



Strasbourg, 1 December 2004

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**REPORT
TO THE ICELANDIC GOVERNMENT ON THE VISIT
TO ICELAND CARRIED OUT BY THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT (CPT)**

FROM 3 TO 10 JUNE 2004

Adopted on 12 November 2004

CONTENTS

| | |
|---|-----------|
| Copy of the letter transmitting the CPT's report | 4 |
| I. INTRODUCTION | 5 |
| A. Dates of the visit and composition of the delegation | 5 |
| B. Establishments visited | 6 |
| C. Consultations held by the delegation and co-operation encountered | 6 |
| II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED | 8 |
| A. Police establishments | 8 |
| 1. Preliminary remarks | 8 |
| 2. Ill-treatment | 8 |
| 3. Safeguards against ill-treatment | 9 |
| 4. Conditions of detention | 10 |
| 5. Persons detained under aliens legislation | 11 |
| a. introduction | 11 |
| b. safeguards | 12 |
| c. detention facilities at Keflavik International Airport | 12 |
| d. deportation of foreign nationals by plane or other means of transport | 13 |
| B. Prisons: | 14 |
| 1. Preliminary remarks | 14 |
| 2. Ill-treatment and inter-prisoner violence | 15 |
| 3. Conditions of detention | 17 |
| a. Litla-Hraun Prison | 17 |
| b. Skólavörðustigur Prison | 17 |
| c. Kópavogur Prison | 18 |
| d. Kviabryggla Prison | 19 |
| 4. Health care | 20 |
| 5. Other issues related to the CPT's mandate | 23 |
| a. contact with the outside world | 23 |
| b. remand prisoners subjected to restrictions for investigation purposes | 23 |

| | |
|--|------------|
| c. discipline and segregation..... | 24 |
| d. complaints and inspection procedures | 25 |
| e. drug-related issues | 25 |
| C. Psychiatric Department of Reykjavik National University Hospital | 26 |
| 1. Preliminary remarks | 26 |
| 2. Patients' living conditions..... | 27 |
| 3. Staff and treatment | 27 |
| 4. Means of restraint/seclusion..... | 28 |
| 5: Safeguards in the context of involuntary placement | 29 |
| III. RECAPITULATION AND CONCLUSIONS | 31 |
| APPENDIX I | |
| "DEPORTATION OF FOREIGN NATIONALS BY AIR": | |
| Extract from the 13^h General Report on the CPT's activities (2q02-2003)..... | 36 |
| APPENDIX II | |
| LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS | |
| AND REQUESTS FOR INFORMATION | 41. |
| APPENDIX III | |
| LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS | |
| WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS | 49 |

Copy of the letter transmitting the CPT's report

Strasbourg, 1 December 2004

Dear Sirs,

In pursuance of Article 10, paragraph I , of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Iceland drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Iceland from 3 to 10 June 2004. The report was adopted by the CPT at its 55th meeting, held from 8 to 12 November 2004.

I would draw your attention in particular to paragraph 102 of the report, in which the CPT requests the Icelandic authorities to provide within six months a response setting out the action taken upon its visit report. The CPT would ask, in the event of the response being forwarded in Icelandic, that it be accompanied by an English or French translation. It would be most helpful if the Icelandic authorities could provide a copy of the response in electronic form.

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

Yours
faithfully,

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

Ministry of Justice
Office of Civil Affairs
150 REYKJAVIK
ICELAND

1. INTRODUCTION

A: Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Iceland from 3 to 10 June 2004. The visit formed part of the Committee's programme of periodic visits for 2004, and was the third periodic visit to Iceland to be carried out by the CPT.¹

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

- Andres LEHTMETS, 1st Vice-President of the CPT (Head of the delegation)
- Anhelita KAMENSKA.
- Petros MICHAELIDES
- Veronica PIMENOFF

who were supported by Edo KORLJAN and Borys WODZ from the CPT's Secretariat.

They were assisted by:

- Andrew COYLE, Director of the International Centre for Prison Studies, London, United Kingdom (expert)
- Eric DLTRAND, former Head of Medical Services at Fleury-Merogis Prison, France (expert)
- Ellen INGVADOTTIR (interpreter) –
- Gauti KRISTMANNSSON (interpreter)
- Hilda RICHTER (interpreter)
- Alda SIGMUNDSDOTTIR interpreter)
- Torfi TULINIUS (interpreter).

¹ The first periodic visit took place in July 1993 and the second in March/April 1998. The Committee's reports on these visits, as well as the responses of the Icelandic authorities, have been made public at the request of the Icelandic authorities (cf. documents CPT/Inf (94) 8, CPT/Inf (94) 16, CPT/Inf (95) 6, CPT/Inf (99) 1 and CPT/Inf (99) 13).

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

- Reykjavik Police Headquarters *
- Búðardalur Police Station
- Grundarfjörður Police Station
- Keflavik Airport Police *
- Keflavik Police Station *
- Ólafsvík Police Station
- Selfoss Police Station
- Stykkishólmur Police Station

Prisons

- | | |
|---|----------|
| - Kópavogur | Prison * |
| - Kvíabryggja | Prison |
| - Litla-Hraun | Prison * |
| - Reykjavik (Skólavörðustigur) Prison * | |

Psychiatric establishments

- Psychiatric Department of Reykjavik National University Hospital (Landspítali):

C. Consultations held by the delegation. and eo-operation encountered

4. In addition to meeting local officials at the establishments visited, the delegation held talks with the competent national authorities and with representatives of several non-governmental organizations active in areas of concern to the CPT. A list of the national authorities and organizations consulted during the visit is set out in Appendix III to this report.

5. As had been the case during the CPT's previous visits to Iceland, the delegation's meetings with national authorities - both at the start and the end of the visit - took place in a spirit of close cooperation. The CPT is grateful for the time devoted to its delegation by Mr. Björn BJARNASON, the Minister of Justice. The delegation also held fruitful discussions with Mr. Haraldur JOHANNESSEN, the Commissioner of Icelandic Police, Ms Ragnhildur HARDARDOTTIR, the State Prosecutor, Mr. Georg LARUSSON, the Director of Immigration Affairs, Mr. Valtyr SIGURÐSSON, the Director of Prison and Probation Administration, Mr. Matthias HALLDORSSON, the Deputy Director General of Public Health and Social Security, as well as with other senior officials from the Ministries of Justice and of

* Follow-up visits

Public Health and Social Security. Further, the delegation appreciated the opportunity to meet Mr. Tryggvi GUNNARSSON, the Parliamentary Ombudsman.

The CPT wishes to put on record the assistance provided to its delegation during and after the visit by the Committee's liaison officers, Mr. Hjalti ZOPHONIASSON, Director of Civil Affairs at the Ministry of Justice, and Ms Anna Sigríður ARNARDOTTIR, Legal Expert at the same Ministry.

6. The co-operation received at local level was also excellent. The delegation enjoyed rapid access to all the places of detention visited, including ones which had not been notified in advance, and was provided with all the information necessary for carrying out its task. The management of the establishments visited had been made aware of the possibility of a visit by the Committee and had reasonable knowledge of the CPT's mandate and powers.

7. However, the principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. In this respect, the CPT is concerned to note that little action - in some cases none - has been taken on a significant number of recommendations made by the Committee after the 1998 visit. The CPT trusts that the Icelandic authorities will make genuine efforts to -improve the situation in the light of the CPT's recommendations in accordance with the principle of co-operation which lies at the heart of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

8. The legal and regulatory framework governing the detention of persons by the police has remained basically unchanged since the 1998 visit. It is recalled that the maximum period of detention by the police of persons suspected of having committed a criminal offence is 24 hours. The information gathered by CPT's delegation suggests that this time-limit is duly respected by the police; in practice, the delegation observed that persons detained by the police on suspicion of having committed a criminal offence usually spent no more than a few hours in police custody, before being released or transferred to a remand facility.

2. Ill-treatment

9. The CPT's delegation heard hardly any allegations - and found no other evidence - of ill-treatment of persons detained by the police. Most of the persons interviewed by the delegation who were, or had recently been, detained by the police, indicated that they had been treated in a correct manner throughout the period of police custody. That said, the delegation did hear a few isolated allegations of excessive use of force at the time of apprehension.

Consequently, the conclusion reached by the CFT after the 1998 visit - namely that persons in police custody in Iceland run little risk of being ill-treated -- remains valid.

10. After the 1998 visit, the Icelandic authorities have taken certain steps to prevent ill-treatment by the police. In their interim response to the CPT's report on that visit, the authorities indicated that, in February 1999, the Minister of Justice had issued new detailed rules on the use of force by the police, which, inter alia, specified that the "police shall only resort to force when necessary, and that the degree of force applied shall be as required by the particular situation". The new rules and the explanatory notes accompanying them were circulated to all police precincts and additional training was provided by the State Police School. Further, the Code of Police Ethics, issued in June 2003, stipulates that the excessive use of force, both physical and verbal, is prohibited (cf. Article 8 (2) of the Code). The CPT welcomes these steps.

In the light of the findings of the 2004 visit, **the Icelandic authorities are invited to exercise particular vigilance with a view to ensuring that no more force than is strictly necessary is used by police officers when effecting an arrest.**

11. Since 1997, the examination of complaints of ill-treatment by police officers has become the formal responsibility of the Director of Public Prosecutions, assisted by police officers seconded by the Commissioner of the Icelandic Police. At the time of the 1998 visit, the new system had not been in place for long enough for the CPT's delegation to be able to assess its impact. The information gathered during the 2004 visit suggests that this mechanism is functioning satisfactorily and enjoys public confidence.

According to information provided by the Icelandic authorities at the outset of the visit, 19 complaints relating to unlawful conduct of police officers had been investigated by the Director of Public Prosecutions in 2003, one of which resulted in two indictments. **The CPT would like the Icelandic authorities to supply information, in respect of 2004, on:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following such complaints.**

3. Safeguards against ill-treatment

12. During the 2004 visit, the vast majority of the persons interviewed by the delegation, who were or had recently been in police custody, indicated that they had been allowed to inform a close relative or another third party of their choice of their situation shortly after apprehension. They had also reportedly benefited from their rights of access to a lawyer and a doctor, and had been informed about all their rights without delay. That said, none of the recommendations made by the CPT in the report on the 1998 visit; and aimed at further strengthening the existing safeguards, had been implemented. .

13. In the report on the 1998 visit, the CPT stressed that any delay in the exercise of a detained person's right to notify someone of his situation should require the approval of a senior police officer or a public prosecutor. The Icelandic authorities have taken no steps to amend Regulation No. 395/1997 on the status of arrested persons and interrogations by the police in the light of the Committee's position. Consequently, the CPT must reiterate this point.

14. Although the exercise of the right of access to a doctor does not seem to pose any particular problems in practice, this right is still not expressly guaranteed in law and no reference is made to it in the information sheet given to persons upon their apprehension.

In their response to the report on the CPT's 1998 visit, the Icelandic authorities expressed the view that there was no need to adopt formal provisions on the right of access to a doctor, as "the fundamental principle of providing medical assistance to an arrested person when needed, is followed" and "no problems are known to have come up or complaints voiced to the effect that an arrested person has been denied medical care". Nevertheless, the Committee remains of the opinion that the protection of persons detained by the police against ill-treatment would be reinforced if their right to have access to a doctor was expressly guaranteed in law. Consequently, **the CPT reiterates its recommendation that the Icelandic authorities adopt formal provisions regarding the right of persons in police custody to have access to a doctor, including - if they so wish - the right to be examined by a doctor of their own choice (in addition to any medical examination carried out by a doctor called by the police). Further, the information sheets provided to persons upon their apprehension by the police should be amended, so as to refer also to the right to have access to a doctor.**

15. In the report on the 1998 visit, the CPT recommended that the return to police custody of persons on remand held in prison be subject to the authorization of a judge or public prosecutor. In their response, the Icelandic authorities stated that they "considered appropriate, and in fact self-evident with a view to the principles concerning responsibility for and control of police investigations, that the prosecutor assume responsibility for a request to return a remand prisoner to police for formal interviews or other investigative purposes". However, during the 2004 visit, the delegation was not in a position to ascertain whether any formal provisions had been adopted to this effect. **The CPT would like to receive further clarification from the Icelandic authorities on this subject.**

16. Systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment of persons held by the police (and ensuring satisfactory conditions of detention). To be fully effective, the visits by such an authority should be both frequent and unannounced, and the authority concerned should be empowered to speak in private with detained persons.

