITTs cannot be transformed overnight. However, a number of measures need to be taken without delay. Consequently, at the end of the visit, the CPT's delegation made an immediate observation in this respect (cf. paragraph 13).

In their response of 13 February 2001 to this observation, the Ukrainian authorities stated that instructions had been issued (Order No. 3913/IIIТ, 1999) to ensure that all persons detained in an ITT receive a mattress and blankets. By 1 January 2001, out of a total of 514 ITTs, 421 had received the necessary bedding. Given the economic situation in the country, the implementation of this measure will be completed by the end of the year. As regards access to natural light, instructions have been issued requiring the removal of shutters from cell windows; further the intensity of the artificial lighting was increased to 75 Lux.

In order to offer detainees one hour of outdoor exercise per day, exercise yards have been constructed in 444 ITTs and it is envisaged to provide the remaining 70 ITTs with outdoor exercise facilities in the course of 2001. In addition, detainees now have the possibility to watch television and have access to the ITT administrations' libraries.

It should be added that, on 15 September 2000, the Ministry of Internal Affairs issued Instruction No. 10/3-5051 concerning sanitary and technical conditions in ITTs as well as on the organisation of meals for detainees.

As for the length of the stay in ITTs, the authorities indicated that the Ministry of Internal Affairs is making on-going efforts to avoid that persons are detained in ITTs beyond the legal limit of 10 days

The CPT welcomes the measures already taken by the Ukrainian authorities and strongly encourages them actively to pursue the full implementation of the objectives set without delay. As for access to natural light, **it would like to receive information on the time-table fixed for the removal of shutters from cell windows in ITTs.** As regards improvements concerning artificial lighting in the cells, it is difficult to assess their effect in the abstract, as this depends on several factors (such as the position of the light source, the type of lighting used, the dimensions of the cell, etc.). **The CPT wishes to be informed of the criteria according to which the level of 75 Lux has been chosen. In addition, it would like to receive detailed information about the implementation in practice of the instructions issued on 15 September 2000 concerning the sanitary and technical conditions in ITTs and the organisation of meals for detainees.**

55. Health-care issues have been a matter of concern to the CPT since its first visit; no improvements were observed during the 2000 visit. To begin with, the CPT's delegation noted that in several ITTs (Bakchisaray, Lytne) there was no feldsher at all to maintain the health-care service. Further, the CPT must insist on the importance of all detainees receiving a thorough medical examination upon being admitted to an ITT; this is still not the norm at present. Further, the feldsher should take a proactive stance in dealing with health-care issues arising within an ITT; the cramped living space under which detainees are held and the lack of general hygiene constitute an environment conducive to the spread of diseases, in particular tuberculosis.

56. With regard to contact with the outside world, the situation had not changed from that described in the report on the 1998 visit. Visits and correspondence were subject to the authorisation of the relevant investigating authority; many detainees complained that they had been refused visits and letters.

57. The CPT has already welcomed the measures taken by the Ukrainian authorities in response to the immediate observation made by its delegation. Notwithstanding those measures, the Ukrainian authorities still have some way to go to fulfil their responsibility to detain persons deprived of their liberty under conditions fully consistent with human dignity. It is clear that, in order to achieve lasting improvements, the highest priority should be given to the objective of reducing overcrowding. Only then can the efforts made by the Ukrainian authorities be expected to bear fruit. However, certain steps must be taken in the interim in order to ameliorate the situation. Consequently, **the CPT calls upon the Ukrainian authorities to take, without further delay, the following steps already identified in its two previous reports:**

- **ensure that all persons detained in ITTs are:**
 - **supplied with essential personal hygiene products and have the opportunity to wash every day;**
 - **able to take a warm shower on arrival and at least once a week during their period of detention;**
 - **given the necessary products to keep their cells clean and hygienic;**
 - **authorised to receive parcels from the very outset of their detention.**
- **ensure that detained persons, in all ITTs, are provided with reading matter (if the establishment does not have a library, detained persons should be authorised to receive newspapers or books from relatives);**
- **review the regulations and practice concerning detainees' contact with the outside world.**

Further, the CPT reiterates the recommendation, in respect of health-care, formulated in paragraph 86 of the report on the 1998 visit, that all detained persons be properly examined upon arrival at the ITT by a qualified member of the health-care service. Further, a proactive stance should be taken by health-care staff in providing medical care and ensuring an adequate level of general hygiene in ITTs.

The CPT would also like to receive confirmation that Donetsk ITT is no longer used to accommodate patients undergoing a psychiatric assessment at a nearby centre.

B. Establishments under the authority of the State Department for the Execution of Sentences

1. Preliminary remarks

58. In its two previous reports, the CPT highlighted the crucial importance of giving a high priority to developing a comprehensive and coherent policy aimed at combating overcrowding. It underlined that, if such a priority is not given, all attempts to improve conditions of detention in the Ukrainian penitentiary system will inevitably fail (see paragraphs 17 and 117 of the 1998 report as well as paragraph 24 of the 1999 report). In September 2000, the State Department for the Execution of Sentences was still faced with a daunting overcrowding problem; the number of persons imprisoned stood at 220,306 for an official capacity of 207,506 places, despite an amnesty law of 11 May 2000 which resulted in the early release of some 30,000 prisoners. The overcrowding in the pre-trial establishments (SIZOs) was particularly acute with 46,655 persons for 36,443 places.

59. Thus, in the establishments visited, the delegation found, as in the past, situations of grave concern in terms of conditions of detention; the observations made at Simferopol SIZO No. 15 are particularly telling in this respect. Where progress was observed in the establishments visited, it was generally modest and precarious, as well as being hampered by substantial overcrowding.

The 2000 visit confirmed that it is high time the Ukrainian authorities tackled the systemic problem of overcrowding, not only in the SIZOs, where it is most glaring, but also in establishments for the execution of sentences.

The CPT calls upon the Ukrainian authorities to take action now in order to mount a coherent policy aimed at combating the problem of overcrowding in the Ukrainian penitentiary system. In so doing, due account should be taken of the principles laid down in Recommendation No. R (99) 2 of the Council of Europe's Committee of Ministers, concerning prison overcrowding and prison population inflation. The CPT also wishes to be informed about the progress of the ongoing legislative reforms (criminal and criminal procedure codes, law on the execution of sentences).

Further, its recommendations made after the 1998 visit, that the Ukrainian authorities increase the current standard of 2.5 m² of living space per prisoner to at least 4 m², and decommission all cells measuring less than 6 m², should be implemented as soon as possible.

60. The problem of overcrowding is heightened by the difficult economic situation that continues to beset Ukraine, which has significant repercussions on the prison administration's budget, in particular with regard to the provision of food for prisoners. **In the face of these continuing financial difficulties, steps should be taken to improve the self-sufficiency of prison establishments, for example, by encouraging their agricultural production.**

61. The problem of overcrowding and the economic situation have a direct bearing on the issue of activities for prisoners. This is another area of concern to the CPT. In the colonies visited in 2000, many prisoners had no work and there was a marked lack of educational, training and sports activities. It is difficult to see how this state of affairs can meet the objectives of "correction" set by the Corrective Labour Code of Ukraine, the basic means for which are defined as work, general education and vocational training (Article 7). As regards prisoners on remand, an almost total absence of out-of-cell activities remained the norm.

Ensuring that sentenced prisoners are engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) is a fundamental part of the process of social rehabilitation. Moreover, as already stressed by the CPT in its previous reports, remand prisoners should as far as possible also be offered work, as well as other structured activities. Even in times of economic difficulty, the provision of work to prisoners should not be dictated exclusively by market forces. Therefore, an active State policy, based if necessary on incentives for the placing of orders for prison production, should be introduced. **The CPT reiterates its recommendation made in the 1998 and 1999 visit reports that special measures be introduced with a view to ensuring that both sentenced and remand prisoners are provided with work. Further, the CPT recommends that efforts be made to develop programmes of education and vocational training in all penitentiary establishments.**

2. Ill-treatment

62. The delegation heard a number of allegations of physical ill-treatment of prisoners by prison staff in three of the establishments visited. In Yenakyevo Colony No. 52, the allegations received referred to blows with a tube or a non-standard baton as well as with fists. Such treatment was said to be inflicted when prisoners' behaviour was not considered appropriate. In several cases, the prisoners concerned indicated that they had been beaten in a room on the third floor of the staff building.

In Simferopol SIZO No. 15, several allegations dating back to October 1999 were received from prisoners concerning the intervention by a unit which had sprayed tear gas into the cells, via the hatch in the door. Further, some juveniles interviewed stated that they had been hit with wooden paddle bats by pedagogical staff or summoned to the teachers' room wearing only their underpants, where they were retained for lengthy periods, for the simple reason that they had not adequately mastered the internal rules. The Director of the SIZO informed the delegation that he would initiate an enquiry into these allegations and, if necessary, take the appropriate measures.

In Vinnytsia Prison No. 176, the delegation heard consistent allegations from prisoners of being beaten with wooden objects upon arrival in the prison. Allegations were also heard concerning interventions of teams from the Regime and Protection Department; prisoners stated that they have been stripped to their underpants by members of such teams and, sometimes, dragged out of their cell and beaten. On examination by a medical member of the delegation, one inmate was found to have a healed whitened 6 cm long by 1 cm wide scar on his back, consistent with his allegation of having been beaten with rubber batons during the previous New Year period. Further, it was alleged that during the weekly searches, the cells were turned upside down and that, occasionally, especially at night, teams would use a rottweiler dog to ensure that cells were rapidly cleared of their occupants.

63. **The CPT recommends that the authorities at all levels (central, regional and local) deliver the clear message that all forms of ill-treatment of prisoners are not acceptable and will, if they occur, be severely punished.**

Further, the CPT recommends that the Ukrainian authorities carry out a thorough enquiry into the methods used at Vinnytsia Prison No. 176 by teams from the Regime and Protection Department, during their interventions in the establishment. It would also like to be informed of the results of the enquiries initiated by the Director of Simferopol SIZO No. 15 referred to in paragraph 62, as well as of any measures subsequently taken.

64. The CPT must also point out that it is not in favour of the practice observed in Simferopol SIZO No. 15 of placing an adult prisoner in each cell occupied by minors, to be in charge of their supervision. To accommodate juveniles and unrelated adults together inevitably brings with it the possibility of domination and exploitation. **The Committee therefore recommends that this practice be reviewed.**

65. As mentioned in the report on the 1999 visit, the CPT's mandate is not restricted to ill-treatment inflicted or permitted by members of staff; the Committee is also very concerned when it is confronted by situations of violence and intimidation between detainees. The CPT noted that the Ukrainian authorities have taken certain specific measures in order to tackle this problem, but have not yet developed a strategy along the lines suggested in paragraph 27 of that visit report.

The fact that in certain establishments visited in 2000, members of vulnerable groups (more particularly, prisoners known to be homosexual) were still placed in separate cells for their own protection (and consequently stigmatised by the rest of the inmates), serves to highlight the need for such a comprehensive strategy. **Therefore, the CPT reiterates its recommendation that a strategy to combat interprisoner violence and intimidation throughout the Ukrainian penitentiary system be developed.**

3. Prisoners sentenced to life imprisonment

66. The CPT welcomes the Ukrainian authorities' decision, by law of 22 February 2000, officially to abolish the death penalty, in keeping with the commitments made on joining the Council of Europe.⁵ Representatives of the State Department for the Execution of Sentences informed the delegation that most of the approximately 500 persons subject to the death sentence had had their sentences commuted to life imprisonment; in September 2000, the country's SIZOs held about 470 prisoners sentenced to life imprisonment.

With regard to persons still sentenced to death, the Supreme Court had issued a circular letter on 12 May 2000 requesting all relevant jurisdictions to review their cases in order to bring the sentence into line with the new legislation. **The CPT would like to receive information on the progress made in reviewing the sentences.**

⁵ Ukraine ratified Protocol No.6 to the European Convention on Human Rights on 4 April 2000.

67. The delegation that carried out the 2000 visit conducted a detailed examination of the conditions of detention of more than 100 life-sentenced prisoners in SIZOs No. 5 (Donetsk) and No. 15 (Simferopol) and in Vinnytsia Prison No. 176. Despite the welcome steps referred to above, the CPT must state that the treatment of this category of prisoner is a major source of concern to the Committee (cf. also paragraph 14).

68. At present, further to an instruction by the Department for the Execution of Sentences issued on 10 July 2000 (on the regime and conditions of detention to be applied to persons sentenced to life imprisonment), such prisoners are subjected to the strict confinement regime provided for by Article 29 of the Corrective Labour Code (as modified for this category of prisoner).

The representatives of the Department for the Execution of Sentences stated that this was a provisional solution, pending the establishment of two high-security units specifically intended for life-sentenced prisoners, in Vinnytsia Prison No. 176 and Zhytomir Prison No. 179; these units were expected to be brought into service at the end of 2000. At Vinnytsia, the delegation saw rough outline plans for the refurbishment of cells in blocks 2 and 4, which were designed to receive 110 life-sentenced prisoners from all over the country. **The CPT wishes to be informed of the date of the opening of these two units, their respective capacities and the number of life-sentenced prisoners they accommodate.**

69. Material conditions for life-sentenced prisoners displayed common features in all three establishments visited. On a positive note, living space generally ranged from 4 to 8 m² per prisoner. However, one cell in Section 6 of Donetsk SIZO No. 5 measured a mere 4 m²; a cell of such a size is unsuitable for use as prisoner accommodation.

Shortly before the delegation's visit, work had been started on refurbishing the cells in accordance with an instruction of 6 May 2000 on cell equipment (i.e. to include one bed per person, a fixed table and bench, a bedside table/locker, an interphone system and a partitioned sanitary annex (toilet and washbasin)). The work had progressed furthest in this respect in the Simferopol SIZO; however, as everywhere else, the in-cell toilets were not partitioned, in contravention of the above-mentioned instruction.

In all the establishments visited, there were major deficiencies in terms of access to natural light (with very few exceptions, windows were covered with thick metal shutters or slats) and the quality of artificial lighting and ventilation.

Furthermore, many of the prisoners were in a state of serious deprivation, given the restrictions imposed. For example, the right to receive parcels had been abolished (only two small parcels per year were tolerated) and, in certain establishments, prisoners were apparently forbidden to buy supplies at the prison shop.

70. As regards the detention regime, life-sentenced prisoners were confined to their cells for 23 and a half hours a day, with no form of organised activities. They were not allowed to work and were permitted only five books in their cells and a draughts/chess board (the latter having been provided very recently). By way of activities outside their cells, they were entitled to only half an hour outdoor's exercise, which took place in unacceptable conditions, i.e. in very small fenced cages (for example, of roughly 7.5 to 12 m² at Simferopol and Vinnytsia).

There was virtually no human contact: since the entry into force of the above-mentioned instruction, visits from relatives had been forbidden, and prisoners were only allowed to send one letter every two months (though there were no restrictions on receiving letters). Contact with prison officers and health-care staff was kept to the bare minimum and usually occurred through the hatch in the cell door.

