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Report

to the Finnish Government on the visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 22 September to 2 October 2014

The Finnish Government has requested the publication of this report.

Strasbourg, 20 August 2015

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Copy of the letter transmitting the CPT's report

Ministry of Justice
Eteläesplanadi 10
00131 Helsinki
Finland

Strasbourg, 17 March 2015

Dear Sir/Madam

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Finnish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Finland from 22 September to 2 October 2014. The report was adopted by the CPT at its 86th meeting, held from 3 to 6 March 2015.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the Finnish 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 Finnish authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the recommendation and request for information in paragraph 26, the CPT asks for the responses to be provided, respectively, **within three months and one month**.

The CPT would ask, in the event of the response being forwarded in the Finnish language, that it be accompanied by an English or French translation.

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

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

EXECUTIVE SUMMARY

The CPT's fifth visit to Finland provided an opportunity to review the implementation of recommendations made after the Committee's previous visits. Particular attention was paid to the situation and treatment of persons deprived of their liberty in police establishments, immigration detention, prisons and in a psychiatric hospital. There was generally excellent co-operation received both from the national authorities and from staff at the establishments visited. However, the principle of co-operation also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. In this respect, and despite on-going efforts in a number of areas, the CPT was concerned by the lack of sufficient progress in the implementation of many of its long-standing recommendations such as on the detention of remand prisoners in "police prisons", on the practice of "slopping out" in prisons, on the regime for prisoners segregated in high-security and closed units, and on the procedures around judicial review of involuntary psychiatric hospitalisation measures. The CPT is of the view that prompt and effective action must now be taken to address these key concerns.

Police establishments

The CPT's delegation heard no allegations of physical ill-treatment of persons detained by the police; on the contrary, most of the persons interviewed by the delegation, who were or had recently been in police custody, stated that the police had treated them in a correct manner.

Regarding the fundamental safeguards against ill-treatment, the CPT's delegation found that detained persons were generally afforded the right of access to a lawyer and were provided with information on rights in a written form shortly after apprehension (with some important exceptions concerning non-Finnish speakers). By contrast, delays in notification of custody remained widespread, especially when the apprehended person was a foreign national without residence in Finland. Further, access to health care in police custody also remained problematic. Generally the police called an ambulance when it was deemed necessary, but the CPT's delegation found that the absence of adequate health-care coverage in police premises resulted in serious medical conditions for persons remanded in custody going undetected and possibly even in deaths, especially in the case of intoxicated persons. The Committee reiterated its long-standing recommendations concerning the need to ensure 24-hour nursing cover and improve access to a doctor in all the "police prisons", as well as to ensure that that all newly-arrived remand prisoners be medically screened, within 24 hours of their arrival at a "police prison", by a doctor or a qualified nurse reporting to a doctor.

As regards material conditions, the delegation found that none of the police establishments visited, including Pasila "police prison", offered conditions suitable for holding persons in excess of the police custody period (i.e. 96 hours). In particular there was insufficient access to natural light in cells, no possibility of genuine daily outdoor exercise, no activities and no proper health-care coverage. The CPT re-iterated its long-standing recommendations to stop the practice of holding remand prisoners in "police prisons" and requested the authorities to provide it, within three months, with a detailed action plan setting out the precise steps needed to achieve this.

Another on-going problem was the detention of intoxicated persons in police stations without adequate supervision and attention by health-care staff. Further, in two police establishments visited police officers resorted to applying mechanical restraints (i.e. fixation to a bed and immobilisation belts with hand and ankle cuffs) to intoxicated persons or persons at risk of self-harm without any appropriate training and with inadequate recording procedures. The CPT recommended that the application of mechanical restraints by the police be stopped immediately and stressed that, as a matter of principle, any restraint should take place in a medical setting; further, it must be carried out exclusively upon a doctor's order and by health-care staff, and subject to appropriate safeguards.

Places of detention of foreign nationals pursuant to the Aliens Act

The delegation heard no allegations of ill-treatment at Metsälä Detention Unit for foreign nationals. Material conditions and activities were on the whole adequate. As regards health-care, the CPT called upon the authorities to ensure prompt systematic medical screening of each foreign national upon arrival.

As regards the Konnunsuo detention facility (near Joutseno), scheduled to open in late 2014 in a former prison building, the material conditions were generally adequate. However, the whole environment remained unavoidably carceral and there was very limited space envisaged for association. The CPT recommended that these problems be addressed. Moreover, the Committee stressed that once the new facility opens, the practice of holding persons detained under the Aliens Act in police establishments should be finally terminated.

Prisons

The CPT's delegation received hardly any allegations of physical ill-treatment of prisoners by custodial staff in the penitentiary establishments visited. On the whole, inmates stated that they were treated correctly by prison staff. The CPT found that usually there was a proper response to inter-prisoner violent incidents and intimidation but more could be done to prevent such incidents, including through custodial staff engaging more with the inmates.

Overall, the material conditions for the mainstream prison population were good in the prisons visited. That said, the delegation observed that there were still many cells without a toilet at Helsinki and (to a lesser extent) Kerava Prisons. The CPT called upon the Finnish authorities to eliminate completely the "slopping out" practice in prisons.

All the prisons visited offered a range of organised activities (including work) to the general prison population, and the delegation was impressed with the variety of activities on offer in the open unit of Kerava Prison in particular. Having said that, the CPT recommended that further efforts be made to provide prisoners in all the establishments visited (and, in particular, Riihimäki and Vantaa Prisons) with effective access to purposeful activities tailored to their needs. The Committee also recommended that the authorities take steps to develop the regime offered to life-sentenced prisoners and other prisoners serving long sentences.

As concerns the high-security and closed units at Helsinki and Riihimäki Prisons, the CPT was critical of certain aspects of the material conditions and recommended that the regime be improved and the placement procedure be made more transparent.

Regarding health-care services in prisons, the CPT reiterated its assessment from the 2008 visit that there is an insufficient doctors' presence in the prisons visited and recommended that this be increased. Other recommendations included that a person qualified in first-aid always be present in prisons including at night and on weekends; medical screening be carried out systematically within 24 hours of admission of a new prisoner; the injury recording procedure be reviewed to ensure a report is immediately and systematically brought to the attention of the competent authorities in all cases; and healthcare staff are not requested to certify inmates' fitness for isolation, as was still the case in Helsinki Prison.

While recourse to disciplinary isolation did not appear excessive in any of the prisons visited, the CPT recommended that the practice of placing inmates in investigatory segregation immediately after the alleged infraction for long periods of time be reviewed.

Psychiatric establishments

The CPT's delegation visited Niuvanniemi Hospital in Kuopio. No allegations were heard of any form of ill-treatment by staff of the hospital; on the contrary, most of the patients interviewed spoke highly of the staff. Further, the Committee found the living conditions, treatment, activities and staffing to be generally good. Regarding the use of means of restraint, the CPT was informed that there had recently been a significant decrease in the use of such measures. That said, the Committee recommended that the practice of using special restraint jackets be stopped in the medium term and that ways be sought actively to gradually replace them with other, less degrading means; pending this, the application of the jackets should be the subject of detailed regulations and instructions, with a view to ensuring that they are only used for the shortest period of time in extraordinary situations, based on an individual risk assessment, and not as a routine measure following seclusion. More generally, the CPT recommended that the existing legislation be amended so as to set a maximum legal time-limit for any form of mechanical restraint (including the use of belts and jackets), and that each prolongation should require a new separate decision by a doctor.

As regards safeguards, the Committee remains concerned by the very limited progress in addressing its long-standing recommendations aimed at improving the legislative framework. In particular the CPT recommended that the Mental Health Act be further amended so as to provide for an obligatory independent expert psychiatric opinion in the context of involuntary hospitalisation and the review of such measure. The Committee was also concerned by the inefficiency of judicial reviews of involuntary hospitalisation measures. It again called on the Finnish authorities to ensure that there is a meaningful and expedient court review of the measure of involuntary hospitalisation and to ensure that psychiatric patients have an effective right to be heard in person by the judge during the involuntary hospitalisation procedure. Additionally, the Committee underlined the need to introduce a procedure whereby patients and their legal representatives (at all psychiatric establishments) are provided with the means to give their written informed consent to treatment, prior to the commencement of any course of treatment.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Finland from 22 September to 2 October 2014. The visit formed part of the Committee's programme of periodic visits for 2014, and was the CPT's fifth periodic visit to Finland.[1]

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

- George TUGUSHI, Head of Delegation
- Per GRANSTRÖM
- Anna MOLNÁR
- Ilvija PŪCE
- Marika VÄLI
- Victor ZAHARIA.

They were supported by Borys WÓDZ, Head of Division, and Francesca GORDON of the CPT's Secretariat, and assisted by:

- Pétur HAUKSSON, psychiatrist, former head of the psychiatric department at Reykjalundur Rehabilitation Center, Iceland (expert)
- Helena KARUNEN (interpreter)
- Kirsi LAMMI (interpreter)
- Heli Heljä Maria MÄNTYRANTA (interpreter)
- Katja RANTA-AHO (interpreter)
- Pia VON ESSEN (interpreter).

[1] The previous periodic visits took place in May 1992, June 1998, September 2003 and April 2008. The Committee's reports on these visits, as well as the responses of the Finnish authorities, have been made public at the request of the Finnish authorities and are available on the Committee's website (http://www.cpt.coe.int).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Interior

- Espoo Police Station
- Helsinki Police Department (Police Prison in Pasila)
- Imatra Police Station
- Kuopio Police Station
- Lahti Police Station
- Lappeenranta Police Station
- Vantaa Police Station

- Töölö Custodial Facility for Intoxicated Persons, Helsinki

- Metsälä Detention Unit for Foreign Nationals, Helsinki
- Detention Unit for Foreign Nationals, Joutseno

- Border Guard detention facilities at Vantaa Airport, Helsinki

Establishments under the authority of the Ministry of Justice

- Helsinki Prison
- Kerava Prison
- Riihimäki Prison
- Vantaa Prison

Establishments under the responsibility of the Ministry of Social Affairs and Health

- Niuvanniemi Hospital, Kuopio.