In Iceland, the Parliamentary Ombudsman is empowered to carry out visits to police establishments. However, given the very wide scope of the Ombudsman's mandate and the limited resources at his disposal, it is unrealistic to expect the Ombudsman to carry out regular monitoring of police stations. In the course of a meeting with the CPT's delegation, the Parliamentary Ombudsman himself expressed the view that there was need to create a specific monitoring mechanism. **The CPT invites the Icelandic authorities to establish a system of regular visits to police establishments by an independent authority.**

4. Conditions of detention

17. As had been the case during the 1998 visit, conditions of detention at the police establishments visited were generally adequate for the duration of police custody. The cells and communal washing and toilet facilities seen by the CPT's delegation were of a good standard, clean and in an acceptable state of repair. Persons in police custody received a mattress, one or two blankets and a pillow for the night. Warm meals were offered at least twice per day, and there were no problems with the supply of drinking water and tea or coffee.

The cells seen by the delegation were generally of an adequate size for their intended occupancy (i.e. some 7 m² for an individual cell and some 9 m² for a double one). There were, however, certain exceptions. The two cells at Grundarfjörður Police Station were small (4.7 m²); cells of this size should preferably only be used for periods of detention not exceeding a few hours. Similarly, the two holding cells in Búðardalur (some 6 m²) were too small for their intended double occupancy; in the CPT's view, they should not hold more than one person overnight.

With the exception of Reykjavik Police Headquarters, where the cells were equipped with small windows letting in some daylight, none of the cells in the police establishments visited had access to natural light. This was, in most cases, compensated for by good artificial lighting. However, the lighting left something to be desired at Grundarfjörður, Selfoss and Stykkishólmur Police Stations. Cells in all the establishments visited, with the exception of Ólafsvík Police Station, were equipped with call bells.

The CPT invites the Icelandic authorities to review conditions of detention at Búðardalur, Grundarfjörður, Ólafsvík, Selfoss and Stykkishólmur Police Stations, in the light of the above remarks.

18. All the police establishments visited accommodated, more or less frequently, intoxicated persons. The CPT has, in general, no comments about the manner in which these persons were being treated. They were placed in ordinary cells, provided with special fire-proof and washable mattresses, and placed under close supervision by police officers in charge of the detention areas.

However, at Búðardalur Police Station, the delegation was concerned to find in one of the cells a metal bar fixed on the side of the sleeping platform (similar to the one seen at Reykjavik Police Headquarters in 1998). The officer responsible for the station explained that the bar was intended for securing highly agitated/intoxicated persons with the help of handcuffs and/or foot cuffs (though apparently recourse had never been had to such means).

As the CPT has indicated in the past, it is not appropriate to secure agitated/intoxicated persons in such a manner; consequently, **the Committee recommends that the metal bar in question be removed. In cases where a person in police custody is or becomes highly agitated, the police should immediately contact a medical doctor and act in accordance with his opinion.**

5. Persons detained under aliens legislation

a. introduction

19. The legal framework governing the detention of foreign nationals who are illegally present in Iceland has changed since the 1998 visit. Pursuant to Section 29 of the new Act on Foreigners², foreign nationals whose identity needs to be established may be placed in police custody for up to 24 hours, and subsequently detained for up to 12 weeks by judicial decision. Under Section 33 of the same Act, a foreign national may be detained by judicial decision for a maximum of 6 weeks, if this is necessary to enforce a deportation order.

20. At the time of the visit, there were no foreign nationals detained pursuant to the above provisions, and the delegation was informed that such detentions were in practice rare and of limited duration. The Icelandic authorities stated that, if a person were to be detained by judicial decision based on Sections 29 or 33 of the Act on Foreigners, he/she would be placed in a prison.

In its report on the 1998 visit, the CFT stressed that, if it were deemed necessary to deprive persons of their liberty under aliens legislation, it would be far preferable to accommodate them in centers specifically designed for that purpose, offering material conditions and a regime appropriate to the legal status of such persons and staffed by suitably qualified personnel. The CPT understands that, as matters stand at present, opening a centre specifically designed to accommodate persons detained under aliens legislation would not be justified. However, **were the number and/or length of detentions under the provisions of Act No. 96/z002 to increase, the Icelandic authorities should consider setting up such a centre.**

b. safeguards

² Act No. 96/2002, in force since 1 January 2003

21. In its report on the 199\$ visit (cf. paragraph 33 of CPT/Inf (99) 1), the CPT stressed that the fundamental safeguards against ill-treatment of persons deprived of their liberty should also be offered to foreign nationals detained under aliens legislation. In this respect, the new Act on Foreigners goes a long way towards meeting the standards advocated by the Committee.

Pursuant to Section 25, persons detained under the Act on Foreigners must be promptly informed, in a language they understand, of their rights to have a lawyer and to contact their consular or diplomatic representation as well as representatives of the LINHCR and nongovernmental organizations active in the area. According to Section 34, a judge considering the issue of detention pursuant to Section 29 must appoint a lawyer to a foreign national who does not have one; the judge should in principle also appoint a lawyer (unless this causes "particular inconvenience or delay") when detention is envisaged under Section 33. Further, foreign nationals are entitled to the services of an interpreter throughout the procedure. The Act also contains provisions ensuring that persons are not returned to a country where they run a risk of being subjected to torture and/or ill-treatment.

22. That said, information on rights was provided to foreign nationals only orally: no written forms setting out these rights were available. Further, there were no express provisions on the right to have access to a doctor, and no specific safeguards for unaccompanied minors. The CPT recommends that the Icelandic authorities address these points.

Further, the delegation was informed that, in practice, foreign nationals were offered free legal aid only at the stage of appeal against the decision on their case, which apparently rendered it difficult to avoid deportation (the appeal having no suspensive effect). The CPT would like to receive clarification from the Icelandic authorities on this subject.

c. detention facilities at Keflavik International Airport

23. The delegation was pleased to note that persons refused entry to Iceland were no longer held in the transit area of Keflavik International Airport; instead, they' were accommodated in a room measuring some 16 m², located in the recently enlarged air terminal. The room enjoyed good access to natural and artificial light, was adequately heated and equipped with three beds, a table, chairs and a sanitary annex.

However, persons detained at the airport did not have access to outdoor exercise during their stay of up to three days. **The CPT recommends that all persons required to stay at the airport for an extended period (24 hours or more) be offered at least one hour of outdoor exercise per day.**

24. The CPT's delegation also visited the Airport Police transit room in the southern terminal of the airport. It was occasionally used for holding foreigners who had requested asylum. The room measured 18 m², had good access to natural light and was adequately equipped with beds, mattresses and blankets. It was usually used for stays of less than 24 hours.

d. deportation of foreign nationals by plane or other means of transport

25. The CPT attaches considerable importance to the manner in which deportation orders concerning foreign nationals are enforced in practice. With a view to the increasing number of deportations³, the CPT's delegation paid particular attention during the 2004 visit to the modalities of deportation procedures in Iceland.

26. Deportation decisions are implemented by a special unit under the orders of the Commissioner of Icelandic Police: There are no formal instructions concerning the forcible departure of foreign nationals, and it is within the discretion of the officers involved to decide whether means of restraint should be applied. Members of the deportation unit apply the general rules on the use of force contained in the Police Act and the Regulation of the Ministry of Justice of 22 February 1999 on the use of coercion by the police. At Reykjavik International Airport, the delegation was informed by officers from the Airport Police that two types of means of restraint could be used: standard metal handcuffs or a leather belt with integrated plastic handcuffs.

The delegation was also informed that the percentage of escorted deportations had increased in the recent years. However, the use of means of restraint remained an exceptional occurrence (there had been only three such cases in 2003).

As regards medication having a tranquillizing or sedative effect, the Icelandic authorities stated that it had so far never been administered and, if ever used, it would be on medical grounds only and upon a doctor's decision. In such a case, a doctor or nurse would accompany the deportation team during the transportation.

27. The delegation was provided with a copy of a so-called "checklist for deportation" (non-binding practical guidelines used by police officers carrying out deportation operations). These guidelines make, *inter alia*, reference to the size of the deportation team, the means of restraint that can be used (cf. paragraph 26) and other action which has to be taken prior to, during, and after a deportation, including the drawing up of a detailed report on the manner in which the operation was carried out. However, these rules cannot make up for the absence of a coherent set of instructions.

The CPT recommends that detailed instructions be issued on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorized in the context of deportation operations. Such instructions should draw upon the principles set out in the CPT's 13th General Report⁴, reproduced in Appendix I to this visit report.

³ According to data provided by the Commissioner of Icelandic Police, 18 persons (including 15 asylum seekers and 3 convicts) were deported in 2000, 23 (16 asylum seekers and 7 convicts) in 2001, 63 (46 asylum seekers and 17 convicts) in 2002, and 50 (31 asylum seekers and 19 convicts) in 2003.

⁴ Cf. CPT/Inf (2003) 35, paragraphs 27 to 45

B. Prisons

1. Preliminary remarks

28. At the outset, the CPT wishes to put on record several positive features of the Icelandic criminal justice system, such as the low incarceration rate⁵, resort to alternative sentences and consequently, sufficient living space per prisoner. However, there remains much room for progress as regards the development of fully fledged social and rehabilitation programs for prisoners, and of individualized custody plans. Not surprisingly, all the establishments visited experienced the "revolving door" syndrome, with many offenders coming back to prison repeatedly, to be temporarily "warehoused" from mainstream society, to which they would eventually return.

During the 2004 visit, the CPT's delegation was informed that a draft new Prison Act had recently been withdrawn from Parliament following wide criticism. The Minister of Justice considered this a good opportunity to revise the draft. It was, *inter alia*, envisaged to pay closer attention to the relevant international and European standards, to define more clearly and in a comprehensive manner all rights and duties of prisoners, and to improve the status and training of prison staff. The revised draft Prison Act was to be re-submitted to Parliament towards the end of 2004.

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

29. In the report on the 1998 visit (cf. paragraph 41 of CPT/Inf (99) 1), the CPT recommended that the Icelandic authorities attach the highest priority to the construction of the new remand prison in Reykjavik. Such a new establishment would render if possible to accommodate all remand prisoners from the Reykjavik area in the region where they had family and social ties, and close to the seat of the competent investigating and/or prosecution authorities, as well as offer prisoners an appropriate regime of activities.

During the 2004 visit, the CPT's delegation was informed that the project for the construction of a new prison in Reykjavik had been suspended, reportedly because of a decision to reconsider the priorities for financing within the prison system. The current thinking was that the available resources might be put to better use by reinforcing the probation service and providing more alternatives to imprisonment.

The CPT does not, in principle, contest the validity of this reasoning. However, the fact remains that remand prisoners from the Reykjavik area continue to be accommodated in the antiquated facility at Skólavörðustígur or at the remote location of Litla-Hraun (cf. paragraphs 35 - 37). **Consequently, the Committee trusts that the Icelandic authorities will attach a high priority to finding an appropriate solution to the problem of accommodation for remand prisoners from the Reykjavik area.**

⁵ 40 inmates per 100.000 of national population at mid-2003 (cf. World Prison Brief, International Center for Prison Studies, King's College London).