71. As indicated above, the delegation made an immediate observation requesting that the Ukrainian authorities modify immediately the rules governing this category of prisoner (cf. paragraph 14 above). By letter of 13 February 2001, the Ukrainian authorities informed the CPT that a draft law containing amendments and additions to the Corrective Labour Code had passed the first reading in Parliament on 10 October 2000. The draft law takes into account international human rights instruments, the Ukrainian Constitution, the European Prison Rules and other European standards. More particularly, it envisages that persons sentenced to life imprisonment: will no longer be subject to restrictions on their outgoing correspondence, will have the right to receive two additional parcels per year, will be able to spend a more substantial amount of money on food and basic products, and will be entitled to one hour outdoor exercise which may be increased to two hours by way of reward.

72. The CPT welcomes the above-mentioned developments. However, the adoption of the new law may still take some time, whereas the immediate observation of the delegation was motivated by the urgent need to improve the treatment of this category of prisoner. The Committee considers that most of the measures called for can be taken without waiting for the new law to be adopted and implemented. This is in particular the case as regards the right to one hour of outdoor exercise and the increase in the number and frequency of parcels that life-sentenced prisoners may receive (a measure responding to vital needs).

Finally, the Committee is concerned by the lack of response regarding the review of the prohibition on visits.

73. Consequently, and without waiting for the adoption of the proposed reforms, **the CPT recommends that immediate steps be taken to ensure that all life-sentenced prisoners:**

- **are offered at least one hour of outdoor exercise per day;**
- **benefit from an increase in the number and frequency of parcels, in particular food parcels;**
- **are no longer subject to a total prohibition on visits. As for the future, the draft law currently being considered by the Parliament should align the visiting rights of these prisoners with those of sentenced prisoners in colonies (cf. paragraph 122 below).**

As regards material conditions of detention, **the CPT recommends that steps be taken:**

- **to ensure adequate access to natural light in all cells holding life-sentenced prisoners;**
- **to review the system of permanent lighting at night;**
- **to provide life-sentenced prisoners with more out-of-cell activities and appropriate human contact.**

Naturally, these recommendations concern all penitentiary establishments in Ukraine in which life-sentenced prisoners are currently held.

The CPT also recommends that the cell measuring about 4 m² in section 6 of the Donetsk SIZO be no longer used as prisoner accommodation.

74. Looking to the future, **the CPT trusts that material conditions of detention in the new units for life-sentenced prisoners in the Vinnytsia and Zhytomir prisons will be in conformity with both the instruction of 6 May 2000 and the recommendations made by the Committee in the above paragraph.**

75. As far as the regime to be offered in the two new units is concerned, the CPT wishes to underline that long-term imprisonment is widely considered to have a number of desocialising effects upon inmates. In addition to becoming institutionalised, such prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society. In the view of the CPT, the regimes to be offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way.

Prisoners serving long sentences should have access to a wide range of purposeful activities of a varied nature (work, preferably of a vocational value; education; sport; recreation/association). Moreover, they 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 psycho-social support are important in assisting such prisoners to come to terms with their period of incarceration. Further, the negative effects of institutionalisation upon prisoners will be less pronounced if they are effectively able to maintain contact with the outside world.

Further, the CPT wishes to stress that it can see no justification for keeping prisoners whose death sentences have been commuted to life imprisonment apart from other prisoners serving lengthy sentences. In many jurisdictions, life-sentenced prisoners are not viewed as necessarily more dangerous than other prisoners; many of them have a long-term interest in a stable and conflict free environment. Risk/needs assessment of life-sentenced prisoners should therefore be made on a case by case basis. Such an approach will also make it possible for the prisoners in question to be accommodated as close as possible to their homes, and will improve their contact with the outside world.

The CPT recommends that the Ukrainian authorities take due account of all the factors identified above in their policy on the management of life-sentenced prisoners and the regimes to be provided for them. It also recommends that prison staff be encouraged to communicate and develop positive relationships with this category of prisoner.

76. **The CPT also recommends that immediate steps be taken to review the current practice of routinely handcuffing life-sentenced prisoners whenever they are taken out of their cell and when a staff member enters the cell.** Such a practice is highly questionable, all the more so when it is applied over a prolonged period of time in a secure environment. Other means can and should be found to counter security risks.

77. Lastly, the question of women sentenced to life imprisonment must be raised. Two such women met at the Simferopol SIZO, besides being subjected to the same material conditions and regime as the men, were in a situation incompatible with their human dignity. Imprisoned in a men's section, they were supervised only by male prison staff, were unable to have adequate privacy and were deprived of even the basic hygiene products they needed (for example, they had no sanitary towels). This unacceptable situation must be ended immediately. **The CPT recommends that steps be taken without delay to ensure that women sentenced to life imprisonment are afforded conditions of detention fully consistent with their dignity. More particularly, as a matter of principle, they should be placed in accommodation which is physically separated from that occupied by men held at the same establishment. Custodial staff assigned to the accommodation for women should be predominantly female and the specific hygiene needs of women prisoners should be addressed in an adequate manner.**

In addition, **the CPT would like to receive information on the number of women sentenced to life imprisonment in Ukraine, the places where they are held and their conditions of detention.**

4. Prisoners subject to a special regime

78. Another specific category of sentenced prisoner encountered during the 2000 visit was prisoners placed under a special high security regime in Vinnytsia Prison ("Tyurma") No. 176; the establishment held about 700 such prisoners.

Some of the prisoners were placed under this special regime as a result of a decision by the sentencing court (on the grounds that they were dangerous re-offenders) and some were sentenced prisoners transferred from colonies on account of their behaviour (since they were considered as persistent violators of the regulations). A transfer of this kind is made on a recommendation by the competent prosecutor, with the approval of a court. **The CPT wishes to receive a detailed account of the rules governing the various forms of placement under the special "Tyurma" regime and the remedies available to prisoners to challenge such a measure.**

79. The conditions of detention of the above-mentioned prisoners is a matter of serious concern to the CPT. In addition to appalling material conditions, combining a series of adverse factors (severe overcrowding of cells, with living space reduced to about 1 m² per person; lack of natural light; permanent artificial lighting; defective ventilation; insufficient number of beds; non-partitioned toilets; infestation by rats, and lack of personal hygiene and cleaning products), the regime was almost devoid of activities, limited for the overwhelming majority of prisoners to one hour of outdoor exercise per day. Moreover, as was the case for prisoners sentenced to life, prisoners subjected to a special regime were only allowed two small parcels per year. Further, contact with the outside world was limited to one 2-hour visit every six months (in glass-walled visiting booths, moreover) and correspondence was restricted to sending one letter a month.

80. The CPT recommends that the conditions of detention of prisoners subject to a special regime be reviewed as a matter of urgency.

Measures must be taken without delay to remedy the most glaring deficiencies as regards material conditions: improvements should be made concerning access to natural light (by removing permanently the shutters), artificial lighting, ventilation, beds, hygiene products and cleaning materials, and efforts made to reduce the overcrowding in Vinnytsia Prison. The number and frequency of parcels that prisoners can receive in "Tyurma", in particular of food, should also be increased.

Further, prisoners subject to a special regime should be provided with purposeful activities (work, training, education, sport etc.) and measures should be taken to align their rights to visits and correspondence with those applied to sentenced prisoners in colonies (cf. paragraph 122 below). If necessary, the relevant regulations should be amended.

5. Conditions of detention of the general prison population

81. In 2000, the delegation made detailed visits to Simferopol SIZO No. 15 and two colonies, No. 85 at Boutcha and No. 52 at Yenakyevo. The visit to Colony No. 85 at Boutcha was a follow-up visit to assess the implementation of the recommendations made by the CPT in its report on the 1999 visit.

a. follow-up visit to Colony No. 85

82. The description of Colony No. 85 given in paragraph 38 of the report on the CPT's 1999 visit (document CPT/Inf (2002) 21) remains valid. With a capacity of 1,950 places, at the time of the 2000 visit, the Colony held 1,856 prisoners and 113 in the prison hospital.

83. The delegation noted that in the year between the CPT's two visits, improvements had been made as regards some aspects of material conditions. In 2000, all prisoners had a bed with new bedding, which was cleaned at regular intervals. They were also supplied with the necessary cleaning products for the dormitories. Further, work had been done to increase the number of showers and improve the quality of the shower rooms, to which prisoners had access once a week; moreover, at the time of the visit, hot water was available.

That being said, it remained difficult to obtain personal hygiene products. It also emerged that prisoners were compelled to wash their clothes in cold water in their detention unit; this is unsatisfactory in terms of hygiene.

The CPT welcomes the progress made, which it hopes will be maintained. **It invites the Ukrainian authorities to persevere in their efforts to provide prisoners with the necessary hygiene products and to review the arrangements for the washing of clothes.**

84. In paragraph 41 of the report on the 1999 visit, the CPT also recommended that the Ukrainian authorities intensify their efforts to ensure that the detention blocks were refurbished; the primary objective should be to reach the same standards in all the buildings as in Block 1, and gradually to move towards better conditions.

In several of the detention buildings visited, painting and wallpapering had been done, though the major deficiencies described in paragraph 39 of the report had not been tackled. In particular, the sanitary annexes (toilets and washbasins) servicing the detention areas remained in the primitive and appalling state observed in 1999. In Block 3, in particular, the conditions in the outhouse (eight holes in the ground for 300 prisoners, with no running water and the floors covered with excrement) constituted a major health hazard; this facility should no longer be used in its present state.

A comprehensive refurbishment programme was planned for all the detention buildings, starting with Block 3, which was in the worst state, but there did not appear to be a specific timetable for its implementation. **The CPT recommends that the Ukrainian authorities give high priority to implementing the refurbishment programme for Colony No. 85. In the immediate future, the outhouse for Block 3 must be withdrawn from service and replaced with a proper sanitary facility.**

85. The detention regime remained flexible. However, little progress had been made in implementing the recommendations made by the CPT in paragraph 43 of the report on the 1999 visit.

There had been only a slight increase in the number of inmates with a job (from 600 to 700) in the colony's production workshops. Furthermore, as in 1999, that number fluctuated with the orders obtained by the establishment. Some hopes were nevertheless pinned on the new brick-manufacturing workshop currently being set up.

Laudable efforts had been made to introduce educational activities, as recommended by the CPT. This significant start (which allowed about 60 inmates to receive secondary education on the spot or by correspondence in 2000) must be sustained and developed (including in higher education), as must the plans for developing vocational training, cultural and sports activities of which the delegation was informed.

The CPT recommends that the Ukrainian authorities further intensify their efforts to develop activities in Colony No. 85 in Boutcha (see also paragraph 61 above).

b. newly visited establishments

i. *Simferopol SIZO No. 15*

86. Simferopol SIZO No. 15, located within the town, was built at the beginning of the 19th century, and had a capacity of 2,200 persons in 210 cells. At the time of the visit, it accommodated some 2,500 persons, of which 177 women and 155 minors. While the majority of the prison population was on remand, there were some 600 sentenced prisoners, including 30 sentenced to life imprisonment.

Prisoners were held in two blocks, one dating back to the early 19th century and the other of more recent design, built in 1973.

87. The detention areas reserved for women and juveniles (both male and female) offered the best material conditions, in terms of natural light, artificial lighting, cleanliness and furniture. In particular, the CPT welcomes the fact that the shutters covering the cell windows had been removed shortly before the visit, thereby providing not only adequate access to natural light, but also much better ventilation.

Major deficiencies nevertheless remained. In particular, the occupancy rate was excessive in many cells (for example, up to 9 women in an area of 16 m², 24 in an area of about 35 m²) and, in addition, not all women had their own beds.

88. The remainder of the prison population (adult men, most of them on remand) were subjected to appalling material conditions. These inmates were crammed into severely overcrowded dormitories (for example, up to 22 prisoners in an area of 18 m² and up to 32 in an area of 26 m²), with virtually no natural light, often poor artificial lighting and inefficient ventilation. The air was so stifling that most of the inmates remained in their underclothes. Furthermore, the establishment was unable to provide each prisoner with a bed; consequently, in many dormitories, inmates had to take turns to sleep.

While some dormitories had been freshly painted, many others were dirty and infested with cockroaches and other vermin. In-cell toilets (as a rule only partially partitioned) were in an extremely poor state.

89. The adult men had also greater difficulty maintaining satisfactory personal hygiene, since basic products were severely rationed (for example, only 80 g of soap per month as against 200 g for women and 400 g for minors). Further, they were not issued with toilet paper, which was restricted to women and minors. In practice, they were largely dependent on their families in this respect.

In addition, as at Boutcha, arrangements for cleaning clothes were unsatisfactory: all prisoners were compelled to wash them in cold water in their cells.

90. As regards activities, efforts were made to offer minors some educational activities (secondary education), particularly with the aid of local authorities, which provided school textbooks and volunteer teachers who visited the SIZO in their free time. Further, the staff assigned to minors performed work of a social nature with them, which included teaching them behavioural norms and the rules of day-to-day living. Apart from this, minors had no other form of organised purposeful activities (such as sporting and cultural activities).

The rest of the prison population had no real form of organised activities. Apart from a hundred or so inmates assigned to prison chores, prisoners had no work or sporting or recreational activities. In practice, the only time they spent out of their cells was for an hour's open air exercise per day, taken under conditions which did not allow real exercise (the exercise areas ranged from 10 m² to a maximum of 25 m²).

91. To sum up, the majority of prisoners were locked up for almost the whole of the day in severely overcrowded and insalubrious cells, without being offered any activities worthy of the name. Under such conditions, to be incarcerated in Simferopol SIZO No. 15 could only be a stultifying experience.

92. Lasting improvements to the situation at SIZO No. 15 will inevitably take time. This will very largely depend on a substantial reduction of overcrowding. Once more, the delegation's findings demonstrate the importance and urgency of implementing the recommendation made in paragraph 59 above.

Nevertheless, measures can and must be taken without delay to palliate certain of the most serious deficiencies observed.

93. As regards material conditions, **the CPT recommends that steps be taken:**

- **to provide all inmates (men and women) with adequate amounts of personal hygiene products and cleaning products for their dormitories, and adequate facilities for cleaning their clothes;**
- **to ensure that each inmate has a bed or sleeping place;**
- **to ensure that material conditions throughout both detention blocks reach the standards prevailing in the women's and minors' sections as soon as possible, in terms of natural light (by removing the shutters on the windows), artificial lighting, ventilation and cleanliness.**

As regards activities, **the CPT recommends that high priority be given to the development of activity programmes for minors to enable them to enjoy a full programme of educational, recreational and other purposeful activities designed to bring out their potential for social (re)integration; physical education should constitute an important part of that programme.**

As regards adult inmates, the CPT recommends that ways of providing them with a minimum of recreational and sporting activities be explored as of now. It is axiomatic that as overcrowding is reduced, fuller programmes of activities must be introduced. In this regard, the CPT draws attention to the long-term objectives for activities set out in paragraphs 130 and 33 respectively of the reports on the 1998 and 1999 visits, which apply to all the SIZO's in the country.

Lastly, the CPT recommends that the design of the exercise yards be reviewed with a view to enlarging them.

ii. Colony No. 52 in Yenakyevo

94. Colony No. 52, located near to the village of Yenakyevo, some 60 km from Donetsk, was initially a general regime colony. In 1974, it became a special regime colony for prisoners considered as being especially dangerous recidivists under Section 26 of the Criminal Code. With a capacity of 950 prisoners, the colony held 859 male adult prisoners, the length of sentence ranging from three to twenty years.

