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Response

of the Swedish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Sweden

from 18 to 28 May 2015

The Swedish Government has requested the publication of this response. The CPT's report on the May 2015 visit to Sweden is set out in document CPT/Inf (2016) 1.

Strasbourg, 9 June 2016

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REGERINGSKANSLIET

25 May 2016

Ministry of Justice
Division for EU affairs

The Swedish Government's response to the report from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) based on its visit to Sweden on 18–28 May 2015

I. INTRODUCTION

Monitoring places of deprivation of liberty (National Preventive Mechanism)
- the Committee invites the Swedish authorities to take steps to increase significantly the financial and human resources made available to the Office of Parliamentary Ombudspersons and, in particular, to its OPCAT Unit.

See reply from the OPCAT Unit, Parliamentary Ombudsmen, Annex 1.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police facilities

I. Ill-treatment

Information
- The CPT would like to be informed, in due course, of the outcome of the investigation into this case (paragraph 12).

Chief Public Prosecutor Jan Pernvi decided to initiate a preliminary investigation in the case. The preliminary investigation was closed by the prosecutor on 7 August 2015 for the following reasons:

The documentation in the case shows that the aggrieved person was arrested in his absence and wanted by the police and that on several occasions had succeeded in evading attempts by the police to apprehend him. At the time a special search was made at a campsite in

Ullared. The investigation documentation also shows that the aggrieved person knew that the police were looking for him.

The aggrieved person had been localised to a certain caravan. The aggrieved person realised as time went on that police officers were waiting for him outside the caravan. He then suddenly rushed out of the caravan to escape. The policemen following tried to stop him by shouting repeatedly such things as "police, stop, lie down," and pushing him and beating him with a truncheon and spraying OC spray, without the aggrieved person conforming or stopping.

The aggrieved person succeeded in reaching his car and leaving the scene in it. At the time the aggrieved person suffered a cut to the head and bruising to his body. He could be traced a short time later and apprehended in another place with the help of a police dog.

The police personnel acted against the aggrieved person with lawful authority to apprehend him. In this context the police have the right to use some force. The use of force that took place cannot in view of the aggrieved person's resistance and escape be deemed indefensible, and does not therefore constitute a criminal offence.

Apart from the documentation in this case, investigation documents referring to the aggrieved person concerning forceful resistance and attempted assault against an officer in case 5000-K598877-15 have been available as decision-making data.

Recommendation
- the Committee reiterates its recommendation that the Swedish authorities continue to deliver a firm message to police officers, including through ongoing training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of appropriate sanctions.
- As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them (paragraph 12).

The Government shares the Committee's view that it is important to make it clear that all forms of ill-treatment of apprehended persons are unacceptable. It is also important that the issues raised in the recommendation are given a central role in police training.

Basic police training includes the legal conditions governing the work. The initial part of the training deals with the remit and role of the police with clear links to Chapter two of the Instrument of Government on fundamental rights and freedoms. As regards the legal conditions for using force, great weight is given to the fundamental

principles of necessity, proportionality and legality. These principles run like a thread through the entire training.

Training in police conflict management and physical methods is given over four terms. In the context of various legal training elements there is a focus on the use of force in accordance with lawful authority and self-defence. These training elements also give great weight to both tactical methods and communication with a view to getting the students to understand how their own actions influence the other party. It is shown, through seminars and practical exercises, how a police officer in many cases can influence the other party using body language and speech aimed at calming the situation. As part of this element, lessons are also given on stress, to be able to understand and identify one's own and others' reactions.

During the training the students are supervised by a teacher who meets them every fifth week in groups of four to six. The supervision aims to strengthen the students in preparation for their professional activities. The groups discuss such issues as when a police officer may have used too much force in connection with an intervention. Other important issues are their own actions and daring to stand up and protest, for example by making a complaint.

Information
- The CPT would like to be informed of the details of the above-mentioned convictions (nature and duration of punishment) in 2013 and 2014. /.../ the Committee would like to receive the following information, in respect of the year 2015:
- the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;
- an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 13).

In 2013 according to information available, four police officers were prosecuted for ill treatment when making an apprehension: one of them for causing bodily injury in a police detention facility (sentenced to day-fines), one for assault of a handcuffed person in a police vehicle (sentenced to day-fines) and two for assault in connection with an apprehension (both sentenced to day-fines).

In 2014 five police officers were prosecuted for ill treatment of apprehended persons: one of them for misuse of office when dealing with an apprehended person (sentenced to day-fines), one for assault of a handcuffed person on the ground (sentenced to day-fines) and three for assault in connection with an apprehension (all acquitted).

In 2015 there were 128 complaints of ill treatment in connection with apprehensions or arrests. Of these a preliminary investigation was

started in 29 cases. A final report has been submitted to the prosecutor for one of the preliminary investigations but the judgment has not come in to the police yet. In another case a preliminary investigation is still in progress. Other preliminary investigations have been closed on the grounds that no criminal offence can be proved or that the investigation does not give reason to assume that a criminal offence has been committed.

There were no disciplinary cases in 2015 as regards physical or verbal violations. However, two cases of police officers expressing themselves in a less appropriate way in relation to an individual were examined. Neither of these cases, however, can be described as verbal violation (PAN-793-44/15: A warning was given to a police inspector and PAN-793-11/15: A five-day salary deduction was imposed on a civilian employee).

Recommendation

- steps must be taken to ensure that the examination of persons admitted to police facilities, whenever it does take place, is performed by qualified health-care personnel in a systematic and thorough manner, and duly recorded in a dedicated register; further, information entered into the said register should be systematically transmitted to the relevant investigative authorities. The CPT recommends that steps be taken to ensure that the records drawn up following the medical examination of detained persons in police establishments contain: (i) an account of statements made by the persons concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings (paragraph 14).

Every police detention facility is to have access to an authorised physician and staff with appropriate health care training (Section 15 of the Ordinance on Detention [2010:2011]). If health and medical services staff become aware that an inmate is suffering from a disease that is a threat to public health the head of the police detention facility must be informed, unless it is clear that there is no risk of contagion (Section 18 of the same Ordinance). If health and medical services staff have assessed that there is a risk that an inmate may seriously self-harm, the details of the detained person's state of health or other personal circumstances necessary for preventing the detained person from self-harming must be submitted to the head of the police detention facility.

The Police Authority's new regulations and general advice on Police Detention Facilities (PMFS 2015:7, FAP 102-1) came into force on 1 November 2015. The regulations supplement the Act on Detention

(2010:611), the Ordinance on Detention (2010:2011) and the Ordinance on Remand Prisons and Police Detention Facilities (2014:1108). The regulations stipulate among other things that when being taken into detention the detained person is to be asked about his or her health and whether he or she has any prescribed medicines. An inmate who is prescribed medicine must have access to it under the regulations. This must be documented. If an inmate states that he or she has been subjected to criminal or incorrect treatment by an employee of the police a basic complaint is recorded at the reception. A complaint must be reported to a specially appointed official. The case is to be immediately referred to the Special Investigations Division, which will submit the case at once to a prosecutor to determine whether a preliminary investigation is to be initiated (Section 9 of the Ordinance on processing cases of crimes committed by police employees and certain other officials [2014:1106]). If a preliminary investigation is initiated, it must be conducted with particular urgency. Furthermore, questioning of a police employee, unless the questioning cannot be delayed without harm, must be conducted by a prosecutor or a police officer at the Special Investigations Division (Sections 11 and 13 of the same Ordinance). Before a preliminary investigation has had time to start, a police officer may conduct interviews and take other investigative measures of significance for the investigation where a complaint has been made or the question of initiating a preliminary investigation has arisen (Section 12 of the same Ordinance and Chapter 23, Section 3, fourth paragraph of the Code of Judicial Procedure).

The Special Investigations Division now has an on-call service where the police can obtain fast and competent guidance around the clock. All documentation and evidence is put into a separate part of DurTvå, (computerised investigation procedure for coercive measures). The system carries all documents that occur in this type of criminal investigation. Only the Special Investigations Division has access to the system.

II. Safeguards against ill-treatment

Recommendation
-the Committee reiterates its long-standing recommendation that the possibility to delay the exercise of the right of notification of custody be more closely defined and made subject to appropriate safeguards, such as those enumerated above.
-the CPT also recommends that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention; /…/ Further, the relevant legislation and/or regulations should be completed so as to oblige the police to record in writing whether or not notification of custody has been performed in each individual case, with the indication of the exact

time of notification and the identity of the person who has been contacted (paragraph 16).

Persons deprived of their liberty through for example arrest and pre-trial detention have the right under Chapter 24, Section 21 a of the Code of Judicial Procedure (1942:740), as soon possible without harm to the investigation to have one of their closest relatives or another person particularly close to them notified of the deprivation of liberty. The person apprehended or arrested does not need to request that notification be given. Instead it is the official responsible that must take the initiative to ask the suspect if he or she wishes a close relative or other person to be notified of the apprehension or arrest. The notification must be given as soon as it is possible without harm to the investigation. The question of whether notification entails harm to the investigation is determined by the officer in charge of the investigation, taking into account the investigation situation.

In the case of young people there is a special provision concerning the notification obligation (Section 5 of the Young Offenders (Special Provisions) Act [1964:167] [LUL]). This stipulates that if a person under the age of 18 is reasonably suspected of an offence, in the first place, their legal guardian is to be immediately notified of the suspicion of crime, provided this does not harm the investigation and there are no other special grounds against it. This provision focuses on the suspicion of crime and not the deprivation of liberty itself. The Parliamentary Ombudsman has pointed out that it is particularly important not to delay notification concerning minors who have been deprived of their liberty (JO 1985/86 p. 152).

Those who are arrested or detained shall, under Section 12 a of the Preliminary Investigations Ordinance (1947:948), without delay be provided with written information on their right to have a relative or other person close to them notified of the deprivation of liberty. Such information is to be provided to the person who is under arrest or remanded in custody in a language he or she understands, and it must be possible to retain the written information for as long as the deprivation of liberty continues. In a legal memorandum, the Swedish Prosecution Authority has expanded on how the criminal investigation authorities are to comply with their obligation to inform (RättsPM 2014:1). This states that the officer in charge of the preliminary investigation has an overall responsibility for safeguarding the suspect's rights. Therefore, it is normally the case that the written information is provided by the police immediately after the prosecutor issues the arrest warrant.

Work is in progress in the Government Offices to implement the EU Directive on the right of access to a lawyer (Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European

arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty). On 28 April 2016 a decision was made on the proposal referred to the Council on Legislation on Implementation of the EU Directive on the right of access to a lawyer. In the proposal referred to the Council on Legislation the Government proposes the legislative amendments required for the Directive. The provisions of the Directive include the right of a suspect to have a third party notified of the deprivation of liberty. The proposal referred to the Council on Legislation includes the following proposals.

a) The right under the Code of Judicial Procedure of a person deprived of their liberty to have a person close to them notified of the deprivation of liberty shall only apply to adults deprived of their liberty. A notification must be given as soon as possible. A notification may only be postponed if it is necessary to avoid making the investigation of the matter substantially more difficult. When there is no longer reason to postpone the notification, it must be given as soon as possible. The amendment clarifies that it is the right of the suspect to have a person close to them notified of a deprivation of liberty and that the notification must take place as soon as possible. Only in exceptional cases may such notification be possible to postpone. The margin for postponing a notification is reduced in relation to current legislation.

b) The equivalent notification for a person under the age of 18 who is deprived of his or her liberty shall be regulated in the Young Offenders (Special Provisions) Act (LUL). Notification shall be given immediately after deprivation of liberty. The notification must also include the reasons for the deprivation of liberty. Notification may only be postponed if it is necessary to avoid making the investigation of the matter substantially more difficult. When there is no longer any reason for the decision, notification must be given immediately. Only in exceptional cases may such notification be possible to postpone. Also as regards young offenders, the margin for postponing a notification is reduced in relation to current legislation.

The intention is that the legislative amendments proposed will come into force on 27 November 2016.

Under applicable law it must be noted in the preliminary investigation report whether a relative or other person who is close has been notified of the deprivation of liberty or such a notification has not been give (Section 20 of the Preliminary Investigations Ordinance). The Police Authority is in the final stages of producing a manual for police detention facilities. The manual is to facilitate the work of the police on police premises by explaining existing regulations. The manual will include a section that highlights the requirements that must be made concerning information on detained persons' rights and

the meaning of the detention that must be communicated to detained persons.

Recommendation
- the CPT calls upon the Swedish authorities to take effective steps to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of deprivation of liberty (paragraph 17).

In an earlier response Sweden has given an account of the regulatory framework concerning the right to a defence counsel and the right of anyone questioned by the police to have counsel present (See the response of the Swedish Government to the report of the CPT in 2009 [CPT/Inf (2010)18], p. 10–11)

As mentioned above work is in progress in the Government Offices to implement the EU Directive on the right of access to a lawyer (2013/48/EU). The proposals in the above-mentioned proposal referred to the Council on Legislation also mean that the provisions of Chapter 21, Section 9 of the Code of Judicial Procedure on the right of a person arrested or remanded in custody to meet his or her defence counsel and to speak in private with the defence counsel will be changed so that it is made clearer that it is the person deprived of their liberty and not the defence counsel who has this right. It will also be made clearer that the right also applies to a person who has been apprehended. The right will apply in the same way without restrictions to a suspect with a public defence counsel and to a suspect who has appointed a private defence counsel that fulfils the requirements applicable to a public defence counsel. For a suspect who is represented by a private defence counsel that does not meet the requirements applicable to a public defence counsel such a meeting can be prevented if it is necessary to avoid making investigation of the matter substantially more difficult or to avert danger to someone's life, physical health or freedom. If a meeting is allowed it must be in private. Further, the proposals mean that the provision in Chapter 23, Section 10 of the Code of Judicial Procedure is amended so that a suspect who has a public defence counsel, or a private defence counsel that meets the requirements applicable to a public defence counsel, always has the right to have his or defence counsel present when he or she is questioned by the police. For questioning of a suspect represented by a private defence counsel that does not meet the requirements applicable to a public defence counsel, the defence counsel may be prevented from being present in exceptional cases.

In addition, a proposed directive concerning the right of persons deprived of their liberty to provisional legal aid is currently being negotiated within the EU (Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons

deprived of liberty and legal aid in European arrest warrant proceedings). The proposed directive complements the directive on the right of access to a lawyer. The proposal contains minimum rules granting suspects or accused who are deprived of their liberty, should they so wish, an unconditional right to provisional legal aid from the time at which they have been deprived of their liberty and, under all circumstances, before they are questioned. Sweden now awaits the outcome of the negotiations.

Furthermore, the Swedish Prosecution Authority is drawing up new guidelines on the right of suspects to have a defence counsel present during questioning when the suspect is a person deprived of liberty and on the right of young suspects to defence counsel. The guidelines for processing cases involving young people have been adopted (RåR 2016:1). These include the matter of the presence of a defence counsel during questioning. The purpose of the new guidelines is to clarify the rules applicable and provide recommendations on how these should be applied in practice.

Recommendation
- the CPT reiterates its long-standing recommendation that the right of persons deprived of their liberty by the police to have access to a doctor be made the subject of a specific legal provision (paragraph 18).

Under the provisions of Chapter 9, Section 1 of the Imprisonment Act (2010:610) a person serving a prison sentence in a prison in need of health or medical care must be treated in accordance with the instructions of a doctor. If the prisoner cannot be examined or treated appropriately in the prison, the public health service must be used. If necessary, the prisoner must be transferred to a hospital. A permit to stay outside the prison must be subject to the necessary conditions. If necessary for security reasons the prisoner is to be under guard.

Under the provisions of Chapter 5, Section 1 of the Act on Detention (2010:611) a person who is remanded in custody, arrested or apprehended and who needs health or medical care must be examined by a doctor. A doctor must also be called if an inmate so requests unless it is evident that such an examination is not needed. An inmate needing health or medical care must be treated in accordance with the instructions of a doctor. If an inmate cannot be examined or treated suitably in the police detention facility, the public health service must be used. If necessary, the prisoner must be transferred to a hospital. A permit to stay outside the police detention facility must be subject to the conditions necessary. If necessary for security reasons the prisoner is to be under guard.

The basis of the division of responsibilities between the Swedish Prison and Probation Service and the public health service in society is

the “normalisation principle” (see Government Bill 1982/83:85, p. 56 f.). The principle means that the social and medical help an inmate needs is to be supplied in the first instance by the institutions in society that provide such help to all citizens. The role of the Prison and Probation Service is restricted to procuring help, via consultations (referrals) or transport of clients to another caregiver, the county council. The normalisation principle means that prisoners within the Swedish Prison and Probation Service have the same right to society’s support and help as other citizens.

The public health service in Sweden is based on access to primary care and health centres. At the health centre the patient can meet a general practitioner who will examine him or her. Under the general health care guarantee a patient must be given the opportunity to meet a doctor within one week if in need of care. If emergency care is needed the patient must be transferred to an accident and emergency clinic. Each county council offers a medical advice service. The medical advice service provides guidance and advice to patients by telephone and can assess the need for treatment and for example call an ambulance.

The Swedish Prison and Probation Service has no statutory obligation to conduct health and medical care. For practical and security reasons the Prison and Probation Service does operate some outpatient health and medical care that falls under the same regulatory framework as other medical care in society. Section 25 of the Imprisonment Ordinance (2010:2010) and Section 15 of the Ordinance on Detention (2010:2011) stipulate that each prison or police detention facility where a person is detained must have access to an authorised physician and staff with appropriate health care training.

All prisons and remand prisons have at least one nurse on duty during the same hours as a health centre. However, in metropolitan areas a nurse is on duty seven days a week. The prisoner can contact the nurse either via a form or via a telephone booking service. The prisoner can usually meet the nurse already on the same day. A general practitioner (or physician with the same type of qualifications) is available at all prisons or remand prisons at least once a week to ensure compliance with the requirements under the health care guarantee. On other days the doctor is available for telephone consultation. If emergency care is needed at other times the prison or remand prison staff should contact the medical advice service for an assessment of whether ambulance transport is necessary. If the need for care is evident but the condition is not life-threatening the prison or remand prison staff can use their own transport service to transfer the prisoner to an accident and emergency clinic.