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

4. In the course of the visit, the CPT's delegation held consultations with Tiina ASTOLA, Permanent Secretary at the Ministry of Justice, Marjo ANTTOORA, State Secretary at the Ministry of Interior and Päivi SILLANAUKEE, Permanent Secretary at the Ministry of Social Affairs and Health. The delegation also met Mikko PAATERO, National Police Commissioner and Esa VESTERBACKA, Director General of the Criminal Sanctions Agency, as well as other senior officials from the ministries and services concerned.

The delegation also had meetings with Petri JÄÄSKELÄINEN, Parliamentary Ombudsman and with representatives of non-governmental organisations active in areas of the CPT's interest.

A list of the national authorities and organisations consulted during the visit is set out in the Appendix to this report.

5. The CPT wishes to thank the Finnish authorities for the generally excellent co-operation received by its delegation both from the national authorities and from staff at the establishments visited. Almost invariably, the delegation enjoyed rapid access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, the delegation was provided with all the necessary documentation and additional requests for information made during the visit were promptly met.

The Committee also wishes to express its appreciation for the efficient assistance provided to its delegation by the liaison officer designated by the national authorities, Ulla MOHELL, Government Counsellor at the Ministry of Justice.

6. That said, the CPT must stress that the principle of co-operation between State Parties and the CPT 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 recommendations. In this respect, and despite ongoing efforts in a number of areas, the CPT is concerned by the lack of sufficient progress in the implementation of many of the Committee's long-standing recommendations, such as those on the detention of remand prisoners in police prisons, the practice of "slopping out" in prisons, the regime for prisoners segregated in high-security and closed units, and the judicial review of involuntary psychiatric hospitalisation measures.

The CPT wishes to emphasise that a persistent failure to improve the situation in the light of the Committee's recommendations could oblige it to consider having recourse to Article 10, paragraph 2, of the Convention.[2] The Committee trusts that the action taken by the Finnish authorities in response to this report will render such a step unnecessary.

D. Monitoring places of deprivation of liberty (National Preventive Mechanism)

7. At the time of the visit, the Parliamentary Ombudsman was not yet designated as National Preventive Mechanism (NPM) pursuant to the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), although this was expected to happen shortly.[3] Pending that, the delegation was informed about the activities of the Parliamentary Ombudsman's Office in respect of monitoring of places of deprivation of liberty.

According to this information, approximately 140 on-site visits (most of them to closed institutions) had been carried out in the course of 2012, including some 50 visits to police prisons; more than 40 of those visits had been unannounced (which reportedly reflected an increasing trend). The number of visits had been less important in the course of 2013 (approximately 90) because the Parliamentary Ombudsman had shifted his focus towards shortening the handling time of complaints.

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

3 Finland signed the OPCAT in 2003 but the ratification process was only completed on 8 October 2014.

The CPT's delegation was also informed that the Parliamentary Ombudsman had at his disposal a team of some 35 to 40 lawyers who were involved in regular monitoring visits[4], and that his Office tried to visit all the police prisons once per year (although some of these establishments received more frequent visits e.g. twice a year) while each prison received a visit every three to four years on average (though some of them, especially those located in the greater Helsinki area, received visits more frequently). No visit to a State mental hospital had been carried out since the beginning of 2013.

8. The Parliamentary Ombudsman finally became Finland's NPM on 7 November 2014. This very important positive development had as one of the first implications that the Parliamentary Ombudsman's Office became empowered to recruit external experts (including medical doctors) in the context of its activities as the NPM.

While welcoming the new role of the Parliamentary Ombudsman and the above-mentioned possibility to use external experts, the CPT must stress that, in order to be able to perform efficiently the role of a national monitoring mechanism of places of deprivation of liberty, capable of carrying out frequent and unannounced visits to all types of such places throughout the country[5], the Finnish NPM will require increased financial and human resources, as well as possibly further changes in the manner its work is to be organised. In this context, it is of the Committee's concern that, reportedly, no additional budgetary resources and no significant staffing increase have been foreseen for the Parliamentary Ombudsman's Office in relation with it becoming the NPM. Moreover, as stressed by the Parliamentary Ombudsman and his staff during the meeting with the CPT's delegation, the situation could become even more problematic in the perspective of the forthcoming ratification (expected in March 2015) of the UN Convention on the Rights of Persons with Disabilities, given that the Parliamentary Ombudsman is likely to be in charge of monitoring activities under this Convention too.

Consequently, **the CPT recommends that steps be taken to increase significantly the financial and human resources made available to the Finnish Parliamentary Ombudsman, in his role as the National Preventive Mechanism. The Committee also suggests that consideration be given to setting up a separate unit or department within the Parliamentary Ombudsman's Office, to be responsible for the NPM functions.[6]**

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4 There were no representatives of other professions (especially medical) on the team, and it was not – at that time – possible to recruit external experts for the monitoring visits.

5 In any event, much more frequent than it has been the case until now.

6 See, in this respect, paragraph 32 of the Guidelines on national preventive mechanisms adopted by the Subcommittee on Prevention (SPT) in November 2010, according to which: "Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget".

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

9. Generally speaking, there have been no major changes to the legal and regulatory framework governing the detention of persons by the police since the 2008 visit. It should be recalled here that the maximum period of custody by the police of persons suspected of having committed a criminal offence is 96 hours.[7] Further, the police may, on their own authority, hold a person for a maximum of 24 hours in order to establish his/her identity or to protect him/her from an immediate serious danger to his/her life, bodily integrity, security or health (including due to alcohol intoxication).[8] In addition, persons may be detained by the police for a maximum of 12 hours to protect public order[9], and for up to 24 hours to prevent or eliminate a public disturbance.[10]

Further, the Act on the Treatment of Persons in Police Custody (ATPPC)[11] provides a comprehensive legal framework for the treatment of persons detained by the police.

As previously, the Finnish law (in particular, the Remand Imprisonment Act (RIA)[12] but also the ATPPC) allows holding remand prisoners in police facilities ("police prisons").[13] The CPT will comment on this issue further in this report.[14]

2. Ill-treatment

10. The CPT's delegation has heard no allegations of physical ill-treatment (and hardly any of verbal abuse) of persons detained by the police; on the contrary, most of the persons interviewed by the delegation, who were or had recently been in police custody, stated that the police had treated them in a correct manner. Consequently, the conclusion reached by the Committee after the 2008 visit – namely that persons deprived of their liberty by the Finnish police currently run little risk of being ill-treated – remains valid.

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7 Chapter 1, Sections 2 (2), 13 and 14 (1) of the Coercive Measures Act No. 450/87 (CMA). It is noteworthy that the police must request the competent court for remanding a detained person in custody "without delay and at the latest before noon on the third day from the day of apprehension" (Chapter 3, Section 4 of the CMA).

8 Sections 10 and 11 of the Police Act No. 493/95 (PA).

9 Section 14 of the PA.

10 Section 20 of the PA.

11 Act No. 841/06, in force since 1 October 2006.

12 Act No. 768/05, likewise in force since 1 October 2006.

13 "Police prisons" are police detention facilities (usually those with a bigger capacity and located in larger towns) designated by the Ministry of Interior as establishments that may accommodate remand prisoners. There were 11 police prisons in Finland at the time of the 2014 visit.

14 Section II.A.5.

3. Safeguards against ill-treatment

11. In the reports on its previous visits to Finland, the CPT has repeatedly made a number of recommendations and comments as regards safeguards for persons detained by the police. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As stressed by the Committee, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police). It is equally fundamental that persons detained by the police be informed without delay of their rights, including those mentioned above, in a language they understand.

Compared with what the CPT found during the 2008 visit, the situation observed in this respect during the 2014 visit was somehow contrasted, with progress in some areas but regression in others.

12. Regarding notification of custody, although many detained persons confirmed that they had been able to have their next-of-kin informed shortly after apprehension, the delegation noted that delays in such notification remained frequent and widespread, and could last up to several days, especially when the apprehended person was a foreign national without residence in Finland.[15]

At the outset of the visit, the delegation was informed by senior officials of the Ministry of Interior that, pursuant to an amendment to the ATPPC in force since 2012, senior police officers (in practice, usually senior investigators in charge of the case) were only allowed to delay notification for a maximum of 48 hours as from the time of apprehension, and only "if such notification gives rise to a particular detriment to clearing up the offence". However, it would appear that this provision was not always duly applied in practice, as also illustrated by a case where the delegation found (in the apprehension protocol) a fairly recent decision by an investigator (dated 27 September 2014) to delay notification by 72 hours. In the light of the above, **the CPT calls upon the Finnish authorities to ensure that the relevant legal provisions concerning notification of custody (including, in particular, the maximum 48-hour time-limit for delaying notification) are always implemented.**

In Kuopio, the CPT's delegation came across a practice whereby the police considered the notification of custody (in respect of criminal suspects who were foreign nationals without a residence in Finland and without any relatives living there) as performed if the relevant diplomatic and/or consular representation was informed of the person's arrest. In the Committee's view, this (provided it happens with the foreign national's consent) represents an additional safeguard for persons who are not Finnish citizens, but cannot be considered as a substitute for notification of custody to the person's next-of-kin. **The CPT recommends that the above-mentioned practice be stopped.**

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[15] In one case, a foreign national alleged that his relatives had only been informed of his detention some two weeks later.