2. Ill-treatment and inter-prisoner violence

30. The CPT's delegation did not hear any allegations of ill-treatment of prisoners by staff in Kópavogur, Kvíabryggja and Skólavörðustígur Prisons. The overall atmosphere in these establishments seemed to be relaxed and staff prisoner relations were generally good.

31. The situation was less favourable at Litla-Hraun Prison, where the delegation heard some complaints of occasional rough treatment and verbal abuse of inmates by staff during cell searches. The delegation observed that relations between staff and prisoners were of a formal and distant nature, with staff regarding verbal communication with inmates as being a rather marginal aspect of their work. **The CPT recommends that the Icelandic authorities seek 'to promote constructive relations between staff and prisoners at Litla-Hraun Prison; in particular, staff should be reminded that inmates must always be treated in a respectful manner.**

Further, the CPT has serious misgivings regarding certain arrangements for urine tests at Litla-Hraun Prison. Inmates suspected of drug abuse were obliged to urinate in the presence of two prison officers, and additionally in front of two mirrors, apparently to avoid substitution of samples. Not surprisingly, many prisoners -felt that these conditions were humiliating. **The CPT recommends that the existing arrangements for urine testing at Litla-Hraun Prison be reviewed; other means could and should be found to reconcile the legitimate aim of combating drug abuse with the inherent dignity of the persons concerned.**

32. In the reports on the visits in 1993 and 1998, the CPT paid particular attention to the problem of inter-prisoner violence. At the time of the 2004 visit, a few allegations were heard at Kópavogur Prison of physical violence (slaps and kicks) of female prisoners by other female inmates. The response to such incidents by the prison management was prompt and decisive, including the notification of the competent police and prosecution authorities, which carried out inquiries into each case.

33. At Litla-Hraun Prison, the delegation received a greater number of allegations of physical ill-treatment of prisoners by their fellow inmates, In one case; an inmate alleged that he had been punched and kicked on various parts of the body by three other prisoners a day after his arrival at the prison in December 2002. This allegation was supported by medical records consulted by the delegation at Selfoss Health Centre, where the person concerned was transferred some ten days after the alleged incident. The record contained two medical certificates drawn, up by the doctor on duty, referring, *inter alia*, to a swelling of the right cheek and eyebrow and 10-15 haematomas of various sizes on the back, lower legs and the sides of the body. The doctor considered that the injuries were compatible with the allegations made.

The prisoner's file contained seven requests to the Prison and Probation Administration and the Ministry of Justice for his transfer to another prison. The most recent request (dated April 2004) made reference to continuing physical violence and threats from other in-mates.

The response of the authorities to this case has been far from reassuring. The only action they had taken was to move the prisoner concerned to another accommodation unit; the incident was not reported by the authorities to either the police or the prosecuting/judicial authorities. The inmate concerned was apparently informed by the prison management that he would need to refer this matter to the police himself if he wished his complaints to be investigated. As the delegation discovered at Selfoss Police Station, the prisoner did make a formal complaint on 9 July 2003.

At the end of the visit, the delegation called upon the Icelandic authorities to remain vigilant and proactive in this case, bearing in mind the continuing threats to the prisoner concerned. In their letter of 30 June 2004, the Icelandic authorities acknowledged that the Prison and Probation Administration had taken no action on the inmate's complaints between December 2002 and July 2003. As regards the police investigation, the authorities stated that it was "in progress" and that the police were now taking steps to locate and interrogate the suspects. **The CPT would like to be informed about the outcome of the police investigation in due course.**

34. The problem of inter-prisoner intimidation and violence cannot be solved solely by segregating prisoners who seek protection and inmates known for aggressive/predatory behaviour towards fellow-inmates. It is necessary to render prison staff particularly attentive to signs of such violence and to ensure that they intervene in a determined and effective manner, at as early a stage as possible. Another important tool in the prevention of inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to their attention, whether or not that information takes the form of a formal complaint and, where appropriate, the instigation of proceedings.

In this context, the role of health-care staff is of crucial importance. The staff concerned will often be the first interlocutor of prisoners who have been ill-treated or threatened by fellow inmates. The evidence gathered by the CPT's delegation at Litla-Hraun Prison suggested that suspected cases of inter-prisoner violence were not routinely reported by health-care staff to the prison or prosecuting authorities. Further, there was no procedure, and no specific register, for recording injuries observed during medical examinations.

The CPT recommends that staff at Litla-Hraun Prison be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation, bearing in mind the above remarks. Further, the CPT recommends that the existing procedures be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him. The Committee also recommends that a centralized system for recording injuries be introduced (e.g. a specific register kept by the prison health-care service).

3. Conditions of detention

a. Litla-Hraun Prison

35. Litla-Hraun Prison had already been visited by the CPT in 1993 and 1998. With an official capacity of 87, at the time of the 2004 visit, the establishment was accommodating 75 male inmates, 9 of them on remand. Of the remand prisoners, 5 had been placed in solitary confinement for investigation purposes.

Material conditions of detention were on the whole of a good quality, and were of a high standard in the recently constructed House 4 (cf. paragraph 55 of CPT/Inf (99) 1). Following an extensive refurbishment of House 3, cells in that part of the establishment had been fitted out with a sink and a toilet; however, there was no partition around the toilet. The CPT recommends that the in-cell toilets in House 3 be provided with partitions.

36. As in 1998, prisoners were entitled to generous out-of-cell time and had access to well-appointed common areas, a gym and a large outdoor exercise yard. The establishment possessed a variety of workshops (for car license plates, welding and light engineering, the production of paving blocks, pallets and wooden 'window frames, and far washing cars). According to the prison director, some 57 inmates were employed at the time of the visit, either in the workshops or on various general maintenance duties. However, the delegation heard a number of complaints from prisoners who stated that they wished to work but had not been offered a job; as one of these inmates put it, "more work would be better than all the pills we get".

The educational unit offered *inter alia* Icelandic, English, mathematics and computer classes, and was well-equipped (at the time of the visit, no classes were offered, due to the summer holiday); however, as had been the case in 1998, no provision was made for prisoners requiring basic tuition.

The CPT recommends that the Icelandic authorities seek to develop the programme of activities for prisoners at Litla-Hraun Prison, in the light of the above remarks. The aim should be to integrate these activities into individualized custody plans (cf. paragraph 28).

b. Skólavörðustígur Prison

37. With an official capacity of 16, Skólavörðustígur Prison was accommodating 14 prisoners at the time of the visit, 2 of whom were on remand. Conditions of detention remained basically unchanged since the 1998 visit (cf paragraphs 65 - 67 of CPT/Inf (99) 1). The delegation observed that the establishment was very clean and in a good state of repair. However, the structural limitations of the 19th century building in which the prison was located continued to pose problems, in particular with regard to insufficient space for workshops and recreational or educational facilities.

Despite the management's efforts, the establishment's population experienced an almost complete lack of work and recreational activities. Only two prisoners were employed (cleaning, distributing food). Outdoor exercise was offered twice a day (more often in good weather). Other than that, prisoners whiled away their time playing board games or watching TV.

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

c. Kópavogur Prison

38. The visit to Kópavogur Prison was also of a follow-up nature, the establishment having been visited by the CPT in both 1993 and 1998. With an official capacity of 12, it was accommodating 11 inmates (6 women and 5 men) on the day of the visit. Male prisoners were serving short sentences, usually for non-payment of fines. As for female prisoners, a number of them were serving long sentences, Kópavogur Prison being the only establishment in Iceland holding women.

39. In the report on the 1998 visit, material conditions of detention at Kópavogur Prison were described as very good. However, some fifteen years after its construction, the establishment's fabric was demonstrating the first signs of tear and wear, and some cells needed repainting. **The CPT invites the Icelandic authorities to maintain all cells at Kópavogur Prison in a good state of repair.**

40. The CPT welcomes the efforts made by the prison management to provide work and educational activities at the establishment. At the time of the visit, all prisoners had work (labelling magazines, packing and laundry work). Further, some five teachers from the local secondary school were giving classes in Icelandic, math and computer studies. As regards sports activities, prisoners had at their disposal a small room equipped with weight-lifting and other exercise equipment, as well as a basketball court.

However, the establishment's small size made a number of prisoners - especially those serving long sentences - feel claustrophobic. In order to temporarily "escape" from it, some prisoners preferred to spend a month or two in the isolation cell of Skólavörðustígur Prison. Such an arrangement is obviously far from satisfactory.

41. A major feature of this establishment was that there was no separation of sexes during the day, as male and female prisoners spent most of their time together (though they were not authorized to go into each other's rooms).

As a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men being held at the same establishment. That said, the CPT is not opposed to some degree of mixed association in prisons, provided that the prisoners involved agree to participate, and are carefully selected and adequately supervised.

The delegation did not hear any allegations at Kópavogur Prison of physical and/or gender related ill-treatment between the inmates. Nevertheless, the present arrangements at Kópavogur, by virtue of which prisoners of both sexes have little choice but to associate with each other during the day, potentially lends itself to abuse. The CPT invites the Icelandic authorities to consider the possibility of converting Kópavogur Prison into a female prison. Such a measure would have the additional advantage of permitting more living space per prisoner and more possibilities for activities adapted to the needs of female inmates, in particular those serving long sentences (cf. also paragraph 36).

d. Kvíabryggja Prison

42. Kvíabryggja Prison is situated in a rural area near the small town of Grundarfjörður on the Snæfellsness Peninsula (some 190 km from Reykjavik). It was set up in 1955 as an establishment for alimony defaulters, and has served as an open prison since 1976. Inmates were accommodated in a one-storey building comprising 14 single cells. On the day of the delegation's visit, 13 prisoners, considered as low-risk and serving sentences of less than 3 years, were being held at the establishment.

Material conditions of detention were very good. The cells, measuring some 7 m², were bright, airy, clean and kept in a good condition. They were also well equipped (bed with full bedding, bedside table, desk, chair, wardrobe and shelves). Various private items (hi-fi and computer equipment, posters and plants) were in evidence. Cell doors were never locked and inmates were free to walk around the area surrounding the prison during the day.

Prisoners had unrestricted access to communal toilet, washing and shower facilities, which were of a very high standard. As regards food, all the inmates confirmed that it was sufficient in quantity and excellent in quality.

43. The delegation was impressed by the range of leisure activities and facilities available to inmates at Kvíabryggja Prison. Prisoners could circulate freely during the day in a wide area surrounding the prison (there was no perimeter wall). They could play several kinds of outdoor sports and had access to a small but well equipped gym. They also had a well stocked library and a common room with satellite TV, a video/DVD, a hi-fi and newspapers and magazines at their disposal:

44. However, the situation was not as favourable as regards the provision of work. Jobs were in principle available in two workshops, one for repairing fishing nets and preparing baits for fishing boats, and the other for mounting wooden pallets. However, the offer of work was highly irregular, depending on seasonal variations in the fishing industry (the average number of inmates gainfully employed in the summer was a mere four).

Further, at the time of the visit, there was no possibility to follow any form of education or vocational training. The delegation was informed that it was envisaged to offer distance-learning courses in the near future.

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

4. Health care

45. Shortly after the CPT's 1998 visit, service agreements were concluded between local healthcare centers (under the responsibility of the Ministry of Health and Social Security) and prisons for the provision of health care to prisoners. The 2004 visit provided an opportunity for the Committee to observe the practical implementation of these agreements.