Prisoners were accommodated in two different categories of facilities: the "residential areas", dating from 1956, which consisted of four separate dormitory-type living quarters, and two cellular-type buildings, added in the 70s and 80s. These latter buildings (Blocks 1 (Units 5-9) and 2 (Units 10-13)) contained 93 cells. At the time of the visit, they were accommodating 559 inmates. The majority of inmates had to spend a third of their sentence in these premises before being granted the possibility to be transferred to one of the Colony's residential areas. Further, a number of them had been transferred from the residential areas or from other colonies for a period up to one year, on the basis of Article 67 of the Corrective Labour Code.

95. In the residential areas, which consisted of pavilion-style buildings, material conditions of detention were acceptable. The dormitories were adequately lit (in terms of both natural light and artificial lighting), well ventilated, properly equipped and clean. Prisoners also had access to common rooms/television rooms, which were equally satisfactory. Further, they also had free access to an outside courtyard and were allowed to keep a small garden.

96. By contrast, material conditions in the two cellular-type buildings (which accommodated more than half of the sentenced prisoners) were much less acceptable.

Living space in the cells was generally below the official standard of 2.5 m² per prisoner. Further, cells had no real access to natural light. However, the delegation noted with satisfaction that, at the end of the first day of the visit, the prison administration started to remove the shutters on the windows of the cells in these two buildings. The difference observed in the cells where this had been done was striking in terms of both natural light and ventilation.

Apart from this, material conditions were generally poor, despite ad hoc measures taken before the CPT's visit (such as painting and the partial renewal of bedding), and similar to those observed in other establishments visited (rudimentary equipment, sanitary annexes that were, as a rule, only partially partitioned and in a poor state of repair, dirty cells due to lack of cleaning materials, shortage of personal hygiene products, etc.). Moreover, there was no running water on one of the floors in Block 1, the water-supply system apparently being deficient.

In both buildings, the delegation heard numerous complaints from inmates concerning poor heating in winter and the fact that windows were simply covered with a piece of plastic instead of glass.

97. The CPT recommends that the Ukrainian authorities take the necessary measures to remedy the deficiencies described above in the two cellular-type buildings. It also recommends that they ensure that the cellular accommodation is adequately heated in winter and the windows properly insulated. These requirements must be met in all penitentiary establishments in Ukraine.

The CPT also wishes to receive confirmation that all the shutters have been removed from the windows of the two cellular-type buildings.

98. As regards activities, 626 sentenced prisoners (out of 859), who had been declared fit for work, had a paid job, chiefly in the production workshops for the mining industry (548 jobs) and in related work (slightly over 70 jobs). These jobs were mainly held by inmates of the residential areas and, to a much lesser extent, those of Block 1. A very small number of inmates in Block 2 had access to workshops located in the block itself when orders were received.

It should be mentioned that assignment to a working post did not necessarily correspond to a real job. It appeared that, even in the absence of orders, inmates fit for work were obliged to go to the production workshops and to spend their time, walking round and round, without even having the possibility to sit down. **This state of affairs should be reviewed without delay.**

In 2000, approximately 100 prisoners (from residential areas) had received vocational training for about three months in the above-mentioned workshops, at the end of which they received a certificate. There was also a cultural activities club, a library and a small sports ground. However, the overwhelming majority of inmates of the cellular-type buildings were barred from these activities.

99. In practice, for most of the inmates held in the cellular-type buildings, especially those in Block 2, the only time they spent outside their cells was one hour's open air exercise in small, fenced, cage-like areas (measuring 10 to 20 m²), to which the inmates of a given cell went at the same time.

100. **The CPT recommends that the Ukrainian authorities take measures without delay to ensure that all inmates in the cellular-type buildings have access to the existing activity programmes (work, training, cultural activities, sports, etc.), on the same footing as the inmates of the residential areas. If necessary, the relevant regulations should be amended.**

The CPT also recommends that the Ukrainian authorities intensify their efforts to develop activities as a whole in Colony No. 52 (as regards work, cf. paragraph 61 above).

Regarding the exercise yards used by inmates in the cellular-type buildings, the CPT recommends that their design be reviewed with a view to enlarging them.

101. **The CPT would also like to receive the comments of the Ukrainian authorities concerning the numerous allegations received from prisoners that production quotas were unrealistically high and, if they were not attained, no salary at all was received.**

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102. In the report on the 1999 visit, the CPT stated that it was important to offer prisoners adequate facilities to prepare for their release. The delegation that conducted the 2000 visit found that steps had been taken to this effect in the two colonies visited. The recent initiative in Colony No. 85 is particularly laudable. An open section with 75 places now accommodates inmates preparing for release, offering them in particular facilities for outings and prison leave, as well as living conditions similar to those of the outside community. In Colony No. 52, on the other hand, preparation for release was much more perfunctory (confined to classes and the provision of addresses of useful bodies) and did not afford the above-mentioned facilities.

The CPT considers that the example of Colony No. 85 deserves to be encouraged and followed. **It recommends in particular that in Colony No. 52, efforts be made to develop further the possibilities for adequate preparation for release.** This of course will also largely depend on adequate staffing of the services entrusted with this task (social workers, etc.).

6. Health-care services

a. introduction

103. The Department for the Execution of Sentences now includes a special unit in charge of health-care, namely the Directorate of Medical and Sanitary-Epidemiological Support.

The delegation was informed that this health directorate co-operated with the Ministry of Health in providing prisoners with health-care. However, during the official talks with the Deputy Minister of Health and other representatives of the Ministry, it emerged that the framework for co-operation was in fact comparatively narrow. The Deputy Minister of Health nevertheless referred to the existence of a draft working document drawn up for submission to the government with a view to involving the Ministry of Health more closely in health-care in prisons.

The CPT can only encourage this initiative, which is fully consistent with the remarks made in paragraph 142 of the report on its 1998 visit, namely that a greater involvement of health ministries in the provision of health-care services in prison will help to ensure optimal health-care for prisoners, as well as implementation of the general principle of the equivalence of health-care with that in the outside community. **It wishes to be informed of the action taken on the above-mentioned initiative of the Ministry of Health.**

The CPT reiterates the recommendation made in paragraph 143 of the report on its 1998 visit that the Ukrainian authorities pursue their efforts to establish a comprehensive policy on health-care in prisons, taking into account the principles identified by the Committee in its 3rd General Report (see document CPT/Inf (93) 12) as well as Committee of Ministers' Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health-care in prisons.

104. The 2000 visit again highlighted the extreme inadequacy of the arrangements for the supply of appropriate medicines (for example, Colony No. 52 had no medicines in stock at the time of the visit, while SIZO No. 15 did not have a sufficient amount or variety of medicines and none for the treatment of tuberculosis). Despite the contributions made by the Department for the Execution of Sentences out of its own budget, prisons depended mainly on the humanitarian aid they could secure and on prisoners' families.

As the CPT has repeatedly emphasised, this solution is not satisfactory, and is intolerable where the treatment of certain diseases such as tuberculosis is concerned. The Committee must point out yet again that it is the responsibility of the State to ensure that, irrespective of the prevailing economic circumstances, persons in its custody have access to basic elements of health-care, including the medicines required by their state of health.

The CPT recommends that the Ukrainian authorities finally take the necessary measures to ensure that penitentiary establishments have a sufficient supply of appropriate medicines; a particularly high priority should be given to the supply of medicines for the treatment of tuberculosis.

b. staff and facilities

105. As regards Colony No. 85 at Boutcha, the CPT recommended in the report on its 1999 visit that staffing levels in the health-care service be raised. The recommendation has been implemented as to the full-time presence of a dentist. There has also been a certain increase in the number of doctors (from 3 to 4). The number of feldshers remained the same; however, a better co-operation between the interregional hospital and the colony had permitted an increase in the amount of cover by the feldshers.

The inter-regional hospital located in the colony, whose staffing levels were considered acceptable in 1999, has been provided with a post of anaesthetist. In the report on the 1999 visit, the CPT criticised the conditions of hygiene and asepsis in the operating theatre; the 2000 visit showed that these deficiencies had been remedied and that a small post-operating room had also been introduced. At the time of the visit, the supply of medicines was adequate, due to the hospital doctor's efforts to obtain humanitarian and charitable aid.

The CPT welcomes the progress made. **Nevertheless, the Committee reiterates its recommendation that the number of feldshers in the Colony's health-care service be increased in due course, and that efforts to increase the number of doctors be pursued.**

106. Simferopol SIZO No. 15 had provision for 10 full-time medical doctors (general practitioners and specialists in pneumology, psychiatry, gynaecology and dermatology, as well as a dentist). However, one general practitioner post was vacant. Moreover, the gynaecologist was an outside consultant and many women had no access to this specialist because they were unable to pay for the consultations. Such a situation is not acceptable. As regards feldshers, there were 12 posts, of which only 8 were filled.

Such a team can hardly be deemed sufficient to provide adequate health-care to 2500 prisoners, in particular as regards the number of feldshers. **The CPT recommends that the vacant doctor's and feldshers' posts be filled as soon as possible, and that the question of women's access to gynaecological care be immediately reviewed.**

The examination/consultation rooms were modestly equipped, but clean. As regards the supply of medicines, reference should be made to the recommendation in paragraph 104.

107. In Colony No. 52, medical care was provided by 3 full-time doctors (including the head doctor) and a dentist (3 days a week), assisted by the equivalent of 4.5 feldshers. The staff included a psychologist, who did not, however, perform health-care duties. There was no possibility of consulting a psychiatrist. While the colony was somewhat better off than the two previously-mentioned establishments in terms of general practitioners, the number of feldshers should nevertheless be increased. Further, the lack of access to a psychiatrist and the time for which the dentist is available are unsatisfactory.

The equipment and infrastructure facilities were rudimentary and often outdated, and there was a shortage of health-care supplies (for example, not enough bandages, stitching instruments/products; under-equipped laboratory and dental surgery; no medicines in stock). Consequently, the number of complaints heard with regard to medical care is hardly surprising.

The eleven-bed infirmary was just as rudimentary and the medical isolation room of very poor quality; in particular, it had no access to natural light. Moreover, the cleanliness of the whole unit left much to be desired.

The CPT recommends that the presence of a dentist be ensured on a full-time basis and that provision be made for the presence of a psychiatrist; the number of feldshers should also be increased. Further, it recommends that measures be taken without delay to provide the medical service with the necessary health-care supplies, equipment and medicines. In addition, the material deficiencies observed in the infirmary and the medical isolation room should be remedied.

c. medical screening on admission

108. Medical screening of newly arrived prisoners was inadequate in several of the establishments visited. It was a perfunctory medical check confined, at best, to weighing the prisoner and measuring his blood pressure; moreover, at the Simferopol SIZO, this task was left to the feldsher alone, who consulted a doctor only if this was expressly requested by the prisoner.

Every newly-arrived prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his/her arrival; save for in exceptional circumstances that interview/examination should be carried out on the day of admission, especially in so far as remand establishments are concerned. Such medical screening on admission could also be performed by a feldsher reporting to the doctor. **The CPT recommends that steps be taken to ensure that this is the case in all penitentiary establishments.**

109. As regards the recording of injuries observed on prisoners, reference should be made to the recommendations made in paragraph 26 above and in paragraph 151 of the report on its 1998 visit.

110. In at least two of the establishments visited (Simferopol SIZO and Colony No. 52), neither the medical examinations on arrival nor those performed during detention were confidential, since prison staff attended the consultations. **The CPT recommends that all medical examinations of prisoners (whether on arrival or at a later stage and irrespective of the category of prisoner) be conducted out of hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers; the same rule should apply during treatment provided to prisoners.**

d. tuberculosis

111. In its two previous reports, the CPT dealt at length with this major problem affecting the Ukrainian penitentiary system. In 2000, the state of affairs in the establishments visited was just as desperate as in the past when it came to combating tuberculosis and caring for prisoners suffering from this disease.

The CPT calls on the Ukrainian authorities to ensure that the penitentiary system is in a position to pursue a strategy for effective screening and action against tuberculosis, in keeping with the recommendations it has already made (cf. paragraphs 153 and 154 of the report on the 1998 visit and paragraph 51 of the report on the 1999 visit, as well as paragraph 104 above).

112. At the end of its visit the delegation requested the Ukrainian authorities to take urgent measures to improve material conditions in cells No. 99, 100, 101 and 112 of the tuberculosis patients' unit in the Simferopol SIZO No. 15 and in the cell reserved for such patients in Vinnytsia Prison No. 176 or, failing that, to withdraw them from service. The conditions observed were favourable to the spread of the disease and as such constituted a clear health hazard for patients: in particular, there was no access to natural light or fresh air and hygiene was inadequate.

The CPT would like to be informed of the measures taken in this regard. Furthermore, in the light of other findings made by its delegation, **the Committee recommends that all tuberculosis patients be offered at least one hour in the open air per day.**

7. Other issues

a. prison staff

113. In its report on its 1998 visit (paragraphs 160 to 162), the CPT discussed in some detail the recruitment and training of prison staff. It has noted with interest the developments recorded in this area (cf. the Ukrainian authorities' reply to the report on its 1999 visit), particularly as regards the setting up of training schools and the implementation of the project on staff recruitment and training, in co-operation with the Council of Europe. **The CPT would like to receive further information on the recruitment criteria currently used and the training given (duration, content). It also wishes to know whether - and if so, to what extent - prison staff already in post have access to in-service training.**

b. discipline and strict cellular regime

114. The duration of placement in a disciplinary cell (SHIZO) and the procedure for such placement were outlined in paragraph 163 of the report on the 1998 visit. In their follow-up response, the Ukrainian authorities provided additional information, stating that disciplinary procedures ensure that the prisoner is heard in all cases on the subject of the offence he/she is said to have committed. A scrutiny of relevant files in the establishments visited showed that this was the case in practice.

115. In Colony No. 52, it appeared from the relevant registers that placement in a disciplinary cell was frequently resorted to for periods of up to 15 days on a very wide range of grounds (such as expressing disagreement with a staff member, attempting to open the hatch in the cell door or failing to reach the required production quota). **The CPT wishes to receive the authorities' comments on this situation.**

116. The CPT also notes with concern that despite the assurances given by the Ukrainian authorities in their follow-up response, prisoners placed in disciplinary cells are still not allowed one hour of outdoor exercise per day. **It recommends that the Ukrainian authorities immediately ensure that the instructions they have given on this point are complied with in all penitentiary establishments. Similarly, the CPT reiterates the recommendation made in the report on its 1998 visit that prisoners placed in disciplinary cells be provided with reading matter.**

117. As regards material conditions in the disciplinary cells, the in-cell toilets at Boutcha had been partially partitioned, as recommended in the report on the 1999 visit; however, the other deficiencies highlighted in that report had not been remedied.

At the Simferopol SIZO, six new disciplinary cells had been brought into service. They afforded acceptable material conditions, with the exception of one major deficiency; they had no access to natural light. The same deficiency was also observed in the disciplinary cells at Vinnytsia Prison.

In Colony No. 52, conditions in the disciplinary cells were very poor. The permitted occupancy rates were too high (12 persons in 17.6 m²). Further, the sleeping benches (pulled down at night) were a mere 22 cm in width, and the stools on which prisoners could sit no more than 5 cm across. There was no natural light and no running water, and the toilet was completely exposed to the rest of the cell (though partitioning work began during the visit).

In most establishments, prisoners were unable to have a shower for the entire duration of their placement in a disciplinary cell. However, on a more positive note, prisoners were given mattresses and blankets for the night.