13. In respect of access to a lawyer, the delegation gained the impression that this access did not pose any particular problem in practice, including (at least in many cases) during the initial interrogation by police officers. Hardly any complaints were heard on this subject, and those received referred to (mainly) foreign nationals who alleged that they had only met their (*ex officio*) lawyer in court. Overall, the situation in this regard could thus be considered as better than in 2008; nevertheless, **the CPT invites the Finnish authorities to exercise continued vigilance and to strive to ensure that all persons detained by the police (including foreign nationals) enjoy effectively the right of access to a lawyer as from the very outset of custody.**

14. Regarding access to a doctor for persons detained by the police, according to the Finnish law such persons have the right "of medical care in compliance with their medical needs"[16] and shall, according to an internal police guideline, be afforded access to health-care staff "whenever necessary".[17]

Despite the above, the delegation found that access to health care in police custody remained problematic. While generally speaking the police did not hesitate to call an ambulance if they thought the detained person's health condition so required[18], the absence of adequate health-care coverage in police premises[19] and, in particular, the lack of a systematic and routine medical screening on arrival at police prisons[20] resulted in serious medical (including psychiatric) conditions going undetected[21] and even, possibly, in deaths[22], especially in the case of intoxicated persons (see below).

In the light of the above, and especially given that police prisons still accommodate remand prisoners (see paragraphs 25 and 26), **the CPT recommends that steps be taken to:**

- **improve access to a doctor and in particular specialist (including psychiatric and dental) care, and provide a 24-hour nursing cover at Pasila Police Prison;**

- **improve significantly the access to a doctor and ensure regular presence of a nurse in all the other police prisons visited (Espoo, Imatra, Kuopio, Lahti and Vantaa);**

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16 Chapter 5, Section 1 of the ATPPC.

17 Response of the Finnish authorities to the 2008 visit report, CPT/Inf (2009) 19, page 16.

18 It is noteworthy that at Pasila Police Prison the delegation was informed that the establishment had a contract with a private company (Med Group) and had to pay for any ambulance calls other than in "real" emergencies.

19 As previously, Pasila was the only police prison employing a part-time doctor (present twice a week for an hour or two); the delegation again heard some complaints from detained persons about the lack of access to specialist care (in particular psychiatric and dental). Further, there was still no presence of a nurse at night and on weekends. None of the other police prisons had on-site medical staff, and the delegation heard complaints about delays in access to a doctor in all of them (especially in Imatra and Kuopio).

20 Such medical examination on arrival only took place if the person detained declared having a health problem and requested an examination, or when the receiving officer on duty suspected some health issue and informed the health-care worker (either on-site or, in most cases, an external one).

21 Or only detected with a significant delay, sometimes after the person had been remanded in custody and transferred to a prison. At Pasila Police Prison, the delegation's doctor interviewed a young woman with clear mental health problems which had not been detected since her arrival at the establishment (some 8 days earlier).

22 For example, a detained person had committed suicide at Pasila some 1.5 months prior to the CPT's visit; there was a suspicion that the person concerned suffered from a serious psychiatric condition. The delegation was also informed that there had been two deaths at Kuopio police prison since the beginning of 2014.

- **ensure that all newly-arrived detainees (and in particular remand prisoners) are medically screened, within 24 hours of their arrival at a police prison, by a doctor or a qualified nurse reporting to a doctor.**

Further, **the Committee again invites the Finnish authorities to offer regular first-aid refresher courses to all police officers working in detention areas of police prisons.**

15. The Finnish law guarantees detained persons the right to be examined, at their own expense, "by their own doctor within the detention premises, if this does not jeopardize the purpose of the detention".[23] However, just as on previous visits, the delegation's interviews with both detained persons and police officers indicated that this right was hardly ever granted in practice.

The Committee understands the arguments put forward by the Finnish authorities in their response to the 2008 report[24] but it begs to disagree with them. Even if in practice it is rare for persons in Finland to have a personal/treating doctor, the existence of this additional safeguard (for a detained person to be able to gain access to a doctor whom he/she knows personally and with whom he/she has a particular relationship of trust) is important from the standpoint of prevention of ill-treatment by the police. The arguments advanced by the Finnish authorities are all the more difficult to understand given that such an additional safeguard already does exist in the Finnish law – all that is required is to make sure that it is applied in practice. Consequently, **the CPT reiterates its recommendation that steps be taken to ensure that persons in police custody have an effective right to be examined, if they so wish, by a doctor of their own choice (in addition to any medical examination carried out by a doctor called by the police), it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense.**

16. As for information on rights, the situation observed in 2014 was better than during the 2008 visit. Almost all of the persons interviewed by the delegation confirmed having been told of their rights upon apprehension. Further, written information sheets, in a range of languages,[25] were generally given to detained persons shortly after arrival to a police facility, and in most cases the persons concerned were allowed to keep a copy of the form. That said, there were still exceptions, in particular when the detained person was a foreign national. Moreover, at the time of the delegation's visit only the Finnish, Swedish, English, Russian and Arabic versions of the information sheet were actually used at Pasila Police Prison. **The CPT recommends that steps be taken to remedy the above-mentioned deficiencies.**

The delegation also noted that there was an error in the English version of the information sheet, wrongly suggesting that the police had the right to delay access to a lawyer. The Finnish authorities acknowledged this fact and promised to correct the mistake. **The Committee would like to receive confirmation that this has indeed happened.**

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23 Chapter 5, Section 6 of the ATPPC.

24 The Finnish authorities stated in their response that they considered an examination by a doctor of the detainee's choice "purposeless", since the doctor carrying out the examination upon instigation of the police was usually a doctor on call from the general health-care service and neither a civil servant nor chosen by the police.

25 The delegation saw such forms *inter alia* in Finnish, Swedish, English, Russian, Estonian, Bulgarian, Romanian, Arabic and Spanish.

17. The delegation was informed by police officers in the establishments visited that, if the criminal suspect was a juvenile, the parents or a social worker had to be informed and a witness had to be present during police interviews.

However, the delegation spoke at Pasila Police Prison with a 15-year old boy who stated that he had been interviewed (and had signed a confession) without the presence of a parent and (at least initially) a lawyer. Also a social worker was reportedly not present during the entire interview. **The CPT would like to receive the Finnish authorities' observations on these allegations.**

More generally, **the Committee recommends that the Finnish authorities take steps to ensure that detained juveniles are not questioned, do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and, in principle, of another trusted adult being present and assisting the juvenile.**

The CPT also recommends that a specific information form, setting out the particular position of detained juveniles and including a reference to the presence of a lawyer/another trusted adult, be developed and given to all such persons taken into custody. Special care should be taken to explain the information carefully to ensure comprehension.

18. Unlike on previous visits, the delegation noted that the various custody records kept in police establishments (both electronic and on paper) were generally well kept. This was particularly the case at Kuopio Police Station, where the records included detailed information on all meetings with investigators and lawyers, visits, phone calls, outdoor exercise, meal and shower times. **This good practice is to be welcomed and followed in all police establishments in Finland.**

4. Conditions of detention

19. The delegation's findings from the 2014 visit confirmed the assessment made during the CPT's previous visits to Finland, namely that conditions of detention in police establishments were generally acceptable for the initial period of police custody (i.e. up to 96 hours).

The cells seen in police establishments visited were mostly of an adequate size for their intended occupancy (e.g. 7 m² for a single cell; 9 m² for a double) and suitably equipped. Pasila Police Prison was undergoing refurbishment and the already refurbished cells (on the 2nd and 3rd floor[26]) offered overall good conditions (with fully screened sanitary annexes with hot water, better artificial lighting and ventilation, and TV and electricity sockets)[27]; however, the still unrefurbished cells displayed the same deficiencies as described in the report on the 2008 visit (*inter alia*, double cells without in-cell toilets) and were in a poor state of repair. Furthermore, all the cells (including the refurbished ones) were still fitted with very small windows which severely restricted access to natural light. Poor access to natural light and unscreened (or only partially screened) toilets[28] were also a problem in the other police prisons visited, especially in Imatra and Kuopio. Further, some of the cells seen in Espoo were in a poor state of repair and cleanliness.

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26 The 3rd floor was not yet in use; further, the refurbishment of the 5th floor was ongoing and supposed to end by the end of 2014.

27 The delegation was particularly impressed by the special cells for persons with reduced mobility.

28 In double-occupancy cells.

The CPT recommends that the Finnish authorities take steps to remedy the above-mentioned deficiencies. As regards Pasila Police Prison, pending the completion of the refurbishment programme, efforts should be made to place detained persons in the already refurbished cells.

20. Persons obliged to stay in police establishments in excess of a few days (including remand prisoners, see below) had access, at least twice a week, to suitable and clean showers[29], and were provided with a range of personal hygiene items. Further, hardly any complaints were received about the food served at these establishments.

21. Police establishments in Finland continue to be frequently used to accommodate intoxicated persons. Special cells designed for this purpose were seen in all the police prisons visited. The size and equipment of these cells call for no particular comment. However, the delegation was concerned to note that custodial staff working in the establishments visited had received little – if any – specialised training in the care of intoxicated persons and in recognising the symptoms of conditions that could be mistaken for or complicate alcohol intoxication. Due to overall staff shortages in most of the police prisons visited (e.g. in Imatra and Kuopio), there was also a lack of adequate supervision by custodial staff and insufficient (or inexistent) presence of health-care staff (see also paragraph 14). It was clear that the existing arrangements (such as CCTV surveillance) were not sufficient to prevent deaths of intoxicated persons in police custody.[30]

For as long as the police continue to hold intoxicated persons on their premises, **the CPT recommends that specialised training in the care of intoxicated persons be provided to all police officers in Finland.** Further, **the CPT reiterates its recommendation that arrangements be made to ensure that there can be rapid access to a nurse whenever intoxicated persons are held at police establishments. The presence and supervision by custodial staff will also have to be increased in such cases.**

22. Senior officials from the Ministry of Social Affairs and Health informed the delegation of the existence of a draft act on the reorganisation of social welfare and health-care services, which would among others task the district health-care authorities with the care for intoxicated persons in police custody. **The CPT would like to receive more detailed information on this draft and the planned time-table of its adoption.**

The delegation was also informed of ongoing research into possibilities for the police to carry out continuous online monitoring of the vital signs of intoxicated persons in their custody. **The Committee would welcome more information on this research and its outcome, including any decisions taken as regards the procedures applicable in respect of intoxicated persons in police custody.**

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29 That said, some detained persons met at Kuopio Police Station had apparently not been informed that they had this right.