Recommendation
- The CPT recommends that specialised training in the care of intoxicated persons be provided to all police officers in Sweden. Further, the Committee recommends that arrangements be made to ensure that there can be rapid access to a nurse whenever intoxicated persons are held at police establishments. The presence and supervision by custodial staff will also have to be increased in such cases (paragraph 19).

Training in the care of intoxicated persons is included in the basic training at the Swedish National Police Academy (police training programme). The police training programme includes:
- practical exercises in care,
- ethics, morality and human rights,
- consequences for the individual of incorrect intervention with a focus on legal security and moral courage and
- risk of confusion; diseases and diagnoses that may be confused with intoxication.

Police officers receive continual in-service training in police conflict management (POLKON). During a calendar year each police officer must complete six days of in-service training in POLKON totalling 48 hours. The respective skills centre is responsible for implementation. The overall objective is to create conditions for secure police intervention. The police officers' skills are developed through practical exercises, for example in being able to adapt to individual circumstances in the particular situation and at the same time managing to influence the situation to avoid panic. The exercises also include emergency care.

Work is in progress at the Police Authority to draw up a national syllabus for custodial staff. The plan is to start the national programme in autumn 2016. Pending the start of the programme the regional training programmes for staff in police detention facilities are continuing. This training provides knowledge in health care related problems, including intoxication and other influence.

The basic principle in accordance with the Act on Care of Intoxicated Persons (1976:511), LOB, is to provide care at a health care facility, but order and security aspects mean that the person is often taken into custody. The final report of the 2008 Inquiry on services for substance use disorders (Swedish Government Official Reports SOU 2011:35) noted that nine per cent of persons taken into care under LOB are taken to a health care facility. In cases where a person deprived of liberty is taken into custody under LOB the police must assess if the person taken into care is in need of immediate medical care (see the Police Authority regulations on care of intoxicated persons, RPSFS 2000:57, FAP 023-1). All persons who are taken into care must be checked on at least every 15 minutes. If hospital care is necessary either health and medical care staff can be called to the police

detention facility or, if it is more serious, the person can be transported to hospital, by ambulance if necessary.

The Government is implementing an initiative aimed at guaranteeing that considerably fewer intoxicated persons are taken to police premises and improving support and treatment measures when taking intoxicated persons into care. The initiative means that the Government allocates funds, mainly for local and regional development work. County councils, municipalities and the police are jointly developing alternative solutions to confinement on police premises for people taken into care under LOB. The initiative is to lead to a change in practice. The Government will follow developments after 2016.

Recommendation

- The CPT calls upon the Swedish authorities to take effective steps to ensure that all persons apprehended by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). All persons, including foreign nationals and persons with reading and writing difficulties, should, immediately upon their arrival on police premises, be provided with information on the rights of detained persons in a language which they understand; such information should be provided both orally and in the form of a brochure. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 20).

As stated above, there are regulations that regulate the activities in police detention facilities. The regulations stipulate that each detainee must, at the time of being taken into police detention facilities, be informed of the meaning of the detention in a language that he or she understands. The information must be given in writing unless there are special grounds against this and it must be documented that the information has been given to the detainee. The information must be available to the detainee throughout the period of deprivation of liberty. The written information is currently available in 42 languages (see Annex 2).

The Police Authority is in the final stages of producing a manual for police detention facilities. The manual is to further explain the existing regulatory framework. The manual will include a section that highlights the requirements concerning information that must be communicated to detained persons about their rights and the meaning of the detention. It should be considered whether the detained persons should be asked to sign to attest that they have been provided with the information on fundamental rights in the way CPT proposes.

In conclusion it must be stated that in the event of a person deprived of liberty being unable to assimilate the information, the Police Authority is obliged to use an interpreter.

Recommendation
- the Committee must reiterate its recommendation that the Swedish authorities reconsider the need for the investigation of complaints against the police to be entrusted to an agency which is demonstrably independent of the police (paragraph 24).

The Government shares the CPT's opinion that investigations concerning suspected police crime must not only be conducted independently and by separate parts of the organisation, but also be perceived to be objective and factual. The Government considers that the new special investigations division meets these requirements, among other things through the separate budget, the separate appointment of the head of the division and the way in which investigations are organised. It is gratifying that the Committee also considers that internal investigation activities have developed in a direction that has addressed most of the CPT's concerns.

The new police organisation, including the new special investigations division, has been in force since 1 January 2015, that is about one and a half years at the time of this response. Consequently, it is not at present relevant to conduct an evaluation or review of the activities at the new special investigations division. However, the Government will evaluate the implementation of the entire organisational reform that is now taking place regarding the Swedish police. The first findings of that evaluation can be expected at the end of 2016.

Recommendation
- The CPT reiterates its recommendation that steps be taken to ensure that disciplinary action can be taken against police officers implicated in complaints of ill-treatment even if a prosecutor considers that there is insufficient evidence that the officers concerned have committed a crime (paragraph 25).

Regulations concerning disciplinary action can be found in Sections 14-19 of the Public Employment Act (1994:260). If an act has been considered under the criminal law system, under the provisions of Section 18, second paragraph of the Act mentioned, a disciplinary procedure may only be commenced or continued if for some reason other than lack of evidence, the act was not held to constitute an offence.

The provisions of Section 18, second paragraph, are intended to prevent administrative review of a prosecutor's or court's evaluation of evidence (see for example *Offentlig arbetsrätt*, Hinn and Aspegren, 2009, page 80 f.). Moreover, it is of relevance in this context that

according to practice developed in the area of disciplinary action, in principle the evidence requirements in a disciplinary case are as high as for criminal law cases.

It follows from what has been stated that what the CPT recommends, that it should be possible to take disciplinary action even if the prosecutor has decided not to institute proceedings due to lack of evidence, requires an amendment to legislation in the area.

On the other hand, if the prosecutor decides not to institute proceedings because a physical or verbal violation does not meet the criteria for a punishable offence in the Swedish Penal Code (for example assault, molestation or misuse of office), there is nothing to prevent a disciplinary procedure.

The report seems to mainly cover physical violence and verbal degrading treatment. Another form of violation is the situation in which a person has been deprived of his/her liberty without legal grounds, for example as a result of the police neglecting to release a person after a prosecutor's decision that deprivation of liberty must cease. If deprivation of liberty without legal grounds has not continued for a long time it is common that the prosecutor deems this to be a minor misuse of office and therefore not punishable. In that case it is possible to notify a disciplinary sanction instead. These cases are found in the disciplinary administration.

III. Conditions of detention

Recommendations
- The CPT recommends that the above-mentioned deficiencies in the cells at Lund and Falun Police Departments be remedied (paragraph 27).
- The Committee recommends that steps be taken to enlarge and improve the design of the exercise yards in the above-mentioned police departments (paragraph 28).

General comments
Work has been in progress since the turn of the year in the unit for supply of premises in the Police Authority's accounts department to draw up guidelines for the design of police detention units, including areas adjacent to the cells. The objective is to prepare documentation that the Police Authority's seven regions can use for new construction, conversion or extension of police premises. The documentation will be based on the laws and ordinances governing the activities and will also include guidance documents as well as aspects that are central to humane care of individuals deprived of their liberty.

The regulatory framework the Police Authority must comply with is Chapter 2, Section 7 of the Act on Detention (2010:611), which guarantees the detainee the right to one hour's daytime outdoor

exercise. Under Chapter 1, Sections 5 and 6 of the same Act, enforcement is to be so designed as to mitigate negative consequences of deprivation of liberty and the enforcement may not entail other restrictions on the freedom of the detainee than following from the Act on Detention or that are necessary to maintain order and security. The Parliamentary Ombudsman stated on 16 November 2015 (ref. no. 7173-2014) that exercise yards should give the opportunity for exercise, the importance of which was also emphasised by the UN Subcommittee on Prevention of Torture (CAT/OP/SWE/1). A previous decision by the Parliamentary Ombudsman (18 June 2014, ref. no. 2054-2013) has assessed 15 square metres to be a sufficiently large area. The Parliamentary Ombudsman has also emphasised that exercise yards should have proper daylight openings.

In addition to this regulatory framework, there are the Police Authority's regulations and general advice on police detention facilities (PMFS 2015:7, FAP 102-1) that came into force on 1 November 2015. These regulate the equipment and furniture there must be on police premises, as well as what should be taken into consideration to minimise the risk of harm to the detainee.

Police Region South (where Lund police station is)
A review is currently in progress in Police Region South, as well as at national level, of the design of police detention facilities in view of the new regulatory framework through the Ordinance on Remand Prisons and Police Detention Facilities (2014:1108) as well as the Police Authority's regulations and general advice.

The police detention unit at the police station in Lund has a total of 22 cells. The police detention unit is equipped with floor heating, both in corridors and in 19 cells. These 19 cells have supply and exhaust air ventilation on the walls. The ventilation is satisfactory in all cells. If a piece of paper is held to the exhaust air grating it becomes stuck fast. In one of the 19 cells on one occasion there was a problem with the heat. This was due to a clogged pipe in the floor heating, which has now been dealt with. Three of the cells have a more modern heating/ventilation system where it would appear that heating/cooling can be regulated via the ventilation thermostat. These three cells were built in 2008 and have an identical, or similar, system to the modern cells at Rättscentrum in Malmö and at the police station in Helsingborg. The ventilation in the 19 cells was checked on 9 March 2016 and found satisfactory.

The police detention unit is equipped with three exercise yards, all measuring 6.90 x 2.40 metres (i.e. 16.56 square metres). The measurements of the exercise yards were checked on 1 March 2016. The exercise yards are equipped with camera surveillance and a communication system so that the persons deprived of their liberty can easily get into contact with the custodial staff. There are also

benches and ashtrays. The design of the exercise yards in Lund is in line with the design of the exercise yards at Rättscentrum in Malmö and the police station in Helsingborg. Lund's exercise yards are somewhat larger than the exercise yards at Rättscentrum in Malmö.

Concerning the observation about high walls, they are the same type of walls as at all exercise yards in Region South. Apart from walls around the exercise yards, one of the sides is fenced. Netting, called a safety net (*kastskydd*), is spread tactically over the exercise yards, but care is taken to allow the sky to be visible. A small area of each exercise yard has a roof as protection against rain. The exercise yards were approved for use in 2008 when they were also newly built. The yards fulfil their function under current legislation.

Police Region Bergslagen (where the Borlänge and Falun police stations are)
For the last few years the police detention facility in Falun has only been used occasionally, since all persons deprived of their liberty are taken to the police detention facility in Borlänge, which is the police detention facility that is staffed with supervisory staff in the county. The police detention facility in Falun is only opened if it is anticipated that the police detention facility in Borlänge will be full, for example when there are major events in or around Falun. On the occasions when the police detention facility in Falun is opened it is possible at short notice to transfer persons taken into care under the Act on Care of Intoxicated Persons (1976:511) to the police detention facility in Borlänge, which has cells without bunks. It is currently being considered whether a number of cells in the police detention facility in Falun should be converted by removing the bunks to minimise the risk of injury.

The design of the exercise yard adjacent to the police detention facility in Borlänge is not optimal. Work is in progress to design and plan a new police station in Borlänge where the police detention facility and exercise yard will be planned in accordance with the applicable instructions and regulations. The limited space in the inner courtyard where the exercise yard is situated makes it difficult to design it in any other way. However, new solutions that meet the perimeter protection and security requirements for those who are deprived of their liberty will be considered in consultation with the owner of the building. There is also a dialogue in progress with the remand prison concerning management of all persons deprived of their liberty by the police. The purpose of the dialogue is to consider whether it is possible for the remand prison to take over management of all persons deprived of their liberty in the county. The remand prison is currently in Falun.

B. Establishments for foreign nationals deprived of their liberty under aliens legislation

I. Ill-treatment

Information
- the CPT would like to receive, in due course, a full report on the outcome of the above-mentioned investigation (paragraph 32).

See response from the Special Prosecution Office at the Swedish Prosecution Authority, Annex 3.

Information
-the CPT would like to receive detailed information on the applicable regulations and practice as regards the involvement of different State agencies in the removal process, as well as information concerning medical examinations prior to return flights and the provision of medication during such operations (paragraph 33).

Division of responsibilities between agencies in returns
The Swedish Migration Agency is responsible for ensuring that decisions on refusal of entry or expulsion are executed if the Swedish Migration Agency was the agency making the decision. If the person to be refused entry or expelled is in hiding and cannot be found without the assistance of the Police Authority or if it can be assumed that force will be necessary to execute the decision the Swedish Migration Agency hands over the case to the Police Authority. When the Swedish Migration Agency is the agency responsible it can only be a matter of voluntary returns (Chapter 12, Section 14 of the Aliens Act [2005:716].

The Police Authority is responsible for ensuring that decisions on refusal of entry or expulsion are executed if the Police Authority was the agency making the decision or it concerns expulsion due to crime, ordered by a general court. The Police Authority is also responsible if the Swedish Migration Agency has handed over the case to the Police Authority. If force is necessary it is therefore always the Police Authority that is the agency responsible (Chapter 12, Section 14 of the Aliens Act).

The Swedish Prison and Probation Service often assists the Police Authority when transportation is necessary. Section 6 of the Ordinance with Instructions for the Swedish Prison and Probation Service (2007:1172) stipulates that the Swedish Prison and Probation Service may assist other agencies with transportation within Sweden or abroad of persons deprived of their liberty. Even if the Swedish Prison and Probation Service plans and carries out the transportation, the responsibility for the case remains with the Police Authority. It is also the Police Authority that after expulsion must write an expulsion report to the Swedish Migration Agency. An Inquiry has proposed that

the Swedish Prison and Probation Service assistance in transportation should be regulated in law (Swedish Government Official Report SOU 2011:7). The Ministry of Justice is currently working on a follow-up proposal for referral to the Council on Legislation.

Medical examinations and provision of medication
Consideration must be given to the alien's state of health when enforcing decisions on refusal of entry and expulsion (stipulated in several provisions in the National Police Board's regulations and general advice on enforcement of decisions on refusal of entry and expulsion [RPFS 2014:8], see for example Chapter 1, Section 6 and Chapter 9, Section 27). When enforcing a decision attention must always be given to whether the alien is suffering from mental ill health or drug abuse and as a consequence may be regarded as a danger to himself or herself or others. The same applies if the person to be refused entry or expelled is suffering from a contagious disease and it is considered that there is a danger that he or she may try to spread the infection (Chapter 4, Section 11). The Police Authority must consider whether it is necessary for medical staff to assist in the return flight. The considerations must be documented in the case (Chapter 4, Section 19).

There are no regulations or practice stipulating that a medical examination must be carried out in every individual case before a return flight. The fact that the alien's state of health requires particular consideration should, however, be noticed by the Police Authority through own observations. Sometimes it is known that there has been contact with the medical services. It may also come to the Police Authority's knowledge through the alien's own reference to it and possibly the submission of a medical certificate.

If a doctor has decided that medication is to be used or that special treatment must be administered during the enforcement the security staff must ensure that the doctor's instructions are available and that they are complied with (Chapter 9, Section 29). The security staff may not give the alien prescription medicine other than as prescribed by a doctor (Chapter 9, Section 30).

II. Health care

Recommendation
- the CPT reiterates its recommendation that the Swedish authorities take measures to improve the provision of health care to foreign nationals detained at the Migration Agency Detention Centre in Märsta. In particular, steps should be taken to ensure that:
- all newly-arrived foreign nationals benefit from comprehensive medical screening (including screening for transmissible diseases) by a doctor or a fully qualified nurse reporting to a doctor as soon as possible after their admission;

- custodial staff do not seek to screen requests to consult a doctor/nurse, and detained foreign nationals can approach health-care staff on a confidential basis;
- the confidentiality of medical data is respected (paragraph 39).

County councils are responsible for medical care in migration detention centres. Medical care staff normally visit the detention centre. Only when the need arises is the detained foreign national transported to a health care facility. Ahead of visits from medical care staff, the staff at the detention centre have sometimes put questions to the detainees about their cases with a view to being able to give priority to more urgent cases. In response to earlier criticism from the CPT a trial procedure has been designed at the Gävle Detention Centre. Detainees may there present their case in writing on a piece of paper and put the piece of paper in a locked post-box. On their arrival the medical care staff empty the post-box and can then give priority to the more urgent cases. In that way the staff at the detention centre do not get to know the reason for the detainee's visit to the medical services. The objective is to apply this procedure at all detention centres.

There have also been cases of the staff of the detention centre making notes concerning the amounts of non-prescription painkillers that have been distributed to the persons in confinement. Due to previous criticism this has ceased.

The staff at the detention centre have no access to medical records.

The question of medical care at detention centres has been reviewed by an Inquiry Chair, who submitted certain proposed changes in February 2011 (Swedish Government Official Report SOU 2011:17). These proposals are being processed in the Government Offices. However, there was no proposal for compulsory medical examinations on arrival at the detention centre. Even if such examinations may be in the interest of both the individual and society, the Swedish legislator has previously taken the position that compulsory medical examinations would imply considerable intrusion of the individual's privacy. The law therefore does not prescribe compulsory medical examinations but gives asylum seekers and detained foreign nationals a right to a medical examination (see govt. bill 1997/2007/08:105 p. 32).

III. Safeguards for persons deprived of their liberty under aliens legislation

Recommendation
- the CPT recommends that the relevant legislation be amended so as to ensure that all persons held under aliens legislation (wherever they are detained) have an effective right of access to a lawyer as from the very

outset of their deprivation of liberty and at all stages of the proceedings (paragraph 41).

An alien who is detained is entitled to public counsel, paid for by the State, after three days in detention. However, in normal cases a position is taken on the need for public counsel directly in connection with the decision on detention and the appointment is made already at that time. An example of an exception when public counsel is normally not appointed is when the alien has a journey to the home country booked and is only in detention for a very short time, for example pending further transportation to the airport. The Government considers that the appointment of public counsel in these cases would entail costs that are not in proportion to the benefit public counsel could provide to the person in detention in this situation.

C. Prisons

I. Ill-treatment

Recommendation
- The Committee recommends that the Swedish authorities ensure an appropriate staff deployment when carrying out gender-sensitive tasks, such as searches (paragraph 46).