The CPT recommends that the various material deficiencies in disciplinary cells described above be remedied. Access to natural light should be a priority objective. In addition, all prisoners placed in a disciplinary cell should be able to have at least one shower a week.

118. The material conditions in the facilities for prisoners held under strict cellular regime (PKT⁶) mirrored those held in the disciplinary cells in the establishments visited. Consequently, **the above recommendations also apply in this context.**

119. The regime for such prisoners differed from one establishment to another (or even from one prisoner to another), and arrangements were in practice at the discretion of the prison governor. In Colony No. 85 at Boutcha, many prisoners subject to strict cellular regime were allowed to work and to have the short visits enjoyed by sentenced prisoners (cf. paragraph 122). By contrast, in Colony No. 52 at Yenakyevo, such prisoners were only allowed one hour of open air exercise, and visits were prohibited for the whole duration of their placement under strict cellular regime (which could range from six months to a year); this state of affairs is unacceptable.

The CPT recommends that the application of the strict cellular regime be reviewed, as a matter of urgency, in order to ensure that the prisoners concerned, throughout the Ukrainian penitentiary system, are provided with purposeful activities and entitled to short visits. If necessary, the relevant regulations should be amended.

120. In this area, the CPT also wishes to express its concern at the situation observed in Colony No. 52 regarding the combined use of the strict cellular regime (PKT) and the disciplinary cell regime (SHIZO). A scrutiny of the relevant registers and a number of individual files revealed that, for many prisoners, placement in PKT regime was often preceded and followed by placement in a disciplinary cell. In one case, the combination of these two measures had led a prisoner to spend more than a year and a half moving between the SHIZO and PKT cells. **The CPT wishes to receive the authorities' comments on this situation.**

c. contact with the outside world

121. The situation as regards visits and correspondence for remand prisoners remained as set out in paragraph 167 of the report on the 1998 visit. In particular, they were still subject to express authorisation by the competent authority (investigator, investigating authority or court with jurisdiction in the case).

The CPT recognises that it may sometimes be necessary, in the interest of an investigation, to place certain restrictions on visits for particular remand prisoners. However, such restrictions should be strictly limited to the requirements of the case and should apply for the shortest possible period. On no account should visits between a remand prisoner and his/her family be banned for a prolonged period. If there is considered to be an ongoing risk of collusion, it is preferable to authorise visits but under strict supervision. The approach should also cover correspondence with relatives. **Consequently, the CPT reiterates its recommendation that the question of remand prisoners' visits and correspondence be reviewed.**

⁶ PKT means "prymischennia kamernogo typu".

122. According to Section 39 of the Corrective Labour Code, sentenced prisoners in colonies (correction labour facilities) are allowed four hours of short visits per month and one long visit every three months (which can last up to 3 days). Letters to relatives can be received and sent without limitations. Further, prisoners are allowed to phone once every three months. As far as life-sentenced prisoners and prisoners under special regime are concerned, see paragraphs 70 and 79 above.

123. The delegation observed that the number of visiting areas for short visits was as a rule inadequate in terms of the establishment's capacity (for example, at Simferopol SIZO, there were only 3 rooms for open visits and 5 narrow glass-walled booths; in Colony No. 52, short visits took place in 4 glass-walled booths).

The CPT recommends that the Ukrainian authorities improve as soon as the situation permits, the capacity of the facilities for short visits. It also reiterates its invitation that the authorities review the conditions under which visits take place, in order to ensure that, as far as possible, both sentenced and remand prisoners receive visits in more open conditions.

d. complaints and inspection procedures

124. In their follow-up response to the CPT's report on its 1998 visit, the Ukrainian authorities stated that prisoners had confidential access to the prosecutor and the Ombudsman. However, this was found not to be the case in practice. Complaints by remand and sentenced prisoners to the competent national authorities, including the prosecutor and the Ombudsman, were forwarded unsealed to a specific department of the establishment, which registered them (and sent them on to the appropriate authority according to their content). The written responses to inmates complaints were also registered. Furthermore, the prosecutors met by the delegation confirmed that complaints or petitions to international bodies such as the European Court of Human Rights could not be forwarded in sealed envelopes. It was therefore not surprising that many prisoners expressed distrust of the present system and reluctance to avail themselves of their right to make complaints, for fear of possible reprisals.

The CPT recommends that the Ukrainian authorities ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary system, have confidential access to the national bodies authorised to receive complaints and, in accordance with the obligations which they have undertaken in this respect, to international bodies. Where required, practical measures should be taken to make sure complaints are transmitted confidentially (for example: providing envelopes; installing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons in confidence). It would also like to receive confirmation that the necessary steps have been taken to include the President of the CPT as one of the addressees to whom prisoners may have confidential access.

125. Regarding inspections of prisons by prosecutors (cf. paragraph 172 of the report on the 1998 visit), the delegation gained the very clear impression from its conversations with prosecutors that the execution of their mandate was confined to monitoring compliance with the law and to conducting monthly inspections of a mainly administrative nature. In particular, they only spoke with prisoners who had explicitly requested to meet them. **The CPT recommends that prosecutors be encouraged to make full use of the powers conferred on them to carry out inspections (regular and unannounced) of penitentiary establishments.** In particular, they should make themselves "visible" not only to management and staff, but also to prisoners; they should take the initiative of visiting the detention areas (including those where inmates under various special regimes may be held), and entering into contact with inmates (and not only those who have requested to see the prosecutor).

126. The delegation also held a lengthy meeting with Ms Karpachova, the Ukrainian National Ombudsman. The CPT notes with great interest that her powers include the right to visit, at any time, any place of detention in Ukraine. It further notes the determination with which the Ombudsman stated her intention to perform this role to the full. It would nonetheless appear that the extent of her remit is still the subject of differing assessments at national level. **The CPT would like to receive the Ukrainian authorities' comments regarding this question.**

e. stability of prisoners' accommodation

127. In two establishments (Colony No. 52 and the Simferopol SIZO No. 15), the CPT's delegation observed a practice of frequently moving prisoners to different cells or sections without warning, which compelled them to adapt constantly to new surroundings with different inmates and staff. The local establishments' managers put forward several reasons for this practice (internal security considerations, requests from the investigating authorities, frequent transfers to Internal Affairs Ministry establishments or courts).

The CPT acknowledges that operational considerations may exceptionally require such measures. However, it would be desirable to avoid as far as possible the needless uprooting of prisoners. **The CPT would appreciate the Ukrainian authorities' comments on this matter.**

f. transit and transport of prisoners

128. At the Vinnytsia establishment, the delegation observed the intolerable conditions under which prisoners in transit were forced to wait for extended periods (which could exceed two months), pending the resumption of their journey. At the time of the visit, 42 prisoners were crowded into a cell (cell 6A) of about 50 m², deprived of natural light and fresh air and subjected to a stifling, stale atmosphere (over 26°C in the cell). It would appear that two days previously the cell had contained over fifty prisoners. At the end of the visit, the delegation requested the authorities to take immediate steps to remedy this situation. **The CPT would like to receive full particulars of the action taken in response to the delegation's request.**

129. Concerning road transport of prisoners, the delegation inspected two Internal Affairs Ministry vans in Simferopol SIZO. Each vehicle had collective compartments and an individual compartment. The individual compartments were as small as 0.5 m²; in paragraph 189 of the report on its 1998 visit, the CPT has already recommended that the practice of placing prisoners in compartments of this size cease. Conditions in the vehicle were also similar in other respects to those described in the aforementioned paragraph of the report on the 1998 visit (poor artificial lighting, inadequate ventilation).

130. Concerning rail transport, the delegation examined the facilities in one of the special carriages used for transporting prisoners. It had compartments measuring 2 and 3.5 m², with folding benches. The authorised capacity in the smaller compartments was six persons for journeys lasting not more than four hours, and four persons for longer journeys. In the larger 3.5 m² compartments, up to sixteen persons could be accommodated for short distances and twelve for long distances. The compartments had some access to natural light; however, ventilation was poor. The toilets for prisoners were in a disgusting state, clogged with excrement, despite the fact that prisoners were due to board a few minutes later for a long journey.

There were no arrangements to provide prisoners with food, even over long distances; as for drinking water, only a small container was provided to supply the prisoners throughout the journey.

131. The manner in which prisoners are transported, particularly by train, is unacceptable, having regard inter alia to the material conditions and possible duration of travel.

The CPT recommends that conditions of prisoners' transport in Ukraine be reviewed in the light of the foregoing remarks. As an immediate measure, it recommends that the Ukrainian authorities take steps to:

- **significantly reduce the maximum number of prisoners per compartment in a railway carriage: 3.5 m² compartments should never contain more than six persons, and 2 m² compartments never more than three persons;**
- **ensure that during rail transport, prisoners are supplied with drinking water and that for long journeys, the necessary arrangements are made for them to be properly fed;**
- **no longer use 0.5 m² compartments in vans for transporting prisoners.**

C. Psychiatric establishments

1. Preliminary remarks

132. There has been a major change in the legal framework governing involuntary admission to - and treatment in - psychiatric institutions in Ukraine with the adoption, on 22 February 2000, of the Law on Psychiatric Care. In addition to providing important safeguards for involuntary patients (cf. paragraphs 157 to 163 below), the new law introduces the framework for the development of community care centres for outpatients.

The CPT welcomes this new law. According to the Final Provisions under Section VI of the Law, the Cabinet of Ministers of Ukraine has to ensure that all the necessary regulatory legal acts and measures relating to the application of the Law are adopted within six months of its entry into force. **The CPT calls upon the Ukrainian authorities to ensure the implementation of the new law without delay.**

Further, in the light of other observations, **it trusts that the Ukrainian authorities will be able now to draw a clearer distinction between voluntary and involuntary patients.**

133. During the year 2000, the CPT's delegation visited Vinnytsia Psychiatric Hospital No. 2. This is a general psychiatric hospital with an enhanced security unit situated on the outskirts of the city. Opened in 1989, the buildings already showed visible signs of deterioration. At the time of the delegation's visit, there were 469 patients for an overall capacity of 510 beds. The hospital is divided into 10 wards: 1 secure forensic unit (male and female); 1 psycho TB ward (male and female); 1 neurosis ward (male and female); 1 intensive care ward (male and female); and 6 general wards (3 for women and 3 for men). It should be noted that some 62 patients were hospitalised against their will, of whom 47 were in the secure forensic unit (Ward 1). The majority of the involuntary patients had been deemed criminally irresponsible by reason of mental illness and ordered to undergo compulsory treatment by the court. Their placement was governed by the same rules as described in paragraph 225 of the report on the 1998 visit. The placement of other involuntary patients was still done according to the regulations set out in the Ukrainian follow-up response to that visit report (in other words, responsibility for the placement decision rested solely with a board of psychiatrists of the hospital).

134. The CPT's delegation also visited the secure wards (6 and 16) of the Crimea Psychiatric Hospital No. 1. The hospital, established in the early 19th century, is located in the city of Simferopol and is made up of a dozen or more single story buildings in a leafy surrounding. At the time of the visit, Ward 6, with a capacity of 35 patients, held 36 and Ward 16, with a capacity of 40, held 46. Ward 16 had an enhanced security regime for persons who had committed serious crimes. After assessment, the patients could be transferred to Ward 6, where the regime was less severe.

The delegation was informed that a new ward with an official capacity of 60 beds would enter into service before the end of the year 2000, and was intended to take the patients from both secure wards. However, given the fact that the combined current population of Wards 6 and 16 exceeded the 60 bed capacity of the new secure ward, it was unclear where the surplus patients would be accommodated. **The CPT would like to receive precise information from the Ukrainian authorities on the layout of the new secure ward as well as its current occupancy rate.** Further, **the Committee would like to be informed about the location of those patients not transferred from Wards 6 and 16 to the new secure ward.**

2. Ill-treatment

135. The CPT's delegation heard no allegations, and gathered no other evidence, of deliberate ill-treatment of patients by staff employed at the two psychiatric establishments visited.

More particularly, with regard to Vinnytsia Psychiatric Hospital No. 2, the CPT noted the efforts of the management team to improve conditions at this establishment and the dedication to patient care demonstrated by the health-care staff. This is all the more commendable given the paucity of financial resources at the staff's disposal.

3. Electroconvulsive therapy (ECT)

136. Electroconvulsive Therapy (ECT) was regularly used in Crimea Psychiatric Hospital No. 1. The treatment was administered in its unmodified form (i.e. without anaesthetic and muscle relaxants). Moreover, there was no specific register for the administration of ECT.

137. Electroconvulsive therapy is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, the CPT is particularly concerned when it encounters the administration of ECT in its unmodified form; this method can no longer be considered as an acceptable psychiatric practice. Apart from the risk of fractures and other untoward medical consequences, the process as such is degrading for both the patients and the staff concerned. Consequently, ECT should always be administered in a modified form (i.e. with anaesthetic and muscle relaxants).

The CPT recommends that the practice of administering ECT in unmodified form (i.e. without anaesthetic and muscle relaxants) be discontinued in Crimea Psychiatric Hospital No. 1, as well as in any other psychiatric establishments in Ukraine where ECT is administered in such a form.

138. Further, ECT must be administered out of the view of other patients (preferably in a room which has been set aside and equipped for this purpose), by staff who have been specifically trained to provide this treatment. Recourse to ECT should also be recorded in detail in a specific register; it is only in this way that any undesirable practices can be clearly identified by hospital management and discussed with staff. **The Committee recommends that the Ukrainian authorities take the necessary steps to ensure that all these requirements are fulfilled.**

4. Staff resources

139. The Vinnytsia Hospital medical team consisted of 20 full-time doctors and a further 10 doctors employed in the hospital's clinical and diagnostic laboratory. The health-care staff included 332 other persons, including nurses, laboratory assistants, physiotherapists and pharmacists.

As regards staff qualified to provide therapeutic activities, the hospital appeared to have only 2 psychologists. Further, although one person provided art therapy, no occupational therapists were working in the hospital.

140. While the Ukrainian standard of a psychiatrist/patient ratio of 1:40 (cf. paragraph 210 of the report on the 1998 visit) was being met at Vinnytsia, the limited number of psychologists and absence of other staff qualified to provide therapeutic activities precluded the emergence of a therapeutic milieu based upon a multidisciplinary approach.

The CPT recommends that the Ukrainian authorities give priority to trying to increase the number of psychologists and occupational therapists. Further, the vacant post of social worker for the enhanced security regime unit should be filled as soon as possible.

141. As regards Wards 6 and 16 of Crimea Psychiatric Hospital No. 1, the delegation was unable to gain a precise idea of the number of health-care staff, owing to the changes soon to be introduced (see paragraph 134 above). **The CPT wishes to receive detailed information on the number of medical doctors (psychiatrists and medical practitioners), nurses and other staff trained in treatment and rehabilitation activities who are allocated to the reorganised facilities.**

5. Patients' living conditions

142. 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. This is important not only for the patients but also for staff working in psychiatric establishments. Creating such an 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.

143. In Vinnytsia Psychiatric Hospital No. 2, due to efforts of the hospital administration, the living conditions had been somewhat ameliorated. Some of the bedrooms and living areas were relatively spacious (36 m² with either 6 or 7 beds), well lit and airy, equipped with modern beds, clean and properly maintained. Toilets and sanitary facilities were also clean and generally appropriate.