Although the delegation was impressed by the professional competence and commitment of the health-care staff with whom it spoke, it also became aware of the shortcomings of the solution chosen by the Icelandic authorities. There seemed to be no clear management, no coordination of work of different health-care professionals and no proper needs analysis addressing the specificities of health care in a prison setting (e.g. as regards transmissible diseases or drug issues). Moreover, the health-care staff concerned did not receive any specialized training for performing their duties in a prison environment, other than courses in which they participated at their own initiative and in their free time. **The CPT invites the Icelandic authorities to review the organization of health care for prisoners and develop the training of health-care staff working with inmates, in the light of the above remarks.**

46. As regards health-care staff resources, the situation at **Litla-Hraun Prison** had improved as compared with the 1998 visit (cf. paragraphs 77 and 78 of CPT/Inf (99) 1): In particular, the establishment had been provided with the services of two nurses, who ensured a presence five days a week (i.e. the equivalent of one full-time post). The establishment was also visited by a general practitioner (three times a week) and a psychiatrist (cf. paragraph 53). However, the delegation received complaints from inmates about considerable delays in access to the doctor (e.g. up to three weeks). **The CPT would like to receive the comments of the Icelandic authorities on this issue.**

As in 1998, the delegation observed that prisoners could be prescribed medication (including neuroleptics), without being physically seen by a doctor. As stressed by the ~'_PT in the report on the 1998 visit, this is an unacceptable practice. **The CPT calls upon the Icelandic authorities to discontinue it without further delay.**

47. The arrangements with respect to the presence of general practitioners and nurses at **Kópavogur** and **Skólavörðustígur Prisons** had remained unchanged since the 1998 visit (cf. paragraph 79 of CPT/Inf (99) 1) and could still be considered as satisfactory. As to **Kvíabryggja Prison**, it did not possess its own health-care service and relied in case of need on the nearby healthcare centre in Grundarfjörður. This arrangement seemed to operate adequately and the delegation did not hear any complaints from inmates about access to the doctor.

48. In all the prisons visited, medication prescribed to prisoners was frequently distributed by medically untrained custodial staff, many of whom indicated that they felt uncomfortable with this task. **The CPT recommends that this practice be stopped.** Possible solutions to this problem include an increase in nursing cover or a reorganization of the presence of the nurses, so as to ensure that a nurse visits each establishment every day.

49. The health-care service facilities at Litla-Hraun, Skólavörðustígur and Kópavogur Prisons were generally well equipped and maintained in a good state of repair and hygiene. However, at the last establishment, the medical consultation room was rather small, deprived of access to natural light and located in a remote, basement area of the establishment. **The Icelandic authorities are invited to consider the possibility of finding another, more appropriate, facility for medical consultations at Kópavogur Prison.**

In the medical consultation room at Litla-Hraun Prison, the delegation saw a glass partition, which had recently been installed to separate the doctor from his patients. At the end of the visit, the delegation requested the Icelandic authorities to remove this partition, which was preventing proper medical examinations and was not conducive to the establishment of an appropriate relationship between medical staff and patients. The CPT was pleased to note, from the authorities' letter of 30 June 2004, that the partition in question had been removed.

50. Access to specialist somatic treatment appeared to present no difficulties in any of the establishments visited. However, the health-care service agreements mentioned in paragraph 45 did not cover dental care, and inmates were still required to pay a part of the cost of dental treatment. Not surprisingly, the delegation received several complaints from prisoners about the problematic access to and high cost of dental care. **The CPT recommends that steps be taken to ensure that all prisoners have access to adequate dental treatment, including those without the means to pay for such treatment.**

51. Medical screening on admission was performed systematically in all prisons except for Kvíabryggja (which, however, received only inmates who had already been examined at either Litla-Hraun or Skólavörðustígur Prisons). The initial medical examination - usually carried out by a nurse, who referred the prisoner to the doctor in case of need - took place a few days after arrival. It is noteworthy that this situation was the least favourable at Skólavörðustígur Prison - the pain point of entry to the prison system - where newly arrived inmates might not be seen by a member of the health-care service until the fifth day. **The CPT recommends that the Icelandic authorities take steps to eliminate the delays in the medical screening of newly admitted inmates; save for exceptional circumstances, the screening should be carried out on the day of admission, especially in so far as remand prisoners are concerned.**

52. As far as the CPT's delegation could ascertain, the confidentiality of medical data was observed at Kópavogur, Kvíabryggja and Skólavörðustígur Prisons. However, at Litla-Hraun Prison, non-medical staff had access to the lockers containing inmates' medical files. At the end of the visit, the Icelandic authorities announced that they would take steps to ensure that medical confidentiality is fully respected at Litla-Hraun Prison. **The CPT would like to receive confirmation that this has been done.**

During the official meetings at the outset of the visit, the delegation was informed that prisoners could opt out from the Icelandic Genome Project on the same basis as other Icelandic citizens. However, the delegation noted that special forms that should be used to make such a declaration were not available at any of the prisons visited. **The CPT would like to receive the comments of the Icelandic authorities on this issue.**

53. In the report on the 1998 visit, the CPT concluded that the provision of psychological and psychiatric services in the prisons visited was grossly underdeveloped, and recommended that the arrangements in this respect be reviewed as a matter of urgency (cf. paragraph 88 of CPT/Inf (99) 1).

During the 2004 visit, the CPT's delegation found that the situation had improved at LitlaHraun Prison, which now benefited from visits by a psychiatrist once a week. However, access to psychiatric care remained inadequate at Kópavogur and Skólavörðustígur Prisons, which were visited only sporadically by a psychiatrist.

As regards psychological care, there had been an improvement at Litla-Hraun Prison, which benefited from the presence of a psychologist four days per week. Further, Kópavogur and Skólavörðustígur Prisons were visited by a psychologist once a week. However, the delegation heard complaints from inmates about insufficient psychological care at Kvíabryggja Prison, where a psychologist from the Prison and Probation Administration held consultations only once a month.

The CPT recommends that the provision of psychiatric care be improved at Skólavörðustígur and Kópavogur Prisons, and that the attendance of a psychologist be increased at Kvíabryggja Prison.

54. The CPT is concerned by the persisting difficulties in transferring prisoners requiring hospitalization to outside psychiatric establishments. All the prisons visited (except Kvíabryggja Prison) accommodated certain prisoners who were clearly in need of specialist psychiatric care, which they did not receive inside the prison. In practice, the only psychiatric establishment to which such prisoners could be admitted without difficulty was the Sogn Institution for Mentally Ill Offender⁶s; however, due to its small capacity, it failed to meet the demand. A joint working group had apparently been set up by the Ministries of Health and Justice in order to look for ways to overcome this problem.

The CPT recommends that immediate steps be taken to ensure that mentally disturbed prisoners who require in-patient psychiatric treatment are kept and cared for in appropriate facilities.

55. In the report on the 1998 visit, the CPT expressed concern about the absence of any policy and/or guidelines for suicide prevention within the Icelandic prison system (cf. paragraph 45 of CPT/Inf (99) 1). The delegation which carried out the 2004 visit was pleased to note that comprehensive guidelines in this area had been drawn up in the meantime. However, the observations made during the visit suggest that not all the staff concerned were familiar with the contents of those guidelines. **The CPT invites the Icelandic authorities to take steps to ensure that the guidelines for suicide prevention are known to, and applied by, all categories of staff involved.**

⁶ Visited by the CPT in 1993 and in 1998.

5. Other issues related to the CPT's mandate

a. contact with the outside world

56. As a rule, prisoners were entitled to at least one visit of a minimum of two hours' duration per week; inmates with a record of good behaviour were in principle entitled to unsupervised visits. Further, the management of the prisons visited frequently granted additional visits to prisoners. With the exception of Kvíabryggja Prison (where inmates received visitors in their cells), visits took place in well equipped and pleasantly decorated facilities.

Some of the remand prisoners held at Litla-Hraun Prison were only entitled to visits under closed conditions (i.e. through a glass partition); **the Committee trusts that the use of such facilities will remain the exception, limited to individual cases justified for security-related reasons or by the legitimate interests of the investigation.**

57. In all the prisons visited, inmates could make telephone calls at least three times a week and receive calls at least once a week. Further, there were no restrictions on incoming and outgoing correspondence. The CPT welcomes this.

b. remand prisoners subjected to restrictions for investigation purposes

58. The CPT remains concerned about the fact that restrictions on contact with the outside world continue to be applied to a significant proportion of remand prisoners⁷, for periods of usually up to two weeks⁸. The information gathered by the delegation during the 2004 visit suggests that the reasons for imposing restrictions are not always very specific (i.e. do not go beyond the general reasons for remand in custody set out in Section 103 (1) (a) of the Criminal Procedure Code).

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

The aim of these recommendations is to ensure that courts are able to conduct a *meaningful assessment* of whether or not specific restrictions are required in a given case. Restrictions should be limited to situations where there is a genuine risk of harm in the context of a given criminal investigation, and where the risk concerned is sufficient to justify the particular restrictions being sought in a particular case. Further, the implementation of the above recommendations will enable a remand prisoner or his/her lawyer effectively to challenge the specific restrictions applied.

⁷ According to the data provided by the Prison and Probation Administration, restrictions were imposed on 86 (out of a total of 114) newly arrived remand prisoners in 1999. In the following years, the corresponding figures were: 70 (out of 77) in 2000; 83 (out of 91) in 2001; 94 (out of 108) in 2002; and 55 (out of 69) in 2003.

⁸ The average period during which restrictions were imposed was 16 days in 1999, 20 days in 2000, 10 days in 2001, 14 days in 2002 and 11 days in 2003.

c. discipline and segregation

59. The CPT's delegation noted that disciplinary sanctions, including disciplinary solitary confinement, were not applied in an excessive manner in the prisons visited. Prisoners had the right to appeal against the disciplinary sanctions to the Minister of Justice, who had to reply within 48 hours. However, the delegation was informed that prisoners were not heard on the subject of the offence with which they were charged.

The CPT recommends that prisoners facing disciplinary charges be formally guaranteed the following rights:

to be informed in writing of the charges against them, to be given sufficient time to prepare their defence, and to be given a hearing and an opportunity to present their case;

to call witnesses on their own behalf and to cross-examine evidence given against them.

60. In the report on the 1998 visit, the CPT recommended that the three cells occasionally used for temporary solitary confinement purposes, located in House 2, never be used for periods of detention exceeding one or two days, and preferably be withdrawn from service as prisoner accommodation. In their interim response, the Icelandic authorities informed the CPT that these cells had never been used as prisoner accommodation for more than a few hours in rare instances. This was confirmed by the information gathered by the delegation during the 2004 visit. However, the use of these cells was not recorded at all. **The CPT recommends that every instance of use of the three isolation cells in House 2 be properly recorded, no matter the length of their use.**

61. The CPT is also concerned about the design of the "secure cell" seen at Litla-Hr4un Prison, which was used to place agitated and/or violent prisoners. Under a mattress placed on the floor in this cell, there were six metal rings, as well as two rings on the cell's opposite walls. According to staff, these rings were used to secure inmates, placed in a spread-eagled position, by tying them with leather straps to the rings. The "secure cell" was reportedly used extremely rarely (i.e. once a year) and never for longer than three days at a time.

The delegation was concerned to learn that there were no guidelines concerning the use of the "secure cell" and no register recording its use. **The CPT recommends that such guidelines and register be created.** Furthermore, the Committee is of the opinion that the devices currently in use (i.e. the metal rings and leather straps) are a dangerous and unacceptable method of securing agitated and/or aggressive prisoners; **it recommends that they be removed immediately.**

d. complaints and inspection procedures

62. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons: Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

In Iceland, inmates may, inter alia, lodge requests or, complaints with the prison's management, the Prison and Probation Administration, the Minister of Justice and the Parliamentary Ombudsman. The prisoners met by the delegation were generally aware of the avenues of complaint available to them.

63. In their response to the report on the 1998 visit, the Icelandic authorities announced that a draft proposal to set up an independent prison inspection system would be submitted to the Minister of Justice in the near future. Unfortunately, by the time of the 2004 visit, such a system had still not been created. The Parliamentary Ombudsman - who has the power to carry out inspections of prison establishments, but not the means to do so on a regular basis - drew the delegation's attention to the need to create a monitoring mechanism specifically entrusted with the task of inspecting prisons.