Under Chapter 8, Section 7 of the Imprisonment Act (2010:610) and Chapter 4, Section 7 of the Act on Detention (2010:611) body searches or physical examination may not be carried out or witnessed by anyone of the opposite sex who is not a doctor or registered nurse. However, this does not apply to

1. a body search as specified in Chapter 8, Section 5 of the Imprisonment Act and Chapter 4, Section 4 of the Act on Detention (i.e. when the body search is for the purpose of searching for weapons and other dangerous objects and it is deemed necessary for reasons of security),
2. a body search that only entails examining an object a person is carrying around with them,
3. a body search made with a metal detector or similar technical device, or
4. a body search that only involves taking samples other than urine samples under Chapter 8, Section 6 of the Imprisonment Act and Chapter 4, Section 5 of the Act on Detention (i.e. for taking breath tests, saliva samples, sweat samples, blood samples or hair samples to check that the detainee is not under the influence for example of alcohol, narcotic drugs or other intoxicating substances).

If necessary, a body search or physical examination of a man may be carried out or witnessed by a woman even in other cases than referred

to above. The corresponding possibility does not exist for body search or physical examination of a woman.

The basis for the introduction of the exemption that allows the examination or witness of a male inmate by a woman was that the legislator assessed that entirely gender-neutral safeguard provisions would entail considerable practical problems and costs, particularly as a large percentage of the staff are women, while the majority of the detainees are men. These circumstances still apply. The legislative history of the Act (Govt. Bill 2009/10:135) also shows that the Government based its assessment on the fact that the Swedish Prison and Probation Service nevertheless as far as is possible avoids the examination of male detainees by women officers, in accordance with the regulations of the Swedish Prison and Probation Service in force at the time.

The basic principle of the Swedish Prison and Probation Service also today is that all searches are carried out by people of the same sex as the person being searched. With regard to a "security search" (Chapter 8, Section 5 of the Imprisonment Act, Chapter 4, Section 4 of the Act on Detention), that is normally carried out by an officer feeling outside the detainee's clothes, sometimes in combination with using technical equipment, this can be carried out by staff of the opposite sex if no staff of the same sex are available.

II. Imposition of restrictions on remand prisoners by court order

Recommendation
- the CPT reiterates its recommendation that the Swedish authorities take swift and decisive action, including if necessary legislative changes, to ensure that restrictions on remand prisoners are only imposed in exceptional circumstances which are strictly limited to the actual requirements of the case and last no longer than is absolutely necessary (paragraph 53).

Regulatory changes and new guidelines
As reported at the site visit by the CPT in spring 2015, the Swedish Prosecution Authority has carried out a review that includes how the use of restrictions for remand prisoners can be reduced. In January 2014, a working group submitted the report Häktningstider och restriktioner [Pre-trial detention periods and restrictions]. The Swedish Prosecution Authority has subsequently produced Riktlinjer gällande restriktioner och långa häktningstider [Guidelines concerning restrictions and long periods of pre-trial detention] (RåR 2015:1) and Föreskrifter och allmänna råd om restriktioner [Regulations and general advice on restrictions] (ÅFS 2015:2).

In summary, these guidelines, in force since 5 May 2015, make it clear that in each individual case there has to be a careful assessment of

whether there is a considerable risk of the suspect impeding the investigation (risk of tampering with evidence). If there is such a considerable risk of tampering with evidence, the guidelines state that the prosecutor has to examine whether this risk, in relation to the gravity of the offence and the intrusion or other detriment that the measure entails for the suspect, in itself justifies deprivation of liberty. Where the risk of tampering with evidence cannot independently justify deprivation of liberty, the risk of tampering with evidence is not to be invoked as grounds for pre-trial detention. The guidelines also make it clear that prosecutors, when deciding whether to impose restrictions, are to take a position on the necessity of each individual restriction and for each restriction to outweigh the risk of tampering with evidence and the gravity of the offence against the intrusion or other detriment that the measure entails for the suspect. In the cases where restrictions have been imposed, the guidelines also make it clear that the grounds for the restrictions are to be continuously re-examined.

The Swedish Prosecution Authority's regulations and general advice, in force since 24 August 2015, state in part that a decision to impose restrictions is to be registered and the grounds for each individual restriction are to be documented when the decision is made or otherwise as soon as possible. This also reasserts the fact that the prosecutor has an unconditional obligation to ensure that the person deprived of their liberty and the authority responsible for the detention facility immediately receive written notifications concerning decisions to impose restrictions. To the extent this can be done without harming the investigation, the person deprived of their liberty and the defence counsel shall also be provided with the documented grounds for the restrictions. If it has not been possible for them to obtain all or parts of the documentation, they are to be provided with this as soon as possible without impediment to the investigation.

Apart from the Swedish Prosecution Authority’s new guidelines and regulations, in November 2015 the Government decided on an amendment to the häktesförordningen [Ordinance on Pre-trial Detention] (2010:2011) stipulating that remand prisoners, apart from being notified of the decision on restrictions and the reasons behind the decision, must also receive written information about their possibilities of requesting a court review of the decision on restrictions. The amendment came into force on 1 February this year.

In its annual report for 2015 the Swedish Prosecution Authority reports that the number of people remanded in custody in relation to the number of people in prosecutor-led preliminary investigations in the period 2013–2015 has remained stable at about 6 per cent. The percentage of remand prisoners subjected to restrictions in the corresponding period has fallen from 70 to 65 per cent. In the present situation it is not possible to determine to what extent the conclusions

of the working group in the report and the new guidelines can explain the decrease or whether this is due to temporary changes in the nature of the suspicions being investigated and thus the need for restrictions. Other factors as well, such as the courts' assessment of whether to grant restrictions, may affect the percentage of remand prisoners subjected to restrictions. The Swedish Prosecution Authority must follow up the application of the new guidelines and in connection with that it will probably be possible to draw more reliable conclusions. In addition, in 2015 the Swedish Prosecution Authority and the Swedish Prison and Probation Service have set up a joint project group tasked with increasing collaboration between both agencies. The purpose of the project groups includes restricting as far as possible the isolation of persons detained with restrictions. This applies in particular to young remand prisoners. The project group will submit a report in spring 2016.

The Parliamentary Ombudsman (JO) recently pointed out the importance of not subjecting remand prisoners to more extensive restrictions to their liberty than is absolutely necessary. According to the Parliamentary Ombudsman suspects must not of course be subjected to restrictions as a matter of routine. It is also important that prosecutors are not unnecessarily restrictive in allowing various types of relief or exemption from the restrictions. The Parliamentary Ombudsman also emphasises the importance of prosecutors' compliance with their information and documentation obligation. In conclusion, it is pointed out that the Parliamentary Ombudsman will follow the work in progress on matters concerning pre-trial detention and restrictions and examine, for example through inspections, how prosecutors use restrictions for remand prisoners (decision 12 April 2016, reference number 679-2015).

Review of the legislation and authority assignments
In addition to the Swedish Prosecution Authority's work within the framework of current legislation to reduce the use of restrictions, the Government considers there to be a clear need for a broad review of the issue. For this reason, in July 2015, the Government appointed an Inquiry tasked with investigating what additional action should be taken to limit pre-trial detention periods and the use of restrictions and to mitigate against the isolation of remand prisoners (Färre i häkte och minskad isolering [Fewer in pre-trial detention and less isolation], (ToR 2015:80). The Inquiry has been given a broad mandate in order to ensure the issue is investigated comprehensively. The remit of the Inquiry includes considering and, if deemed appropriate, proposing

a) new forms of pre-trial supervision measures as an alternative to pre-trial detention,
b) time limits for pre-trial detention and restrictions,
c) measures that aim to reduce the use of restrictions, and
d) measures that mitigate against the isolation of remand prisoners.

It is particularly important that the Inquiry finds potential improvements for children and young people who are in pre-trial detention. The Inquiry is to publish its report by 23 August 2016.

Over the course of 2015 the Government has also decided to task two authorities with assignments that are of significance to the issue of pre-trial detention. The Swedish Agency for Public Management has been tasked with investigating whether, and in that case how, the management of forensic examinations can be changed with the aim of helping to reduce pre-trial detention periods. This assignment includes reviewing orders placed for forensic examinations and charting the turnaround times for these examinations in preliminary investigations where the suspect is remanded in custody and analysing which factors influence turnaround times. A report on this assignment was presented on 1 February 2016.

In the report the Swedish Agency for Public Management notes that forensic investigations may affect the period of pre-trial detention in many, but far from all, cases. According to the Swedish Agency for Public Management it is in the first instance relevant to make the processing of forensic investigations more effective in the types of case where the pre-trial detention periods are longest and the percentage of remand prisoners is greatest. The Swedish Agency for Public Management proposes that above all the National Forensic Centre (NFC) and the Swedish Prosecution Authority take a number of measures that lead to such improved effectiveness. This includes prosecutors taking a more active role in ordering forensic investigations and the NFC implementing certain measures to curtain their processing times and creating clearer procedures for giving priority to cases where the suspect is remanded in custody. Work is in progress at agencies concerned to implement the proposals and thus shorten pre-trial detention periods.

Furthermore, the Swedish National Council for Crime Prevention has been tasked to conduct a survey of the situation in remand prisons. The purpose of this assignment is to learn more about the use of pre-trial detention and restrictions and about the application of measures to relieve isolation. One aspect of the assignment involves using the survey as a basis for reporting any identified barriers to humane, secure and effective remand imprisonment and where necessary proposing how these facilities can be improved. A report on the assignment is to be presented by 25 January 2017.

On 7 April 2016 the Government appointed another Inquiry, En modern brottmålsprocess för stora mål [A modern criminal justice process for major cases] (ToR 2016:31). The Inquiry has been instructed to analyse how processing of major criminal cases with extensive evidence could be modernised and made more effective while

upholding legal security requirements. The remit includes analysing whether it is appropriate to introduce increased opportunities to use documented interrogation as evidence in courts and in that case submit the proposals deemed necessary. One of the purposes of examining this issue more closely is that an extended possibility of using documented interrogations could contribute to shorter pre-trial detention periods and reduced use of restrictions, as the need to protect evidence from external influence through pre-trial detention with restrictions can be reduced if evidence is perpetuated at an earlier stage. In large criminal cases with many people and extensive evidence it is almost without exception necessary to have restrictions under the current regulation. An interim report by the Inquiry will be submitted no later than February 2017.

Recommendation
- the CPT calls upon the Swedish authorities to radically improve the offer of activities for remand prisoners. The aim should be to ensure that all such prisoners are able to spend at least 8 hours per day outside their cells, engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport, recreation/association. This may require changes to the physical infrastructure of prisons (paragraphs 53 and 67).

There is no internationally established definition of what is meant by isolation of a person. At an international symposium on psychological trauma held in Istanbul in 2007 the "Istanbul declaration" was adopted, in which the term isolation is defined from a medical perspective. According to the Istanbul declaration, isolation exists when an individual is locked up in a cell for 22–24 hours per day and meaningful contact with other people is typically reduced to a minimum, both quantitatively and qualitatively.

The United Nations (UN) Special Rapporteur on torture has on several occasions referred to the Istanbul declaration and used the definition found there. In the reports of the UN Special Rapporteur isolation has been defined as physical and social isolation of an individual who is locked in his or her cell and deprived of all human contact for 22–24 hours per day. This definition has come to be used in many other contexts as well and appears now to have become generally accepted.

The question of measures to reduce isolation of remand prisoners is one of the highest priorities for the Government as regards the activities of the Swedish Prison and Probation Service. The Government has tasked the Swedish Prison and Probation Service to implement a special initiative in the period 2013-2016 for young people in remand prisons. In accordance with its appropriation directions for 2016 the Swedish Prison and Probation Service must report separately the results of its work to develop and extend measures to break isolation for clients in remand prisons. Reducing the isolation of

remand prisoners is important, not only for humanitarian reasons but also from the point of view of legal security. The Government is therefore following with great interest the development work currently being carried out by the Swedish Prison and Probation Service in this area and has very high expectations of the results. The initiatives of the Swedish Prison and Probation Service to increase measures to break isolation for remand prisoners, based on the CPT's criticism and recommendations in the area, will be a high priority of this year's agency dialogue with the Swedish Prison and Probation Service. The agency dialogue is an annual dialogue between the political leadership and agency leadership aimed at following up agencies' activities, providing feedback and assessment of results and opportunities to discuss the future focus of activities.

Although it is a central matter for the Government that remand prisoners are isolated as little as possible, the CPT's recommended aim that all such prisoners should be able to spend eight hours a day outside their cells, engaged in some form of purposeful activity, is not at present assessed to be a realistic aim in the Swedish context, even taking into account vigorous measures within the Prison and Probation Service.

The Swedish Prison and Probation Service endeavours to ensure that remand prisoners spend as much time as possible in measures to break isolation. The aim of the Swedish Prison and Probation Service is for young prisoners (i.e. aged 21 or younger when admitted) to have at least two hours of activities to break isolation per day. The Swedish Prison and Probation Service also endeavours to include all prisoners in this, i.e. even those over the age of 21. Last year the Prison and Probation Service conducted a survey of remand imprisonment with a view to identifying areas where the need for measures is most evident. In 2016 measures to break isolation that meet the needs of remand prisoners for support and interpersonal contact were a focus area for the Government's governance of the Prison and Probation Service. Thus the area is also of high priority for the Prison and Probation Service and it affects several current assignments within the Service; review of library services and activities within the category of other structured activities (ASV), changes to NAV activities (NAV=Board for Spiritual Care) and introduction of parental training in remand prisons. The Prison and Probation Service will also take measures to spread knowledge of their employment programme in order to increase the number of customers and thus be able to offer more prisoners employment.

The Prison and Probation Service has already taken a number of steps to increase measures to break isolation for remand prisoners. For example, remand prisons now send enquiries to the prosecutor concerning the possibility of various relaxations of restrictions on remand prisoners, such as sitting with others or contacts with

relatives. Through new system support to be implemented in 2016, these enquiries can be made more effective and more numerous.

The Prison and Probation Service collaboration with voluntary organisations is an important part of the work of increasing measures to break isolation. There are visitor groups from various voluntary organisations at several remand prisons.

A remand prison unit has been set up at the Hall Prison. The unit is intended for inmates expected to be remanded in custody with restrictions for a long period. The purpose of the activity is to alleviate the isolation of these remand prisoners. An evaluation of the activities has shown that remand prisoners in this unit have received considerable alleviation and more time in the company of others. There are also other local initiatives that aim to increase time in measures to break isolation for remand prisoners, including at the Uddevalla Remand Prison, the Huddinge Remand Prison and the Kronoberg Remand Prison.

In addition, there is currently a special initiative in progress for early measures to break isolation for young remand prisoners in the Swedish Prison and Probation Service. The staff group working with young people has been augmented and all staff have completed a training programme on young people's needs. The initiatives for young people may consist of motivational talks, sessions with study and vocational guidance counsellors, studies, contacts with psychologists, study circles, contacts with voluntary organisations and yoga.

III. Prisoners held in conditions of high security

Recommendation
- the CPT recommends that the Swedish authorities take steps to find alternative accommodation – outside the high-high security unit – for prisoners segregated for their own protection. More generally, the /…/ legal lacuna should be eliminated as a matter of priority (paragraph 58).

General comments
Placement in a prison is regulated in Chapter 2 of the Imprisonment Act (2010:610). Section 1 stipulates that an inmate may not be placed so that he or she is subject to more far-reaching monitoring and control than is necessary for maintaining order or security. When deciding on placement, to the extent possible, consideration should be given to the inmate's need for employment, care and appropriate release planning.

Section 4 stipulates that an inmate may be placed in a unit with a particularly high level of monitoring and control (high security unit) if

1. there is a permanent risk of the inmate escaping or being helped to escape and it can be assumed that he or she is particularly inclined to continue serious criminal acts, or
2. there are special grounds for assuming that it is necessary to prevent the inmate from serious criminal acts while confined in the prison.

A decision on placement in a high security unit must be reviewed as often as there is cause, but at least once a month.

The legislation is clear in this area and no changes are deemed necessary in this respect. Under existing legislation an inmate may not be placed at a higher level of security than is necessary to maintain order or security.

Protection unit

There are high security units at three security divisions divided between the Hall, Kumla and Saltvik prisons. At the high security division in the Saltvik Prison there is a protection unit. In the Prison and Probation Service there are also other units for inmates who need to be segregated for their own safety. However, there is only a protection unit at the Saltvik Prison's high security unit, other units are called tranquillity units (*ro-avdelningar*).

The inmates with particularly high security needs that are not deemed possible to meet at another prison or prison unit are placed in the protection unit. These are inmates who have been witnesses, sources or informants. They may also be defectors from criminal gangs or networks, convicted former employees of the judicial system or international protected persons. Prisoners with less need of protection are placed instead in a tranquillity unit at other prisons.

Protection units and tranquillity units have other possibilities than high security units to offer the inmates full employment in the form of work, studies, treatment programmes or other structured activities. The same applies to the possibility of going out and leisure activities as well as visits and communication.

Recommendation

- the CPT recommends that the Swedish authorities take steps to ensure that - prisoners placed in a high security unit or in respect of whom such placement is extended are informed in writing of the reasons therefore and sign an attestation that they have received the decision (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);

- prisoners concerned are effectively offered the opportunity to be heard and to provide their comments and explanations in the context of the placement procedure in the high security unit, and of the review of such placement;

- the review of the placement in conditions of high security meets the requirements set out in paragraph 60 (paragraph 61).

General comments
Under Section 20 § of the Administrative Procedure Act (1986:223) a decision through which an agency determines a case must include the reasons determining the outcome, if the case refers to exercise of public authority in relation to an individual. The reasons may be omitted in full or in part, however,
1. if the decision is not adverse to any party or if for some other reason it is evidently unnecessary to state the reasons,
2. if the decision concerns appointment to public office, admittance to non-compulsory education, issuance of diplomas or grades, allocation of research grants or comparable matters,
3. if it is necessary out of concern for national security, protection of individuals' personal or financial interests or comparable circumstances,
4. if the matter is of such urgency that there is no time to formulate the reasons for the decision, or
5. if the matter concerns the issuance of regulations pursuant to Chapter 8 of the Instrument of Government, provided the matter does not concern review by a higher authority on appeal.

If the reasons have been omitted, the agency should if possible inform the party subsequently on request.