30 According to the information provided to the delegation at the outset of the visit, there had been 8 such deaths in 2013 and 12 between 1 January and 1 September 2014.

23. The delegation carried out a follow-up visit to the Custodial Facility for Intoxicated Persons in Töölö. Material conditions in the cells were generally adequate and the delegation was pleased to note that all the cells were now fitted with special mattresses. Nursing cover had also increased since the 2008 visit and a 24-hour access to health-care services was assured by the health-care staff from the adjoining detoxification centre (run by Helsinki Municipality).

During the meeting at the Ministry of Interior, the delegation was told that there were plans to reconstruct the facility in Töölö. **The CPT would like to receive more information on these plans.**

24. The delegation was particularly concerned to observe that police officers in two establishments visited (in Espoo and Lahti) resorted to applying mechanical restraint measures vis-à-vis intoxicated persons, without an appropriate training, detailed instructions, ongoing monitoring of the application of such means and with inadequate recording procedures (in a dedicated register).

In Espoo Police Station, the delegation saw a special bed used for face-down immobilisation of intoxicated persons[31], while at Lahti Police Station the police used an immobilisation belt with attached handcuffs and ankle-cuffs. **The CPT recommends that the use of such means by the police be stopped immediately. As a matter of principle, any restraint should take place in a medical setting and not in a police establishment. Further, it must be carried out exclusively upon doctor's order and by health-care staff, and be subject to appropriate safeguards (such as enumerated above).**

5. Remand detention in police establishments

25. At the outset of the visit, the delegation was informed that the numbers of remand prisoners held in police prisons had been decreasing in recent years[32] and so had been their mean stay (it was of 15 days as at the beginning of September 2014). Nevertheless, some remand prisoners had still remained for lengthy periods in police prisons, with the longest stay in 2013 being of 152 days.[33] When the delegation visited Pasila Police Prison, the longest-staying remand prisoner had been there for 1.5 months. The longest stays tended to be shorter in the other police prisons, e.g. one month in Kuopio and some three weeks in Imatra.

As already stated above, and as observed on previous visits, none of the police prisons visited (not even Pasila, despite the ongoing refurbishment) offered conditions suitable for holding remand prisoners. There was no possibility of genuine daily outdoor exercise[34], no activities of any kind, no libraries (except a small one in Pasila) and in most cases no access to television (again, with the exception of the refurbished cells in Pasila).

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31 As well as, reportedly, those considered by the police to represent a suicide risk.

32 Although the figures subsequently communicated to the Committee did not really support this assertion e.g. there had been 2299 remand prisoners in police establishments in 2011, 2459 in 2012, 2314 in 2013 and 598 in the first quarter of 2014. It should be added, however, that the bulk of remand prisoners are accommodated in establishments under the responsibility of the Ministry of Justice.

33 At Pasila Police Prison.

34 In some of the police prisons (e.g. in Kuopio) staff acknowledged that outdoor exercise was in fact only available every second day. Further, outdoor exercise yards were invariably small (e.g. 15 m² in Kuopio) and oppressive, with high walls and partial sky view only. Most of them had no means of rest.

This regrettable state of affairs was exacerbated for most of the remand prisoners (i.e. those under investigation) by restrictions on association and visits (other than by the closest family and lawyers).

26. Ever since its very first visit to Finland, in 1992, the CPT has criticised the Finnish practice of holding remand prisoners in police establishments, stressing that it is contrary to Rule 10.2 of the European Prison Rules.[35] The Committee has stated repeatedly that to be held for weeks and months on end in establishments which do not offer anything even remotely resembling a regime of activities (and often with totally inadequate outdoor exercise arrangements) is entirely disproportionate. The fact that this practice continues after 22 years of ongoing dialogue between the CPT and the Finnish authorities is most regrettable and unacceptable for the Committee.

The Committee calls upon the Finnish authorities to take swift and decisive action to stop holding remand prisoners in police prisons. The CPT requests to be provided, within 3 months, with a detailed action plan, comprising precise deadlines and guaranteed financial resources, setting out the precise steps needed to achieve this objective.

Pending the complete and definitive end of the use of police prisons for holding remand prisoners, **the Committee calls upon the Finnish authorities to take immediate steps to:**

- **ensure that all remand prisoners held in police prisons are offered at least one hour of genuine outdoor exercise every day;**

- **offer some activities and diversions (e.g. sport, boarding games, books, TV) to such prisoners.**

The CPT would like to be provided, within one month, with information on the practical steps taken to implement the above recommendation.

35 Rule 10.2 states as follows: "In principle, persons who have been remanded in custody by a judicial authority and persons who are deprived of their liberty following conviction should only be detained in prisons, that is, in institutions reserved for detainees of these two categories."

B. Foreign nationals deprived of their liberty under aliens legislation

1. Preliminary remarks

27. Foreign nationals may be deprived of their liberty by the police or the Border Guard if it is necessary to establish their identity, to prevent them from committing an offence and/or to secure their deportation.[36] They must be brought before a judge within 96 hours of the moment of their apprehension[37], and a continuation of their detention requires a judicial decision, which must be reviewed subsequently every two weeks.[38] Detention of foreign nationals is limited to up to 6 months; however, this time-limit is extendable for up to 12 months.[39]

Under the Aliens Act[40], the deprivation of liberty of foreign nationals in police and Border Guard establishments should be an exception, only when the detention unit for aliens (see below) is temporarily full or if the person is apprehended far away from the detention unit; in this case, detention in a police establishment may not last more than 4 days and the person concerned must be brought before a judge within 24 hours from apprehension. As for Border Guard establishments, the detention of persons pursuant to the AA is possible for a maximum of 48 hours.[41]

28. Consequently, whenever it is deemed necessary to deprive a foreign national of his/her liberty pursuant to the Aliens Act, he/she should as soon as possible be placed in a detention unit.[42] In addition to the detention unit in Helsinki's Metsälä district (which had been visited by the CPT in 2008[43]), a new detention unit – located in Konnunsuo near Joutseno (South Karelia) – was about to open at the time of the 2014 visit. The CPT will comment upon the conditions in both above-mentioned units further in this report.[44] Meanwhile, **the Committee requests confirmation that the Joutseno Detention Unit has now become operational.** Further, **the CPT very much hopes that the opening of this new facility will help finally eradicate the practice of accommodating foreign nationals (pursuant to Aliens Act) in police establishments, criticised by the Committee several times in the past.**

29. At the outset of the 2014 visit, the delegation was informed by senior officials from the Ministry of Interior that new draft amendments to the Aliens Act would limit the detention of unaccompanied minors to a maximum of 72 hours, and prohibit the holding of such minors in police establishments. The above-mentioned draft amendments also required that social welfare services be contacted before any detention of a minor. Further, it would under no circumstances be permitted to detain minors younger than 15, while those aged 15 to 18 could only be detained pending their deportation.

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36 Pursuant to Section 121 of the Aliens Act (AA), No. 301/2004, in force since 1 May 2004.
37 Section 124 (2) of the AA.
38 Section 128 of the AA.
39 Section 127 of the AA.
40 Section 123 (3) of the AA.
41 Sections 36 and 62 of the Border Guard Act No. 578/2005, in force as from 1 September 2005.
42 As referred to in Act No. 116/2002 on Detention Units and the Treatment of Foreign Nationals Placed in Detention, as well as in Section 123 (2) of the AA.
43 See paragraphs 41 to 53 of CPT/Inf (2009) 5.
44 See paragraphs 31 to 39 below.

In this context, the CPT concurs with the United Nations Committee on the Rights of the Child which considers that "[i]n application of article 37 of the Convention [on the Rights of the Child] and the principle of the best interest of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof".[45] Further, other Council of Europe bodies, such as the Parliamentary Assembly[46] or the Commissioner for Human Rights,[47] have stated that unaccompanied minors should not be detained.

Given their particular vulnerability, **the Committee recommends that the necessary measures be taken to ensure that unaccompanied/separated minors are always provided with special care and accommodated in an open (or semi-open) establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles); the Aliens Act should be amended accordingly.**

2. Ill-treatment

30. The delegation did not hear any allegations of ill-treatment of detained foreign nationals by staff of the Detention Unit for Aliens in Metsälä.[48] On the contrary, many detainees interviewed in the said facility spoke positively about the staff, and the delegation observed for itself that staff-detainee relations were generally relaxed.

Incidents of inter-detainee violence appeared to be relatively rare and were generally well handled by the management and staff of the Unit.

3. Metsälä and Joutseno Detention Units

31. Metsälä Detention Unit was opened in 2005 and first visited by the CPT in 2008. Its location, status and facilities have not changed since then.[49] On the day of the delegation's visit, the Unit (with the official capacity of 40) was accommodating 28 foreign nationals.[50] The average length of stay was approximately 23 days[51] for adults and 11 days for minors.

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45 Committee on the Rights of the Child, General Comment no. 6 (2005) on the Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, paragraph 61.

46 Parliamentary Assembly of the Council of Europe, Resolution 1707 (2010) on detention of asylum seekers and irregular migrants in Europe, 28 January 2010, paragraph 9.1.9, and Resolution 2020 (2014) on the alternatives to immigration detention of children, 3 October 2014, paragraph 3.

47 Commissioner for Human Rights, Positions on the rights of minor migrants in an irregular situation, CommDH/Position Paper (2010)6, 25 June 2010.

48 As already mentioned, the Joutseno Detention Unit was not yet operational at the time of the delegation's visit.

49 See footnote 43, above.

50 The delegation was informed that this number was unusually low due to the ongoing refurbishment works (replacing the windows). In the period between 1 January and 1 September 2014, there had been a total of 333 detainees accommodated in the Metsälä facility, including 29 women and 23 minors (four of them unaccompanied).

51 In the period between 1 January and 1 September 2014. In 2013 and 2012, the average length of stay had been approximately 33 days, and in 2011 some 31 days.