The CPT recommends that the Icelandic authorities reconsider the possibility of establishing a system under which each prison establishment would be visited on a regular basis by an independent body authorized to inspect the prison's premises and to receive complaints from inmates about their treatment in the establishment.

e. drug-related issues

64. During the 1998 visit to Litla-Hraun Prison, the delegation noted the introduction of a so called "drug-free unit" (also referred to as the "model prisoners" unit). However, at the time of the 2004 visit, the management of Litla-Hraun Prison indicated that this experiment had been discontinued, apparently because it created significant tension within the establishment, due to the privileges enjoyed by prisoners placed there (e.g. more generous visiting entitlements and access to the telephone).

The Icelandic authorities had also stopped the programs targeted to combat drug abuse within the prison system. In this connection, a number of prisoners complained that they were receiving no assistance to overcome their dependency. The drug policy currently in place appeared to consist almost exclusively of preventing the entry of illicit drugs into the prison. In this connection, it should be added that the delegation heard from different sources that a number of prisoners had recently died of drug overdose almost immediately after being released from prison.

65. As stressed by the CPT in the report on the 1998 visit (cf. paragraph 92 of CPT/Inf (99) 1), a merely repression-oriented approach is not sufficient. Suitable medical, psychological and welfare structures should exist inside prisons, working, as appropriate, with external therapeutic agencies.

The CPT calls upon the Icelandic authorities to take steps to develop fully-fledged therapeutic programs aimed at combating drug addiction,

C. Psychiatric Department of Reykjavik National University Hospital

1. Preliminary remarks

66. The Psychiatric Department of Reykjavik National University Hospital (*Landspítali*) is the largest psychiatric establishment in Iceland⁹, following the recent merger of the psychiatric departments of the former University and City Hospitals. It comprises three separate facilities.

The first facility, located in the former University Psychiatric Department at Hringbraut, has a total capacity of 62 beds, distributed as follows: admission (2 beds), acute general psychiatry (three wards of 15 beds each) and substance abuse treatment (15 beds)¹⁰. At the time of the visit, it was accommodating eight adult patients of both sexes undergoing involuntary hospitalization and treatment pursuant to Chapter III of the Act on Legal Competence,¹¹

The second facility is the former psychiatric department of the Hospital at Kleppur, which, according to the information provided to the delegation, has a capacity of 60 beds and is used for long-term care and rehabilitation, as well as day accommodation and outpatient care. There were no involuntary patients there at the time of the visit.

The third facility is the child and adolescent psychiatry ward at Dalbraut. With 12 beds for children (aged 8 to 12) and 8 beds for adolescents, it was providing treatment to 11 patients at the time of the visit, of whom only one boy was classified as an involuntary patient.

The average length of stay was said to be approximately one week in the substance abuse ward, some 14 days in the acute wards, and approximately 30 days in the child and adolescent ward. As to the Kleppur facility, patients could remain there for much longer periods.

67. The CPT wishes to stress at the outset that the delegation gathered no evidence of physical ill-treatment of patients at the Psychiatric Department of Reykjavik National University Hospital. On the contrary, a number of patients spoke favourably about the manner in which they were treated by staff. Overall, the atmosphere in the establishment appeared tension-free and friendly. The approach of both medical and nursing staff was found to be highly professional and caring towards their patients.

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⁹ The catchment area covers practically the whole of Iceland, except for the northern Akureyri region, served by the Psychiatric Ward at Akureyri Regional Hospital (visited by the CPT in 1998).

¹⁰ In practice, patients with a substance abuse problem were only admitted if they also suffered from a related psychiatric problem (e.g. delirium, depression, suicidal state).

¹¹ Act No 71/1997, in force since 1 January 1998.

2. Patients' living conditions

68. Patients' living conditions were generally of a very good standard. They were accommodated in spacious rooms (10 to 12 m² for single use; 16 to 22 m² for double occupancy), which were bright, airy, pleasantly decorated and well furnished (bed with full bedding, desk, chair, wardrobe, shelves). **However, the ventilation in the rooms for children and adolescent patients at Dalbraut left something to be desired.**

69. Association and other communal facilities (e.g. day and dining rooms) were pleasantly furnished, comfortable and offered a welcoming atmosphere. The sanitary facilities were impeccably clean and in a good state of repair, and patients had ready access to them at all times. Further, the delegation heard no complaints from patients about the food served to them.

70. Patients subject to involuntary placement in a psychiatric institution should have the possibility to take outdoor exercise of at least one hour on a daily basis, if their medical condition so permits. In this context, the CPT noted that there was no provision for systematic daily outdoor exercise at any of the wards (except for the children). This was explained by the absence of secure exercise areas, which, according to staff, related to the conscious choice of a low-security type of accommodation. Admittedly, the majority of patients benefited from frequent accompanied and unaccompanied day leaves, and some were allowed to go outside the buildings to for a walk, smoke, etc. However, a small number of patients identified as presenting an escape risk were deprived of the possibility to take daily outdoor exercise. **The CPT recommends that the Icelandic authorities take steps to ensure that, as a matter of principle, all patients whose medical condition so permits are offered the possibility to take at least one hour of outdoor exercise on a daily basis.**

3. Staff and treatment

71. Staffing levels at the Psychiatric Department of Reykjavik National University Hospital were fully satisfactory. With a total capacity of 142 beds, the department was said to have the fulltime equivalent of 15 psychiatrists (filled by some 60 doctors), 35 fully qualified nurses (filled by some 50 nurses) and 47 nursing assistants (some 90 persons). As regards other staff qualified to provide therapeutic and rehabilitative activities, the department reportedly employed 25 psychologists (on 5 full-time posts), 4 full-time occupational therapists and some 20 social workers. In addition, there were visiting specialists in eating disorders, family therapy, art and music therapy.

During the day, each 15-bed acute ward was staffed by three to four psychiatrists, five to eight nurses and the same number of nursing assistants. As regards the child and adolescent psychiatry ward, the day shift included two psychiatrists, 5 nurses and 16 "counsellors" with different professional backgrounds (a chaplain, psychology students, future social workers, trainee nurses, etc), whose role was to assist the medical team and act as contact persons for the patients. At night and at weekends, there were three or four psychiatrists on call, four nurses and two or three nursing assistants per ward; additional staff could be called in in case of need.

72. The treatment available at the establishment was based on an individual approach, involving the drawing up of a treatment plan for each patient by a therapeutic team (with the participation of the patients concerned) and subsequent monitoring of its implementation. In addition to medication, the treatment included group and individual psychotherapy as well as behavioural and cognitive therapy. In the case of children and adolescent patients, a stage-based programme with clear behavioural criteria implying an increasing degree of autonomy was followed. Further, special programs were offered to patients suffering from alcohol and drug dependency (who could, *inter alia*, participate in regular meetings of AA and Narcotics Anonymous groups).

To sum up, the establishment provided a positive therapeutic milieu, with treatment options adapted to the patients' needs and well-integrated inpatient and outpatient services. Nevertheless, **the CPT invites the Icelandic authorities to make efforts to also provide physiotherapy.**

73. Patients were offered a wide range of recreational activities, such as visits to the cinema, theatre and museums; sports activities including access to a fitness room and visits to a swimming pool in town; unrestricted possibility to use day rooms equipped with TV/DVD/video and hi-fi sets, as well as a good selection of books, magazines and daily newspapers. Children and juveniles had at their disposal, in addition to games and toys, a primary and secondary school attached to their ward.

4. Means of restraint/seclusion

74. The delegation noted that means of restraint were rarely used at the establishment. The first response to an agitated or a violent patient was dialogue and persuasion, if necessary followed by manual control applied upon a decision of a doctor or a nurse immediately reporting to a doctor: The policy was not to apply mechanical restraints and, in principle, not to resort to seclusion. As to chemical restraints, they would only be applied upon a doctor's order.

75. The delegation noted with satisfaction that the application of the aforementioned measures was the subject of a clear written policy (involving debriefing of both the patient and staff after the event) and that health-care staff received appropriate initial and ongoing training in this respect. The use of means of restraint was recorded in the patient's file as well as the doctors' notes and the nurses' journal. However, save in cases when restraints were applied in the context of violent incidents involving injuries (in which case a detailed "incident form" was filled out, with a copy addressed to the Ministry of Health), there was no dedicated register for recording the use of means of restraint. **The CPT recommends that such a register, documenting all instances of the application of physical and chemical restraint, be established;** this will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.

76. At the child and adolescent psychiatry ward, the CPT's delegation was informed that, on occasion, police officers could be called into the ward in order to help health-care staff restrain an agitated/aggressive juvenile patient. According to staff interviewed in the ward, the restraining always happened under the supervision of health-care staff, the police only holding down the patient concerned.

The CPT recommends that the Icelandic authorities reconsider the above-mentioned practice. Alternative solutions could and should be found (e.g. assistance by health-care staff from other wards or by the city's medical emergency service).

5. Safeguards in the context of involuntary placement¹²

77. Regarding initial placement in a psychiatric establishment, the CPT's delegation was informed that the emergency 48-hour involuntary hospitalization could not take place before the applicant (a family member and/or social services) had contacted the hospital and ensured that a bed was available for the patient. **The CPT would like to receive further clarification as to how the system operates in practice.**

As regards the possibility to extend involuntary placement for an additional period of 21 days by decision of the Minister of Justice, the Committee considers that the criteria justifying such a placement, as set out in Section 19 of the Act on Legal Competence (i.e. a "serious psychosis or analogous condition", including serious drug/alcohol dependence), are rather vague. **The CPT invites the Icelandic authorities to consider amending Section 19 of the Act on Legal Competence in order to spell out these criteria more clearly, so as to ensure that involuntary hospitalization takes place only when a patient's placement is absolutely necessary to prevent a danger to the patient or to other persons.**

78. Extension of the period of compulsory hospitalization beyond the 23 days entails a court decision depriving the patient of his/her legal competence. The CPT has reservations about the automatic linking of involuntary hospitalization to deprivation of legal competence. The restriction of a person's rights should not be based on the mere fact that he/she has a mental disorder and is involuntarily hospitalised. The deprivation of legal competence, which may well be required to protect the patient and his financial interests, should require additional grounds and a separate procedure. The CPT would welcome the comments of the Icelandic authorities on this subject:

79. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed at regular intervals. When involuntary placement is for a specified period (e.g. 6 months), such a review will flow from the very terms of the placement. However, under the current legislation, involuntary placement decided by a court might be for an unspecified period; as matters stand, in such a case, there is no automatic judicial review after a certain interval of the need to continue the placement. **The CPT recommends that the Icelandic authorities amend the existing legislation on this point; if the period of involuntary placement is unspecified, there should be an automatic review at regular intervals of the need to continue the placement.**

¹² The legal framework governing civil involuntary placement and treatment in psychiatric establishments is provided by Act No. 71/1997 on Legal Competence, and has been summarised in the 1998 visit report (cf. paragraph 105 of CPT/Inf (99) 1).

80. The involuntary placement of a patient in a psychiatric establishment includes, as from the moment when the decision of the Minister of Justice is issued, the possibility of treating the patient without his/her consent¹³.

In practice, doctors at the establishment endeavoured to obtain the informed consent of patients above the age of 16 before starting a treatment, and subsequently, in the context of the review of the patient's treatment plan. Juveniles over 12 years of age had to be consulted about their treatment. As regards children below the age of 12, consent was requested from the child's parents.

Nevertheless, the CPT remains concerned about the existing legal position; in its view, the current provisions of the Act on Legal Competence represent a too broad-ranging exemption from the principle of free and informed consent. The involuntary hospitalization of a psychiatric patient should not be automatically construed as authorising treatment without his/her consent. Any derogation from the principle of free and informed consent should only be applied in clearly and strictly defined exceptional circumstances.

The CPT recommends that the Icelandic authorities review the relevant legislation, in the light of the above remarks. Further, detailed rules on involuntary treatment of psychiatric patients should be issued, as foreseen in Section 28 (4) of the Act on Legal Competence.