Under Section 16 of the Administrative Procedure Act an applicant, appellant or other party is entitled to have access to the material that has been submitted in the matter, provided the matter concerns exercise of public authority in relation to an individual. The right of access to information applies with the restrictions that follow from Chapter 10, Section 3 of the Public Access to Information and Secrecy Act (2009:400). Section 17 of the Administrative Procedure Act, stipulates that no matter may be determined without the applicant, the appellant or any other party having been informed about any information that has been submitted in the matter by someone other than himself or herself and having been given an opportunity to respond to it, provided that the matter concerns the exercise of public power in relation to an individual. The authority may however decide the matter without this provision having been observed
1. if the decision is not adverse to the party, if the information lacks importance or if such measures for some other reason are clearly unnecessary,
2. if the matter concerns appointment to official office, admittance to non-compulsory education, issuance of diplomas or grades, allocation of research grants or comparable matters, provided the matter does not concern review by a higher authority on appeal,
3. if there is reason to fear that it would otherwise be considerably

more difficult to implement the decision, or
4. if the decision cannot be postponed.

The authority determines whether notification is to be orally, by ordinary letter, by service or in some other way. The obligation to notify applies with the restrictions that follow from Chapter 10, Section 3 of the Public Access to Information and Secrecy Act.

The decision-making process of the Prison and Probation Service
All decisions concerning placement under Chapter 2 of the Imprisonment Act (2010: 610) are in writing. Inmates are informed of the decision and may also be notified in writing, and confirm in writing that this has been done. The reasons for placement are presented in the decisions. The inmate may read the documentation on which the decision is based.

In autumn 2015 the Prison and Probation Service prepared a special process for decisions on placement in a high security unit. The process aims to ensure predictability and legal security as regards both initial placement and review. Investigation on placement in a high security unit is carried out by the placement section at the headquarters of the Swedish Prison and Probation Service. Documentation of the investigation on placement in a high security unit is either the investigation for the purpose of being able to notify conditions under Chapter 1, Section 7 of the Imprisonment Act (2010:610) or documentation from the facility as well as the security assessment from the headquarters' security department, which includes an opinion concerning placement. The information provided to the investigation is communicated to the client in accordance with the Administrative Procedure Act. The decision is made by the chief legal officer of the Swedish Prison and Probation Service. If the inmate requests a review of this decision a review decision is made by the director of the prison and remand prison. This decision can be appealed to an administrative court.

Chapter 2, Section 4 of the Imprisonment Act (2016:610) stipulates that a decision on placement in a high security unit must be reviewed as often as there is cause, but at least once a month. Before the monthly review the prison prepares a statement that the inmate has an opportunity to comment on. The inmate is also given an opportunity, if he or she so wishes, to send his or her own statement to the placement section. After the introduction of the new process for placement in a high security unit (2015) an in-depth risk assessment is made twelve months after the first risk assessment and thereafter regularly every six months. The inmate must be informed of the approved in-depth risk assessment. This risk assessment is to help clarify for the inmate the risk factors that influence his or her placement in a high security unit. It is also to be an aid for the staff in the high security unit by drawing attention to the risks and needs that

should be given priority. The decision on the monthly review is made by the head of the placement section. The inmate can request review of the decision. A review decision is made by the chief legal officer. After review the inmate can also appeal the decision to an administrative court.

The Swedish Prison and Probation Service is currently further developing the form of the decisions to further increase their quality. The objective includes making it clearer to the client how the prerequisites for placement in a high security unit are met.

Statement by the Parliamentary Ombudsman
The Parliamentary Ombudsman (JO) in two decisions (2014 and 2016) has drawn attention to the Prison and Probation Service's processing of decisions concerning inmates of high security units. As recently as on 29 February 2016 (ref. no. 3021-2015), the Service was criticised for lack of reporting of analyses and assessments in the monthly review decisions. However, the Parliamentary Ombudsman also calls into question the statutory requirement for monthly review. The Parliamentary Ombudsman will continue to follow the questions concerning decisions on placement in high security units.

Recommendation
- Further, the Committee recommends that prisoners placed in a high security unit be offered more opportunities for association (paragraph 61).

Capacity utilisation in the high security units has at times been low. This circumstance means, on the basis of the need to separate inmates, that it may be difficult for the Prison and Probation Service to meet the socialising needs of inmates through social interaction with other inmates. A balance must be found between on the one hand the considerations that led to placement in a high security unit to start with, and the need to maintain appropriate client constellations, as well as on the other hand, the right of the inmate to spend time with others. However, the Swedish Prison and Probation Service is working actively to mitigate harmful effects that may arise from deprivation of liberty and is therefore taking measures to bring about as far as possible interpersonal contacts in several different respects.

The employment rate in the high security units is lower than that of the general employment rate, which is about 80 per cent. The Government's perception is that it is unsatisfactory that the Prison and Probation Service does not achieve a higher employment rate. The Swedish National Council for Crime Prevention (Brå) has therefore been instructed by the government to map the extent and nature of employment for different groups of inmates at different prisons,

including institutions of different security categories, as well as the factors that steer the employment assigned to the inmates. Brå published its report in November 2015 ("Arbete, utbildning och behandling i svenska anstalter" – Work, education and treatment in Swedish prisons). The findings of the report include the facts that many inmates do not have enough to do, that there is no holistic view of the function and focus of employment and that the inmates' needs do not always guide the choice of employment. Brå also proposed several measures in these areas, including increasing exchange of experience within and between prisons, striving for a more learning environment and conducting a continuous dialogue on the extent of the work shortage. Brå also conducted several seminars at the Prison and Probation Service based on the report. The Government hopes that Brå's report and seminars on that theme will form a sound basis in the work of the Prison and Probation Service to develop employment in prisons and also in remand prisons.

IV. Conditions of detention for general prison population

a. remand prisoners

i. material conditions

Recommendation
- the CPT recommends that steps be taken at Falun and Kronoberg remand prisons to ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night) (paragraph 62).

Falun Remand Prison
According to the Swedish Prison and Probation Service the night-time staffing at Falun Remand Prison was augmented at the turn of the year 2015/2016, raising the night-time service level.

Kronoberg Remand Prison
At Kronoberg Remand Prison staff also work at night in the corridors where the inmates' rooms are. The opinion of the staff is that they are sufficiently staffed to be able to open the rooms to allow the inmates to visit the toilet without delay. Since 1 February 2016 there has been a care unit at Kronoberg Remand Prison for inmates with somatic complaints that may for example necessitate frequent visits to the toilet. There are toilets in all the rooms in that unit.

Comment
- the CPT invites the Swedish authorities to reflect upon ways to address the problem of access to natural light in some of the cells at Malmö and Växjö remand prisons (paragraph 62).

Malmö Remand Prison
At the remand prison in Malmö the inmates can regulate inflow of natural light in their rooms through a lever in the inside window. However, the outside window has a blind that is angled to prevent people seeing in. It is possible to regulate inflow of natural light but not to freely regulate what can be seen through the window.

Växjö Remand Prison
At the remand prison in Växjö the inmates cannot, however, regulate the inflow of natural light as the blinds must be adjusted by the staff. The inmates can only regulate the inflow of light with the help of the curtain in their room.

Statement by the Parliamentary Ombudsman
The Parliamentary Ombudsman has for several years drawn attention to the issue of the ability of inmates to themselves regulate the inflow of natural light. Most recently, in a decision in 2015 (ref. no. 7173-2014), the Parliamentary Ombudsman stated the following:

"In my opinion the Prison and Probation Service should make a complete inventory of all facilities (both remand prisons and prisons) to ensure that inmates are given the right to be able to see out through the windows in the rooms where they live and to be able to regulate the inflow of light themselves. Moreover, the examination should include the Service's exercise yards. This inventory also seems necessary to ensure that the measures taken to prevent people looking in etc. are appropriate and entail as little restriction as possible on the inmates' rights. This inventory should be completed in 2016, and the Swedish Prison and Probation Service should then report back to me on the situation and any measures the Service has taken or plans to take."

Work is currently in progress in the Prison and Probation Service to review and ensure such things as the possibility of inmates themselves to regulate the inflow of natural light in the rooms where they live.

Recommendation
- the CPT recommends that the Swedish authorities take steps to ensure that outdoor exercise facilities in all remand prisons visited are sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space), less oppressive in design (e.g. allowing a horizontal view) and, as far as possible, located at ground level
(paragraph 63).

Statement by the Parliamentary Ombudsman
In a decision in 2015 (ref. no. 7173-2014) the Parliamentary Ombudsman (JO) drew attention to the matter of the design of the exercise yards at remand prisons. JO states the following:

"An important principle is that the purpose of the Prison and Probation Service's exercise yards should not only be to enable the inmates to get fresh air. Apart from that, the exercise yards should be so designed as to enable the inmates to exercise. In addition, a visit to an exercise yard should be a change of environment that contributes to offsetting the negative consequences of deprivation of liberty. The latter is particularly important as regards the exercise yards used by inmates who are not allowed to visit together. In view of this, in my opinion it is not acceptable for segregating exercise yards to be designed as closed rooms with a roof grating. Unfortunately, it is not entirely unusual for exercise yards to be designed in that way or restricted so much that it is only possible for the inmate to see parts of the sky. For an exercise yard to fulfil all the functions that can reasonably be required it must be possible for the inmates to observe their surroundings from the exercise yard."

See further in JO's statement given in part under the response to p. 62.

Measures by the Swedish Prison and Probation Service
The remand prisons in Sweden are, with a few exceptions, located in urban environments where there are no spaces available near the centre. Location at ground level also involves increased risk of being able to see in, which has a negative effect on inmates' privacy, and also a worse view and greater need for security measures.

At the time of every new construction or conversion of exercise yards the Swedish Prison and Probation Service endeavours to maximise the area per exercise yard, taking into account such things as the number of yards needed, logistics, work environment, possibility of supervision for staff, maximised possibility to see out and current building requirements. Designing exercise yards with a view to creating a less hard environment is a stated ambition of the Swedish Prison and Probation Service. It can be seen for example in the renovation of the Kronoberg Remand Prison through the erection of larger windows and walls with coloured acoustic panels. The Prison and Probation Service plans to review all its exercise yards. A decision will be made on the matter in the near future, to be reported on in the autumn.

V. Persons held in prisons pursuant to aliens legislation

Recommendation
- The CPT recommends that the Swedish authorities put an end to the practice of placing persons detained under aliens legislation in penitentiary establishments and accommodate them in centres specifically created for that purpose.
- Pending this, the Committee recommends that steps be taken to ensure that foreign nationals transferred to the special unit at Norrtälje Prison are offered more organised activities, including work, education and sports (paragraph 72).

The Prison and Probation Service has set up separate units for detained foreign nationals, which has meant better treatment for them compared with being confined in units where those convicted or suspected of crimes are also held. They have then been able for example to have full freedom to use the telephone and internet and receive visitors. The question of how placements of detained foreign nationals in the Prison and Probation Service can be avoided has been reviewed by an Inquiry Chair, who submitted certain proposals in this respect in February 2011 (Swedish Government Official Reports SOU 2011:17). The proposal is being processed by the Government Offices.

The unit for detained foreign nationals at Norrtälje prison was closed on 23 June 2015 after extensive vandalism. The unit will open as an ordinary custodial unit of the prison after repairs. During the time when the unit for detained foreign nationals was open the Norrtälje Prison was well aware that the lack of employment created understimulation and they were working to find a solution.

Recommendation
- the CPT recommends that the Swedish authorities carry out an independent inquiry into allegations on collective disciplinary sanctions (paragraph 73).

The Prison and Probation Service vigorously refutes the claim that the Service's staff placed detained foreign nationals in isolation as part of a disciplinary measure or collective disciplinary sanction.

Chapter 11, Section 2, third paragraph of the Aliens Act (2005:716) stipulates that for treatment of an alien that under Chapter 10, Section 20 has been placed in a prison, remand prison or police custody, the Act on Detention (2010:611) is applicable to the extent appropriate. The alien must, apart from what follows from the Act on Detention, be given the opportunity to contact people outside the facility and also in other respects be granted the relief and privileges that can be allowed taking into account order and security within the facility.

Under Chapter 2, Section 5 of the Act on Detention an inmate must be allowed to spend daytime hours with other inmates (communal activities), unless
1. the inmate is placed in another police detention facility than a remand prison and the local conditions do not allow communal activities,
2. for reasons of security it is necessary to keep the inmate separate from other inmates, or
3. it is necessary to carry out a physical examination.

The Swedish Prison and Probation Service considers that in the event of a violent incident in a unit with several people involved it may sometimes be necessary – under the provisions of Chapter 2, Section 5, 2 of the Act on Detention – for reasons of security to keep the detainees separate from each other, partly to secure any evidence for further investigation and police report, partly to investigate the reasons for the violent incident. The conflicts at the unit for detainees were generally speaking multi-dimensional to a greater extent than at other units of the prison, which influenced the way investigations of the incidents at the unit in several cases needed to be handled, i.e. by separating the inmates.

The Prison and Probation Service, after taking the CPT's recommendation into account, has made the assessment that a special inquiry would not shed light on any new aspects.

Recommendation
- the CPT recommends that the Swedish authorities take measures to ensure that all detained foreign nationals transferred to the Prison and Probation Service establishments are fully informed of their situation, their rights, and the procedure applicable to them in a language they understand. This should be ensured by the provision of clear verbal information upon admission, to be supplemented at the earliest opportunity by a written form.
- The form should be available in the languages most commonly spoken by those detained under aliens legislation, and should contain information on detainees' rights, house rules and applicable procedures. The establishments' house rules should be translated in a variety of languages and posted around the detention areas (paragraph 75).

After the CPT's visit and as a direct consequence of the criticism concerning lack of information to detained foreign nationals, the Swedish Migration Agency has drawn up written information material (see Annex 4). Apart from Swedish, the material has been translated into the most commonly spoken languages (Arabic, Dari, English, Northern Kurdish, Mongolian, Russian, Somali, Sorani and Tigrinya). If necessary the material is translated to other languages, which takes a few days.

Information material, concerning for example regulations, are translated in the Swedish Prison and Probation Service to several languages (English, Russian, Arabic and Spanish). The Prison and Probation Service shares the opinion of the CPT that this information should be available in the languages necessary. If information is not available in the required language it is communicated through an interpreter or staff with a good knowledge of languages.

See also the response under p. 102.

Information
- The Committee would also like to be informed whether there is a mechanism of periodic review of the detention of foreign nationals in establishments of the Prison and Probation Service (paragraph 75).

There is currently no statutory obligation for the agencies to review decisions on placement in the Prison and Probation Service. However, according to its written procedures, the Swedish Migration Agency visits detained foreign nationals placed in Prison and Probation Authority establishments for security reasons once a week and investigates whether there are still grounds for the placement or if the alien can be taken back to an ordinary place of confinement. The Inquiry Chair who reviewed the questions concerning migration detention centres has proposed a legislative amendment (Swedish Government Official Report SOU 2011:17). According to the proposal, a decision on placement in a Prison and Probation Service establishment will have to be reviewed as often as there is cause, though at least every other week. The proposal is being processed by the Government Offices.

VI. Health-care services

Recommendation
- steps should be taken in all the establishments to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends (paragraph 77).

To ensure the presence of staff who can give first-aid treatment, all prison and probation staff working close to clients receive instruction in emergency treatment as part of their basic training. All staff are also trained in cardio-pulmonary resuscitation. Emergency treatment is practised annual via electronic training and cardio-pulmonary resuscitation with an instructor.

Recommendation
- the CPT recommends that the Swedish authorities increase the presence of general practitioners at Malmö Remand Prison (at least to the equivalent of a half-time position), Sollentuna Remand Prison and

Saltvik Prison (both to at least the equivalent of a full-time position) (paragraph 77).

Malmö Remand Prison
The general practitioner engaged by the Malmö Remand Prison has stated that the time allocated is sufficient to enable him to meet the inmates' medical care needs. He is also available by telephone. It can also be added that the remand prison has several very experienced nurses in service.

Sollentuna Remand Prison and Saltvik Prison
Regarding the Sollentuna Remand Prison and the Saltvik Prison the Swedish Prison and Probation Service assesses that the establishments have sufficient access to health and medical care staff to meet requirements. See previous accounts of legislation, division of responsibility and general health and medical care under p. 18.

Recommendation
- the CPT recommends that the Swedish authorities improve the access to dental care at Falun and Växjö prisons, as well as the quality of dental care at Malmö Prison (paragraph 77).

General comments
There are dental care facilities at several prisons. At those establishments dentists are procured as independent care providers. These dentists normally hold a clinic one day a week. In addition, an emergency dentist is used if acute dental care is needed. At the establishments that have no dentist premises the National Dental Service is used in accordance with the normalisation principle. In general there is good access to dental care.

Inmates in acute need of a dentist write a request that is considered by the head of the facility. Acute need refers for example to alleviating pain caused by caries, a lost filling, trauma or acute infection in a tooth, jaw, periodontal tissue or mucosal lesions (Chapter 1, Section 16 of the Swedish Prison and Probation Service regulations KVFS 2011:1 and KVFS 2011:2).

Falun and Växjö remand prisons
At the Falun Remand Prison, if the request is granted, the dentist on call is contacted to book an appointment. At the Växjö Remand Prison the emergency medical centre is contacted, which includes dentists, for an emergency appointment. Transportation takes place as a rule within one day of the request.

Malmö Remand Prison
As regards dental care for inmates at the Malmö Remand Prison transportation to a dentist can be daily if the need arises. The dentist

determines the treatment needed on the basis of the complaint the inmate is suffering from.

Recommendation
- the CPT recommends that steps be taken to improve access to psychiatric care and psychological assistance in all the prisons visited. The Committee would also like to receive confirmation that a psychologist has now been recruited at Växjö Remand Prison (paragraph 78).

General comments
In general, primary care is the first line of psychiatry in Swedish health care. If an in-depth psychiatric assessment is necessary the patient is referred to a specialist in psychiatry. The same applies in the Prison and Probation Service (compare the description under p. 77). In establishments without their own psychiatrist inmates in need are referred to the public health service in accordance with current legislation.

Falun Remand Prison
Within region north, to which Falun Remand Prison belongs, the number of psychologist positions has been increased in recent years and the Prison and Probation Service has invested even more than before in neuropsychiatric examinations and treatments. The Prison and Probation Service in the region also holds regular cooperation meetings with the external care provider in psychiatry that is engaged.