The new Detention Unit in Joutseno, physically located in one of the former detention blocks of Konnunsuo Prison[52] was eventually (once fully operational) supposed to have the capacity of 30, with 20 places for adult men and 10 places reserved for families.

32. Material conditions at the *Metsälä Unit* were generally adequate. The accommodation and other facilities were sufficiently spacious, bright and had an efficient heating system and ventilation. As regards the food, a variety of religious and medical diets were available. That said, the delegation did hear a few complaints about the allegedly late times at which the meals were served. **The CPT would welcome the Finnish authorities' observations on this subject.**

Foreign nationals were in principle offered the possibility to take outdoor exercise for one hour every day. That said, many of them told the delegation that they did not know when and for how long they were permitted to go for outdoor exercise. **The Committee invites the Finnish authorities to ensure that this information is duly provided to all foreign nationals accommodated at the Metsälä Detention Unit. The CPT also invites the Finnish authorities to consider increasing the entitlement for daily outdoor exercise beyond one hour.**

The exercise yard was spacious and equipped with benches and chairs; however there was still no proper shelter against inclement weather. **The Committee recommends that this deficiency be remedied.**

33. As regards material conditions at the *Joutseno Detention Unit*, they were unavoidably influenced by the new facility's location on the premises of a former prison; in particular, the single-occupancy rooms for adult male detainees strongly resembled prison cells. Having said that, the overall accommodation standards were good, with all the rooms being well lit, ventilated and heated, and suitably furnished.[53]

The Unit had a secure outdoor exercise yard, equipped with means of rest and with a children's playground. However, it appeared that the conditions in the yard could easily become cramped if the Unit were to operate at its full capacity. **The CPT invites the Finnish authorities to consider enlarging the above-mentioned exercise yard.**

34. As concerns activities, the situation at *Metsälä Detention Unit* had not changed since the 2008 visit and remained generally favourable: foreign nationals could move freely within the accommodation area[54] and had access to the Internet (albeit restricted), television programmes in many languages, DVDs, books and magazines, and a variety of games and toys for the children. That said, while the range of activities available appeared attuned to the varied needs of the detainees, including women and families, **the CPT again invites the Finnish authorities to reflect upon possibilities of developing further the range of organised activities offered to detainees at the Metsälä Detention Unit, paying particular attention to the educational needs of young children and juveniles.**

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52 Konnunsuo Prison was opened in the 1920s and was definitively closed in 2011. Subsequently, most of its facilities were reused (after refurbishment) to house an open reception centre for asylum seekers.

53 At least as regards those of the rooms that were already fully equipped at the time of the visit.

54 They even had keys to their rooms.

According to the establishment's management, the range and type of activities to be made available to foreign nationals at *Joutseno Detention Unit* would be similar to that at Metsälä. However, the choice of using a former prison wing as accommodation for detained foreign nationals (especially families) meant that there was not much space available for association and activity areas, especially once the Unit operates at its full capacity. **The Committee recommends that the Finnish authorities reflect upon ways to address this potential problem. One way could be to transform one of the (still, at present, unused) floors of the former prison wing into an area specifically dedicated to association and activities; consideration should also be given to allowing detained foreign nationals (as required, under supervision) access to the association, activity and sports facilities (including the large indoor gym and outdoor pitch) belonging to the adjacent open reception centre.**

35. There had been some improvements since the CPT's 2008 visit as regards the provision of health care at the *Metsälä Detention Unit*. The number of nurses had been increased from 1.5 to 3 full-time equivalents (thus permitting a daily presence of a nurse, except on weekends) and a doctor was now present at the Unit during 4 hours per week.[55] That said, there was still no systematic medical screening of newly-arrived detainees.[56] As already stressed in the past, such a screening is in the interests of both detainees and staff, and is also a preventive measure (particularly to prevent the spread of transmissible diseases). **The Committee calls upon the Finnish authorities to put in place as a matter of priority a prompt and systematic medical screening for all newly-arrived foreign nationals at Metsälä Detention Unit; the above-mentioned reinforcement of nursing staff resources should facilitate this.** Further, **the CPT reiterates its recommendation to ensure the presence of a nurse also on weekends.**

Regarding the *Joutseno Detention Unit*, the delegation was told that health-care services for detained foreign nationals would be provided by doctors and nurses employed at the adjacent reception centre for asylum seekers, though the precise modalities had still not been decided at the time of the visit. **The Committee would like to receive more detailed information on this subject.** Further, **reference is made to the aforementioned recommendation concerning the systematic medical screening of newly-arrived detainees.**

36. With regard to psychological/psychiatric assistance, the situation at the Metsälä Unit was basically the same as in 2008, i.e. detainees in need of examination or treatment were sent to an outside psychiatric establishment. However, as far as the delegation could ascertain, there were still no regular visits to the facility by a psychiatrist or a psychologist. This was of particular concern given that many of the interviewed foreign nationals displayed clear signs of stress, anxiety and trauma related with their past experience and the likely outcome of their procedure (including deportation).[57] **The CPT reiterates its recommendation that steps be taken to ensure adequate access to psychological assistance and psychiatric care for foreign nationals at Metsälä Detention Unit. The Committee would also like to be informed of the relevant arrangements put in place at Joutseno Detention Unit.**

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55 It is noteworthy that, as previously, the doctor and the nurses provided health-care services also for the residents of the adjacent open reception centre, as well as approximately 385 asylum seekers living in the outside community.

56 Such a screening was systematically offered to foreign nationals upon arrival, but it was not mandatory.

57 See also paragraph 48 below.

37. As in 2008, the CPT's delegation was impressed with the ability and dedication of the staff of the Metsälä Unit. The management and "counsellors" (i.e. staff working in direct contact with the detainees) were sufficient in number, had different cultural backgrounds and possessed a wide range of language skills. Further, the delegation noted that the staff had received initial and ongoing training reflecting the specificity of their job. The delegation also gained a positive impression of the staffing situation at the Joutseno Detention Unit, both as regards the number and the qualification of the staff.[58]

The Metsälä facility continued to employ on contract eight security guards[59] (two of whom were present in the facility at any given time); their task was primarily to guard the perimeter and operate the CCTV system. However, in case of emergency and following instructions of the unit's manager, they could be authorised to use truncheons, tear gas and handcuffs. In this context, the CPT is pleased to note that its previous recommendation has been implemented, namely the security guards employed at Metsälä Detention Unit had received relevant specialised training on use of such means. That said, the Committee is of the view that, given the potentially dangerous effects of this substance, tear gas should not be used in confined spaces. Consequently, **the CPT recommends that it be withdrawn from the list of standard equipment at the disposal of security guards at Metsälä Detention Unit.**

It is also noteworthy that the solution chosen at Joutseno Detention Unit (i.e. recruiting several former prison officers[60]) had allowed avoiding having recourse to a security company there.

38. As for contact with the outside world, foreign nationals detained at the Metsälä Unit continued to have reasonably good possibilities to receive visits, make telephone calls, and send and receive letters. Further, as before, detainees were provided with written information (available in fifteen languages) on their rights, including on the right to appeal and to send confidential complaints to outside bodies. The establishment was also visited on a frequent basis by representatives of different NGOs who provided the detained foreign nationals with information and legal assistance.

As regards the Detention Unit in Joutseno, the CPT is concerned that the remote location of the facility[61] might render visits relatively difficult for detainees in practice. **The CPT invites the Finnish authorities to reflect upon ways to reduce this risk, for example by improving public transportation accessibility of the Unit.**

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58 19 staff had been recruited to work directly with the detainees (including eight women); they had already undergone a 7-week training course, including languages, psychology, cross-cultural communication and human rights. Several of them had immigrant backgrounds and/or spoke a range of relevant languages.

59 Their legal status was under review: while at the time of the visit they were considered as civil servants (given their employment by a public-owned company), it was not clear whether this would not change in the future (as an option of signing the contract with a private security company was being considered).

60 And providing all the staff with adequate training in this respect.

61 The nearest small town with access by train was some 12 km away, and there were very limited public transportation options available between the station and the Unit. Helsinki was some 250 km away and the Finnish-Russian border some 12 km away.

39. The delegation found no indications of excessive recourse to isolation at the Metsälä Detention Unit.[62] Conditions in the two isolation rooms, as well as the regime applied to persons placed in isolation (including unrestricted access to outdoor exercise, radio, books and shower) were on the whole adequate; that said, the delegation noted that a nurse would only be required to visit a detainee after 3 days spent in isolation.[63] **The CPT thus reiterates its recommendation that a nurse be required to visit persons held in isolation immediately after the beginning of the measure and thereafter on a daily basis**.[64]

4. Border Guard detention facilities at Vantaa Airport, Helsinki

40. The CPT's delegation visited short-term holding facilities operated by the Border Guard at Vantaa Airport. No one was detained in them at the time of the visit.

The holding facilities comprised two holding rooms (a double room measuring some 8 m² and a triple-occupancy room measuring approximately 10 m²), a communal area with tables and chairs, and a sanitary facility with toilets, washbasins and showers. The rooms were well lit (with artificial lighting) and ventilated, clean and in a good state repair. Nevertheless, there was no access to natural light in the accommodation area, which rendered it unsuitable for holding anyone in excess of 24 hours.

The CPT recommends that steps be taken to ensure that whenever the Border Guards consider it necessary to hold a foreign national for more than 24 hours, he/she be transferred from Vantaa Airport to another, suitable facility. As regards the above-mentioned holding rooms, **the room measuring some 8 m² should never be used to accommodate more than one detained person at a time, and the room measuring some 10 m² - two persons at a time.**

41. The delegation was concerned to note that the detention of foreign nationals by the Border Guards at Vantaa Airport was poorly documented and, in particular, there was no proper dedicated custody register to record (among other things) the times of arrival and departure of the persons detained. **The CPT recommends that this lacuna be remedied without delay. Reference is also made to paragraph 18 above.**

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62 Isolation was applied 35 times in 2013, the average duration being of just over a day.