81. Concerning the information provided to involuntary patients, the delegation noted that they received a copy of the placement decision and were informed about the possibility to contact a counsellor and appeal against the decision to the competent court¹⁴. As regards patients compulsorily hospitalised by court decision (and deprived of their legal competence), the court was under the obligation to inform them of their right to appeal against the decision to the Supreme Court.

However, no written information was available to psychiatric patients as regards the possibilities to lodge complaints to an outside authority. **The CPT invites the Icelandic authorities to remedy this lacuna.**

82. The delegation was informed that there was no independent body - other than the Parliamentary Ombudsman - empowered to monitor psychiatric establishments. The limited resources at the Ombudsman's disposal prevented him from carrying out frequent visits to psychiatric establishments. The delegation learned at the Psychiatric Department of Reykjavik National University Hospital that the last visit by the Parliamentary Ombudsman had taken place some 2 years before. In this context, **the CPT recommends that regular visits by an independent body be organised to psychiatric establishments: Such a body should be authorized, in particular, to talk privately with patients, to receive directly any complaints and transmit them, if appropriate, to the competent authority, and to make recommendations. Further, the management of the establishments concerned should be duly informed of the results of any inspections carried out on their premises.**

¹³ Cf. Section 28 (2) of the Act on Legal Competence, which stipulates that "a person involuntarily committed to hospital for treatment with the approval of the Ministry of Justice shall ... be subjected to involuntary administration of medical preparations in accordance with a decision of the chief physician. This shall also apply to any other involuntary treatment".

¹⁴ Cf. Sections 25, 27 and 30 of the Act on Legal Competence

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

83. During this third periodic visit to Iceland, the CPT's delegation heard hardly any allegations - and found no other evidence - of ill-treatment of persons detained by the police. Most of the persons interviewed by the delegation who were, or had recently been, detained by the police, indicated that they had been treated in a correct manner throughout the period of police custody. Consequently, the conclusion reached by the CPT after the previous visit in 1998 - namely that persons in police custody in Iceland run little risk of being ill-treated - remains valid.

84. In the report drawn up after the 1998 visit, the CFT made a number of recommendations aimed at further strengthening the existing safeguards against ill-treatment. The facts found during the third periodic visit demonstrate that, despite a generally favourable situation in practice, these recommendations remain to be implemented. The Committee has therefore recommended once again that any delay in the exercise of a detained person's right to notify someone of his situation require the approval of a senior police officer or a public prosecutor, Similarly, the right of access to a doctor should be expressly guaranteed in law and reference to it should be made in the information sheet given to persons upon their apprehension. Further, the return to police custody of persons on remand held in prison should be subject to the authorisation of a judge or public prosecutor.

85. As had been the case during the 1998 visit, conditions of detention at the police establishments visited were generally adequate for the duration of police custody.

However, at Búðardalur Police Station, the delegation was concerned to find in one of the cells a metal bar fixed on the side of the sleeping platform. The bar was apparently intended for securing highly agitated/intoxicated persons with the help of handcuffs and/or foot cuffs. The Committee has reiterated its view that it is not appropriate to secure agitated/intoxicated persons in such a manner, and recommended that the metal bar in question be removed. In cases where a person in police custody is or becomes highly agitated, the police should immediately . contact a medical doctor and act in accordance with his opinion.

86. Pursuant to the new Act on Foreigners, foreign nationals who are illegally present in Iceland may be detained by judicial decision for up to 12 weeks. The Committee has recommended that the Icelandic authorities address certain lacunas as regards *safeguards* to be offered to such detainees (written information on rights; introduction of express provisions on the right to have access to a doctor, and of specific safeguards for unaccompanied minors). Further, the CPT has recommended that all persons required to stay for an extended period (24 hours or more) in the *detention facilities at Keflavik International Airport* be offered at least one hour of outdoor exercise per day.

87. The report has examined in some detail the manner in which *deportation orders concerning foreign nationals* are enforced. In this respect, the CPT has recommended that detailed instructions be issued on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorized in the context of deportation operations.

B. Prisons

88. The CPT's delegation did not hear any allegations of ill-treatment of prisoners by staff in Kópavogur, Kvíabryggja and Skólavörðustígur Prisons. The overall atmosphere in these establishments seemed to be relaxed and staff-prisoner relations were generally good.

The situation was less favourable at Litla-Hraun Prison, where the delegation heard some complaints of occasional rough treatment and verbal abuse of inmates by staff during cell searches. The delegation also observed that relations between staff and prisoners were of a formal and distant nature. The Committee has recommended that the Icelandic authorities seek to promote constructive relations between staff and prisoners at Litla-Hraun Prison. Further, the CPT has recommended that the existing arrangements for urine tests at Litla-Hraun Prison be reviewed; other means could and should be found to reconcile the legitimate aim of combating drug abuse with the inherent dignity of the persons concerned.

89. In the reports on previous visits, the CPT paid particular attention to the problem of interprisoner-violence. At the time of the 2004 visit, a few allegations were heard at Kópavogur Prison of physical violence (slaps and kicks) of female prisoners by other female inmates. The response to such incidents by the prison management was prompt and decisive, including the notification of the competent police and prosecution authorities, which carried out inquiries into each case. However, at Litla-Hraun Prison, the delegation received a greater number of allegations of physical ill-treatment of prisoners by their fellow inmates, and there were indications that the response of the authorities in such cases was not always adequate.

The Committee has stressed that an important tool in the prevention of inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to their attention, whether or not that information takes the form of a formal complaint and, where appropriate, the instigation of proceedings. In this context, the role of health care staff is of crucial importance. The CPT has recommended that staff at Litla-Hraun Prison be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation. Further, the existing procedures should be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him.

90. The CPT has noted several positive features of the Icelandic criminal justice system, such as the low incarceration rate, resort to alternative sentences and consequently, sufficient living space per prisoner. However, there remains much room for progress as regards the development of fully fledged social and rehabilitation programs for prisoners, and of individualised custody plans. The new Prison Act should provide an opportunity to formulate and implement a nationwide policy on imprisonment and rehabilitation.

Further, a high priority should be attached to finding an appropriate solution to the problem of accommodation for remand prisoners from the Reykjavik area, currently held in the antiquated facility at Skólavörðustígur or at the remote Litla-Hraun Prison.

91. As regards conditions of detention in the establishments visited, *Litla-Hraun Prison* offered on the whole good material conditions. However, the CPT has recommended that the Icelandic authorities seek to develop the programme of activities for prisoners, with the aim of integrating these activities into individualised custody plans.

92. Conditions of detention at *Skólavörðustígur Prison* remained basically unchanged since the 1998 visit. The establishment was clean and in a good state of repair. However, the structural limitations of the 19th century building in which the prison was located continued to pose problems, in particular with regard to insufficient space for workshops and recreational or educational facilities. The Committee has called upon the Icelandic authorities to improve significantly the regime activities offered to inmates at this establishment.

93. In the report on the 1998 visit, material conditions of detention at *Kópavogur Prison* were described as very good. However, some fifteen years after its construction, the establishment's fabric was demonstrating the first signs of tear and wear. As to activities, the CPT has welcomed the efforts made by the prison management to provide work and educational activities; however, the establishment's small size made a number of prisoners - especially those serving long sentences - feel claustrophobic.

A major feature of *Kópavogur Prison* was that there was no separation of sexes during the day, male and female prisoners spending most of their time together. The delegation did not hear any allegations of physical and/or gender-related ill-treatment between the inmates. Nevertheless, the present arrangements at *Kópavogur*, by virtue of which prisoners of both sexes have little choice but to associate with each other during the day, potentially lends itself to abuse. The CPT has therefore invited the Icelandic authorities to consider the possibility of converting *Kópavogur Prison* into a female prison.

94. Material conditions of detention at *Kvíabryggja Prison* were very good, and the delegation was impressed by the range of leisure activities and facilities available to inmates. However, the situation was not as favourable as regards the provision of work, which depended on seasonal variations in the fishing industry. The CPT has invited the Icelandic authorities to explore ways of overcoming this problem.

95. Health-care for prisoners is now provided by service agreements concluded with local health-care centers. The CPT's delegation was impressed by the professional competence and commitment of the staff concerned. Nevertheless, the current system was found to display certain shortcomings; such as lack of clear management, inadequate coordination of the work of different health-care professionals and an absence of specialized training for performing duties in a prison environment:

Health-care staff resources and health-care facilities were in general of a satisfactory level. However, the CPT was concerned to note that prisoners could still be prescribed medication without being physically seen by a doctor; the Committee has stressed that this practice must be discontinued.

96. In the light of the information gathered, in particular at Skólavörðustígur Prison, the CPT has recalled that, save for exceptional circumstances, the medical screening of newly-admitted inmates should be carried out on the day of admission, especially insofar as remand prisoners are concerned. The Committee has also expressed concern about the persistent difficulties in transferring mentally-disturbed prisoners requiring hospitalization to outside psychiatric establishments.

97. Other issues of relevance to the CPT's mandate addressed in the report include contact with the outside world, restrictions imposed on remand prisoners for investigation purposes, discipline and segregation, complaints and inspection procedures, and drug-related issues. Particular mention should be made of the recommendation that the police be required to record in writing the specific reasons justifying the imposition of restrictions on a remand prisoner. The Committee has also called upon the Icelandic authorities to take steps to develop fully-fledged therapeutic programs aimed at combating drug addiction.

C. Psychiatric Department of Reykjavík National University Hospital,

98. The CPT's delegation gathered no evidence of physical ill-treatment of patients at the Psychiatric Department of Reykjavík National University Hospital. On the contrary, a number of patients spoke favourably about the manner in which they were treated by staff. Overall, the atmosphere in the establishment appeared tension-free and friendly. The approach of both medical and nursing staff was found to be highly professional and caring towards their patients.

99. Patients' living conditions were generally of a very good standard. However, the Committee has noted that there was no provision for systematic daily outdoor exercise at any of the wards except for the children. In this context, the CPT has stressed that patients subject to involuntary placement in a psychiatric institution should have the possibility to take outdoor exercise of at least one hour on a daily basis, if their medical condition so permits.

Staffing levels at the hospital were fully satisfactory and the treatment provided to patients was adapted to their needs. In addition, patients were offered a wide range of recreational activities.

100. Means of restraint were rarely used at the establishment and their application was the subject of a clear written policy. However, in the light of the information gathered during the visit, the CPT has recommended that a dedicated register for recording the use of means of restraint, both physical and chemical, be set up. The Committee has also recommended that the Icelandic authorities reconsider the practice observed at the child and adolescent psychiatry ward, of police officers being occasionally called into the ward in order to help health-care staff restrain an agitated/aggressive juvenile patient.

101. As regards safeguards in the context of involuntary placement, the CPT has recommended that the Icelandic authorities amend the existing legislation so as to put in place an automatic review at regular intervals of the need to continue such a placement.

The CPT has also stressed that the current provisions of the Act on Legal Competence represent a too broad-ranging exemption from the principle of free and informed consent to treatment. The involuntary hospitalization of a psychiatric patient should not be automatically construed as authorising treatment without his/her consent. Any derogation from the principle of free and informed consent should only be applied in clearly and strictly defined exceptional circumstances.

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

102. The recommendations, comments and requests for information formulated by the CPT are listed in Appendix II. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Icelandic authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Icelandic authorities to provide in the above-mentioned response, reactions to the comments formulated in this report which are listed in Appendix 11 as well as replies to the requests for information made.

APPENDIX I

"DEPORTATION OF FOREIGN NATIONALS BY AIR":
Extract from the 13th General Report on the
CPT'S activities (z()02-2003)

27. As from the beginning of its activities, the CPT has examined the conditions of detention of persons deprived of their liberty under aliens legislation, and this issue was dealt with in a section of the CPT's 7th General Report (CPT/Inf (97) 10, paragraphs 24 to 36). The CPT set out in that report some basic rules concerning the use of force and means of restraint in the context of procedures for the deportation of immigration detainees.