Sollentuna Remand Prison
Within region Stockholm, to which Sollentuna Remand Prison belongs, inmates needing psychiatric care are referred to the Sankt Göran Hospital or the county emergency health services psychiatry for assessment or alternatively directly to the Helix Forensic Psychiatry Clinic at Huddinge hospital. A meeting with a psychologist can be set up through a nurse.

Malmö Remand Prison
The Malmö Remand Prison assesses that the access to a psychiatrist is sufficient to meet the need. As regards a psychologist, the remand prison has access to a half-time youth psychologist. There is no access to a psychologist for adults.

Växjö Remand Prison
For inmates of the Växjö Remand Prison there is the regional forensic psychiatry clinic (Sankt Sigfrid Hospital) in same town. However, the remand prison has employed a youth psychologist. The psychologist will be at the remand prison one day a week.

Recommendation
-The Committee recommends that the Swedish authorities develop and implement a comprehensive policy for the provision of care to prisoners with drug-related problems. Specific training on this subject should be organised for the prisons' health-care staff (paragraph 80).

General comments
Active and goal oriented work in the Prison and Probation Service has led to very limited occurrence of drugs in the remand prisons and prisons.

The government has approved a strategy for alcohol, narcotics, doping substances and tobacco policy, called the ANDT strategy. The strategy covers the period 2016–2020 and replaces the strategy approved for the period 2011–2015. The overall objective is a society free from narcotics and doping, with a reduction in medical and social harm caused by alcohol and a reduction in tobacco use. An action programme that specifies the initiatives that will contribute to reaching the objectives determined in the ANDT strategy is published annually. The Public Health Agency of Sweden has overall responsibility nationally and the Swedish Prison and Probation Service, along with other agencies, has been instructed to participate in the national coordination in the ANDT area as well as the follow-up of the ANDT strategy. There has been a national council for ANDT issues since 2008, where the Swedish Prison and Probation Service is represented.

In Sweden, the municipalities are the responsible authority for treatment of substance misuse. The health care system is only responsible for treatment of urgent abstinence symptoms and psychiatric complications as a result of the misuse.

Treatment of substance abuse in the Swedish Prison and Probation Service
As part of its operations the Swedish Prison and Probation Service is very active in offering necessary care and treatment for people who misuse or are addicted. In the Swedish Prison and Probation Service there are a number of evidence-based treatment programmes for inmates to participate in. Both socio-educational programmes and twelve-step programmes are run. The treatment programmes are run by specially trained prison officers, outreach staff and probation officers.
The Prison and Probation Service also offers maintenance treatment in special units of the prisons. This treatment is started in connection with release (up to a number of months before). There is also structural cooperation concerning maintenance treatment between the Prison and Probation Service and some county councils in the country.

As regards the question of initiatives such as needle exchange within the Prison and Probation institutions the need must be set against the possible security risk posed by possession of needles. An important condition for enabling the Prison and Probation Service to give inmates of prisons and remand prisons the opportunity to stop misusing and committing crimes is that the institutions are entirely free from drugs. As mentioned above, the incidence of narcotics is very low in the Swedish Prison and Probation Service institutions. The Government has therefore recently decided that it is not relevant to introduce needle exchange activities in the Swedish Prison and Probation Service. The other components of needle exchange activities, including advice, testing and vaccination, will, however, be offered to inmates of prisons and remand prisons on the same terms as other people in society at large.

The Prison and Probation Service conducts outreach activities at the remand prisons that aim for example to identify the need for, provide information about and motivate inmates with substance abuse problems to participate in relevant initiatives that can then continue in the prison. The health and medical care services at the remand prisons inform new clients about hepatitis and HIV. All remand prisoners are offered vaccination and testing for hepatitis and HIV. The same applies when inmates are placed in a prison.

There is education in knowledge of drugs and substances. Nurses that work within the Prison and Probation Services are given a course in "correctional medicine" that includes the science of addition. In procurement procedures experience of caring for addicts is regarded as an extra merit for both psychiatrists and general practitioners.

Apart from treatment in the prisons, inmates can be granted what is called a stay in care under the provisions of Chapter 11, Section 3 of the Imprisonment Act (2010:610). The inmate then undergoes treatment in a treatment centre outside the Prison and Probation Service. This treatment is often a part of a gradual release and the inmate has often taken part in treatment programmes run by the Prison and Probation Service first.

Recommendation

- The CPT recommends that the Swedish authorities take the necessary steps to ensure that all prisoners (including those transferred from another prison) are subjected to a medical screening (including screening for tuberculosis for inmates entering the prison system) by a health-care professional as soon as possible and no later than 24 hours after their admission (paragraph 81).

A person who is remanded in custody or reports for enforcement at a prison undergoes extensive medical examination by a nurse on arrival or at the latest on the following working day.

At the time of registration the staff also conducts suicide screening for the purpose of being able to take any necessary measures.

Recommendation
- The CPT calls upon the Swedish authorities to review the existing procedures in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities (e.g. the prosecutor), regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

As regards the content of the record to be drawn up after the medical screening, reference is made to the recommendation in paragraph 14 above, which is fully applicable here. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

/.../The Committee calls upon the Swedish authorities to take steps to ensure that the practice in all prisons is brought into line with the above considerations (paragraph 82).

The Prison and Probation Services registers all incidents in an incident reporting system (ISAP). The intention of the system is to collect all incidents that occur in the operations. This includes violations against an inmate. On the basis of the reporting, the Prison and Probation Service takes the necessary measures.

If a violation of the kind referred to here has taken place on the premises of the Prison and Probation Service, it is reported to the police. It is the task of the police to investigate the violation by means of a preliminary investigation. The Prison and Probation Service must assist in protecting and collecting the clues and verbal information that may exist for the preliminary investigation. If there is an incident it is the duty of the security officer to bring equipment for initial preservation of evidence and to take measures to protect evidence.

A person remanded in custody or reporting for enforcement at a prison is examined on arrival in accordance with the procedures for reception (see also the response under p. 81). The Swedish Prison and Probation Service has considered supplementing the reception procedure to include, if the client consents, a full inspection of the skin.

It is possible to document injuries, including the client's own account, in the client's medical case record. There is also a drawing of a human body where injuries can be marked. In the context of the Prison and Probation Service health and medical care, secrecy applies to

information about an individual's health or other personal circumstances unless it is manifestly evident that the information may be disclosed without the individual or a person closely related to him or her being harmed, see Chapter 25, Section 1 of the Public Access to Information and Secrecy Act (2009:400). In view of the statutory health and medical care confidentiality, medical staff are limited in being able to submit police reports against the wishes of the inmate. In order to set aside confidentiality, it must be a matter of a crime committed for which the lowest prescribed sanction is imprisonment for one year (for example gross assault).

Recommendation

- The CPT recommends that the Swedish authorities take the necessary steps to ensure that the distribution for prescription medicines is carried out in a manner respectful of medical confidentiality and only by qualified staff (paragraph 83).

Provision of medication to an inmate is not the responsibility of health and medical care but is based on the principle that this is self-care, as in society as a whole. Prison officers do not distribute medication but make it available to the inmate. The inmate must take the sachet or empty it from a dosett compartment himself or herself unless he or she wishes otherwise.

A nurse is responsible for putting the medication in the correct order as prescribed. The Prison and Probation Service is responsible for allowing the inmate access to his or her medicine that the nurse has dispensed. Prepared medication is kept and given to the inmate by prison staff.

It is the responsible assistant governor (first line manager) who assigns the task of provision of medication to prison officers and is responsible for ensuring that these officers receive adequate training by the nurse at the facility. The training is repeated once a year. The assistant governor is responsible for ensuring that there are procedures for collecting dosetts from the health care clinic. The time and day for collection is agreed with the nurse. Handing over of the dosett is to be signed for by the prison officer when collected from the health care clinic.

Recommendation
- The Committee recommends that the Swedish authorities take measures to ensure that prisoners are able to have access to the prison's health-care service on a confidential basis, and that medical information regarding individual prisoners is not available to non-medical staff (paragraph 84).

All inmates have the opportunity to request contact with the health care clinic at the prison or remand prison in a confidential way through a sealed communication.

VII. Other issues of relevance for the CPT's mandate

a. security related issues

Recommendation
- The CPT recommends that the Swedish authorities take steps, including if required of a legislative nature, to review the role of health-care staff in the context of segregation of prisoners. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011)28) (paragraph 88).

It follows from the provisions and statements that the CPT refers to that health and medical care staff must direct particular attention to the health of inmates placed in segregation, visit them daily and provide medical help and treatment at the request of the inmate or the staff.

It follows from Chapter 6, Section 10 of the Imprisonment Act (2010:610) that an inmate kept segregated from other inmates due to his or her violent behaviour or endangering his or her own safety must be examined by a doctor as soon as possible. An inmate that is kept in segregation from other inmates for other reasons must be examined by a doctor if necessary on account of his or her state of health, though at least once a month.

Under Chapter 9, Section 1 of the Imprisonment Act, an inmate needing health or medical care must be treated in accordance with the instructions of a doctor. If the inmate cannot be examined or treated appropriately in the prison, the public health service must be used. Under Section 25 of the Imprisonment Ordinance (2010:2010) every prison must have access to a licensed physician and staff with appropriate healthcare training. It follows from Chapter 9, Section 3 of the Swedish Prison and Probation Service prison regulations (KVFS 2011:1) that in the event of acute illness or injury an inmate must immediately receive treatment.

As is presented above, there are special provisions in the Imprisonment Act that focus on the health and medical care needs of inmates. The Swedish regulation is assessed to be well balanced and fully adequate in meeting the actual need for the presence of medical staff when there is segregation. In this context it should be emphasized that the prison officers who have daily contact with an inmate placed in segregation normally identify the need to contact health and medical care staff.

Recommendation
- the Committee wishes to stress that, in principle, restraint beds should not be used in a non-medical setting (paragraph 90).

Section 6 of the Imprisonment Act (2010:610) stipulates that a control or coercive measure may only be used if it is in reasonable proportion to its purpose and that if a less intrusive measure is sufficient that must be used. Restraint belts are only used in extremely exceptional cases in the Swedish Prison and Probation Service and are used only for the purpose of overcoming violent resistance or preventing the inmate from hurting himself or herself. Restraint belts are always a last resort when other measures have proved insufficient.

Recommendation
- The CPT recommends that the Swedish authorities take the necessary steps (including through legislative and/or regulatory amendments and through appropriate training for staff) to ensure that all the principles and minimum safeguards set out above are applied in prisons whenever resort is had to mechanical restraint (fixation) (paragraph 91).

The Swedish Prison and Probation Service's use of mechanical restraint is regulated in law. Mechanical restraints are mainly used as an aid to the Prison and Probation Service to fulfil its remit to ensure that inmates do not abscond and to maintain order and security. The use of mechanical restraint is always considered in each individual case and must be preceded by an assessment of whether the measure is necessary and proportionate (cf. Chapter 1, Section 6 of the Imprisonment Act [2010:610] and Chapter 1, Section 6 of the Act on Detention [2010:611]).

In addition to what follows from acts and ordinances, there are guidelines in the Prison and Probation Service security manual that specify in more detail in which situations and in what way mechanical restraint may be used.

The principles and minimum levels the CPT describes are well in line with the current regulatory framework. The local facilities are responsible for ensuring that staff are trained in the correct use of the equipment in question and that the staff follow the instructions in the security manual.

The CPT specifies a minimum requirement that there must be a special register for documentation of events of the kind in question. The Swedish regulations are deemed to fulfil the CPT's requirements in so far as there is a documentation requirement.

If an inmate is mechanically restrained, the measure must be documented. The documentation must show the reasons for the measure, the type of restraint, when the inmate was mechanically restrained, when the restraint was removed, and if the inmate was examined by a doctor (Section 24 of the Imprisonment Ordinance [2010:2010]).

If it is a matter of using mechanical restraint during transportation, for example, the documentation is in the decision on transportation, for example in connection with the security assessment made. The decision is documented in the client administrative system (KVR). If it is a matter of using mechanical restraint due to an incident that required an intervention, the documentation is in the event report prepared in connection with the incident. The event report is also documented in KVR.

Recommendation
- If such a practice does exist, it should be terminated immediately (paragraph 92).

There is no evidence that the measures mentioned have taken place at the Malmö Remand Prison. Section 4 of the Imprisonment Act (2010:610) stipulates that each inmate must be treated with respect for their human dignity. Respect for the individual is central to the operations of the Swedish Prison and Probation Service.

Recommendation
- The Committee recommends that the Swedish authorities take the necessary measures to ensure that every instance of use of force/special means is recorded in a dedicated register, established for that purpose. The entry should include the times at which the use of force/special means began and ended, the circumstances of the case, the reasons for resorting to force/special means, the type of means used, and an account of any injuries sustained by inmates or staff. In addition, any intervention by the special task team should be video recorded (paragraph 93).

There is currently no documentation requirement for the actions of the emergency team/special task team to be video recorded. However, due to the extensive use of camera surveillance in Prison and Probation Service premises, in practice interventions by the special task team are often captured on film. The material from the camera surveillance is available when investigating incidents.

At the facilities, incidents of this kind are handled by an emergency team or special task team led by a security officer taking necessary measures directly on site. The security officer reports directly to an officer on duty, who is stationed at a surveillance centre/emergency centre staffed with emergency operators. These functions are adapted according to the security classification of the prison and other conditions. According to the guidelines in the Prison and Probation security manual the security officer's duties include ensuring that routine notes are made of observations and action taken at the site of the event.

If an event escalates into a larger incident, the officer on duty reports to the governor, who activates an incident management group. The incident management group is set up on the basis of the extent and type of incident and the current staffing situation. The incident management group gradually forms a team grouped by function that works methodically in accordance with approved plans and assessment and decision templates. When an incident management group is activated a running log is kept in which all important time intervals are recorded.

Incidents concerning threats and violence are reported in the Prison and Probation Service incident reporting system (ISAP).

Recommendation and comment
- The CPT recommends that the rules and regulations concerning the use of pepper spray in a prison setting be amended accordingly (paragraph 94).
- If it is considered necessary for custodial staff to be equipped with truncheons, the CPT recommends that they be hidden from view (paragraph 95).
- the Committee invites the Swedish authorities to phase out the carrying of truncheons by custodial staff in detention areas (paragraph 95).

General comments
It follows from Chapter 24, Section 2 of the Swedish Penal Code (1962:700) that if a prison inmate or a person who is remanded in custody, arrested or otherwise deprived of their liberty escapes or offers resistance through violence or threat of violence or otherwise offers resistance to someone who is in charge of him and is responsible for seeing that he behaves, such force as is justifiable in view of the circumstances may be used to prevent the escape or to maintain order.

Chapter 1, Section 6 of the Imprisonment Act (2010:610) stipulates that a control or coercive measure may only be used if it is in reasonable proportion to its purpose. If a less intrusive measure is sufficient that must be used.

Pepper spray
Section 4 of the Prison and Probation Service regulations and general advice on the use of pepper spray (OC spray) in the prison system (KVFS 2009:7) stipulates among other things, the following. The head office decides at which facilities pepper spray may be used. The governor at these facilities decides after consultation with the security group at the head office which officers may be issued with pepper spray. It is issued primarily to officers holding purely security positions and the security officer. In other respects allocation must be restrictive.

Pepper spray may only be issued to officers who have successfully completed training for officers in how pepper spray must be handled (Sections 6 and 7 of the Swedish Prison and Probation Service regulations and general advice on the use of pepper spray). When these officers carry pepper spray it must be concealed and easily accessible for the bearer in a holster specially designed for the purpose (Section 8 of the same regulations).

Under Section 9 of the same regulations an officer who has been issued with pepper spray may use it in situations referred to in Chapter 24, Section 2 of the Penal Code (see above) in order to implement a service measure, if justifiable in view of the circumstances. Pepper spray may only be used where other methods are not deemed to be sufficient or appropriate to handle the situation. Use of pepper spray must take into consideration the pain and discomfort the measure entails for the person exposed to the spray. A person subjected to pepper spray must, under Section 10 of the same regulations, have the spray washed off as soon as possible (cleaning).

According to Section 12 of the same regulations, when an officer has used pepper spray he or she must as soon as possible inform the immediate superior and prepare a written account of the circumstances of the intervention and the reasons for using pepper spray. The account must be submitted to the governor, the regional manager and the head office. The governor must assess whether the use of pepper spray was justified. If the governor considers that the use of pepper spray was not justified, he or she must state the action that should be taken in response. The head office will exercise special control over how pepper spray is used within the prison system. As part of the control, the head office must follow up each individual use of pepper spray. At the follow-up an assessment must be made of whether the use was justified. The head office will inform the facility of its assessment of the use and the circumstances around this. Experiences from the head office's follow-up activity are to be disseminated to the facilities via the regional offices, as well as being applied in activities referred to in Section 7. The head office must also make an annual summary of all use of pepper spray.

In light of the above, it is regarded that the Swedish Prison and Probation Service meets the CPT's requirements, i.e. that pepper spray should not be standard equipment and that pepper spray should not be used against an inmate already under control. The use of pepper spray is also deemed to be regulated and governed in an appropriate way through the Service's guidelines, instructions and training support.

Telescopic truncheon
Under current guidelines in the Swedish Prison and Probation Service security manual, staff working close to clients must carry a telescopic truncheon in their trouser leg pocket so that it is hidden from inmates under normal circumstances and where no particular extraordinary security measures are required. Carrying telescopic truncheons in the holster designed for the purpose must only be after considering the risk of the truncheon being taken from the officer in the day-to-day work situation. As examples can be mentioned work in a unit where the duties include frequent measures such as moving of inmates, constant opening of doors and distributing food.

b. contact with the outside world

Recommendation
- The CPT recommends that the Swedish authorities eliminate the above mentioned legal lacuna and adopt provisions concerning the visiting entitlement for prisoners, taking into account the above-mentioned remarks (paragraph 96).
- the CPT recommends that the Swedish authorities take measures to ensure that all remand and sentenced prisoners are able to receive visits from their family members under reasonably open conditions, except when there is a clear security concern (paragraph 97).