63 Which hardly ever happened in practice.

64 The same is valid, as applicable and in due course, with respect to the Joutseno Detention Unit.

5. Safeguards

42. The CPT's delegation heard no complaints by foreign nationals deprived of their liberty pursuant to the Aliens Act (AA) as regards the possibility to notify their next-of-kin of their detention by the police, the Border Guard or subsequently in the Metsälä Unit.[65]

43. As regards access to a lawyer, foreign nationals detained pursuant to the AA continued to be given, once admitted to the Detention Unit in Metsälä, the possibility to benefit from legal assistance provided by representatives of an NGO (Refugee Advice Centre). However, it remained the fact that access to a lawyer was hardly ever granted during earlier stages of deprivation of liberty, i.e. while foreign nationals were in the custody of the police or Border Guard. This is important because initial interviews of detained foreign nationals generally took place at police or Border Guard establishments.

The CPT reiterates its recommendation that steps be taken to ensure that foreign nationals detained pursuant to the Aliens Act enjoy effectively the right of access to a lawyer as from the outset of their deprivation of liberty (i.e. as from the moment they are first obliged to remain with the police or the Border Guard).

44. Concerning information on rights, similar to the situation observed during the 2008 visit, foreign nationals detained pursuant to the AA were, as would appear from interviews with a number of the detainees at the Metsälä Unit, informed *verbally*, shortly after their apprehension, of at least some of their rights (e.g. of access to a lawyer); however no *written* information on rights was reportedly made available to foreign nationals apprehended by the police and the Border Guard.

Consequently, **the CPT reiterates its recommendation that the Finnish authorities ensure that all foreign nationals apprehended by the police or the Border Guard pursuant to the Aliens Act are systematically provided with a form setting out in a straightforward manner all their rights as soon as they are brought into a police station or a Border Guard facility. The form should be made available in an appropriate range of languages.**

45. Several foreign nationals interviewed by the delegation at the Metsälä Detention Unit stated that they had not been offered interpretation services at the initial stages of their custody, despite having been in need of such a service. **The Committee recommends that interpretation be systematically provided whenever necessary. All foreign nationals should be informed, immediately upon apprehension, of this right.**

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65 See, however, paragraph 12 above.

6. Deportation of foreign nationals by air

46. During its meetings with senior officials in the beginning of the visit, the delegation was informed that the Ministry of Interior's Instructions on the procedure to be followed in the course of forcible removals (deportations under escort) of foreign nationals by air – and in particular on the means of coercion/restraint authorised in the context of such deportations – had been further amended and clarified since the 2008 visit. In particular, it was made clear that the only means of coercion that could be used by escorting police officers were physical force (holding), metal handcuffs, plastic handcuffs and (in exceptional circumstances) so-called "body cuffs".[66] Further, the prohibition to apply any techniques that could prevent breathing had been expressly reiterated and reinforced. The Instructions also make clear that any use of medication during a deportation operation (including, in particular, any psychotropic medication) must always be on medical grounds, and be ordered by a doctor following a physical and direct examination of the person by the doctor concerned. Medication should as a rule be administered by a nurse accompanying the deportation team, unless authorised otherwise by the doctor.

While welcoming these positive developments, **the CPT wishes to reiterate its view that, prior to and in the course of a deportation operation, any medication should only be administered with the consent of the foreign national concerned (or, if the person is treated against his/her will pursuant to the Mental Health Act, in accordance with all the relevant safeguards).**

Further, **the relevant instructions should make clear that a foreign national should be medically examined prior to the deportation operation, as well as following any failed deportation attempt.**

47. The delegation was also informed that, in addition to the already existing recording and reporting obligations[67], a decision in principle had recently been made to confer the task of monitoring deportation operations by air to the Ombudsman for Minorities; however, at the time of the visit such a monitoring had not yet begun. **The Committee would like to be informed, in due course, of whether the Ombudsman for Minorities has taken up his new monitoring duties, and be informed of the precise modalities of such monitoring. In this context, the CPT wishes to stress that the systematic recording of deportation operations by audio-visual means (in particular for deportations expected to be problematic) should be seriously considered.**

48. Many foreign nationals interviewed by the delegation at the Metsälä Detention Unit appeared distressed by a recent forcible removal from the Unit of a Nigerian family.[68] The delegation was able to examine the CCTV footage and came to the conclusion that the manner in which the removal had been effected (at least in its initial stage i.e. inside the Unit) had been adequate; however, **it would be advisable for both the "counsellors" and the security guards to benefit from additional training on how to diffuse stressful situations, especially those involving families with small children.**

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66 I.e. a wide nylon belt with cuffs attached to it, and an adjustable strap to permit limited movements of hands.

67 Described in paragraph 57 of the report on the 2008 visit.

68 Parents and five underage children.

C. Prisons

1. Preliminary remarks

49. The CPT's fifth periodic visit to Finland included follow-up visits to Helsinki, Kerava, Riihimäki and Vantaa Prisons.

Helsinki Prison had been the subject of three CPT visits in the past.[69] With an official capacity of 284, it was holding 284 male inmates on the first day of the visit; overcrowding was thus not a problem but the prison was operating at its full capacity. The establishment, accommodating mainly sentenced prisoners (of whom some 18% were foreigners), comprised five units with different levels of supervision and regime/activities available.

Kerava Prison had not been visited by the CPT since 1992. It was built in 1891 and was accommodating prisoners in two sites: a closed and an open unit. Its official capacity was 169 (95 in the closed unit and 74 in the open one) and the actual occupancy at the time of the delegation's visit was 174 (including some 25% of foreign nationals). The multi-occupancy cells had an official capacity of four prisoners per cell but the delegation was told by the staff this number could occasionally increase to five.

Riihimäki Prison had previously been visited in 1998 and 2008. With an official capacity of 223, it was accommodating 197 prisoners (some 20% of them foreign nationals), of whom 188 were actually physically present in the prison, on the day of the visit. The majority of the inmate population was made up of sentenced prisoners, some of them accommodated in a closed and a high-security unit (see paragraphs 58 to 68).

Vantaa Prison had previously been visited by the Committee in 2008. It is the main remand prison for the greater Helsinki area and also comprises a Psychiatric Unit (see paragraph 82). With an official capacity of 186, it was accommodating 207 inmates on the first day of the visit: 189 remand prisoners (including two juveniles[70]), seven sentenced prisoners who were at the same time on remand in relation to another criminal case, nine sentenced prisoners and two fine defaulters (one of them also on remand). Foreign prisoners constituted 42.5% of the establishment's population.

50. At the outset of the visit, senior officials from the Ministry of Justice and the Criminal Sanctions Agency (CSA) informed the delegation of action taken since the 2008 visit to pursue the prison reform. Among other measures, the CSA had been thoroughly reorganised in 2010 and merged with the Prison Service and the Probation Service. Under the new system, Finland is divided into three criminal sanctions regions, those for Southern, Eastern and Northern, and Western Finland, which are in charge of the country's 15 closed and 12 open prisons.

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69 In 1992, 1998 and 2008.

70 One of them was 17 years old and the other had just turned 18 during the visit.

At the time of the visit, there were approximately 3,100 prisoners in Finland[71] and the delegation was told that the prison population had been decreasing steadily over the past 5 years, allowing for providing average living space of 7 m² per person in single occupancy cells and 5.5 m² in multiple occupancy cells across the Finnish prison estate. Reportedly, this was at least partly due to the introduction of measures alternative to imprisonment, such as community sanctions and electronic monitoring.

As regards legislation, significant amendments to the Imprisonment Act[72] and to the Remand Imprisonment Act[73] had been submitted to the Finnish Parliament in, respectively, April and October 2014. The amendments *inter alia* clarified the rules concerning prisoners' contact with the outside world, modified the provisions on discipline and appeal possibilities, shortened the maximum length of solitary confinement and introduced a legal basis for the use of "examination overalls" (see paragraph 89 below).[74] **The CPT would like to be informed, in due course, of the entry into force of the above-mentioned amendments and of their precise wording.**

51. The Finnish authorities expressed the view that the implementation of these various measures to reform the prison system and policy had so far progressed relatively successfully. However, the delegation's interlocutors from the CSA stressed that the country's overall economic situation and the resulting significant financial constraints on the public sector were delaying and/or curbing investments needed for the renovation and modernisation of the prison estate. The lack of available resources had even prompted the CSA to seriously contemplate possible closure of one larger or two smaller prisons.

Given that all but one of the prisons visited during the 2014 visit were either operating at their full capacity or were slightly overcrowded (see paragraph 49 above), the Committee is of the view that closing down one or two establishments would unavoidably result in a resurgence of overcrowding in the remaining prisons. Therefore, **the CPT calls upon the Finnish authorities to make any possible effort in order to avoid such a situation.**

52. The practice of "slopping out"[75], first criticised by the CPT in the 1992 visit report, remained regretfully a feature in some of the prisons in Finland. Despite efforts made by the authorities to equip cells with sanitary annexes, there were still many cells without a toilet at Helsinki[76] and (to a lesser extent) Kerava Prisons[77] during the 2014 visit. The delegation was informed that it was planned to install sanitary annexes in all the cells by 2016 and 2018 in Helsinki Prison's North and West wings respectively, and eliminate the "slopping out" practice in Mikkeli Prison by the summer of 2015. However, no plans were yet in place to remedy this problem at Hämeenlinna Prison, despite the fact that it affected some 100 cells at that establishment.

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71 Corresponding to the prison population rate of 58 per 100,000 of national population.

72 Act No. 767/2005.

73 Act No. 768/2005.

74 These amendments were supposed to enter into force on 1 March 2015.

75 I.e. a situation where, in order to comply with their needs of nature, inmates are obliged to resort to buckets placed in their cells.

76 There were 83 cells without in-cell sanitary annexes at Helsinki Prison at the time of the delegation's visit (see also paragraph 71).

77 The delegation was informed that, in addition to the above-mentioned establishments, cells without sanitary annexes existed at Hämeenlinna Prison (accommodating female inmates) and Mikkeli Prison.