That being said, despite the fundraising efforts of the Director, the delegation noted that it had not been possible to finish the renovation of a number of the hospital buildings. For example, work on the roof of Ward 7 was not completed and there was evidence of water damage on the walls. In this respect, the delegation was informed that the State did not provide sufficient funding for renovation work.

The CPT recommends that the Ukrainian authorities review the provision of financial support to the hospital, so that necessary repairs to the roof and fabric of the buildings can be completed as a matter of urgency.

144. The CPT also believes that greater attention could be paid to rendering the living accommodation more congenial and to providing patients with additional visual stimulation. Moreover, the provision of bedside tables and wardrobes is highly desirable. 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.

The CPT invites the Ukrainian authorities to take appropriate steps to improve further patients' living conditions, having regard to the above remarks.

145. The hospital was creative in supplementing its basic food supplies, for example through developing their farm. Further, the hospital kept large quantities of vegetables and fruit in the underground cellars for use during the winter months. These efforts were necessary, as there was insufficient funding to cover the needs of the hospital in respect of food (for example, available funds permitted the purchase of only 50% of the meat required to satisfy the norms laid down by the Ministry of Health).

The CPT recommends that the Ukrainian authorities ensure that all psychiatric hospitals have sufficient funding to cover patients' dietary norms as laid down by the Ministry of Health.

146. In Wards 6 and 16 of the Crimea Psychiatric Hospital No. 1, the living conditions were poor. The occupancy rates in Ward 6 were too high. Two dormitories, measuring 40 m² and 52 m², had 14 and 19 beds, respectively; a third room had four beds in a space of 15 m². Further, the ceilings, walls and floors in the dormitories showed serious signs of dilapidation with evidence of damp on the walls, holes in the plaster and some floor boards missing. Moreover, the sanitary facilities were dirty.

Occupancy rates were even higher in Ward 16. The enhanced security regime unit contained five locked rooms, three of which had ten beds (in 18 m²) and two five beds (in 10 m²). Due to lack of space, some patients had been placed in beds in the narrow corridors running the length of the rooms and in the isolation room. The building housing this ward was dilapidated and cold, and the rooms more akin to cells in a disciplinary unit of a prison establishment.

In both Ward 6 and Ward 16, the walls were bare and none of the patients possessed lockable space where they could keep their belongings. It should also be noted that patients had to sleep in the same clothes they wore during the day.

Bearing in mind that a new ward was to be brought into service before the end of 2000 (see paragraph 134 above), the CPT will not make any recommendations for improving material conditions in Wards 6 and 16. **However, the CPT trusts that in the new ward, the material conditions will meet the criteria set out in paragraph 142. Further, the Committee recommends that in the new ward, measures be taken to ensure that patients are able to wear appropriate clothes for the night. In the light of other observations made, care should also be taken to ensure that patients can change their clothes and underclothes at appropriate intervals.**

6. Treatment

147. In both hospitals, the treatment provided to patients consisted essentially of pharmacotherapy, although efforts were made at Vinnytsia, in spite of financial difficulties, to offer occupational therapy (chiefly agricultural work) and art therapy. In the Crimean Hospital, there was only a modest workshop in Ward 16.

148. As already stated in the report on the 1998 visit, the CPT is aware that a significant improvement in the range of rehabilitation and treatment activities will have to await more favourable economic circumstances. That being said, efforts must be made as of now to improve the quality of the treatment offered to patients in these two hospitals.

As regards occupational therapy, the CPT recalls that it is an important component of the rehabilitation process for patients and should be offered as an integral part of patients' treatment. Therefore, such activities should not be exclusively governed by labour market forces. Efforts also need to be made to introduce individual and group therapies as well as to develop creative activities and sport.

149. The CPT recommends that the Ukrainian authorities take the necessary steps to enlarge the range of treatment and rehabilitative activities offered to patients, in the light of the above remarks, and ensure that an individual treatment plan is drawn up for each patient.

It further recalls that the long-term objective should be to move away from an environment primarily based on the custody of patients and the use solely of medication, and to create a therapeutic milieu which also includes occupational therapy and psychosocial intervention.

In the light of other observations in Crimea Hospital No. 1, **the CPT also recommends that steps be taken to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day in appropriate areas.**

150. The CPT's delegation was informed that Vinnytsia Psychiatric Hospital relied upon the families of patients and upon humanitarian aid for roughly 50% of the required medicines. At the same time, a new Law of 31 March 2000 apparently imposed a 20% tax on all humanitarian aid, which hospital staff feared would result in a reduction of donations.

While recognising that in times of economic hardship sacrifices have to be made, including in health establishments, the Committee wishes to stress once again that the provision of certain basic necessities of life must always be guaranteed in institutions where the State has persons under its care. This includes appropriate medication. The guaranteeing of medication by the State is furthermore laid down in Article 5 of the new Law on Psychiatric Care⁷.

The CPT recommends that the Ukrainian authorities take appropriate measures without delay to ensure a sufficient supply of appropriate medication (for both psychiatric and physical disorders) as required by law. Further, the CPT would like to receive the Ukrainian authorities' comments on the taxation of humanitarian aid.

151. The CPT noted with concern that tuberculosis was the most prevalent cause of death of patients in Vinnytsia Psychiatric Hospital No. 2 in 1999. **The general recommendation made in paragraph 104 above concerning the supply of medicines for the treatment of tuberculosis applies *mutatis mutandis* to psychiatric hospitals.**

152. The delegation was informed that there was recourse to insulin therapy in Vinnytsia Psychiatric Hospital No. 2. **The CPT would like to receive the comments of the Ukrainian authorities on this question and to receive precise information on the existing guidelines concerning the use of insulin therapy, including as regards patients' consent.**

7. Means of restraint

153. In any psychiatric facility, the restraint of agitated and/or violent patients may on occasion be necessary. This is a subject of particular concern to the CPT, given the potential for abuse and ill-treatment.

154. In Vinnytsia Psychiatric Hospital No. 2, the CPT's delegation was informed that there was no seclusion of agitated patients. The CPT welcomes this approach. There is indeed a clear trend in psychiatric practice in favour of avoiding seclusion of patients. On the other hand, seclusion was still resorted to in Ward 16 of Crimea Psychiatric Hospital No 1.

In both the hospitals visited, agitated and/or violent patients were sometimes subjected to physical restraint. In Vinnytsia Psychiatric Hospital No. 2, the most common form of restraint was manual control by health-care staff. However, if necessary, the patient could be wrapped in a bed sheet or in home-made belts (made out of strips and bandages) for securing the ankle, wrist and chest. Resort to such means of physical restraint was always done on the order, or with the approval, of a psychiatrist (and even often in his/her presence). In Wards 6 and 16 of Crimea Psychiatric Hospital No. 1, resort was also had to "soft fixations" (i.e. cloth strips for securing wrist and ankles). However, application of such means of physical restraint was not subject to the order or approbation of a doctor.

⁷ Article 5 reads as follows: "The State guarantees: [...] the provision of free medical care to persons suffering from psychiatric disorders in State and communal health-care institutions and provision of medicinal preparations and products for medicinal purposes to them gratis or on favourable terms according to the procedure set by the cabinet of Ministers of Ukraine".

In theory, the duration of physical restraint of patients was kept to a minimum. However, the delegation was unable to confirm that this was the case in practice, because neither of the two establishments kept a special register to record recourse to measures of restraint (whether manual control, instruments of physical restraint or seclusion).

155. In the report on its 1998 visit (paragraphs 221 to 223), the CPT made detailed recommendations on all these points. In this connection, the Committee notes with interest that a number of those recommendations have been incorporated into Section 8 of the new Law on Psychiatric Care (for example, physical restraint must be resorted to only in exceptional cases, on the orders, and under the supervision, of a psychiatrist). **It nevertheless requests the Ukrainian authorities to implement also the recommendation made in paragraph 223 of the report on its 1998 visit, namely that every instance of the physical restraint of a patient be recorded (in addition to the entry made in the "medical documentation") in a specific register established for this purpose. 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.**

The Committee would also like to receive a copy of the rules drawn up by the Minister of Health concerning the use of means of restraint (referred to in Section 8 of the aforesaid law).

156. The CPT was pleased to learn that staff at Vinnytsia Psychiatric Hospital No. 2 were undergoing annual training on recourse to means of physical restraint. In this respect, **the CPT recommends that staff in all psychiatric establishments receive training in both non-physical and manual techniques vis-à-vis agitated or violent patients.** The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to patients and staff.

8. Safeguards in the context of involuntary placement

157. As stated in the report on the 1998 visit (paragraph 224), mentally ill and mentally handicapped persons are particularly vulnerable, and hence should benefit from safeguards in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary admission/placement in a psychiatric facility should always be surrounded by appropriate safeguards and the need for such a placement should be reviewed at regular intervals. Further, the admission of a person to a psychiatric facility on an involuntary basis should not be construed as authorising treatment without the patient's consent. Other safeguards should deal with such matters as effective complaint procedures, the maintenance of contacts with the outside world, and external supervision of psychiatric establishments.

158. As regards criminally irresponsible persons, the procedure for legal placement and for its review was described in paragraph 225 of the CPT's report on its 1998 visit. During the 2000 visit, the delegation was able to ascertain that, as regards placement and review of placement, the statutory requirements were complied with in practice.

159. As regards the committal of civil patients to a psychiatric hospital, the CPT has already welcomed the adoption of the new Law on Psychiatric Care. Section 16 of the new Law foresees that a person can be referred to a psychiatric hospital by decision of a psychiatrist and, thereafter, must be examined by a board of the hospital's psychiatrists within 24 hours of admission. If the board finds that involuntary hospitalisation is necessary, a reasoned request for involuntary placement, on the grounds provided for by Section 14, must be addressed to the relevant court within 24 hours. In the course of a judicial placement, the hospital's board of psychiatrists must conduct a monthly review of the placement in order to determine whether it is possible to terminate it or whether it should be extended. The extension of involuntary hospitalisation beyond 6 months requires a further court decision. Any further extension can be obtained only for 6-monthly periods under the same procedure.

In addition, patients may, either themselves or via their legal representatives, challenge the court decision to place or maintain them in a psychiatric hospital (Section 17). Under Section 25, patients have the right of access to a lawyer and to free legal aid for all matters relating to psychiatric care.

160. As regards patients' consent to treatment, an examination of the new Law on Psychiatric Care reveals that, in general, great emphasis is placed upon both patients' information and their free and informed consent to treatment. However, it excludes in general terms the requirement of such consent in cases of involuntary placement, be it of a civil or criminal nature.

In the CPT's opinion, such a wide derogation from the principle of free and informed consent to treatment is not acceptable. **It recommends that any derogation from this fundamental principle be applied only in clearly and strictly defined exceptional circumstances.**

161. As regards other safeguards, Section 25 of the Law (a provision which should have entered into force on 1 January 2001) lists a number of important rights, including the right to confidential correspondence (both letters sent and letters received) and to receive visits in private.

It is also expressly stipulated that patients can communicate directly with the representatives of the hospital on all matters relating *inter alia* to the psychiatric care provided to them and to respect for their rights.

162. The CPT considers that it would be useful if, in parallel to the implementation of the new Law, patients (and their families) were issued on admission with an information leaflet describing the functioning of the establishment and setting out patients' rights. **The CPT recommends that the Ukrainian authorities introduce such a leaflet in psychiatric establishments.**

163. In its report on the 1998 visit (see paragraph 231), the CPT underlined the considerable importance it attaches 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.

Section 30 of the 2000 Law provides for psychiatric establishments to be monitored by the Ministry of Health as well as by local executive authorities and local government authorities. Further, representatives of associations of citizens will be entitled to visit psychiatric institutions. Moreover, according to Section 31, prosecutors are also entrusted with the monitoring of the situation in psychiatric institutions. **The CPT trusts that Sections 30 and 31 of the Law will be fully applied in practice.**

D. Military detention facilities

164. In 2000, a CPT delegation visited for the first time two Ministry of Defence detention facilities, at Sebastopol and Simferopol. It heard no allegations and obtained no other evidence of physical ill-treatment of detained servicemen by staff in the facilities visited.

165. The Military Command of the Sebastopol Garrison has a four-cell detention unit reserved for military personnel suspected of breaches of the Military Code or of offences under ordinary criminal law. The length of detention may not exceed 72 hours, at the end of which the serviceman is either released and returned to his unit or transferred to an establishment of the Ministry of Internal Affairs (ITT) or another military detention facility. This position was corroborated by an examination of the carefully kept registers.

166. Material conditions in the unit displayed deficiencies similar to those observed in many district police stations (cf. paragraph 44). Although, one cell was of an adequate size (6 m²), the others were small (from 3 to 4 m²). Further, none of the cells had access to natural light and most of them had poor artificial lighting and scant ventilation. In addition, detainees were not provided with a mattress and blankets at night.

On the positive side, three meals per day were offered, and personal hygiene and cleaning products were provided. In addition, the cell block had a shower (albeit out of order when the visit took place).

167. At the Simferopol Garrison and Guardhouse, servicemen may be detained on disciplinary grounds⁸ or for offences against the Military Code or ordinary law. At the time of the visit, one serviceman was under arrest for 7 days as a disciplinary measure and four servicemen were detained for offences against the Military Code. Three of the latter servicemen had been held at the detention facility for four months.

168. The detention facility had six cells with a total capacity of 26 places. As at Sebastopol, the material conditions displayed major defects in terms of access to natural light, artificial lighting and ventilation. This is all the more of concern as regards Simferopol, given that periods of detention could be much longer. Amenities were extremely primitive (board beds which could be let down at night and, for daytime use, narrow benches barely 14 cm wide). In addition, the dimensions of the individual disciplinary cells (barely 3.5 m²) rendered them unsuitable for prolonged periods of detention. Further, the permitted occupancy rate in the other cells was too high (up to 3 persons in a space of just over 7 m²; 18 persons in a space of about 22 m²). Furthermore, mattresses were issued only to sentenced servicemen and those on remand, and nobody received a blanket.

However, like the Sebastopol facility, emphasis should be placed on highly positive aspects observed as regards diet, possibilities for personal hygiene and upkeep of cells.

⁸ Under the terms of the Disciplinary Statute of the Armed Forces of Ukraine, disciplinary arrest in guardrooms may be ordered for up to ten days.

As regards the regime, servicemen placed under disciplinary arrest received reading matter, were allowed visits, and could be assigned to fatigue duties outside the cells. By contrast, those remanded into custody or serving sentences had virtually no activities; they could only read in their cell and receive visits from relatives.

169. In both Garrisons, detained servicemen from all categories were, in compliance with the military regulations, allowed up to fifty minutes outdoor exercise per day, which took place in adequate areas.

170. **The CPT recommends that:**

- **in all military detention facilities:**
 - every serviceman obliged to spend the night in custody, for any reason, be provided with a clean mattress and blanket;
 - every serviceman held for more than 24 hours be offered at least one hour of outdoor exercise per day.
- **at Simferopol Garrison:**
 - the 3.5 m² disciplinary cells be enlarged (preferably to at least 6 m²);
 - the permissible rates of occupancy of the multi-occupancy cells be reduced;
 - cells be provided with adequate access to natural light;
 - cells be equipped with a table and adequate means for sitting (fixed to the floor if necessary);
 - possibilities to offer out-of-cell activities to servicemen detained for lengthy periods (both sentenced and on remand) be explored.
- **at Sebastopol Garrison, the material shortcomings observed as regards lighting and ventilation be rectified.**

The Committee would also like to be informed of the progress made in the planned construction of a new military detention facility at Sebastopol.