Under Chapter 7, Section 1 of the Imprisonment Act (2010: 610) an inmate may receive visitors to the extent appropriate. However, a visit may be refused if it
1. may jeopardise security in a way that cannot be remedied by means of control under Section 2 or 3 of the same chapter (i.e. that staff supervise the visit, the visit takes place in a visitors' room that is designed to make it impossible to hand over any articles or that the visitor is subjected to a body search or external physical examination),
2. may counteract the inmate's adaptation to life in the community, or
3. otherwise may harm the inmate or another person.

Under Chapter 3, Section 1 of the Act on Detention an inmate may receive visitors to the extent appropriate. However, a visit may be refused if it may jeopardise security in a way that cannot be remedied by means of control under Section 2 or 3 of the same chapter (i.e. that

staff supervise the visit, the visit takes place in a visitors' room that is designed to make it impossible to hand over any articles or that the visitor is subjected to a body search or external physical examination).

It follows from Chapter 7, Section 1 of the Swedish Prison and Probation Service regulations on prisons (KVFS 2011:1) and Chapter 3, Section 1 of the Swedish Prison and Probation Service regulations on remand prisons (KVFS 2011:2) that when allocating visiting times, visits from close relatives must have priority. When allocating times for visits in visiting apartments at a prison, visits of children must have priority. In other respects, priority must be given to visits to inmates in prisons who are serving a long sentence and who cannot be granted home leave.

The Swedish Prison and Probation Service regulations on prison also stipulate that when an inmate's visit is to be supervised due to the risk of handing over a prohibited article, a visiting room with a glass panel is to be used if such a room is available and there are no reasons against it. There may be reasons against conducting a visit in a visiting room with a glass panel, for example for a child's visit. The inmate and visitor may only have body contact if there are special reasons, for example if the visitor is a child.

The legislative comments on Chapter 7, Section 1 of the Imprisonment Act (govt. bill. 2009/10:135, p. 143) state the following on the provisions concerning visiting. The basic premise of the provisions is that an inmate's right to contact with the outside world through visits is of great importance in terms both of minimising the isolation associated with the deprivation of liberty, and of making and maintaining contact with relatives and others outside the prison. In accordance with this, the legislation states that an inmate may receive visits to the extent that visiting can be conveniently arranged. The expression 'can be conveniently arranged' concerns practical conditions for the visit, for example with regard to the routines of the prison and the availability of staff and visiting rooms. The assessment should take account of the fact that it is important that children are given the opportunity to visit parents in prison, if this is in the best interests of the child. The regulations make it possible for the Prison and Probation Service to refuse visits that may in some way jeopardise security at the prison, or in some way have a negative impact on the inmate's adaptation to life in the community. The grounds for refusing visits should be applied restrictively. There are strong humanitarian arguments against refusing an inmate visits from a close relative, for example husband, wife, partner or parent, particularly as the Swedish Prison and Probation Service can counteract risks by subjecting the visit or the visitor to controls.

The lack of a statutory absolute right to a certain visiting time for inmates is not deemed to be an expression of a legal lacuna. The

starting point of the legislator has been to create a provision that expresses a far-reaching right to visits, with few grounds for refusal that are to be applied restrictively.

It should be added that the work of the Swedish Prison and Probation Service to develop ICT facilities for inmates will provide opportunities for contact with close relatives in ways other than physical visits.

Recommendation and comment
- the CPT recommends that the Swedish authorities make the necessary arrangements to ensure that prisoners have access to a telephone without disproportionate restrictions and delays (paragraph 98).
- The CPT invites the Swedish authorities to reflect upon possible solutions to this problem (cost of phone cards), such as VoIP (Voice Over Internet Protocol), whether through a telephone company or computer to computer (paragraph 99).

General comments
Under Chapter 7, Section 4 of the Imprisonment Act (2010: 610) an inmate may be in contact with another person through electronic communication, including telephone, to the extent appropriate. This communication may, however, be refused if it
1. may jeopardize security in a way that cannot be rectified by means of interception under Section 5 of the same chapter (i.e. that staff intercept the communication if necessary for security reasons and has been notified in advance),
2. may counteract the inmate's adaptation to life in the community, or
3. otherwise may harm the inmate or another person.

Under Chapter 3, Section 4 of the Act on Detention (2010: 611) an inmate may be in contact with another person through electronic communication, including telephone, to the extent appropriate. This communication may, however, be refused if it may jeopardize security in a way that cannot be rectified by means of interception under Section 5 of the same chapter (i.e. that staff intercept the communication if necessary for security reasons and this has been notified in advance).

Existing systems within the Swedish Prison and Probation Service
Inmates are able to make telephone calls through a specially controlled telephony system (INTIK, Inmates' telephony in the Prison and Probation Service). The INTIK system is designed for fixed analogue subscriptions and for such subscriptions the system functions in such a way that if the recipient's telephone is re-routed or an attempt is made to connect to a three-way call the call is terminated. The system does not, however, prevent prohibited re-routing of calls when using IP telephony. The Prison and Probation

Service has therefore prescribed certain restrictions on such calls. Under Chapter 7, Section 12 of the Swedish Prison and Probation Service regulations on prisons, an inmate of a prison in the highest security class (1) may not make calls to IP telephony in the INTIK system. There is no corresponding ban for inmates of prisons in security classes 2 and 3. The security requirements in these prisons are not normally high enough for the Prison and Probation Service to deem that there are grounds for an absolute ban on calls to IP telephony in these prisons. However, there are similar security risks associated with mobile telephony. A mobile phone or a SIM card can easily be passed to a person other than the one the Prison and Probation Service has performed a background check on. When an inmate wishes to call to an IP telephone (security class 2 and 3) or a mobile phone the Prison and Probation Service assesses the risk of the inmate misusing the permission and the risk of the call recipient being a party to the misuse. The risk assessment is made on the basis of what is known about the inmate, the person the inmate wishes to contact and the relation between them. Normally the risks of granting permission weigh more heavily the higher the security class of the prison.

Before an application for a visit or permission to make telephone calls is considered the person an inmate wishes to contact must normally be asked if he or she consents to the contact. When consent is received the Prison and Probation Service must make an assessment of whether the visit or contact should be approved. The length of time such consideration takes depends on both personnel resources and postal services as well as the number of applications submitted at the time. The Prison and Probation Service always endeavours to consider an application as soon as possible and to give a decision to the inmate promptly. Before making a decision on a telephone permit, or if it has been decided that calls within INTIK cannot be granted, it is possible to allow calls outside INTIK. However, calls outside INTIK always require some staff participation.

The ability of the Swedish Prison and Probation Service to intercept inmates' calls is regulated and limited by law. In addition, the possibilities of interception are further limited in terms of resources. This applies to interception both in real time and after the call has been made.

Ongoing development work in the Swedish Prison and Probation Service
Work is in progress in the Prison and Probation Service to develop inmates' telephony and other electronic communication. The vision of this development work is to bring about a holistic solution for inmates' everyday digital life, in which the inmates will be able to use the technology for studies, programmes and other employment, but also for communication within and outside the Prison and Probation Service. VoIP is part of this vision. The different technical solutions

will probably be possible to put into operation by 2018. Initially digital communication will be possible within the Prison and Probation Service. As regards external communication, the solution will in the first stage probably consist of the possibility of sending and receiving email, but in the long term voice and video communication can also be possible.

The Prison and Probation Service has produced a number of technical solutions that can further reduce the problems the CPT refers to in the report. The conditions for implementing them are currently being investigated by the Service.

Comment
- The Committee would welcome the Swedish authorities' clarification of this issue (paragraph 100).

General comments
If a remand prisoner is subject to restrictions on sending or receiving correspondence the principle is that all correspondence that the Prison and Probation Service has not decided to retain (Chapter 3, Section 7 of the Act on Detention [2010:611]), must be submitted to an investigation leader or prosecutor for examination. Because of this, the postal service for remand prisoners subject to restrictions is a more prolonged process than for other remand prisoners. The Swedish Prison and Probation Service manual on inmates' correspondence in prisons and remand prisons (2015:2) stipulates that correspondence to be examined under Chapter 6, Section 2 of the Act on Detention must be forwarded to an investigation leader or prosecutor as soon as possible, at the latest by the next working day after the correspondence arrived at the remand prison or was submitted by the inmate for forwarding by post.

The above-mentioned Inquiry on pre-trial detention and restrictions (ToR 2015:80) has been instructed to take a position on whether administrative staff should be given the powers to examine inmates' correspondence. The background to the instruction is that the Public Prosecution Authority has complained that this examination can be very time-consuming, particularly in extensive investigations with long periods of pre-trial detention. Relieving the responsible prosecutor or investigation leader from this task could help to improve the effectiveness of the investigation, which in turn could lead to shorter periods of pre-trial detention.

Falun Remand Prison
At the Falun Remand Prison, the clerical officer deals daily with all post that relates to remand prisoners. Both outgoing and incoming post to remand prisoners subject to restrictions goes via a prosecutor. The clerical officer fills in the application for examination of correspondence and sends it to the prosecutor. The prosecutor goes

through the letters and makes a decision on whether the remand prisoner may receive the letter or if it may be sent. Letters that may be sent are posted directly by the prosecutor to the addressee. Letter that the remand prisoner may receive are sent back to the remand prison that in turn distributes the letter to the remand prisoner. If the remand prisoner is not subject to restrictions the letter is put directly in the letter box, or the letter is opened in the presence of the remand prisoner without delay.

Malmö Remand Prison
At Malmö Remand Prison letters from remand prisoners are handed in to the office, which then on the same day or at the latest the day after, writes an application to the prosecutor and puts it in the outgoing mail. The mail arrives the next day at the prosecutor for examination. When the letter comes back from the prosecutor it is delivered to the remand prisoner the same day or at the latest the day after.

c. complaints procedures

Recommendation
- The CPT recommends that the Swedish authorities review the internal complaints procedures in prisons, in the light of the above remarks. Prisoners should be able to make written complaints at any moment and place them in a locked complaints box (to which only the establishment's Director and/or designated deputy has the key) located in each accommodation unit. All written complaints should be registered centrally within a prison before being allocated to a particular service for consideration. In all cases, internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the prison (paragraph 101).

It is naturally of importance that there are consistent procedures and structures for handling complaints from inmates, as well as there being information available on how an individual client is to act in cases where he or she wishes to make a complaint. At present the regulatory framework also provides a structure, both for individuals themselves or through, where applicable, the prisoners' representative councils, to present comments and complaints. Thus it is possible for inmates at any time to submit written complaints both to officers at local level in the respective facility and at central level at the head office, which is also done to a relatively great extent. Written complaints are registered in the client administrative system or the Service's register. A response is given to the inmate in either verbal or written form in accordance with the processing requirements that follow from the Administrative Procedure Act (1986:223). The Swedish

Prison and Probation Service regulations for prisons and remand prisons respectively, KVFS 2011:1 and KVFS 2011:2, stipulate also that if an inmate wishes to speak with a representative of the remand prison management, an opportunity must be given for this as soon as is appropriate.

The assessment of the Swedish Prison and Probation Service is, however, that there may be reasons to review how inmates receive knowledge of the channels for complaints and comments that exist, for example by ensuring that this is presented in the local facility's information to inmates.

The CPT's report recommends that inmates should be able to make written complaints at any moment and place them in a locked complaints box to which only the establishment's Director or equivalent has the key, and that the complaints should be then registered centrally and be processed by a separate function at the remand prison or prison. This is of course a possible arrangement, but the Swedish Prison and Probation Service is doubtful whether just this is the most appropriate solution for all facilities. Finally, the Swedish Prison and Probation Service would like to emphasise that a strictly formalised procedure for remand prisoners' complaints is not necessarily the most important way of counteracting frustration and anxiety among inmates. In the experience of the Swedish Prison and Probation Service, regular human contact and the opportunity for inmates to verbally ventilate their dissatisfaction is just as important.

d. foreign national prisoners

Recommendation
- The CPT reiterates its recommendation that the Swedish authorities take steps to improve the provisions of information to foreign national prisoners and to ensure that written information of the internal regulations and complaints procedures is systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand (paragraph 102).

The Parliamentary Ombudsman (JO) has drawn attention to the issue of information to inmates in several decisions and minutes. After an inspection of a prison in 2015 (ref. no. 2527-2015) JO states, among other things, that a condition for enabling inmates to assert their rights is that they are acquainted with them. An inmate must, at the time he or she is admitted to prison, be informed of the rights and obligations that he or she has, as well as the local procedures of the prison. The information must be given in a language the inmate understands. JO also expresses that the Swedish Prison and Probation Service should have a responsibility to follow up that the inmate has understood and assimilated the information. Further, JO states that it is unsatisfactory that inmates report that much of the information is

passed on by other inmates rather than by the Prison and Probation Service staff. It is the responsibility of the prison to ensure that information is provided to the inmates and that the information given is correct. In the decision JO refers to the reports from several of JO's earlier inspections. JO has also presented similar criticism, as well as highlighting the importance of information being correct and updated, in several decisions, including in 2015, referring both to prison and remand prison.

The Imprisonment Ordinance (2010:2010) and the Ordinance on Detention (2010:2011) stipulate that the Prison and Probation Service has an obligation to inform an inmate of the meaning of the detention in connection with his or her admittance to a prison or remand prison (detention facility). The inmate must be informed in a language he or she understands. This information must also be given on other occasions as soon as there is reason for it. The Swedish Prison and Probation Service regulations and general advice on remand prisons (KVFS 2011:2) and the Swedish Prison and Probation Service regulations and general advice on prisons (KVFS 2011:1) regulate the obligation to provide information in connection with the admittance of an inmate to a remand prison or a prison.

The Swedish Prison and Probation Service currently translates information material, for example rules, into English, Russian, Arabic and Spanish. Where necessary this information may be given with the help of staff with good knowledge of languages or interpreters, cf. Section 8 of the Administrative Procedure Act (1986:223). The consent form, which is sent to persons with whom an inmate wishes to be in contact on matters of visiting and telephone permits, must, however, be translated into all languages requested. An inventory of existing information material has been started for the purpose of compiling updated and coherent information in printed or digital form. The work of the Swedish Prison and Probation Service on the ICT environment for inmates will enable such information to be made available on the inmates' intranet, which would also give increased flexibility of information opportunities.

D. Psychiatric establishments

I. Patients living conditions

Information
- the CPT would like to receive confirmation that the above-mentioned refurbishment is now completed and that patients from Units 62, 63 and 64 of Växjö Forensic Psychiatric Clinic have the possibility to take daily outdoor exercise (paragraph 108).

At the Växjö Forensic Psychiatric Clinic the term gardens (*trådgårdar*) is now used to describe what were previously called exercise yards (*rastgårdar*). Patients in different security categories can no longer share a garden and therefore both premises and gardens have had to be converted. The work was started in spring 2015 and the final inspection was on 3 July 2015. All units now have an enclosed space that is accessible throughout the day and night. All units also have a garden that is accessible in the daytime. While the gardens were being refurbished and the enclosed space being built the patients could go outside in more planned forms. Patients in units 63 and 64 participated and were involved in the planning of the gardens. There are also plans to build an orangery, a place for recovery and recreation, where patients together with staff can participate in various activities. The design of this place naturally takes place in cooperation with patients who are to the greatest possible extent involved in influencing both the external and the internal care environment.

II. Treatment and staff resources

Comment and information
- the CPT invites the Swedish authorities to strive to increase the frequency and duration of psychiatric consultations at Växjö Forensic Psychiatric Clinic, in the light of the above remarks (paragraph 109).
- the Committee would like to receive confirmation from the Swedish authorities that this has now happened (paragraph 109).

Under Chapter 3, Sections 3–5 of the National Board of Health and Welfare's regulations and general advice on compulsory mental care and forensic mental care (SOSFS 2008:18), care planning under Section 16 of the Compulsory Mental Care Act (1991:1128) and Section 6, second paragraph of the Forensic Mental Care Act (1991:1129) must be started at the time of the admission decision. The care plan must form the basis of the patient's treatment in the acute stage after admission and contain the main outline of the continued care plan.

The care plan must be reviewed as soon as there is a basis for establishing a continued care plan.

The patient's participation in and influence over the care must be accommodated in the care planning. If it is not possible to prepare a care plan in consultation with the patient, the reason for this is to be stated in the plan.

The care plan must give an overall picture of the patient's medical, psychological and social needs. Moreover, the objectives of the treatment measures and other measures necessary to achieve the aim of the compulsory care must be stated in the plan.

A ministry memorandum has proposed that it should be explicitly stated in the Act that the patient must participate in the preparation of a coordinated care plan to be prepared ahead of the application or notification of outpatient compulsory care (Ministry Publications Series 2014:28, Delaktighet och rättssäkerhet vid psykiatrisk tvångsvård [Participation and legal security in compulsory mental care]). The Ministry memorandum is now under consideration in the Government Offices.

The Växjö Forensic Psychiatric Clinic considers it important, as far as resources allow, to try to increase the time each patient spends with the doctor treating them. The doctors at the clinic also regard this as important. The clinic notes that the staffing level for doctors is too low. The aim of the clinic is to avoid agency locum doctors and they are working intensively to recruit more doctors.

The clinic has been working since 15 February 2016 with a structurally based method around team-based care. A working group has planned and implemented a change in schedule intended to ensure that all professional categories can be included when planning the patient's care. Working material has been prepared to ensure that the perspective of all professional categories are taken into account in the care process.

Recommendation
- the CPT recommends that steps be taken at Växjö Forensic Psychiatric Clinic to ensure that patients' written informed consent is always sought before resorting to ECT (and that this be reflected in the relevant documentation; reference is also made to the recommendation in paragraph 123 below (paragraph 110).

Health and medical care legislation is based on voluntary participation. The patient's self-determination and privacy must be respected in accordance with Section 2 a, 3 of the Health and Medical Services Act (1982:763) and Chapter 4, Section 1 of the Patients Act (2014:821). Health and medical care may not be given without the patient's consent unless otherwise stated in the legislation. First the patient must be given the information specified in Chapter 3 of the Patient Act. Consent can be given in writing, orally or by the patient

showing in another way that he or she consents to the measure in question. The patient may also withdraw consent at any time.

If a patient forgoes certain care or treatment, he or she must be given information about the consequences this may entail (Chapter 4, Section 2 of the Patients Act). In accordance with the legislative history (govt. bill. 2013/14:106 p. 46 ff.), good and accessible information about care and treatment to the patient is a prerequisite for enabling the patient to take a position on treatment offered.