The CPT calls upon the Finnish authorities to attach the highest priority to eliminating completely the "slopping out" practice in all prisons, including at Hämeenlinna and Kerava Prison. Strenuous efforts must be made to accelerate the already adopted timetable for equipping the remaining cells with in-cell sanitary annexes at Helsinki and Mikkeli Prisons.

As a temporary and transitional measure aimed at alleviating at least to a certain extent the negative consequences of the absence of in-cell sanitation, prison directors in the establishments concerned had instructed custodial staff to grant without delay (including at night) access to communal toilet facilities to inmates accommodated in such cells. However, the delegation observed (especially at Helsinki Prison) that inmates were generally reluctant to request access to communal toilets at night and continued to use buckets (and plastic bottles) to satisfy their needs of nature; the delegation's impression was that prisoners had been implicitly made to understand that the custodial staff – already overburdened with other duties – should not be "bothered" with such requests. **The Committee recommends that steps be taken to minimise the degrading effects of "slopping out" and ensure that the above-mentioned instructions are complied with in practice and that inmates accommodated in cells without a toilet are granted effective and prompt access to a proper toilet facility at any time of day or night. The implementation of this measure should be monitored by the senior management of each establishment concerned.**

2. Ill-treatment

53. The delegation received hardly any allegations of physical ill-treatment of prisoners by custodial staff in the penitentiary establishments visited. On the whole, inmates interviewed by the delegation stated that they were being treated correctly by prison staff; however, a few allegations of verbal abuse or otherwise impolite behaviour were heard, especially from prisoners of foreign origin and Roma prisoners (see also paragraph 49). **The CPT recommends that staff in all the prisons visited be reminded that verbal abuse or any forms of impolite behaviour vis-à-vis prisoners are unacceptable.**

54. At Kerava Prison and (to a lesser extent) at Helsinki Prison, the delegation witnessed examples of a professional, positive and engaging attitude by custodial staff towards the inmates. This was, however, not the case at Riihimäki and Vantaa Prisons, where staff-prisoner relations, although generally correct, were of a merely custodial and passive character. Many of the prisoners interviewed by the delegation in the two above-mentioned prisons perceived the behaviour of the staff as unhelpful, distant and unresponsive to legitimate requests and questions (e.g. about the establishments' house rules, applications and complaints system). The delegation itself observed that there was almost no staff-prisoner interaction in the closed and high-security units at Riihimäki Prison (see paragraphs 58 to 68 below). Also at Vantaa Prison, some of the prisoners (especially those segregated for their own security) complained about the very limited contact with the staff.

The CPT reiterates its recommendation that further efforts be made, through initial and ongoing staff training, to develop positive and proactive staff-inmate relations in prisons. Such an approach will depend to a great extent on staff possessing and making use of interpersonal communication skills.

In this context, steps should be taken to ensure that prison officers assigned to high security and closed units, or having in their custody inmates segregated for their own security, exercise their interpersonal communication skills in a proactive manner.

55. The issue of inter-prisoner violence and intimidation has been an area of concern for the CPT since its very first visit to Finland in 1992. Unfortunately, inter-prisoner violence remained a serious problem in the four prisons visited in 2014.[78] As a consequence, the already very restrictive regimes (especially in the high-security and closed units at Riihimäki Prison, see paragraphs 62, 63, 67 and 68) had become even more impoverished.

The phenomenon of inter-prisoner violence and intimidation was openly acknowledged by the Finnish authorities, as well as by the management and staff in the prisons visited. Efforts were being made to address this issue, *inter alia* through carrying out individual risk assessments and setting up smaller detention units, which had made it easier to separate potential victims and perpetrators. Nevertheless, the delegation did observe – especially at Helsinki, Riihimäki and Vantaa Prisons – that although there generally was a proper response to incidents, staff did not always act proactively enough to detect and/or prevent such incidents. One case, observed in one of the closed units at Riihimäki Prison, is particularly illustrative in this respect. The delegation found, through interviews with prisoners, that one of their fellow inmates never left his cell (and had been held in conditions akin to solitary confinement for 24 hours per day) because he was so afraid of other prisoners accommodated in the same unit. This situation had already reportedly lasted for several months; however, staff working in the unit appeared unaware of it, despite the unit's small capacity (see paragraph 64).

The CPT wishes to stress once again that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. **The Committee calls upon the Finnish authorities to take more decisive and proactive steps to prevent and stop inter-prisoner violence and intimidation. The management and staff of Helsinki, Riihimäki and Vantaa Prisons must exercise continuing vigilance in order to make sure that no case of inter-prisoner violence and intimidation goes unnoticed, and make use of all the means at their disposal to prevent such cases. This will depend greatly on having an adequate number of staff present in detention areas and in facilities used by prisoners for activities.**

56. Segregation and even isolation of the so-called "fearful" (as well as "violent" or "difficult") inmates also remained an issue of the Committee's concern, especially as regards Helsinki, Riihimäki and Vantaa Prisons. Such prisoners continued to be subjected to extremely restrictive regimes and spent the bulk of their day (up to 23 hours) locked in their cells, with no purposeful activities. While genuine efforts were being made to address this problem (and the numbers of "fearful" prisoners, as well as average periods spent by them in solitary confinement – had reportedly decreased in the recent years), the CPT remains of the view that more efforts are required to provide adequate protection to this category of inmates, without resorting to isolation or use of regimes akin to solitary confinement.

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[78] According to the information provided to the delegation at the outset of the visit, between 140 and 190 incidents of inter-prisoner violence had been recorded in the Finnish prison system annually in the course of the past 5 years. In the period between 1 January and 1 September 2014, there had been 163 cases of inter-prisoner violence (which included the killing of a prisoner by fellow inmates at Riihimäki Prison a few months prior to the CPT's visit).

The Committee reiterates its recommendation that steps be taken to ensure that "fearful prisoners" (and other prisoners segregated because they are considered to be violent or otherwise "difficult") have effective access to purposeful activities.

In order to make this possible, staff presence should be increased in the relevant prisoner accommodation areas in Helsinki, Riihimäki and Vantaa Prisons, especially in the closed units.

Moreover, a proactive approach by the prison health-care service towards prisoners on protection is required, particularly as regards psychological and psychiatric care. There should be an individual assessment of their needs at regular intervals and, where appropriate, transfer to another prison should be considered.

3. Prisoners subjected to special regimes

57. The delegation paid particular attention to the situation of prisoners held in conditions of high security or control at Helsinki and Riihimäki Prisons, as well as to the treatment of remand prisoners subjected to segregation by court order at Vantaa Prison.

a. Prisoners held in conditions of high security or control

i. Riihimäki Prison's High Security Unit

58. Riihimäki Prison's High Security Unit has been operational since 1 August 2007. With a capacity of eight places, it was accommodating seven prisoners at the time of the delegation's visit. The prisoners concerned were generally considered to be particularly "difficult" or "violent" and the decision to place them on the unit was made by the CSA.

59. As regards the procedure for placement in the unit, placement decisions were reviewed by the CSA every three months. According to the legislation in force, a hearing of the inmate concerned should take place before a decision is reached. Prisoners should be informed in writing of the decision taken, including the grounds for placement, and should have the opportunity to appeal the decision before the administrative court.

However, all prisoners interviewed by the delegation at the High Security Unit of Riihimäki Prison stated that the review of their placement decisions had lacked transparency, and the whole placement and review procedure was perceived by them as inequitable. In particular, the prisoners alleged that there was no possibility in practice to provide any input into the reports on their behaviour and progress sent by the prison's management to the CSA, and that they were not heard in person during the review process. Prisoners also complained that there was no effective or real possibility to appeal against the placement decision (and a decision to continue the placement), as no detailed grounds for the placement were communicated to them. It is noteworthy that the prison's management was not in a position to provide a single example of a case where the placement decision would have been amended following an appeal by a prisoner.

60. As already stressed in the report on the 2008 visit, it is essential, for the effective management of prisoners whose personality or behaviour is likely to mean that they will spend prolonged periods in conditions of high security, that decisions reached about their management are not only fair but can be perceived as being fair. In this context, **the CPT recommends that steps be taken to ensure that the inmates concerned are effectively offered the opportunity to be heard and to provide their comments and explanations in the context of the placement procedure in the High Security Unit, and of the review of such placement. In order to make it possible for the prisoners to exercise their right to appeal against the measure, they must be systematically informed in writing of the grounds of the placement (and/or its continuation).**

More generally, the Committee is of the view that the Finnish authorities should refine the procedure for allocating a prisoner to a high security unit, and for reviewing this allocation, with a view to ensuring that only those inmates who pose an on-going high risk if accommodated in the mainstream of the prison population are placed in such a unit. The reviews of placements in a high security unit should be objective and meaningful, and form part of a positive process designed to address the prisoners' problems and permit their re-integration into the mainstream prison population as soon as possible. The reviews should specify clearly what is to be done to assist the prisoner concerned to move away from the high security unit and provide clear criteria for assessing development. Prisoners should be fully involved in all review processes. **The CPT recommends that the Finnish authorities take steps in the light of the above remarks.**

61. Material conditions in the High Security Unit had deteriorated since the 2008 visit. Although the cells were sufficiently spacious (e.g. a single occupancy cell measuring some 9 m²), ventilation was often poor and the cells allegedly became extremely hot during the summer months. Further, the equipment was Spartan and dilapidated in some of the cells, and the showers and washing facilities were inadequate. **The CPT recommends that steps be taken to remedy these deficiencies.**

62. As regards activities, prisoners held in the High Security Unit had access to two well-equipped gyms and a communal kitchen for two hours per day; during that time, each inmate could associate with two other prisoners from the unit. Further, inmates were offered the possibility to take one hour of daily outdoor exercise; however, the exercise yards were small, bare and of an oppressive design. For the rest of the time, prisoners held in the Unit were locked in their cells with little to occupy themselves apart from reading, listening to the radio and watching TV.