28. The CPT's visits since that report have enabled it to flesh out its knowledge of practices concerning the deportation of foreign nationals by air. During its visits, the CPT has concentrated on procedures involving forcible departure with an escort⁵, and on a number of cases brought to its attention, in particular because of the death of the deported person, the extent of the means of restraint used and/or allegations of ill-treatment. The CPT did not confine its examination to the procedure followed when the person concerned boarded the plane and during the flight; it also monitored many other aspects, such as detention prior to deportation, steps taken to prepare for the immigration detainee's return to the country of destination, measures to ensure suitable selection and training of escort staff, internal and external systems for monitoring the conduct of staff responsible for deportation escorts, measures taken following an abortive deportation attempt, etc.

29. In order to be able to make a detailed study of the procedures and means used during deportation operations, the CPT obtained copies of the relevant instructions and directives. It also obtained copies of many other documents (statistics on deportation operations, escort assignment orders, escort -assignment reports, incident reports, reports in the context of legal proceedings, medical certificates, etc.) and examined the restraint equipment used during deportation operations. It also had detailed interviews in various countries with those in charge of units responsible for deportation operations and with prospective deportees met on the spot, some of whom had been brought back to holding facilities after an abortive deportation attempt,

30. After its visits, the CPT drew up a number of guidelines, which it recommended the countries concerned to follow. In order to promote widespread application of these guidelines in all the States Parties to the Convention, the Committee has decided to group together the most important principles and comment on them below.

Of course, what follows must be read in the light of a State's fundamental obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

⁵ Deportation procedures tend to be classified according to a number of factors, such as the extent to which force is used, the type of means of restraint employed, and the number of persons escorting the deportee. For example, one of the countries visited recently distinguished between departures in which no resistance was offered, forcible departures without an escort and forcible departures with an escort. In general, the most problematic procedures were those involving the combined use of force, several means of restraint and a large number of escort staff until the deportee's arrival in the country of final destination,

31. The CPT recognizes that it will often be a difficult and stressful task to enforce a deportation order in respect of a foreign national who is determined to stay on a State's territory. It is also clear, in the light of all the CPT's observations in various countries - and particularly from an examination of a number of deportation files containing allegations of ill-treatment - that deportation operations by air entail a manifest risk of inhuman and degrading treatment. This risk exists both during preparations for deportation and during the actual flight; it is inherent in the use of a number of individual means/methods of restraint, and is even greater when such means/methods are used in combination.

32. At the outset it should be recalled that **it is entirely unacceptable for persons subject to a deportation order to be physically assaulted as a form of persuasion to board a means of transport or as a punishment for not having done so.** The CPT welcomes the fact that this rule is reflected in many of the relevant instructions in the countries visited. For instance, some instructions which the CPT examined prohibit the use of means of restraint designed to punish the foreigner for resisting or which cause unnecessary pain.

33. Clearly, one of the key issues arising when a deportation operation is carried out is the use of force and means of restraint by escort staff. The CPT acknowledges that such staff are, on occasion, obliged to use force and means of restraint in order to effectively carry out the deportation; however, **the force and the means of restraint used *should* be no more than is reasonably necessary.** The CPT welcomes the fact that in some countries the use of force and means of restraint during deportation procedures is reviewed in detail, in the light of the principles of lawfulness, proportionality and appropriateness.

34. The question of the use of force and means of restraint arises from the moment the detainee concerned is taken out of the cell in which he/she is being held pending deportation (whether that cell is located on airport premises, in a holding facility, in a prison or a police station). The techniques used by escort personnel to immobilise the person to whom means of physical restraint - such as steel handcuffs or plastic strips - are to be applied deserve special attention. In most cases, the detainee will be in full possession of his/her physical faculties and able to resist handcuffing violently. In cases where resistance is encountered, escort staff usually immobilise the detainee completely on the ground, face down, in order to put on the handcuffs. Keeping a detainee in such a position, in particular with escort staff putting their weight on various parts of the body (pressure on the ribcage; knees on the back, immobilisation of the neck) when the person concerned puts up a struggle, entails a risk of positional asphyxia⁶.

There is a similar risk when a deportee, having been placed on a seat in the aircraft, struggles and the escort staff, by applying force, oblige him/her to bend forward, head between the knees, thus strongly compressing the ribcage. In some countries, the use of force to make the person concerned bend double in this way in the passenger seat is, as a rule, prohibited, this method of immobilisation being permitted only if it is absolutely indispensable in order to carry out a specific, brief, authorized operation, such as putting on, checking or taking off handcuffs, and only for the duration strictly necessary for this purpose.

⁶ See, in particular, "Positional Asphyxia- Sudden Death", US Department of Justice, June 1995, and the proceedings of the "Safer Restraint" Conference held in London in April 2002 under the aegis of the UK Police Complaints Authority (cf, www.pca.gov.uk).

The CPT has made it clear that **the use of force and/or means of restraint capable of causing positional asphyxia should be avoided whenever possible and that any such use in exceptional circumstances must be the subject of guidelines designed to reduce to a minimum the risks to the health of the person concerned.**

35. The CPT has noted with interest the directives in force in certain countries, according to which means of restraint must be removed during the flight (as soon as take-off has been completed). If, exceptionally, the means of restraint had to be left in place, because the deportee continued to act aggressively, the escort staff were instructed to cover the foreigner's limbs with a blanket (such as that normally issued to passengers), so as to conceal the means of restraint from other passengers.

On the other hand, instructions such as those followed until recently in one of the countries visited in connection with the most problematic deportation operations, whereby the persons concerned were made to wear nappies and prevented from using the toilet throughout the flight an account of their presumed dangerousness, can only lead to a degrading situation.

36. In addition to the avoidance of the risks of positional asphyxia referred to above, the CPT has systematically recommended **an absolute ban on the use of means likely to obstruct the airways (nose and/or mouth) partially or wholly.** Serious incidents that have occurred in various countries over the last ten years in the course of deportations have highlighted the considerable risk to the lives of the persons concerned of using these methods (gagging the mouth and/or nose with adhesive tape, putting a cushion or padded glove on the face, pushing the face against the back of the seat in front, etc.). The CPT drew the attention of States Parties to the Convention to the dangers of methods of this kind as far back as 1997, in its 7th General Report. It notes that this practice is now expressly prohibited in many States Parties **and invites States which have not already done so to introduce binding provisions in this respect without further delay.**

37. It is essential that, in the event of a flight emergency while the plane is airborne, the rescue of the person being deported is not impeded. Consequently, **it must be possible to remove immediately any means restricting the freedom of movement of the deportee, upon an order from the crew.**

Account should also be taken of the health risks connected with the so-called "economy class syndrome" in the case of persons who are confined to their seats for long periods⁷.

38. Two particular points were of concern to the CPT after visits to certain countries: the wearing of masks by deportation escorts and the use, by the latter, of incapacitating or irritant gases to remove immigration detainees from their cells in order to transfer them to the aircraft.

In the CPT's opinion, **security considerations can never serve to justify escort staff wearing masks during deportation operations.** This practice is highly undesirable, since it could make it very difficult to ascertain who is responsible in the event of allegations of ill-treatment.

⁷ See, in particular, "Frequency and prevention of symptomless deep-vein thrombosis in long-haul flights: a randomised trial", John Scurr et al, *The Lancet*, Vol. 357, 12 May 2001

The CPT also has very serious reservations about the use of incapacitating or irritant gases to bring recalcitrant detainees under control in order to remove them from their cells and transfer them to the aircraft. The use of such gases in very confined spaces, such as cells, entails manifest risks to the health of both the detainee and the staff concerned.

Staff should be trained in other control techniques (for instance, manual control techniques or the use of shields) to immobilise a recalcitrant detainee.

39. Certain incidents that have occurred during deportation operations have highlighted **the importance of allowing immigration detainees to undergo a medical examination before the decision to deport them is implemented.** This precaution is particularly necessary when the use of force and/or special measures is envisaged.

Similarly, **all persons who have been the subject of an abortive deportation operation must undergo a medical examination as soon as they are returned to detention** (whether in a police station, a prison or a holding facility specially designed for foreigners). In this way it will be possible to verify the state of health of the person concerned and, if necessary, establish a certificate attesting to any injuries. Such a measure could also protect escort staff against unfounded allegations.

40. During many visits, the CPT has heard allegations that immigration detainees had been injected with medication having a tranquillising or sedative effect, in order to ensure that their deportation proceeded without difficulty. On the other hand, it also noted in certain countries that instructions prohibited the administration, against the will of the person concerned, of tranquillisers or other medication designed to bring him or her under control. **The CPT considers that the administration of medication to persons subject to a deportation order must always be carried out on the basis of a medical decision taken in respect of each particular case. Save for clearly and strictly defined exceptional circumstances, medication should only be administered with the informed consent of the person concerned.**

41. **Operations involving the deportation of immigration detainees must be preceded by measures to help the persons concerned organise their return, particularly on the family, work and psychological fronts.** It is essential that immigration detainees be informed sufficiently far in advance of their prospective deportation, so that they can begin to come to terms with the situation psychologically and are able to inform the people they need to let know and to retrieve their personal belongings. The CPT has observed that a constant threat of forcible deportation hanging over detainees who have received no prior information about the date of their deportation can bring about a condition of anxiety that comes to a head during deportation and may often turn into a violent agitated state. In this connection, the CPT has noted that, in some of the countries visited, there was a psycho-social service attached to the units responsible for deportation operations, staffed by psychologists and social workers who were responsible, in particular, for preparing immigration detainees for their deportation (through ongoing dialogue, contacts with the family in the country of destination, etc.). Needless to say, **the CPT welcomes these initiatives and invites those States which have not already done so to set up such services.**

42. The proper conduct of deportation operations depends to a large extent on the quality of the staff assigned to escort duties. Clearly, **escort staff must be selected with the utmost care and receive appropriate, specific training designed to reduce the risk of ill-treatment to a minimum.** This was often far from being the case in the States Parties visited. In some countries, however, special training had been organised (methods and means of restraint, stress and conflict management, etc.). Moreover, certain management strategies had had a beneficial effect: the assignment of escort duties to staff who volunteered, combined with compulsory rotation (in order to avoid professional exhaustion syndrome and the risks related to routine, and ensure that the staff concerned maintained a certain emotional distance from the operational activities in which they were involved) as well as provision, on request, of specialized psychological support for staff.

43. **The importance of establishing internal and external monitoring systems in an area as sensitive as deportation operations by air cannot be overemphasised.** The CPT observed that in many countries, specific monitoring systems had, unfortunately, been introduced only after particularly serious incidents, such as the death of deportees.

44. **Deportation operations must be carefully documented.** The establishment of a comprehensive file and a deportation record, to be kept for all operations carried out by the units concerned, is a basic requirement. Information on abortive deportation attempts should receive special attention and, in particular, the reasons for abandoning a deportation operation (a decision taken by the escort team on managerial orders, a refusal on the part of the captain of the aircraft, violent resistance on the part of the deportee, a request for asylum, etc.) should be systematically recorded. The information recorded should cover every incident and every use of means of restraint (handcuffs; ankle cuffs; knee cuffs; use of self-defence techniques; carrying the deportee on board; etc.).

Other means, for instance audiovisual, may also be envisaged, and are used in some of the countries visited, in particular for deportations expected to be problematic. In addition, surveillance cameras could be installed in various areas (corridors providing access to cells, route taken by the escort and the deportee to the vehicle used for transfer to the aircraft, etc.).