171. **Lastly, the CPT would like to receive the following information:**

- **how the guarantees set out in paragraphs 32 to 37 of this report are secured for servicemen suspected of offences against the Military Code;**
- **an account of the guarantees surrounding the procedure for disciplinary arrest.**

III. RECAPITULATION AND CONCLUSIONS

172. After its third visit to Ukraine, the CPT remains concerned by the lack of progress in numerous areas. This is true for example of the recommendations designed to prevent the ill-treatment of persons deprived of their liberty by law enforcement agencies, and to combat overcrowding both in Militia and penitentiary establishments. As already underlined in the past, a number of the recommendations concerned have no important financial implications and could be implemented without delay. The CPT has stressed that, unless genuine efforts are made as of now to improve the situation, it will be obliged to consider having recourse to Article 10, paragraph 2, of the Convention.

A. Militia establishments

173. During the 2000 visit, the CPT's delegation once again heard, in all of the regions visited, numerous allegations of physical ill-treatment of persons deprived of their liberty by members of the criminal Militia ("operativniki"). The allegations related to both the time of apprehension and to subsequent questioning. The forms of ill-treatment alleged mainly concerned kicks, punches and blows with a truncheon. However, a number of allegations were heard of even more severe forms of ill-treatment, such as: electric shocks; pistol-whips; burns using cigarette lighters; asphyxiation by placing a gas mask or plastic bag over a detained person's head; beating detained persons while they are handcuffed and suspended by the legs and/or arms or maintained in a hyperextended position, and beatings on the soles of the feet. In many cases, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture.

In contrast, few allegations were received of physical ill-treatment by staff working in the Militia central holding facilities (ITTs) visited.

174. In the light of all the information at its disposal, including medical data consistent with allegations heard, the CPT has reached the conclusion that persons deprived of their liberty by the Militia continue to run a significant risk of being physically ill-treated at the time of their apprehension and/or while in the custody of the Militia, and that on occasion resort may be had to severe ill-treatment/torture.

175. The CPT has recommended that Militia personnel be reminded, through a formal statement from the highest political level, that they should be respectful of the rights of persons in their custody and that ill-treatment of such persons will be the subject of severe sanctions. In this statement, emphasis should be placed on the key role to be played by senior staff in managing and supervising police activities at all levels.

The CPT has also stressed that the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by members of the Militia themselves. This implies both strict selection criteria for the recruitment of police personnel and the provision of adequate professional training.

The crucial role to be played by prosecutors in the prevention of ill-treatment has been highlighted. In this connection, the CPT has recommended that all criminal suspects taken into custody by the Militia be brought before the prosecutor responsible for taking a decision on their remand in custody or release. The importance of prosecutors making the best possible use of their power to inspect Militia detention facilities has also been underlined.

176. As for formal safeguards against the ill-treatment, in particular the rights of detained persons to inform a close relative or another third party of their choice of their situation and to have access to a lawyer, the situation had not changed over the last two years and remained unsatisfactory. In addition, there was still no firm legal basis for the right of access to a doctor. Consequently, the CPT has reiterated the whole set of recommendations made in its report on the 1998 visit aimed at strengthening these formal safeguards.

Other recommendations made concern the immediate provision of information to detained persons about their rights, the drawing up without further delay of a code of conduct for interviews, and the need to ensure the prompt and proper recording of the fact of a person's detention.

177. Some of the **district police stations** visited could be said to offer adequate material conditions of detention for holding persons for short periods of time and could, potentially, be suitable for detaining persons for up to 72 hours, if a number of measures were introduced. However, the material conditions in many others were totally unsuitable for holding persons for the legal limit of 72 hours and not satisfactory even for short periods of several hours. Concrete recommendations have been made to remedy this situation.

In the light of information gathered, the CPT has stressed that to deprive a person of intake of water can rapidly have damaging consequences for his/her health and could easily be characterised as ill-treatment; it has recommended that all detained persons have ready access to drinking water. Further, persons detained for more than a few hours, should be provided with something to eat.

178. The CPT has noted with interest the Ministry of Internal Affairs' refurbishment plan for **Militia central holding facilities (ITTs)**, in response to the recommendations made by the CPT following its previous visits. Of course, conditions in the ITTs cannot be transformed overnight; however, a number of measures need to be taken immediately. At the end of the visit, the CPT's delegation made an immediate observation requesting the Ukrainian authorities to ensure that all persons detained in ITTs are provided with a mattress and blanket at night, are guaranteed a minimum of one hour's outdoor exercise every day, and have sufficient access to natural light. The CPT has welcomed the measures taken by the Ukrainian authorities in response to this observation.

Nevertheless, the Ukrainian authorities still have some way to go in ITTs to fulfil their responsibility to hold persons deprived of their liberty under conditions fully consistent with human dignity. The highest priority should be given to the objective of reducing overcrowding; only then can the efforts made by the Ukrainian authorities be expected to bear fruit. The CPT has also called upon the Ukrainian authorities to take, without further delay, certain steps identified in its previous reports concerning the personal hygiene of detained persons, access to reading material, and the possibility for detained persons to maintain contact with the outside world.

B. Establishments under the authority of the State Department for the Execution of Sentences

179. The delegation heard a number of allegations of physical ill-treatment of prisoners by prison staff in three of the establishments visited. In **Yenakyevo Colony No. 52**, the allegations received referred to blows with a tube or a non-standard baton as well as with fists, apparently when prisoners' behaviour was not considered appropriate. In **Simferopol SIZO No. 15**, some juveniles interviewed stated that they had been hit with wooden paddle bats by pedagogical staff for not having adequately mastered the internal rules. In **Vinnitsia Prison No. 176**, consistent allegations were heard from prisoners of being beaten with wooden objects upon arrival in the prison. Allegations were also heard concerning interventions of teams from the Regime and Protection Department; prisoners stated that they had been stripped to their underpants by members of such teams and, sometimes, dragged out of their cell and beaten.

The CPT has recommended that the authorities at all levels deliver the clear message that all forms of ill-treatment of prisoners are not acceptable and will, if they occur, be severely punished. It has also recommended that a thorough enquiry be carried out into the methods used by teams from the Regime and Protection Department during their interventions in Vinnitsia Prison.

180. In the light of the facts found in certain establishments, the CPT has again recommended that, above and beyond the specific measures already taken, the Ukrainian authorities develop a comprehensive strategy to combat inter-prisoner violence and intimidation throughout the Ukrainian penitentiary system.

181. In 2000, the State Department for the Execution of Sentences was still faced with a daunting overcrowding problem. The visit confirmed that it was high time for the Ukrainian authorities to tackle the systemic problem of overcrowding, not only in pre-trial establishments (SIZOs), where it was most glaring, but also in establishments for the execution of sentences. The CPT has called upon the Ukrainian authorities to take action now in order to mount a coherent policy aimed at combating overcrowding in the Ukrainian penitentiary system and, in so doing, to take due account of the principles laid down in Recommendation No. R (99) 2 of the Committee of Ministers of the Council of Europe, concerning prison overcrowding and prison population inflation.

182. The CPT has welcomed the Ukrainian authorities' decision to abolish the death penalty, in keeping with commitments made on joining the Council of Europe. Nevertheless, the CPT must state that the treatment of prisoners sentenced to life imprisonment is a major source of concern to the Committee.

The material conditions of detention for these prisoners displayed major deficiencies in terms of access to natural light, quality of artificial lighting and ventilation. Furthermore, many of the prisoners sentenced to life imprisonment were in a state of serious deprivation, given the restrictions imposed, in particular on parcels. As regards the regime, life-sentenced prisoners were confined to their cells for 23 and a half hours a day, with no form of organised activities and virtually no human contact. At the end of the visit, the CPT's delegation made an immediate observation, requesting the Ukrainian authorities to modify immediately the rules governing this category of prisoner.

The CPT has welcomed the draft law aimed at improving the conditions of detention of prisoners sentenced to life imprisonment. At the same time, it has underlined that most of the measures called for to improve urgently the treatment of such prisoners can be implemented without awaiting adoption of the new law. The Committee has recommended that immediate steps be taken to ensure that all prisoners sentenced to life imprisonment are offered at least one hour of outdoor exercise per day, benefit from an increase in the number and frequency of parcels and are no longer subject to a total prohibition on visits. Other steps have been recommended in order to rectify shortcomings as regards material conditions of detention. The CPT has also set out a number of factors to be taken into account by the Ukrainian authorities in their policy on the management of life-sentenced prisoners and the regimes to be provided to them in future.

183. The CPT has also expressed serious concern about the conditions of detention of prisoners placed under a special high security regime. Appalling material conditions were exacerbated by a regime almost devoid of activities (limited for the overwhelming majority of prisoners to one hour of outdoor exercise per day) as well as by severe restrictions on contact with the outside world. The CPT has recommended that the conditions of detention of prisoners subjected to a special regime be reviewed as a matter of urgency.

184. As regards the conditions of detention of the general prison population, a follow-up visit to **Colony No. 85** revealed that improvements had been made as regards some aspects of the material conditions. The CPT has nevertheless recommended that high priority be given to the implementation of the colony's refurbishment plan. As for activities, it has been recommended to the Ukrainian authorities to further intensify their efforts in this field.

At **Simferopol SIZO No. 15**, the detention areas for women and juveniles offered the best material conditions in terms of natural light, artificial lighting, cleanliness and furniture. Further, efforts had been made to provide minors with some educational activities. However, the majority of prisoners were locked up for almost the whole of the day in severely overcrowded and insalubrious cells, without being offered any activity worthy of the name. The CPT has made a series of concrete recommendations with a view to improving the material conditions and programme of activities for both juvenile and adult prisoners.

At **Colony 52 in Yenakyevo**, inmates in the "residential areas" enjoyed both acceptable material conditions of detention and activities. Conditions of detention in the two cellular-type buildings were of a distinctly lower standard. Various measures have been recommended in order to remedy the shortcomings observed. In particular, the CPT has recommended to ensure without delay that all inmates in the cellular-type buildings have access to the existing activity programmes, on the same footing as the inmates of the residential areas.

185. The CPT has addressed a number of specific issues concerning health-care services (staff and facilities, medical screening on admission, tuberculosis). The 2000 visit highlighted once again the extreme inadequacy of arrangements for the supply of appropriate medicines in the establishments visited. The Committee has reiterated that, irrespective of the prevailing economic circumstances, it is the responsibility of the State to ensure that persons in its custody have access to basic elements of health-care, including medicines required by their state of health. It has recommended that a particularly high priority be given to the supply of medicines for the treatment of tuberculosis. Furthermore, the CPT has called on the Ukrainian authorities to ensure that the penitentiary system is in a position to pursue a strategy for effective screening and action against tuberculosis.

186. Recommendations and comments have been made by the CPT about a variety of other issues relating to its mandate (prison staff; disciplinary and cellular regimes; contact with the outside world; complaints and inspection procedures; stability of prisoners' accommodation, transit and transport of prisoners). With regard to the **disciplinary regime**, despite assurances given by the Ukrainian authorities, prisoners placed in disciplinary cells were still not allowed one hour of outdoor exercise per day. The CPT has recommended that the Ukrainian authorities immediately ensure that their instructions on this point are fully complied with in all penitentiary establishments. The CPT has also recommended an urgent review of the application of the **strict cellular regime**, in order to ensure that the prisoners concerned are provided with purposeful activities and are allowed short visits. Concerning **complaints procedures**, the Ukrainian authorities have been requested to ensure that all prisoners, throughout the penitentiary system, have confidential access to both national and international bodies authorised to receive complaints.

C. Psychiatric establishments

187. The CPT's delegation heard no allegations, and gathered no other evidence, of deliberate ill-treatment of patients by staff employed at the two psychiatric establishments visited. More particularly, the Committee has noted the efforts of the management team to improve conditions in Vinnytsia Psychiatric Hospital No. 2 and the dedication to patient care demonstrated by the health-care staff. This was all the more commendable given the paucity of financial resources at the staff's disposal.

188. As for patients' living conditions, the CPT has recommended a review of the provision of financial support to **Vinnytsia Psychiatric Hospital No. 2**, so that the necessary repairs to the roof and fabric of the buildings can be completed as a matter of urgency. As for **Crimea Psychiatric Hospital No. 1**, the CPT has expressed the firm hope that the new ward, scheduled to be brought into service before the end of 2000, will offer material conditions conducive to the treatment and welfare of patients, along the lines developed in the Committee's report.

Concerning treatment, the CPT has recommended that measures be taken without delay to ensure a sufficient supply of appropriate medication in psychiatric establishments, as required by law, and to enlarge the treatment and rehabilitative activities offered to patients. The long-term objective should be to move away from an environment primarily based on the custody of patients and the use solely of medication.

The CPT has also expressed concern with regard to the current practice at Crimea Psychiatric Hospital No. 1 of administering electroconvulsive therapy (ECT) without anaesthetic and muscle relaxant; this can no longer be considered as an acceptable psychiatric practice. The Committee has recommended that this practice be discontinued, not only in that hospital but also in any other psychiatric establishments in Ukraine where ECT is administered in such a form.

189. The CPT has welcomed the adoption of the Law on Psychiatric Care which provides important safeguards for involuntary patients. It has called upon the Ukrainian authorities to ensure the law's implementation without delay.

While placing great emphasis upon both patients' information and their free and informed consent to treatment, the Law excludes in general terms the requirement of such consent in cases of involuntary placement. Such a wide derogation from the principle of free and informed consent to treatment is not acceptable and the CPT has recommended that any derogation from this fundamental principle be applied only in clearly and strictly defined circumstances.

D. Military detention facilities

190. The CPT's delegation heard no allegations and obtained no other evidence of physical ill-treatment of detained servicemen by staff in the Military Command of the Sebastopol Garrison and the Simferopol Garrison and guardhouse.

The CPT has made several recommendations with regard to the material conditions of detention. In particular, it has recommended that every serviceman obliged to spend the night in custody be provided with a clean mattress and blanket and, if held for more than 24 hours, be offered at least one hour of outdoor exercise per day. Concrete measures have also been recommended to rectify specific material shortcomings observed at both garrisons. As to the regime, the Committee has recommended that options be explored for providing out-of-cell activities to servicemen detained for lengthy periods at Simferopol Garrison.

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

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

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

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

APPENDIX I

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

I. CO-OPERATION

recommendations

- ensure that senior management and personnel refrain from issuing threats to detainees and prisoners in the days preceding a visit by a delegation of the CPT (paragraph 10).

comments

- the CPT trusts that the Ukrainian authorities will take steps to ensure that the Committee's right of access, at any time, to any place of deprivation of liberty is clearly explained to all relevant persons (paragraph 7);
- the CPT wishes to stress the importance of State Parties to the Convention appointing liaison officers who have the authority to intervene rapidly and effectively, at any time (paragraph 11).

requests for information

- the exact criteria for the transfer of a Ukrainian civilian detainee to the guardhouse of military formations of the Black Sea Fleet of the Russian Federation (paragraph 9);
- steps taken by the Ukrainian authorities to ensure that, in future, CPT delegations will be guaranteed immediate access to all persons deprived of their liberty by decision of the Ukrainian authorities, including those held in the above-mentioned guardhouse (paragraph 9);
- details about the supervisory role played by the Ukrainian prosecutor's office or other independent bodies with a view to ensuring that conditions of detention in the guardhouse of military formations of the Black Sea Fleet of the Russian Federation are in accordance with Ukrainian legal norms and that the appropriate fundamental safeguards (e.g. access to relatives and a lawyer) are in place (paragraph 9).