Normally it is a matter of oral consent, given when the staff consult the patient. Consent can of course also be in writing. Usually it is sufficient for the staff to draw the conclusion that consent has been given or that it is implicit. The patient can show consent to the measure through his or her behaviour, for example by facilitating it. By informing the patient of different forms of consent in information material or in other ways, unnecessary misunderstandings can be avoided.

Section 17 of the Compulsory Mental Care Act (1991:1128) stipulates that matters concerning treatment are ultimately decided by the chief medical officer. The Växjö Forensic Psychiatric Clinic assumes that the chief medical officer is trusted to determine appropriate treatment of a patient subject to compulsory mental care. Nevertheless, the clinic attempts to inform the individual patient of any side effects of prescribed treatment, which also includes electroconvulsive therapy (ECT). The clinic finds it difficult to see that written consent from a patient under compulsory mental care suffering from a serious mental disorder within the meaning of the Act would add anything. Needing to wait for written consent would also risk considerably delaying necessary therapy. However, as long as it is possible to communicate with the patient, the clinic informs the patient and takes into account the patient's opinion and views.

Comment
- the Committee invites the Swedish authorities to make efforts to involve more patients at Växjö Forensic Psychiatric Clinic – and at more frequent intervals – in therapeutic and rehabilitative activities (paragraph 112).

For patients from remand prison, prison or institutional youth care the corresponding rules concerning access to electronic communication (telephone/mobile phone and internet) apply as for the referring institution. Other patients are in principle obliged to use the clinic's mobile telephones or book computer times. Patients with individual restrictions on communication may have further restrictions.

As a consequence of the schedule change carried out on the introduction of team-based care and the new security procedures that

were introduced, resources have been freed, which has increased the possibilities of meeting the need for activating patients. Patients have recently been involved in several activities, including a photo project and internally organised sporting events. They will also be involved in the planning and creation of the orangery mentioned above. The orangery is intended to house small animals, plants and peaceful environments for recreation and activities. Furthermore, a user organisation has been engaged to support the work of increasing the participation of patients and relatives in the clinic's care processes.

Recommendation
- the CPT recommends that a systematic screening for tuberculosis and hepatitis of all newly-arrived patients be introduced at Växjö Forensic Psychiatric Clinic and, as applicable, in all other psychiatric establishments in Sweden; further, newly-arrived patients should be systematically offered HIV tests on a confidential basis (paragraph 113).

Anyone who knows or has reason to suspect that he or she is a carrier of a disease that poses a threat to public health, or other disease subject to mandatory contact tracing, is obliged to contact a doctor and undergo the medical examinations and tests necessary to establish whether contagion exists (Chapter 2, Section 2 of the Communicable Diseases Act [2004:168]). A doctor who suspects that a patient is carrying a disease that poses a threat to public health is also obliged to examine the patient promptly and take the necessary tests (Chapter 3, Section 1 of the Communicable Diseases Act)

Patients at the Växjö Clinic in need of more extensive physical examinations, investigations and treatments are referred to the Växjö Central Hospital. In view of the situation in the country and in the world concerning communicable diseases the clinic is considering the resumption of more systematic, but for the patient voluntary, screening for diseases such as tuberculosis, viral hepatitis, HIV, syphilis, diphtheria, Lyme disease and multi-resistant bacteria, such as MRSA.

Recommendation
- the CPT recommends that the Swedish authorities take steps at Växjö Forensic Psychiatric Clinic to increase the number and the times of presence of psychiatrists on the units; in the first place, efforts must be made to fill the two vacant posts./.../ it would be advisable to seek to fill the 10 vacant nurses' posts. /.../ the Committee invites the Swedish authorities to explore ways to make more efficient use of the available staff resources (paragraph 115).

See response under p. 109 concerning staff resources at the clinic. The clinic has recruited another specialist since spring 2015. The clinic deems it reasonable to have two units per specialist.

The clinic works constantly with recruitment advertising to be able to employ more nurses. There are currently more nurses at the clinic than ever before. In 2016 there will be regular visits and presentations of the clinic at several nursing programmes in the country. The clinic is already seeing a positive effect of the team-based working method, which frees nursing care time for the nurses.

Since the visit by the delegation, the clinic has had great success in terms of recruitment of medical secretaries, which has doubled the number. This has made it possible to document care conferences in real time, thus saving time for doctors and facilitating medical coding of care plans.

III. Means of restraint/seclusion

Recommendation
- the CPT recommends that the above-mentioned practice be stopped. All doctors' decisions regarding the application of means of restraint (or its continuation) must be taken after the doctor has personally seen and examined the patient (paragraph 117).

Under Chapter 3, Section 1 of the National Board of Health and Welfare regulations and general advice on compulsory mental care and forensic mental care (SOSFS 2008:18) a patient may not be given repository medicines with a long-term effect before a decision on admittance has been made. The regulations stipulate that before a decision is taken on restraint with a belt or similar means of restraint for a longer period than four hours the doctor making the decision must personally examine the patient. Under Section 20 of the Compulsory Mental Care Act (1991:1128) a patient may be kept separate from other patients only if this is necessary due to the patient's aggressive or disruptive behaviour making care of other patients more difficult. A decision on seclusion is valid for a maximum of eight hours. The period of seclusion may be extended by a maximum of eight hours through a new decision. Before a decision is made on seclusion for a longer period than eight hours, the doctor making the decision must personally examine the patient. The chief medical officer decides on seclusion. If a patient is kept secluded for more than eight hours at a time, the Health and Social Care Inspectorate (IVO) must be informed of this without delay. For the period a patient is to be kept secluded, he or she must be monitored continually by nursing staff.

A coercive measure must be discontinued as soon as the criteria for the measure are no longer fulfilled (Sections 2 a and 2 b of the Compulsory Mental Care Act and Sections 2 a and 2 b of the Forensic Mental Care Act (1991:1129). This requires continual review of whether the measure is to continue or be discontinued. The eight-hour period

specified refers to the longest period of seclusion without a new decision.

The clinic in Växjö has no out-of-hours service but a standby service with a 30-minute response time. This means that the doctor responsible is not always able to be present for enforcement of a coercive measure such as seclusion or restraint belt. Normally, however, the doctor has seen the patient before the measure, though not always just before the decision on a coercive measure.

It can be added that a ministry memorandum proposed a special time limit for restraint of children of two hours with the option of extension for a maximum of two hours (Ministry Publications Series 2014:28, Delaktighet och rättssäkerhet vid psykiatrisk tvångsvård - [Participation and legal security in compulsory mental care]). It is also proposed that the period of seclusion for children should be limited to four hours with the option of extension for a maximum of four hours. The Ministry memorandum is now under consideration in the Government Offices.

Recommendation
- the CPT recommends that steps be taken at Växjö Forensic Psychiatric Clinic to ensure that the debriefing with the patient after the end of a restraint measure always takes place, irrespective of the unit where the patient concerned is accommodated (paragraph 118).

Deprivation of liberty and coercive measures violate privacy, which constitutes an encroachment of human rights and freedoms (Compulsory mental care and forensic mental care – Manual with information and guidance on the application of the National Board of Health and Welfare's regulations and general advice on compulsory mental care and forensic mental care [SOSFS 2008:18]). The National Board of Health and Welfare has highlighted the importance of offering the patient the possibility of subsequent debriefing to understand why such measures had been taken as well as allowing the processing of his or her experiences and reactions.

The clinic in Växjö is currently creating a routine that offers follow-up talks to patients after coercive measures have been discontinued and has drawn up a supporting template.

It can be added that the previously mentioned ministry memorandum proposes a new statutory provision stipulating that the chief medical officer must be responsible for ensuring that a patient is offered a follow-up talk after a coercive measure (Ministry Publications Series 2014:28, Delaktighet och rättssäkerhet vid psykiatrisk tvångsvård - [Participation and legal security in compulsory mental care]). The Ministry memorandum is now under consideration in the Government Offices.

Information
- the Committee would like to receive this information from the Swedish authorities. /.../ the CPT would like to receive confirmation that the rules applicable to the use of seclusion at Växjö Forensic Psychiatric Clinic (as well as in all other psychiatric establishments in Sweden) provide for the obligation to review the measure at regular intervals (paragraph 119).

For a general explanation of the regulatory system, see the response above under p. 117.

At the clinic in Växjö it is extremely rare for restraint belts to be used for longer than four hours. Where applicable a report is made to the Health and Social Care Inspectorate (IVO) every fourth hour.

IV. Safeguards

Recommendation
- the Committee recommends that the LPT and the LRV be amended so as to specifically provide for an obligatory psychiatric expert opinion (independent of the establishment in which the patient is placed) in the context of the review of the measure of involuntary hospitalisation (paragraph 122).

A special inquiry (Swedish Government Official Reports 15:52, Report of the Bergwall Commission) has proposed that knowledge development should be strengthened in forensic psychiatry. The report pointed out the need for better knowledge management. The report highlights positive examples of peer review, where services carry out quality reviews of each other and exchange experiences. These proposals are currently being processed by the Government Offices.

Recommendation
The CPT calls upon the Swedish authorities to introduce at Växjö Forensic Psychiatric Clinic (as well as in all other psychiatric establishments in Sweden), without further delay, a procedure whereby patients and (if they are legally incompetent) their legal representatives are placed in a position to give their free and informed consent to treatment (prior to its commencement), for example by signing a special form with information about the suggested course of treatment.

The relevant legislation should be amended so as to require an external psychiatric opinion in any case where a patient does not agree with the treatment proposed by the establishment's doctors; further, patients should be able to appeal against a compulsory treatment decision to an independent outside authority and should be informed in writing of this right (paragraph 123).

See previous response concerning consent under p. 110.

There is no need to be able to appeal against psychiatric treatment since consent is required before treatment is started.

If it is decided that the patient needs treatment against his or her will this is under the provisions of the Compulsory Mental Care Act (1991:1128) or the Forensic Mental Care Act (1991:1129), and these decisions are always in writing and appealable.

Recommendation
- the imposition of restrictions on such patients should be avoided as far as possible (paragraph 124).

Many of the patients at the clinic in Växjö have communication restrictions, since they are referred from remand prisons or prisons. The clinic also has a relatively large number of coercive measures per patient due to its function as a specialist hospital that admits specially care-intensive patients from the whole country. A patient suffering from a serious mental disorder may suffer significant harm from isolation. The clinic attempts to offer secluded patients the company of staff.

It can be added that an inquiry is working to draw up proposals to limit the use of restrictions for persons that are remanded in custody. The terms of reference of the inquiry are described in more detail under
p. 53.

Recommendation
- the Committee recommends that steps be taken by the Swedish authorities to ensure that Växjö Forensic Psychiatric Clinic (as all other psychiatric establishments in Sweden) is effectively visited on a regular basis by an independent outside body, meeting the abovementioned requirements (paragraph 125).

About the Health and Social Care Inspectorate (IVO)
The Health and Social Care Inspectorate (IVO) is responsible for supervision and consideration of permits in health care and social services. IVO was established on 1 June 2013 and is a central government agency under the Government. Over and above the general regulations on financial governance and on the powers and obligations of agencies, the Government sets the terms for each agency's activities. This is done in the agency's instructions, in annual appropriation directions and in separate decisions on assignments. The main tasks of IVO are found in the Ordinance with Instructions for the Health and Social Care Inspectorate (2013:176).

General information about the Inspectorate
IVO may open a supervisory case based for example on its own observations, reports from care providers, complaints from patients or relatives. IVO speaks to patients in cases where it is deemed appropriate. There are situations where the Inspectorate has considered that the patient's state of health precludes a meeting with IVO. In the cases where the patient has filed a written complaint to IVO, all documents are communicated to the patient.

IVO has an unconditional right under the Patient Safety Act (2010:659) to be given access to premises and read medical records and other documents. IVO is able to make both unannounced and notified inspections. Normally notice of an inspection is given in advance as the objective is that supervision should be as transparent as possible. In some cases, however, it is important for the Inspectorate to be able to gain a snapshot of the operations under review. In these cases an unannounced inspection is more appropriate.

Under the Compulsory Mental Care Act (1991:1128) the chief medical officer responsible must inform IVO when certain coercive measures are taken against patients being cared for under the provisions of the Act. In connection with this, IVO can initiate supervision to examine whether the care provider has fulfilled its obligations. The care provider is obliged to report to IVO events that entailed or could have entailed a serious healthcare-related injury (*Lex Maria*). IVO must in turn ensure that the care provider has investigated the event to the extent necessary, and that the care provider has taken the measures necessary to achieve a high level of patient safety. IVO can also open an initiative case on the basis of what emerges from the Lex Maria case and can then take the measures the case warrants to achieve a high level of patient safety. When a patient has suffered a healthcare-related injury the care provider must inform the patient as soon as possible of the possibility of filing a complaint with IVO.

Patients' possibilities of filing complaints
Patients can file complaints against the care provider. IVO is one of several actors that can receive such complaints. When IVO starts investigating the complaint a copy of the complaint is sent to the care provider concerned. IVO also requests that the care provider sends the documents needed by IVO for the investigation, for example the medical records of the complainant. The health and medical care staff affected by the complaint also have the opportunity to submit comments on the contents of the complaint.

IVO sends a proposed decision to the complainant so that he or she can comment on it. The complainant also receives the documents on which IVO's assessment is based. If the complainant has given another person a power of attorney to be a party in the case, that person can submit comments instead. IVO also sends the proposed decision to

the care provider concerned and any health and medical care staff concerned. All cases are concluded by IVO making a decision that is sent to the patient and complainant. Care providers and any health and medical care staff concerned receive the decision.

IVO also has a helpline for children and young people to which they can telephone, email or chat in order to find out about their rights and to be able to speak about what is not working in health and medical care or social services.

On regularity of supervision of psychiatric facilities
IVO carries out several inspections of various psychiatric health care facilities throughout the country. In 2015 inspections included psychiatric emergency clinics, outpatient care, institutional care and compulsory care, child and adolescent psychiatry and regional forensic psychiatry clinics.

As regards the Växjö Forensic Psychiatric Clinic, in recent years several supervisory initiatives have been implemented, some of which are ongoing. In 2016 supervisory initiatives have already been completed and are planned to continue in several psychiatric health care facilities around the country. As regards the regularity, some of these supervisory initiatives take place for the purpose of follow-up. For example, since 2014 IVO has carried out an extensive review of psychiatry in Malmö. The Inspectorate has initiated a separate follow-up inspection of those operations this year in which several different levels of care will probably be reviewed. There have also been similar regular follow-up inspections in regional forensic psychiatry clinics in other parts of the country.

In general IVO conducts follow-up initiatives in operations where necessary. This means that operations with extensive deficiencies may be inspected on several occasions. IVO's instructions also specify that supervisory inspections must be planned and implemented on the basis of the Inspectorate's own risk analysis unless otherwise provided by law, ordinance or special government decision. This means that IVO must direct its efforts towards the areas of health care and social services where we see the greatest risk of patients and users not receiving health care and social services that are safe and of good quality. IVO's risk analysis includes identified risks in health and medical care and in social services. The analysis is based on observations both from IVO's own inspections and from other actors, such as patient insurance, municipalities, county councils, patients' advisory committees and organisations for users and family members.

Feedback from inspection findings
As part of its supervision, IVO must give advice and guidance and thus pass on the knowledge and experience its inspections provide. Feedback from inspection findings is provided on several levels. IVO

always communicates its decisions to the parties concerned, one of which is the management of psychiatric care facilities. Apart from the specific inspection initiative, the Inspectorate works generally to provide feedback, for example at feedback conferences. Apart from this, IVO works with dialogue forums, which are the Director General's way of meeting external stakeholders collectively. Separate forums are conducted with organisations representing: patients/users/relatives, staff in health care and social services and private health care and social care providers.

At the general level IVO also publishes positions based on principles for the purpose of education. The summaries give a brief overview of the legal situation. In some cases, general guidance is presented on matters that have given rise to discussion. IVO also arranges web-based seminars on various topics. Anyone who wishes is welcome to participate.

A N N E X 1

JO RIKSDAGENS OMBUDSMÄN

Elisabet Fura
Chief Parliamentary Ombudsman

Council of Europe
Committee for the Prevention of Torture and
Inhuman or Degrading Treatment or Punishment

I have, together with my colleagues, studied the CPT report (CPT/Inf [2016] 1) to the Swedish Government that was submitted after its visit to Sweden on 18–28 May 2015. I would like to start by underlining that the talks held between the Parliamentary Ombudsmen (JO) and the CPT delegation were very fruitful. That said, I would like to offer some clarification regarding the parts of the report which directly concern JO and JO's OPCAT function.

The report discusses the OPCAT unit's resources and its ability to conduct effective inspections (paragraph 8). With regard to monitoring forced removal of foreign nationals by air, I wish to clarify that it is not solely due to a lack of resources that JO has not engaged in such monitoring. In discussions regarding Sweden's implementation of the EU's so-called Return Directive (2008/115/EC), JO has expressed the view that it would not be appropriate for JO to take on regular monitoring of forced removals since the extraordinary supervision that JO could offer does not come close to fulfilling the requirements of an effective monitoring system as envisaged in the EU directive. Nevertheless, we plan to engage in occasional monitoring of future forced removals from Sweden in our role as a national preventive mechanism under OPCAT.

In light of the Committee's comments regarding the frequency of inspections and the extent to which JO has conducted follow-up inspections, I want to add the following. After prioritising a relatively high inspection rate during the initial years with a designated OPCAT unit, JO chose to work with a specific theme in 2015 (women deprived of their liberty). This was done for a number of reasons, including consideration of the OPCAT unit's resources. Working with a specific theme meant reducing the number of inspections compared with previous years. However, despite the reduced number of inspections, JO is of the view that a thematic focus for inspections is an effective way to prevent torture and ill-treatment in accordance with the purpose of OPCAT.

It should also be emphasized, in addition to the OPCAT unit, three of JO's supervisory departments conduct inspections of locations where persons are deprived of their liberty. In 2015, four such inspections were conducted at different locations, including a psychiatric facility and several prisons.

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With regard to the OPCAT unit's staff (paragraph 9), the unit has expanded since the Committee's visit in May 2015 and now consists of five investigators. There are ongoing discussions about the direction and staffing of the OPCAT unit, including the methods used in its work.