45. **It is also beneficial if each deportation operation where difficulties are foreseeable is monitored by a manager from the competent unit, able to interrupt the operation at any time.** In some of the countries visited, the CPT found that there were spot checks, both during preparations for deportation and during boarding, by members of internal police supervisory bodies. What is more, in an admittedly limited number of cases, members of the supervisory bodies boarded aircraft incognito and thus monitored the deportee and the escort until arrival at the destination. The CPT can only welcome these initiatives, which are all too rare at present in Europe.

Further, **the CPT wishes to stress the role to be played by external supervisory (including judicial) authorities, whether national or international, in the prevention of ill-treatment during deportation operations.** These authorities should keep a close watch on all developments in this respect, with particular regard to the use of force and means of restraint and the protection of the fundamental rights of persons deported by air.'

APPENDIX 11

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

A. Police establishments

Ill-treatment

comments

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

requests for information

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

Safeguards against ill-treatment

recommendations

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

comments

- any delay in the exercise of a detained person's right to notify someone of his situation should require the approval of a senior police officer or a public prosecutor (paragraph 13);
- the Icelandic authorities are invited to establish a system of regular visits to police establishments by an independent authority (paragraph 16).

requests for information

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

Conditions of detentionrecommendations

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

comments

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

Persons detained under aliens legislationrecommendations

- the Icelandic authorities to introduce written forms setting out the rights of foreign nationals, as well as to adopt express provisions on the right to have access to a doctor and specific safeguards for unaccompanied minors (paragraph 22);
- all persons required to stay for an extended period (24 hours or more) at the air terminal of Keflavik International Airport to be offered at least one hour of outdoor exercise per day (paragraph 23);
- detailed instructions to be issued on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorized in the context of deportation operations. Such instructions should draw upon the principles set out in the CPT's 13th General Report, reproduced in Appendix I to this visit report (paragraph 27).

comments

- were the number and/or length of detentions under the provisions of Act No. 96/2002 to increase, the Icelandic authorities should consider setting up of a centre specifically designed to accommodate persons detained under aliens legislation (paragraph 20).

requests for information

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

B. Prisons**Preliminary remarks**comments

- the CPT trusts that the recommendations and comments made in the report will be taken into consideration in the Course of the legislative process concerning the draft new Prison Act. The adoption of the new Prison Act should also provide an opportunity to formulate and implement a nationwide policy on imprisonment and rehabilitation (paragraph 25);
- the Committee trusts that the Icelandic authorities will attach a high priority to finding an appropriate solution to the problem of accommodation for remand prisoners from the Reykjavik area (paragraph 29).

Ill-treatment and inter-prisoner violencerecommendations

- the Icelandic authorities to seek to promote constructive relations between, staff and prisoners at Litla-Hraun Prison; in particular, staff should be reminded that inmates must always be treated in a respectful manner (paragraph 31);
- the existing arrangements for urine testing at Litla-Hraun Prison to be reviewed; other means could and should be found to reconcile the legitimate aim of combating drug abuse with the inherent dignity of the persons concerned (paragraph 31);
- staff at Litla-Hraun Prison to be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation, bearing in mind the remarks made in paragraph 34 of the visit report (paragraph 34);
- existing procedures to be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him. A centralised system for recording injuries also to be introduced (e.g. a specific register kept by the prison health-care service) (paragraph 34).

requests for information

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

Conditions of detention

recommendations

- the in-cell toilets in House 3 of Litla-Hraun Prison to be provided with partitions (paragraph 35);
- the Icelandic authorities to seek to develop the programme of activities for prisoners at LitlaHraun Prison, in the light of the remarks made in paragraph 36 of the report. The aim should be to integrate these activities into individualised custody plans (paragraph 36);
- the Icelandic authorities to improve significantly the regime activities offered to inmates at Skolavorðustigur Prison. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association (paragraph 37).

comments

- the Icelandic authorities are invited to maintain all cells at Kópavogur Prison in a good state of repair (paragraph 39);
- the Icelandic authorities are invited to consider the possibility of converting Kópavogur Prison into a female prison. Such a measure would have the additional advantage of permitting more living space per prisoner and more possibilities for activities adapted to the needs of female inmates, in particular those serving long sentences (paragraph 41);
- the Icelandic authorities are invited to explore ways to increase the range of work opportunities for inmates at Kvíabryggja Prison, in order to make it less dependent on seasonal variations in demand. Efforts might also be made to enhance the vocational dimension of the existing productive work. Further, the Icelandic authorities are invited to pursue their efforts to offer some form of education to prisoners held at the establishment (paragraph 44).

Health care

recommendations

- the practice of prescribing medication to prisoners without their being physically seen by a doctor to be discontinued without further delay (paragraph 46);
- the practice of medication prescribed to prisoners being distributed by medically untrained custodial staff to be stopped (paragraph 48);
- steps to be taken to ensure that all prisoners have access to adequate dental treatment, including those without the means to pay for such treatment (paragraph SQ);
- the Icelandic authorities to take steps to eliminate the delays in the medical screening of newly admitted inmates; save for exceptional circumstances, the screening should be carried out on the day of admission, especially in so far as remand prisoners are concerned (paragraph S 1);
- the provision of psychiatric care to be improved at Skólavörðustígur and Kópavogur Prisons, and the attendance of a psychologist to be increased at Kvíabryggja Prison (paragraph 53);
- immediate steps to be taken to ensure that mentally disturbed prisoners who require inpatient psychiatric treatment are kept and cared for in appropriate facilities (paragraph 54).

comments

- the Icelandic authorities are invited to review the organization of health care for prisoners and develop the training of health-care staff working with inmates, in the light of the remarks made in paragraph 45 of the report (paragraph 45).
- the Icelandic authorities are invited to consider the possibility of finding another, **more** appropriate, facility for medical consultations at Kópavogur Prison (paragraph 49);
- the Icelandic authorities are invited to take steps to ensure that the guidelines for suicide prevention are known to, and applied by, all categories of staff involved (paragraph 55).

requests for information

- comments of the Icelandic authorities on complaints received by the delegation from prisoners at Litla-Hraun Prison about considerable delays in access to the doctor (paragraph 45);
- confirmation that steps have been taken to ensure full respect of medical confidentiality at Litla-Hraun Prison (paragraph S2).
- comments of the Icelandic authorities on the fact that special forms for making a declaration to opt out from the Icelandic Genome Project were not available at any of the prisons visited (paragraph 52):

Other issues related to the CPT's mandate

recommendations

- the police to be required to record in writing the specific reasons justifying the imposition of restrictions on a remand prisoner, and the prisoner to be informed of those reasons (it being understood that the reasons given might not include details which in the interests of the investigation it is reasonable to withhold from the prisoner). Further, the same procedure to be followed when decisions to remand in custody are reviewed by the court, and the police wish to prolong the restrictions in respect of the prisoner concerned (paragraph 58);
- prisoners facing disciplinary charges to be formally guaranteed the following rights:
 - to be informed in writing of the charges against them, to be given sufficient time to prepare their defence, and to be given a hearing and an opportunity to present their case;
 - to call witnesses on their own behalf and to cross-examine evidence given against them

(paragraph 59);

- every instance of use of the three isolation cells in House 2 of Litla-Hraun Prison to be properly recorded, no matter the length of their use (paragraph 60);
- guidelines concerning the use of the "secure cell" for the placement of agitated and/or violent prisoners at Litla-Hraun Prison, and a register recording its use, to be created (paragraph 61);
- the devices currently in use at the "secure cell" for securing agitated and/or 'aggressive prisoners to be removed immediately (paragraph 61);
- the Icelandic authorities to reconsider the possibility of establishing a system under which each prison establishment would be visited on a regular basis by an independent body authorized to inspect the prison's premises and to receive complaints from inmates about their treatment in the establishment (paragraph 63);
- the Icelandic authorities to take steps to develop fully-fledged therapeutic programs aimed at combating drug addiction (paragraph 65).

comments

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

C. Psychiatric Department of Reykjavik National University Hospital

Patients' living conditions

recommendations

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

comments

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

Staff and treatment

comments

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

Means of restraint/seclusion

recommendations

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

Safeguards in the context of involuntary placement

recommendations

- the Icelandic authorities to amend the existing legislation with regard to the review of involuntary placements; if the period of involuntary placement is unspecified, there should be an automatic review at regular intervals of the need to continue placement (paragraph 79);
- the legislation on treatment of involuntary psychiatric patients without their consent to be reviewed, . in the light of the remarks made in paragraph 80. Further, detailed rules on involuntary treatment of psychiatric patients should be issued, as foreseen in Section 28 (4) of the Act on Legal Competence (paragraph 80);
- regular visits by an independent body to be organised to psychiatric establishments. Such a body should be authorized, in particular, to talk privately with patients, to receive directly any complaints and transmit them, if appropriate, to the competent authority, and to make recommendations. Further, the management of the establishments concerned should be duly informed of the results of any inspections carried out on their premises (paragraph 82).

comments

- the Icelandic authorities are invited to consider amending Section 19 of the Act on Legal Competence in order to spell out more clearly the criteria of "serious psychosis or analogous condition", so as to ensure that involuntary hospitalization takes place only when a patient's placement is absolutely necessary to prevent a danger to the patient or to other persons (paragraph 77);
- the Icelandic authorities are invited to remedy the situation as regards the lack, of written information available to psychiatric patients in respect of the possibilities to lodge complaints to an outside body (paragraph 81).

requests for information

- clarification as to how the system of emergency 48-hour involuntary hospitalization operates in practice (paragraph 77);
- comments of the Icelandic authorities on the reservations expressed by the CPT as regards the automatic linking of involuntary hospitalization to deprivation of legal competence (paragraph 78).

APPENDIX III

LIST OF THE NATIONAL AUTHORITIES AND
ORGANISATIONS WITH WHICH THE
CPT'S DELEGATION HELD CONSULTATIONS**A. National authorities****Ministry of Justice and Ecclesiastical Affairs**

| | |
|-------------------------------|--|
| Mr Bjorn BJARNASON | Minister |
| Mr Thorstein GEIRSSON | Permanent Secretary |
| Mr Stefan EIRIKSSON | Deputy Permanent Secretary |
| Mrs Ragnhildur HARÐARDÓTTIR | State Prosecutor |
| Mr Haraldur JOHANNESSEN | Commissioner of the Icelandic Police |
| Mr Georg LÁRUSSON | Direction of Immigration Affairs |
| Mrs Hildur DUNGAL | Direction of Immigration Affairs |
| Mr Valtyr SIGURÐSSON | Director of Prison and Probation Administration |
| Mr Erlendur BALDURSSON | Deputy Director of the Prison and Probation Administration |
| Mrs Hafþís GUDMUNDSDOTTIR | Prison and Probation Administration |
| Mrs Margret SVEMUNSDÓTTIR | Prison and Probation Administration |
| Mr Pall Egill WINKEL | Prison and Probation Administration |
| Mr Hjalti ZOPHONIASSON | Director of Civil Affairs |
| Mrs Anna Sigriður ARNARDOTTIR | Legal Expert |

Ministry of Health and Social Security

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|-------------------------------|---|
| Mr Matthias HALLDORSSON | Deputy Director General of Health and Social Security |
| Mr Sveinn MAGNUSSON | Head of Department |
| Mrs Anne Björg AREDÓTTIR | Directorate of Health |
| Mrs Sólveig GUDMUNDSDOTTIR | Lawyer |
| Mrs Holmfríður GRIMSDÓTTIR | |
| Mrs Guðriður THORSTEINSDOTTIR | |

Office of the Parliamentary Ombudsman

| | |
|-------------------------|--------------------------------|
| Mr Tryggvi GUNNARSSON | Parliamentary Ombudsman |
| Mr Robert SPANO | Deputy Parliamentary Ombudsman |
| Mr Kjartan BJORGRINSSON | Legal Adviser |

B. Non-governmental organisations

Icelandic Human Rights Centre

Icelandic Red Cross

National Federation for Persons with Intellectual Disability

Save the Children Iceland

Mr Ragnar Aalsteinsson