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Militia establishments

1. Preliminary remarks

recommendations

- the Ukrainian authorities to undertake without further delay the necessary review of the law and practice on the fundamental issue of custody pending trial (paragraph 17).

2. Torture and other forms of ill-treatment

recommendations

- Militia personnel to be reminded, through a formal statement from the highest political level, that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions. Emphasis to be placed in this statement on the key role to be played by senior staff in managing and supervising police activities at all levels (paragraph 22);
- human rights concepts to be integrated into practical professional training for high-risk situations, such as the apprehension and interrogation of suspects (paragraph 23);
- appropriate steps to be taken to ensure that all criminal suspects taken into custody by the Militia are brought before the prosecutor responsible for taking a decision on their remand in custody or release (paragraph 24);
- prosecutors to be given instructions that whenever an apprehended person alleges ill-treatment by the Militia, they should immediately request a forensic medical examination of the person concerned, irrespective of whether he/she bears visible injuries. Even in the absence of an express allegation of ill-treatment, a prosecutor should request a forensic medical examination and inform the relevant prosecutor whenever there are grounds to believe that an apprehended person brought before him could have been the victim of ill-treatment (paragraph 25);
- as of July 2001, the recommendations made in paragraph 25 to apply *mutatis mutandis* to judges (paragraph 25);

- a record to be drawn up after the medical examination of persons deprived of their liberty, containing:
 - i) an account of the statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);
 - ii) a list of objective medical findings based on a thorough examination;
 - iii) the doctor's conclusions in the light of i) and ii) (paragraph 26);
- the doctor to provide the detained person, at his/her request, with a certificate describing injuries observed (paragraph 26);
- the practice of detainees with visible injuries being refused admission to an ITT and returned to the district police station from whence they came, if the police are unable to provide a medical certificate recording the injuries, to be discontinued (paragraph 26);
- the return of prisoners to Militia premises to be sought and authorised only when it is absolutely necessary and such a measure to require the express authorisation of the competent prosecutor/judge (paragraph 27);
- persons deprived of their liberty to be searched only by staff of the same gender and any search which requires a detained person to undress to be conducted out of sight of both custodial staff of the opposite gender and other detainees (paragraph 28).

comments

- to be fully effective from the standpoint of preventing ill-treatment, visits by prosecutors to Militia detention facilities should be unannounced and include an inspection of the cellular facilities, as well as interviews in private with detained persons (paragraph 29).

requests for information

- the selection criteria currently applied in the recruitment of police personnel (paragraph 23);
- the Ukrainian authorities' comments concerning the development of more advanced methods of crime investigation (paragraph 23).

3. Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

- ensure full compliance with the right of persons detained by the Militia to inform immediately a close relative of their situation (paragraph 33);
- the necessary measures to be taken immediately to guarantee that all persons detained by the Militia have, as from the very outset of their deprivation of liberty, a right of access to a lawyer. Access to a lawyer should not be made subject to the authorisation of an investigator, and a lawyer should be able to meet with the detained person in private (i.e. not in the presence of the investigator or Militia officers) (paragraph 34);
- the necessary steps to be taken to introduce a legal provision giving the right of access to a doctor a firm legal basis (paragraph 36);
- a form setting out the rights of detained persons in a straightforward manner to be drawn up and systematically given to all such persons at the very outset of their deprivation of liberty (paragraph 37);
- a code of conduct for interviews of criminal suspects to be drawn up without further delay (paragraph 38);
- whenever a person is detained in a Militia establishment, for whatever reason or length of time, the fact of his/her detention to be recorded without delay (paragraph 39).

comments

- the Ukrainian authorities are invited to explore the possibility of introducing a single and comprehensive custody record for each person detained, in which would be recorded all aspects of his/her custody and all action taken in connection with it (paragraph 39).

requests for information

- clarification as to the practical application of the legal aid system in Ukraine (paragraph 35).

4. Conditions of detention

recommendations

- all cells in district police stations to enjoy adequate lighting (artificial or natural) and ventilation, and both cells and sanitary facilities to be kept in a satisfactory state of cleanliness and repair (paragraph 45);

- all persons held overnight to be provided with:
 - a clean mattress and blankets;
 - essential personal hygiene products (soap, towel, sanitary towels, etc.) (paragraph 45);
- all detained persons to have ready access to drinking water and, if detained more than a few hours, to be provided with something to eat (paragraph 46);
- steps to be taken without further delay in order to:
 - i) ensure that all persons detained in ITTs are:
 - supplied with essential personal hygiene products and have the opportunity to wash every day;
 - able to take a warm shower on arrival and entitled to a warm shower at least once a week during their period of detention;
 - given the necessary products to keep their cells clean and hygienic;
 - authorised to receive parcels from the very outset of their detention;
 - ii) ensure that detained persons, in all ITTs, are provided with reading matter (if the establishment does not have a library, detained persons should be authorised to receive newspapers or books from relatives)
 - iii) review the regulations and practice concerning detainees' contact with the outside world (paragraph 57);
- all detained persons to be properly examined upon arrival at the ITT by a qualified member of the health-care service (paragraph 57);
- a proactive stance to be taken by health-care staff in providing medical care and ensuring an adequate level of general hygiene in ITTs (paragraph 57).

comments

- cells measuring less than 4 m² are not suitable for use as overnight accommodation (paragraph 45).

requests for information

- detailed information concerning the conditions of detention in the renovated ITT in Vinnytsia: the number of cells as well as their size, official capacity and equipment; the sanitary facilities; the size and location of outdoor exercise facilities, etc. (paragraph 47);
- details about the experimental cells in Kyiv ITT once they are in use (such as their official capacity and who is to be placed in them) as well as information concerning the timetable for the renovation of the other cells (paragraph 48);
- time-table fixed for the removal of shutters from cell windows in ITTs (paragraph 54);
- the criteria according to which the level of 75 Lux for the intensity of artificial lighting has been chosen (paragraph 54);
- detailed information about the implementation in practice of the instructions issued on 15 September 2000 concerning the sanitary and technical conditions in ITTs and the organisation of meals for detainees (paragraph 54);
- confirmation that Donetsk ITT is no longer used to accommodate patients undergoing a psychiatric assessment at a nearby centre (paragraph 57).

B. Establishments under the authority of the State Department for the Execution of Sentences

1. Preliminary remarks

recommendations

- action to be taken now in order to mount a coherent policy aimed at combating the problem of overcrowding in the Ukrainian penitentiary system. In doing so, due account should be taken of the principles laid down in Recommendation No. R (99) 2 of the Council of Europe's Committee of Ministers, concerning prison overcrowding and prison population inflation (paragraph 59);
- the current standard of 2.5 m² of living space per prisoner to be increased as soon as possible (paragraph 59);
- all cells measuring less than 6 m² to be decommissioned as soon as possible (paragraph 59);
- special measures to be introduced with a view to ensuring that both sentenced and remand prisoners are provided with work (paragraphs 61, 85 and 100);
- efforts to be made to develop programmes of education and vocational training in all penitentiary establishments (paragraph 61).

comments

- in the face of continuing financial difficulties, steps should be taken to improve the self-sufficiency of prison establishments, for example by encouraging their agricultural production (paragraph 60).

requests for information

- progress with regard to the ongoing legislative reforms (criminal and criminal procedure codes, law on the execution of sentences) (paragraph 59).

2. Ill-treatment

recommendations

- authorities at all levels (central, regional and local) to deliver the clear message that all forms of ill-treatment of prisoners are not acceptable and will, if they occur, be severely punished (paragraph 63);
- a thorough enquiry to be carried out into the methods used at Vinnytsia Prison No. 176 by teams from the Regime and Protection Department during their interventions in the establishment (paragraph 63);
- the practice, observed in Simferopol SIZO No. 15, of placing an adult prisoner in each cell occupied by minors to be reviewed (paragraph 64);
- a strategy to combat inter-prisoner violence and intimidation throughout the Ukrainian penitentiary system to be developed (paragraph 65);

requests for information

- the results of the enquiries initiated by the Director of Simferopol SIZO No. 15 referred to in paragraph 62, as well as any measures subsequently taken (paragraph 63).

3. Prisoners sentenced to life imprisonment

recommendations

- immediate steps to be taken to ensure that all life-sentenced prisoners:
 - are offered at least one hour of outdoor exercise per day;
 - benefit from an increase in the number and frequency of parcels, in particular food parcels;

- are no longer subject to a total prohibition on visits. As for the future, the draft law currently being considered by the Parliament should align the visiting rights of these prisoners with those of sentenced prisoners in colonies (paragraph 73);
- steps to be taken in all penitentiary establishments in Ukraine in which life-sentenced prisoners are currently held:
 - to ensure adequate access to natural light in all cells holding life-sentenced prisoners;
 - to review the system of permanent lighting at night;
 - to provide life-sentenced prisoners with more out-of-cell activities and appropriate human contact (paragraph 73);
- the cell measuring about 4 m² in section 6 of the Donetsk SIZO to be no longer used as prisoner accommodation (paragraph 73);
- due account to be taken of all the factors identified in paragraph 75 in the Ukrainian authorities' policy on the management of life-sentenced prisoners and the regimes to be provided for them (paragraph 75);
- prison staff to be encouraged to communicate and develop positive relationships with this category of prisoner (paragraph 75);
- immediate steps to be taken to review the current practice of routinely handcuffing life-sentenced prisoners whenever they are taken out of their cell and when a staff member enters the cell (paragraph 76);
- steps to be taken without delay to ensure that women sentenced to life imprisonment are afforded conditions of detention fully consistent with their dignity. As a matter of principle, they should be placed in accommodation which is physically separated from that occupied by men held at the same establishment. Custodial staff assigned to the accommodation for women should be predominantly female and the specific hygienic needs of women prisoners should be addressed in an adequate manner (paragraph 77).

comments

- the CPT trusts that material conditions of detention in the new units for life-sentenced prisoners in the Vinnytsia and Zhytomir prisons will be in conformity with both the instruction by the State Department for the Execution of Sentences of 6 May 2000 and the recommendations made by the CPT in paragraph 73 (paragraph 74).

requests for information

- progress made in reviewing the cases of persons still sentenced to death in order to bring their sentences into line with the new legislation (paragraph 66);

- the date of the opening of the two units specifically intended for life-sentenced prisoners in Vinnytsia Prison No. 176 and Zhytomir Prison No. 179, their respective capacities and the number of life-sentenced prisoners they accommodate (paragraph 68);
- the number of women sentenced to life imprisonment in Ukraine, the places where they are held and their conditions of detention (paragraph 77).

4. Prisoners subject to a special regime

recommendations

- conditions of detention of prisoners subject to a special regime to be reviewed as a matter of urgency:
 - measures to be taken without delay to remedy the most glaring deficiencies as regards material conditions improvements should be made concerning access to natural light (by removing permanently the shutters), artificial lighting, ventilation, beds, hygiene products and cleaning materials, and efforts made to reduce the overcrowding in Vinnytsia Prison. The number and frequency of parcels that prisoners can receive in "Tyurma", in particular of food, should also be increased;
 - prisoners subject to a special regime to be provided with purposeful activities (work, training, education, sport etc.) and measures to be taken to align their rights to visits and correspondence with those applied to sentenced prisoners in colonies. If necessary, the relevant regulations should be amended (paragraph 80).

requests for information

- a detailed account of the rules governing the various forms of placement under the special "Tyurma" regime and the remedies available to prisoners to challenge such a measure (paragraph 78).

5. Conditions of detention of the general prison population

recommendations

Boutcha Colony No. 85

- high priority to be given to implementing the refurbishment programme for the Colony (paragraph 84);
- the outhouse for Block 3 to be withdrawn from service in the immediate future and replaced with a proper sanitary facility (paragraph 84);
- efforts to develop activities in the Colony to be further intensified (paragraph 85).

Simferopol SIZO No. 15

- steps to be taken to:
 - provide all inmates (men and women) with adequate amounts of personal hygiene products and cleaning products for their dormitories, and adequate facilities for cleaning their clothes;
 - ensure that each inmate has a bed or sleeping place;
 - ensure that material conditions throughout both detention blocks reach the standards prevailing in the women's and minors' sections as soon as possible, in terms of natural light (by removing the shutters on the windows), artificial lighting, ventilation and cleanliness
(paragraph 93);
- high priority to be given to the development of activity programmes for minors to enable them to enjoy a full programme of educational, recreational and other purposeful activities designed to bring out their potential for social (re)integration; physical education should constitute an important part of that programme (paragraph 93);
- ways of providing adult inmates with a minimum of recreational and sporting activities to be explored (paragraph 93);
- the design of the exercise yards to be reviewed with a view to enlarging them (paragraph 93).

Colony 52 in Yenakyevo

- the necessary measures to be taken to remedy the deficiencies described in paragraph 96 as regards the two cellular-type buildings (paragraph 97);
- the cellular accommodation to be adequately heated in winter and the windows properly insulated; these requirements to be met in all penitentiary establishments in Ukraine (paragraph 97);
- measures to be taken without delay to ensure that all inmates in the cellular-type buildings have access to the existing activity programmes (work, training, cultural activities, sports, etc.), on the same footing as the inmates of the residential areas. If necessary, the relevant regulations should be amended (paragraph 100);
- efforts to develop activities as a whole in the Colony to be intensified (paragraph 100);
- the design of the exercise yards used by inmates in the cellular-type buildings to be reviewed with a view to enlarging them (paragraph 100);
- efforts to be made to develop further the possibilities for adequate preparation for release (paragraph 102).

comments

- as regards Boutcha Colony No. 85, the Ukrainian authorities are invited to persevere in their efforts to provide prisoners with the necessary hygiene products and to review the arrangements for the washing of clothes (paragraph 83);
- as overcrowding is reduced at Simferopol SIZO No. 15, fuller programmes of activities must be introduced. Attention is drawn to the long-term objectives for activities set out in paragraphs 130 and 33 respectively of the reports on the 1998 and 1999 visits, which apply to all SIZOs (paragraph 93);
- as regards Colony No. 52 in Yenakyevo, the state of affairs described in paragraph 98, second sub-paragraph should be reviewed without delay (paragraph 98);

requests for information

- confirmation that all the shutters have been removed from the windows of the two cellular-type buildings of Colony No. 52 (paragraph 97);
- the Ukrainian authorities' comments concerning the numerous allegations received from prisoners at Colony No. 52 that production quotas were unrealistically high and, if they were not attained, no salary at all was received (paragraph 101).