Furthermore, JO's medical expert has participated in several inspections and has also contributed with his expert knowledge in other areas, for instance in several own-initiative inquiries that JO launched last year.

In the event the Committee should need additional information, I remain at your disposal.

Elisabet Fura

A N N E X 2

Information for crime suspects

- You are entitled to receive information about the suspicion and changes thereof. You are also entitled to continuously receive information about the investigation if this can be done without a negative impact on the investigation.
- You are entitled not to make a statement on the suspicion during interrogation by the Police or other authorities.
- You are entitled to appoint a public defence counsel on your own. In certain cases you are also entitled to get a public defence counsel if you request this or if it is assessed that you require one.
- You are entitled, if necessary, to receive assistance by an interpreter and get important documents translated.
- You are liable to stay for interrogation for a maximum of six hours. In exceptional cases you may be liable to stay for a maximum of another six hours. You should be released immediately after the interrogation unless the prosecutor decides that you should be arrested.

Additional information for those who have been arrested or detained

- You are entitled to receive information about the circumstances which form the basis of the decision for arrest or detainment.
- You are entitled to have one of your next-of-kin or another person who is particularly close to you informed about the deprivation of liberty as soon as this can be done, without it having a negative impact on the investigation.
- Those who are not Swedish citizens are entitled to request that their native country's consulate is informed as soon as possible about the deprivation of liberty and that messages from you are forwarded there.
- You are entitled to food and rest if necessary.
- You are entitled to health and medical care if necessary. You are also entitled to be examined by a doctor upon your request, unless it is evident that a medical examination is unnecessary. Thereafter you are entitled to receive the treatment advised by the doctor.
- After the prosecutor has decided that you should be arrested, he or she should as soon as possible and at the latest 12 o'clock on the third day after the arrest order, request that a court tries whether you should be detained. The court should then, as soon as possible, conduct a hearing. Such a hearing may never be held later than four days of you being arrested or otherwise being deprived of liberty. If the court decides that you should be detained, the date of instituting proceedings will also be determined. If proceedings are not instituted within two weeks, as a general rule the court should conduct a new hearing every other week until proceedings are instituted.

- Your contact with the surrounding community may be restricted during the period you are deprived of liberty.

- After the prosecutor has arrested you, he or she is liable to always check whether there are reasons for your continued deprivation of liberty.

Special information for those below the age of 18

- You are entitled to get a public defence counsel unless it is evident that this is not required.

- Even if the prosecutor decides not to arrest you, the Police may still detain you for up to three hours in order to, as soon as possible, surrender you to your parents, other guardian, an official at the social services or another suitable adult.

If you have questions based on this information, please contact the Police or your public defence counsel.

A N N E X 3

ANNEX TO DECISION

Background

On 17 March 2015 a decision by the Migration Court to expel a person (A) from Sweden to Iraq was to be executed. A was taken into a migration detention centre and the outward journey was to be on a flight leaving at 17.20 from Arlanda via Istanbul to Basra in Iraq.

A police inspector from the border police, a transportation supervisor and two prison officers (B and C) from the national transport division at the Swedish Prison and Probation Service took part in the expulsion, as well as a driver, who was not, however, to accompany them on the flight. The police inspector had the formal responsibility for enforcement of the expulsion order (Chapter 9, Section 11 of the National Police Board's regulations and general advice on enforcement of decisions on refusal of entry and expulsion (RPSFS 2014:8/FAP 638-1).

A was wearing a bodycuff (a belt around the waist with handcuffs on long tethers with the possibility of when needed of freeing the arms/restraining the arms) when he left the Swedish Migration Agency's migration detention centre in Märsta and taken to Arlanda Airport. The reason for this was that A had stated that he did not intend to participate voluntarily in the expulsion. In addition, he did not want to take his personal possessions with him. Initially, however, A behaved calmly and was transported voluntarily from Märsta, but when he entered the aircraft some time just before 17.00, he started to resist both verbally and physically. A was placed in the middle of a three-seat row at the back of the aircraft with prison officers B and C on each side. B sat on the window side and C in the aisle seat on the aircraft, which was a Boeing 737. A did not want to sit down in the seat and tried several times to stand up while at the same time screaming, among other things that he wanted to talk to the captain. B and C therefore felt obliged to use force to overcome A's resistance. After about 15-20 minutes, with periods of both struggle and rest, A became lifeless/passed out, and therefore those involved decided to discontinue the expulsion. Several people, who took A's pulse, stated that they felt a pulse when they took him off the plane. The decision was made that it would be fastest to drive A to the hospital themselves, instead of waiting for an ambulance/calling a nurse. On arrival at the accident and emergency clinic at Karolinska Hospital after about 20 minutes' drive, A was already dead. In the opinion of a doctor at Karolinska he probably died 5-10 minutes before arriving at the hospital. However, the forensic doctor who performed

the autopsy stated that in her opinion A could already have died on the plane.

Investigation

A standby prosecutor decided to initiate a preliminary investigation already on the evening that A died and several investigation measures, including questioning, were taken at the time of the event. An extensive preliminary investigation was then conducted. A large number of interviews were carried out with air passengers, representatives of the airline, special security guards at the airport, a relative of the deceased, staff at the Swedish Migration Agency, hospital staff, the forensic doctor, the person in charge of security training at the Swedish Prison and Probation Service and the five people who were directly involved in enforcement of the expulsion. Several people were interviewed more than once.

Further, information was obtained from the Swedish Prison and Probation Service, the Sky City clinic at Arlanda, the Police Authority, the Migration Court and the Swedish eHealth Agency.

A visit was made to the Swedish Migration Agency's detention centre in Märsta where the room and belongings of the deceased were examined.

Information concerning education and training, manuals and legal provision/regulations for the Swedish Prison and Probation Service concerning such matters as self-defence techniques, transportation, aids and healthcare was obtained and a film to illustrate the function of a bodycuff was produced.

A reconstruction was conducted on 25 August 2015 in an authentic aircraft environment at Arlanda. The prosecutors, investigators and forensic doctor were present at this, as well as the defence counsel (to the extent it concerned their respective principals). B and C and four witnesses were asked to visualise the information they gave during questioning and show the holds and other body contact with the help of figurants. The reconstruction was filmed by technicians, the films were edited and then shown to the suspects B and C, their defence counsel, the injured party counsel and a security training officer from the Swedish Prison and Probation Service with an opportunity to comment on the films. The forensic doctor was also shown the films and could watch them in peace and quiet as her view had been obscured in the aircraft environment during the recording.

During the preliminary investigation the forensic doctor submitted a forensic statement and after the reconstruction submitted a supplementary statement. The forensic doctor was also subsequently interviewed to clarify the conclusions reported in the statements.

The preliminary investigation dealt with two different parts of the course of events; the events inside the aircraft and the subsequent events when an

ambulance was not called, but instead A was transported to Karolinska Hospital in the Prison and Probation Service car. The two prison officers B and C were charged on suspicion for in the first place manslaughter and in the second place misuse of office regarding the events on the aircraft. As regards the subsequent events no-one was charged.

Legal assessment

The aircraft:

The two prison officers (B and C) and the transportation supervisor - who are all very experienced and used to similar transportation - have been questioned several times. They all stated that the force used to overcome A was entirely in accordance with normal procedures and instructions and in the course of events they repeatedly checked A's state of health.

The prison officers were entitled to use justified force in the existing situation, which follows from Chapter 24, Section 2 of the Swedish Penal Code. It was a matter of a person resisting an expulsion procedure and it was part of the prison officers' duties to overcome the person to ensure that the expulsion could be carried out while the passengers and crew were not exposed to danger or disturbance.

Of the air passengers in the rear part of the plane who were questioned several did not notice the event at all. Some heard screams and one passenger saw in the space of a few seconds how some unknown person held a hand to A's mouth to stop him from screaming. Another said that the prison officers found it difficult to hold A down. There are also statements from passengers that the officers involved acted professionally and that it all took place in a correct way. None of the passengers made any direct observations of any violence and consequently no passengers participated in the reconstruction.

Two representatives of the airline made some observations and participated in the reconstruction. One of them related and showed how one of the prison officers pressed A down at an angle to the other prison officer and "was over him and held him down", but at the same time allowed A up sometimes. The other representative stated that A was placed nearest the window and then showed how the two transportation officers were bent over him and tried to quiet him.

However, a special security guard related and showed at the reconstruction that B on one occasion used - in his opinion - a forbidden hold on A. (*In this respect the preliminary investigation continued for misuse of office).*

The forensic doctor's statement, after the reconstruction had been carried out, shows that A died from acute lack of oxygen as a result of obstructed breathing and that from the perspective of forensic medicine, A's death is to be regarded rather as an accident and not as an intentional act, due to

- A's situation in the plane, with a cramped position in the plane seat along with limited mobility,

- his upper body being pushed down in various ways and

- the fact that A was agitated.

To be convicted of manslaughter it is not sufficient that the act caused death and that the act was negligent. This requires that the act was negligent exactly until the fatal outcome (legislative comment on the Swedish Penal Code 3:7).

Through the extensive investigation measures taken it is not possible to prove that there was a clear causal connection between the prison officers' pushing down of A's upper body and A's death. Taking this into consideration, the preliminary investigation is closed as regards manslaughter.

As it has not either been possible to show that prison officer C acted incorrectly in other respects from the point of view of criminal law, he will not be prosecuted for the alternative suspected offence of misuse of office either.

Transportation of A to Karolinska Hospital:

The preliminary investigation also analysed whether it was a criminal act (manslaughter or misuse of office) that the officers - when A passed out - failed to call an ambulance or other medical care and instead decided to drive A to Karolinska Hospital. No-one has been charged in this respect.

As regards Arlanda's medical services it emerged that there is a health centre in Sky City that is open from 8-17, that there is an emergency nurse who can make visits in the area and that the ambulance is stationed in Märsta with about 10 minute's travel time to Arlanda if it is there and available.

As it has not been possible to establish when death took place (it could have been already in the aircraft according to the forensic doctor) nor whether it would have been possible to save/resuscitate A if he had received medical care faster, the matter of manslaughter is already removed on these grounds.

When questioning the police and prison and probation service staff it emerged that a joint assessment was made that A was in no immediate danger as it was understood he had a pulse, was breathing and was also making sounds. The joint perception was also that it would be faster to drive to the hospital themselves than to call and wait for an ambulance.

The legislative comments on the Police Act, Section 2, paragraph 4, state the following "In acute situations the police must of course sometimes intervene even if assistance in principle is the task of another body. This may for example apply to taking an injured person to hospital even if ambulance transport could in fact have been called for".

Chapter 9, Section 31 of the National Police Board regulations and general advice on enforcement of decisions on refusal of entry and expulsion (RPSFS 2014:8/FAP 638-1) states the following "If the alien becomes ill while the decision is being enforced the security staff must ensure that he or she receives the necessary care that is possible".

Finally, the Swedish Prison and Probation Service regulations and general advice on transport activities (KVFS 2012:6) stipulates the following "If the person being transported becomes ill while being transported the transportation supervisor must ensure that he or she receives care".

In light of the assessment of A's medical condition by the officers involved and taking into account current regulations in the area, the officers' action of driving A to the hospital's accident and emergency clinic was adequate.

To be found guilty of misuse of office it must be a matter of clearly incorrect assessments that imply neglect of duty. This was not the case here. The preliminary investigation relating to possible misuse of office in this respect is closed as there is no longer cause to assume that an offence that falls within the domain of public prosecution has been committed.

Summary

In summary, the preliminary investigation was conducted with the intention of investigating whether one or more persons acted criminally and came to the following decisions.

- It cannot be proved that one or more persons were guilty of the manslaughter of A as regards the course of events inside the aircraft. Nor can it be proved that prison officer C was guilty of misuse of office in this respect.

- Nor is there any longer cause to assume that one or more persons were guilty of a criminal offence – either manslaughter or misuse of office - by themselves transporting A to hospital instead of calling an ambulance/other medical care.

- However, there is still suspicion of misuse of office as regards a hold prison officer B took on A inside the plane and the preliminary investigation continues in respect of that.

Chief Public Prosecutor Anders Jakobsson also participated in the processing of the matter.

Lena Kastlund

ANNEX 4

The Swedish Migration Agency's detention units

About detention

You have been taken into detention and placed in a special detention unit. The Swedish Migration Agency runs and is responsible for detention operations in Sweden.
You can find information about the Swedish Migration Agency and its various detention units at www.migrationsverket.se.

A detention order can be issued by the Swedish Migration Agency, the Swedish Police Authority or a court to keep aliens available to Swedish authorities.
The conditions under which an alien can be deprived of their liberty through a detention order are set out in Chapter 10 of the Aliens Act, and the grounds in your case are stated in your detention order.

Appeal

A detention order can be appealed. The appeal can be made in your language and has to be made in writing. You address your appeal to the authority that made the detention order. That authority then transfers your appeal to the Migration Court if the order is not changed.

Legal assistance

As a detainee, you can get a public counsel. This is a legally trained person who gives you legal assistance in your cases with Swedish authorities and who is paid by the Swedish State.

Interpreter

If you do not have a command of the Swedish language, an interpreter for your language is engaged in cases that involve the exercise of public authority. You can express a wish to have a male or female interpreter.

Processing your case and other matters

The staff of the Swedish Migration Agency is responsible for order and safety at the detention unit and available 24 hours a day. Ask the staff if there is anything you wonder about or need help with. The officer handling your case, from either the Swedish Migration Agency or the Swedish Police Authority, will contact you about your case.

Health care

When you are being held in detention, you are entitled to emergency health care free of charge.
If you want to see health care staff or need dental care, you report this using a special form direct to the nurse.

Activities

There is access to special outdoor areas that are open every day at times specially posted. Various indoor activities are also offered. You can get more information about what applies to your detention unit via the weekly meeting and notices on information boards.

Accommodation

- Breakfast, lunch, dinner and an evening meal are served at the times posted. You are personally responsible for keeping times and clearing up after you, both in common areas and in your own room.
- You are responsible for keeping your room clean and in a hygienic condition. The staff provide cleaning equipment. There is also a laundry room where you can wash clothes and bedclothes.
- Cigarettes, sweets, phone cards and other articles can be bought in vending machines.
- Every week a joint meeting is held between Swedish Migration Agency staff and detainees. At it you can raise various questions and get information about current events.
- There are detention units at several places in Sweden, and you may be transferred to another unit for various reasons.
- At the detention unit there are men, women and, sometimes, children from different countries and cultures. This makes special demands about showing consideration to one another so that no one needs to feel at risk or mistreated. Remember to also keep the sound level low in the evening, at night and early in the morning so that people who want to sleep can do so.

Financial assistance

- You can apply for financial assistance if you do not have funds of your own. The daily allowance is paid once a week in advance.
- If you have an essential expense that you do not have funds for, you can apply for a special grant. You can also apply for a special grant if you do not have the funds to pay the care charge for non-emergency health care that you have to pay.

Contact with the outside world

- You have the right to free contact with, for example, a consulate/embassy, relatives or the media.
- Various NGOs make regular visits to detention units. You can get more information about what applies to your detention unit via the weekly meeting and notices on information boards.
- You can receive visits from relatives and friends in special visiting rooms. You book the times for visits yourself or with the help of the staff. Every detainee should be able to receive at least one visit per week. The time for a visit is normally one hour, but departures can be made from this in view of special circumstances like a long trip for visitors or a visit in conjunction with your own departure.
  The number of persons permitted in visiting rooms varies between detention units, mainly on account of the design of the premises and fire safety considerations. Normally there should not be more than two adults. If more adults want to visit, this can be arranged by, for example, the visitors taking turns and extending the period of the visit if possible. Family members are given priority when visiting times are allocated. Make sure that you are available when you know that you are expecting a visit, so that you are able to make use of the whole of the time for the visit. Visits may be supervised by staff if this is seen as necessary for your own or your visitors' safety.
- You have the right to have a mobile phone at the detention unit. Out of consideration for the integrity of the other detainees, cameras and mobile phones with cameras or other electronic equipment with camera are not permitted. You can borrow a phone without a camera if you do not have one of your own. You must have your own SIM card to be able to use the phone. SIM cards can be bought at the detention unit.
- It is also possible to receive phone calls and to send and receive faxes. Talk to the staff if you want to make use of these functions.
- Computers with internet access are available.

The Swedish Migration Agency's Applicants' Ombudsman

If you feel that you have been treated badly or treated wrongly in some other way by staff of the Swedish Migration Agency, you can contact the Applicants' Ombudsman of the Swedish Migration Agency who receives and investigates such reports.
You can contact the Applicants' Ombudsman either using the online form: www.migrationsverket.se/info/1125.html or at telephone number: 020-30 30 20.

Security

- Staff have the right to search you in certain cases. This means that staff searches your clothes and objects that you are carrying. A decision to make a body search can be appealed, but the decision is carried out even if you appeal.
- The Swedish Migration Agency decides which objects detainees may have in their possession in the premises of the detention unit. Objects that are not permitted may be taken away by the Swedish Migration Agency. This decision can be appealed and expires when you leave the detention unit.
- There is a ban on bringing alcohol beverages and other intoxicants into the premises of the detention unit, both as a visitor and as a resident. The possession of firearms and drugs or other illegal objects or substances is reported to the police.
- The Swedish Migration Agency may decide to segregate you from other detainees. This means that you are placed in a room where you cannot have contact with the other detainees. A decision to segregate you can be appealed.
- The Swedish Migration Agency can also decide to place you in a prison, remand centre or police arrest facility. The decision to place you outside the detention unit can be appealed.
- Threats, violence and sexual harassment directed at staff or other detainees, as well as escape attempts or refusal to follow staff instructions, are examples of situations that may lead to segregation or an external placement.
- For fire safety and work environment reasons, smoking by both residents and staff is only permitted at designated places and outdoors.
- If there is a fire, an alarm will sound; go to the designated evacuation point and follow staff instructions. In connection with registration, staff will ensure that every detainee has understood the fire safety instructions in force at the detention unit.

Parliamentary Ombudsmen - JO

- If you think that you yourself or someone else have been treated incorrectly by a government agency or official in the processing of a case, you also complain to the Parliamentary Ombudsmen.
- You can contact the Parliamentary Ombudsmen either using the online form: http://www.jo.se/sv/JO-anmalan/Skicka-in-anmalan//
- or via postal address: Box 16327, 103 26 Stockholm