6. Health-care services

recommendations

- the Ukrainian authorities to pursue their efforts to establish a comprehensive policy on health-care in prisons, taking into account the principles identified by the CPT in its 3rd General Report (see document CPT/Inf (93) 12) as well as Committee of Ministers' Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health-care in prisons (paragraph 103);
- the necessary measures to be taken to ensure that penitentiary establishments have a sufficient supply of appropriate medicines, a particularly high priority to be given to the supply of medicines for the treatment of tuberculosis (paragraphs 104, 106 and 111);
- the number of feldshers in the health-care service of Colony No. 85 at Boutcha to be increased in due course, and efforts to increase the number of doctors to be pursued (paragraph 105);
- the vacant doctor's and feldshers' posts in Simferopol SIZO No. 15 to be filled as soon as possible (paragraph 106);
- women's access to gynaecological care at Simferopol SIZO No. 15 to be reviewed immediately (paragraph 106);

- at Colony No. 52, the presence of a dentist to be ensured on a full-time basis, provision to be made for the presence of a psychiatrist, and the number of feldshers to be increased (paragraph 107);
- measures to be taken without delay to provide the medical service in Colony No. 52 with the necessary health-care supplies, equipment and medicines (paragraph 107);
- the material deficiencies observed in the infirmary and the medical isolation room of Colony No. 52 to be remedied (paragraph 107);
- ensure in all penitentiary establishments that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his/her arrival; save for in exceptional circumstances, that interview/examination to be carried out on the day of admission, especially in so far as remand establishments are concerned (paragraph 108);
- all medical examinations of prisoners (whether on arrival or at a later stage and irrespective of the category of prisoner) to be conducted out of hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers; the same rule to apply during treatment provided to prisoners (paragraph 110);
- the Ukrainian authorities to ensure that the penitentiary system is in a position to pursue a strategy for effective screening and action against tuberculosis, in keeping with the recommendations already made by the Committee (paragraph 111);
- all tuberculosis patients to be offered at least one hour in the open air per day (paragraph 112).

requests for information

- action taken on the initiative of the Ministry of Health aimed at involving it more closely in health-care in prison (paragraph 103);
- measures taken to improve material conditions in cells No. 99, 100, 101 and 112 of the tuberculosis patients' unit in the Simferopol SIZO No. 15 and in the cell reserved for such patients in Vinnytsia Prison No. 176 (paragraph 112).

7. Other issues

recommendations

- ensure immediately that the instructions given regarding one hour of outdoor exercise per day for prisoners placed in disciplinary cells are fully complied with in all penitentiary establishments (paragraph 116);
- prisoners placed in disciplinary cells to be provided with reading matter (paragraph 116);
- the material deficiencies in disciplinary cells described in paragraph 117 to be remedied; access to natural light to be a priority objective (paragraph 117);

- all prisoners placed in a disciplinary cell to be able to have at least one shower a week (paragraph 117);
- the recommendations made in paragraph 117 to apply also to prisoners held under the strict cellular regime (paragraph 118);
- the application of the strict cellular regime to be reviewed as a matter of urgency, in order to ensure that the prisoners concerned, throughout the Ukrainian penitentiary system, are provided with purposeful activities and entitled to short visits. If necessary, the relevant regulations to be amended (paragraph 119);
- the question of remand prisoners' visits and correspondence to be reviewed in the light of the remarks made in paragraph 121 (paragraph 121);
- the capacity of the facilities for short visits to be improved as soon as the situation permits (paragraph 123);
- ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary system, have confidential access to the national bodies authorised to receive complaints and, in accordance with the obligations undertaken in this respect, to international bodies. Where required, practical measures should be taken to make sure complaints are transmitted confidentially (paragraph 124);
- prosecutors to be encouraged to make full use of the powers conferred on them to carry out inspections (regular and unannounced) of penitentiary establishments (paragraph 125);
- conditions of prisoners' transport in Ukraine to be reviewed in the light of the remarks made in paragraphs 129 and 130. As an immediate measure, steps to be taken to:
 - significantly reduce the maximum number of prisoners per compartment in a railway carriage: 3.5 m² compartments should never contain more than six persons, and 2 m² compartments never more than three persons;
 - ensure that during rail transport, prisoners are supplied with drinking water and that for long journeys, the necessary arrangements are made for them to be properly fed;
 - no longer use 0.5 m² compartments in vans for transporting prisoners (paragraph 131).

comments

- the Ukrainian authorities are invited to review the conditions under which visits take place, in order to ensure that, as far as possible, both sentenced and remand prisoners receive visits in more open conditions (paragraph 123).

requests for information

- the recruitment criteria currently used for prison staff and the training given (duration, content), as well as whether - and if so the extent to which - prison staff already in post have access to in-service training (paragraph 113);
- the Ukrainian authorities' comments on the frequent resort to placement in disciplinary cells in Colony No. 52 (paragraph 115);
- the Ukrainian authorities' comments on the situation observed in Colony No. 52 regarding the combined use of the strict cellular regime (PKT) and the disciplinary cell regime (SHIZO) (paragraph 120);
- confirmation that the necessary steps have been taken to include the President of the CPT as one of the addressees to whom prisoners may have confidential access (paragraph 124);
- the Ukrainian authorities' comments regarding the apparently differing assessments at national level as to the extent of the Ombudsman's remit vis-à-vis places of detention (paragraph 126);
- the Ukrainian authorities' comments on the practice observed in Colony No. 52 and Simferopol SIZO No. 15 of frequently moving prisoners to different cells or sections without warning (paragraph 127);
- full particulars of the action taken to review the conditions under which prisoners in transit were forced to wait for extended periods at Vinnytsia Prison No. 176 (paragraph 128).

C. Psychiatric establishments

1. Preliminary remarks

recommendations

- implementation of the Law on Psychiatric Care of 22 February 2000 to be ensured without delay (paragraph 132).

comments

- the CPT trusts that the Ukrainian authorities will be able now to draw a clearer distinction between voluntary and involuntary patients (paragraph 132).

requests for information

- precise information on the layout of the new secure ward at Crimea Psychiatric Hospital No. 1 and on its current occupancy rate; the location of those patients not transferred from Wards 6 and 16 to the new secure ward (paragraph 134).

2. Electroconvulsive therapy (ECT)

recommendations

- the practice of administering ECT in unmodified form (i.e. without anaesthetic and muscle relaxants) to be discontinued in Crimea Psychiatric Hospital No. 1, as well as in any other psychiatric establishments in Ukraine where ECT is administered in such a form (paragraph 137);
- the necessary steps to be taken to ensure that all the requirements set out in paragraph 138 with regard to the administration of ECT are fulfilled (paragraph 138).

3. Staff resources

recommendations

- priority to be given to trying to increase the number of psychologists and occupational therapists at Vinnytsia Psychiatric Hospital No. 2; further the vacant post of social worker for the enhanced security regime unit to be filled as soon as possible (paragraph 140).

requests for information

- the number of medical doctors (psychiatrists and medical practitioners), nurses and other staff trained in treatment and rehabilitation activities who are allocated to the reorganised facilities in Crimea Psychiatric Hospital No. 1 (paragraph 141).

4. Patients' living conditions

recommendations

- the provision of financial support to the Vinnytsia Psychiatric Hospital No. 2 to be reviewed, so that necessary repairs to the roof and fabric of the buildings can be completed as a matter of urgency (paragraph 143);
- ensure that all psychiatric hospitals have sufficient funding to cover patients' dietary norms as laid down by the Ministry of Health (paragraph 145);
- measures to be taken to ensure that, in the new ward in Crimea Psychiatric Hospital No. 1, patients are able to wear appropriate clothes for the night, care should also be taken to ensure that patients can change their clothes and underclothes at appropriate intervals (paragraph 146).

comments

- the Ukrainian authorities are invited to take appropriate steps to improve further patients' living conditions in Vinnytsia Psychiatric Hospital No. 2 (paragraph 144);
- the CPT trusts that in the new ward in Crimea Psychiatric Hospital No. 1, the material conditions will meet the criteria set out in paragraph 142 (paragraph 146).

5. Treatment

recommendations

- the necessary steps to be taken to enlarge the range of treatment and rehabilitative activities offered to patients and to ensure that an individual treatment plan is drawn up for each patient (paragraph 149);
- steps to be taken to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day in appropriate areas (paragraph 149);
- appropriate measures to be taken without delay to ensure a sufficient supply of appropriate medication (for both psychiatric and physical disorders) as required by law (paragraph 150);
- the general recommendation made in paragraph 104 concerning the supply of medicines for the treatment of tuberculosis to be applied *mutatis mutandis* to psychiatric hospitals (paragraph 151).

comments

- the long-term objective should be to move away from an environment primarily based on the custody of patients and the use solely of medication, and to create a therapeutic milieu which also includes occupational therapy and psychosocial intervention (paragraph 149).

requests for information

- the Ukrainian authorities' comments on the taxation of humanitarian aid (paragraph 150);
- the Ukrainian authorities' comments on the use of insulin therapy in Vinnytsia Psychiatric Hospital No. 2 and precise information on the existing guidelines concerning the use of insulin therapy, including as regards patients' consent (paragraph 152).

6. Means of restraint

recommendations

- every instance of the physical restraint of a patient to be recorded (in addition to the entry made in the "medical documentation") in a specific register established for this purpose, the entry to 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 (paragraph 155);
- staff in all psychiatric establishments to receive training in both non-physical and manual techniques vis-à-vis agitated or violent patients (paragraph 156).

requests for information

- copy of the rules drawn up by the Minister of Health concerning the use of means of restraint (referred to in Section 8 of the Law on Psychiatric Care) (paragraph 155).

7. Safeguards in the context of involuntary placement

recommendations

- any derogation from the fundamental principle of free and informed consent to treatment to be applied only in clearly and strictly defined exceptional circumstances (paragraph 160);
- a leaflet for patients and their families describing the functioning of an establishment and setting out patients' rights to be introduced in psychiatric establishments (paragraph 162).

comments

- the CPT trusts that Sections 30 and 31 of the Law on Psychiatric Care, providing for the monitoring of psychiatric establishments, will be fully applied in practice (paragraph 163).

D. Military detention facilities

recommendations

- in all military detention facilities:
 - every serviceman obliged to spend the night in custody, for any reason, to be provided with a clean mattress and blanket;
 - every serviceman held for more than 24 hours to be offered at least one hour outdoor exercise per day (paragraph 170);

- at Simferopol Garrison:
 - the 3.5 m² disciplinary cells to be enlarged (preferably to at least 6 m²);
 - the permissible rates of occupancy of the multi-occupancy cells to be reduced;
 - cells to be provided with adequate access to natural light;
 - cells to be equipped with a table and adequate means for sitting (fixed to the floor if necessary);
 - possibilities of offering out-of-cell activities to servicemen detained for lengthy periods (both sentenced and on remand) to be explored (paragraph 170);
- at Sebastopol Garrison, the material shortcomings observed as regards lighting and ventilation to be rectified (paragraph 170).

requests for information

- progress made in the planned construction of a new military detention facility at Sebastopol (paragraph 170);
- details of how the guarantees set out in paragraphs 32 to 37 are secured for servicemen suspected of offences against the Military Code (paragraph 171);
- an account of the guarantees surrounding the procedure for disciplinary arrest (paragraph 171).

APPENDIX II

**LIST OF NATIONAL AUTHORITIES, OTHER INSTANCES
AND NON-GOVERNMENTAL ORGANISATIONS MET
BY THE CPT'S DELEGATION**

National authorities:

State Department for the Execution of Sentences

Ivan SHTANKO	Director of the State Department
Oleksandr PTASHYNSKYI	First Deputy Director of the State Department
Vladimir LYOVOCHKHIN	Deputy Director
Anatoly LAGODA	Head of the Administration of the State Department
Oleksandr HUNCHENKO	Head of the State Department's Medical and Sanitary-Epidemiological Support Directorate
Serhiy SKOKOV	Head of the State Department's Directorate of Social and Psychological Work
Volodymyr ROMANENKO	Head of the State Department's Directorate of Material-Technical Support
Petro YAREMKIV	Head of the State Department's Section of the Management of Pre-Trial Establishments
Borys SLODOBYANYUK	Deputy Head of the State Department's Section of International and Public Relations
Ivan SKOROBOHACH	Head of Kyiv Pre-Trial Establishment No. 13

Ministry of Internal Affairs

Petro COLIADA	Deputy Minister
Vasyl JUK	Head of the Chief Directorate of the Militia Administrative Service
Volodymyr MAIEVSKYI	Head of the Criminal Investigation Department of the Chief Directorate of the Administrative Service
Olexandr NOVIKOV	Head of the Criminal Investigation Department for Juvenile Delinquency
Volodymyr ZORYA	Head of the Department of Special Police Institutions of the GUASM
Volodymyr RYDVAN	Head of the European Co-operation and International Organisations Working Group, International Police Headquarters Department

Ministry of Foreign Affairs

Olexander CHALYI

Volodymyr BELASHOV

First Deputy Minister for Foreign Affairs

Head of the Directorate of Euro-Atlantic Integration

Ministry of Defence

Major-General Usman URAZOV

Major-General Anatoliy SAMOYLOV

Colonel Andriy SHANKER

Colonel Volodimir NECHAEV

Lieutenant-Colonel Volodimir IVANCOV

Mikhailo KARPENKO

Head of the Department Service of Troops and Regime of the General Staff of the Armed Forces of Ukraine

Deputy Head of Staff of the Army Command

Commanding Officer of the 307th Special Disciplinary Unit

Deputy Head of the Department of Service of Troops and Regime of the General Staff of the Armed Forces of Ukraine

Acting Head of the Department of Service of Troops of the Staff of the Army Command

Deputy Head of the Legal Directorate

Ministry of Health

Anatoly KARTYSH

Tamara ARSHENYUK

Valentyna DOMBROVSKA

Deputy Minister for Health

Chief Forensic Psychiatrist of the Ministry of Health

Chief Specialist of the Chief Directorate of Organisation of Medical Care

Ministry of Justice

Serhiy POLOZHIY

Deputy Chief of Legislation for Justice, Public Order and Defence Department

State Security Service

Volodymyr PRISTAİKO

Vitaliy PETRUNKIV

Anatoliy LUKYANENKO

Head of the Department of Investigation of the State Security Service

Head of Pre-Trial Establishments of the State Security Service

Head of the Agreements/Treaties and Law Department of the State Security Service

State Committee for the Protection of National Borders of Ukraine

Major-General Vladimir DORDIUK	Deputy to the President of the Committee for the Protection of National Borders
Oleh SEVELYOV	Head of the Department of the State Borders Forces Service

Other Instances:

Prosecutor General's Office

Valeriy RADZIOKHA	Deputy Prosecutor General
Olexandre DOROSH	Head of the Department for Supervision of Law Maintenance by Bodies of the Ministry of Internal Affairs conducting investigations
Ivan ZHYLKA	Head of the Department for the Supervision of Law Maintenance by Bodies of the State Security Service of Ukraine and the State Committee for the Protection of National Borders
Mykola DOTSENKO	Head of the Department for the Supervision of Law Maintenance of Trial Decisions' Execution in Criminal Cases
Natalia SHESTAKOVA	Chief of the Law Maintenance on Minors Rights Supervision Department

National Ombudsman

Nina KARPACHOVA	National Ombudsman
Sergii ISAKOVYTCH	Advisor to the Ombudsman
Stephan TKATCHENKO	Head of the Department for relations with the media
Vasyl IVANENKO	Head of the Department for Penitentiary Establishments
Mykola KORTCHAK	Department for Penitentiary Establishments
Valentin OUSHAKOV	Department for Penitentiary Establishments
Viatcheslav BILÖUS	Head of the Department for the Protection of Servicemen Rights

Non-governmental organisations

All-Ukrainian Committee for Children's Rights
Donetsk Memorial
Kharkiv Group for Human Rights Protection
International Society for Human Rights (Ukrainian Section)
Sebastopol Human Rights Group
Ukrainian/American Bureau for the Protection of Human Rights
Ukrainian Psychiatric Association