The CPT remains of the view that the current regime at the High Security Unit is not a suitable way to respond to disruptive behaviour in prison, to allow safe progress towards release and to reduce the risk of re-offending after release. **The Committee reiterates its recommendation that a suitable programme of purposeful activities of a varied nature (including work, education and targeted rehabilitation programmes) be offered to prisoners held in conditions of high security. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and social worker), in consultation with the inmates concerned.**

The CPT also recommends that steps be taken to enlarge and improve the exercise yards used by prisoners in the High Security Unit of Riihimäki Prison.

63. Prisoners placed in a high security unit are in principle entitled to receive visits with the same frequency and of the same duration as other inmates[79]; that said, all the short visits at the High-Security Unit of Riihimäki Prison were of a closed type (in small booths and through a plexi-glass separation) and several inmates complained to the delegation that their repeated requests for a "father and child" visit had been rejected without explanation. **The Committee reiterates its recommendation that the imposition of any restrictions on visits for inmates placed in a high security unit be based on an individual risk assessment.**

ii. Helsinki and Riihimäki Prisons' Closed Units

64. The closed units at Helsinki and Riihimäki Prisons were used to accommodate prisoners who, for various reasons, needed to be segregated from the mainstream prison population. At the time of the visit, such units at Helsinki Prison were accommodating nine inmates considered by the establishment's management to be "particularly disruptive". In addition, there were (in a separate small wing) three "fearful" prisoners and two inmates on witness protection programme and – in a separate part of the corridor – four prisoners in disciplinary isolation (see also paragraph 88). Riihimäki Prison's Closed Unit had the same design and capacity as the establishment's High Security Unit (see paragraphs 58 and 61 above) and was accommodating eight prisoners at the time of the delegation's visit.

65. Placement in the closed units was decided by the prison management.[80] In both prisons, the delegation noted that there was a regular review of all placement decisions (every 4 months) with the participation of a multi-disciplinary team (including health-care staff and social workers); further, prisoners concerned were actively involved in the review process.

That said, the delegation observed that the criteria and procedure for placement in closed units (and review of this placement) still lacked sufficient transparency. In particular, several prisoners interviewed complained that they had not been informed about the grounds and the likely duration of the placement in a closed unit, and some alleged that the reviews were infrequent and irregular in practice. Many of the inmates told the delegation that the appeal procedure was a pure formality, without any real chance of success. In this context, **reference is made to the recommendations in paragraph 60 which are applicable here *mutatis mutandis*.**

66. Material conditions in the closed units at Helsinki Prison were generally good and comparable with those in the main accommodation.[81] As regards Riihimäki Prison, conditions in the Closed Unit were similar to those in the High Security Unit; **reference is thus made to the recommendation in paragraph 61 above.**

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79 That is, a 45-minute visit once a week and, upon request, an additional monthly "father and child" visit.

80 Unlike in the case of placement in a high-security unit, see paragraph 58 above.

81 See paragraphs 71 to 73.

67. As regards activities, some prisoners in closed units at Helsinki Prison benefited from specific targeted programmes (e.g. an anger management programme, with weekly discussion groups, and regular meetings with psychologists and social workers). They also had access to a gym, communal kitchens and a library. However, the time spent out of the cells, in association with other inmates in the closed units, was generally limited to one hour of outdoor exercise and three half-hour periods of "open regime" time, used for meals, cleaning and using the telephone. At Riihimäki Prison's Closed Unit, prisoners had access to the gym and the kitchen for three hours a day, in association with a few other inmates on their unit, and took outdoor exercise for one hour a day in a spacious yard. However, they were locked in their cells for the remaining 20 hours a day, without any purposeful activities. Many prisoners complained about this state of affairs to the delegation.

The CPT reiterates its recommendation that the regime provided to prisoners held in the closed units at Helsinki and Riihimäki Prisons be reviewed. The objective should be to ensure that such prisoners enjoy a relatively relaxed regime within the confines of their units in order to counter the deleterious effects upon the prisoners' mental health and social skills of living in the bubble-like atmosphere of the unit, and to provide them with a variety of organised activities responding to their individual needs (including work, education and rehabilitation programmes).

68. As concerning the possibilities for prisoners placed in closed units to maintain contacts with the outside world, several inmates in the Closed Unit of Riihimäki Prison alleged that their visits were often cancelled for spurious reasons (or cut short) and that "father and child" visits were rarely permitted. Prisoners experienced this as a form of additional informal punishment. **The CPT would welcome the Finnish authorities' observations on these allegations.**

b. segregation of remand prisoners by court order

69. At the time of the visit, Vantaa Prison was accommodating 41 male remand prisoners segregated by court order in the interests of the criminal investigation; they were allocated into five closed units. The delegation was informed by the prison's management that there was no absolute time-limit[82] and no automatic periodic review mechanism for such segregation; that said, remand prisoners had the right to appeal against the segregation measure every two weeks. **The CPT recommends that the legal safeguards in the context of court-imposed segregation of remand prisoners (such as the provision of reasoned grounds in writing for any decision to impose or prolong segregation; and putting in place a mechanism for individual, meaningful and periodic review of the measure) be reinforced, so as to ensure that court-ordered segregation does not last longer than absolutely required.**

Although in principle, whenever restrictions are lifted by the court, a remand prisoner should be moved to the general accommodation without delay, the management of Vantaa Prison acknowledged that it was not uncommon for such prisoners to remain in a closed unit for periods of weeks and even months because of the overcrowding at the establishment. **The Committee calls upon the Finnish authorities to ensure that remand prisoners whose judicially-imposed segregation has ended are placed on general accommodation without delay.**

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82 Other than the maximum period of remand in custody set out in the Remand Imprisonment Act.

70. Material conditions in Vantaa Prison's closed units were of a generally good standard, as in the rest of the establishment (see paragraph 71). As to the regime applicable to male prisoners segregated by court order, it had not changed since the 2008 visit and remained extremely restrictive. The only possibility to get out of their cell and to associate with other inmates was outdoor exercise of one hour per day, which took place in small groups in three exercise yards located on the roof of the main prisoner accommodation building.

The delegation's interviews with segregated remand prisoners gave rise to serious concerns as to the possible impact of continued segregation on the inmates' mental health and well-being. It is noteworthy that one of the remand prisoners interviewed, who had been segregated for over 10 months and did not know how long segregation would still continue, had recently attempted suicide. **The CPT reiterates its recommendations that the Finnish authorities take resolute action to provide prisoners subjected to judicially-ordered segregation with access to purposeful activities, in order to counteract the negative effects of their being placed in conditions akin to solitary confinement.**

4. Conditions of detention for prisoners in general

a. material conditions

71. Riihimäki and Vantaa Prisons' buildings had not changed significantly since the CPT's 2008 visit; also Kerava Prison had not undergone any structural changes since the CPT's last visit there. Overall, the material conditions for the mainstream population were good in the three above-mentioned prisons: the majority of cells were of adequate size[83], had sufficient access to natural light, artificial lighting and ventilation, and were suitably equipped[84] and maintained in a good state of repair and cleanliness. That said, the so-called "travelling cells" at Vantaa Prison[85] were dilapidated and dirty. **The CPT recommends that steps be taken to remedy this state of affairs.**

As concerns Helsinki Prison, the delegation was pleased to note that major refurbishment work had been carried out since the CPT's 2008 visit. Nevertheless, not every unit had yet been renovated and, in particular, 73 cells in Western Wing and 10 cells in Northern Wing still did not have in-cell toilets.[86] In this respect, **reference is made to the recommendations in paragraph 52.**

72. A number of prisoners at Helsinki, Riihimäki and Vantaa Prisons complained that the last hot meal of the day was served (often together with a cold "evening snack") as early as 3.45 p.m. (Helsinki), 3 p.m. (Riihimäki)[87] and 3.30 p.m. (Vantaa).[88] This meant that prisoners had to wait a long time between the last hot meal of the day and the first one on the following morning.

The CPT invites the Finnish authorities to consider the possibility serving the last hot meal of the day later in the day, preferably in the evening.

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83 Single-occupancy cells measured between 7 and 9 m².

84 Beds with full bedding, tables, chairs, cupboards or lockers, shelves, a call system and frequently television and radio sets.

85 For prisoners in transit and for short-term accommodation of recently arrived inmates for whom a decision had not yet been taken as to the unit to which they should be allocated.

86 There were also two cells without toilets at Kerava Prison.

87 2 p.m. on weekends.

88 2.30 p.m. on weekends.

73. Inmates in the four prisons visited were offered the opportunity to take at least one hour of outdoor exercise every day (including on weekends). The exercise yards were generally sufficiently spacious, fitted with basic sports equipment, as well as provided with some means of rest and a protection against inclement weather. However, several prisoners alleged that, once they were inside the exercise yard, staff would not allow them to return back to their cell (or otherwise leave the yard) in order to use a toilet, before the end of the one-hour exercise period. A few inmates (in Kerava and Riihimäki) told the delegation that they had had to soil themselves because of that. **The CPT recommends that steps be taken (in particular, at Kerava and Riihimäki Prisons) to ensure that prisoners have ready access to a toilet facility at all times, including during outdoor exercise.**

b. regime

74. All the prisons visited offered a range of organised activities[89] (including work) to the general prisoner population, and the delegation was particularly impressed with the variety of activities on offer in the open unit of Kerava Prison.

Having said that, it was clear that the demand exceeded the offer in the four establishments. For example, at Kerava and Helsinki Prisons only approximately 50% of inmates were involved in work, vocational training or education. The situation was worse at Riihimäki Prison, which had merely some 50 work places available[90], and the worst at Vantaa Prison (accommodating primarily remand prisoners[91]), where only approximately 40 inmates out of over 200 had the possibility to work. In the light of the above, **the CPT recommends that further efforts be made in order to provide prisoners in all the establishments visited (and, in particular, Riihimäki and Vantaa Prisons) with purposeful activities tailored to their needs (including work, vocational training, education and targeted rehabilitation programmes).**

75. Helsinki Prison was holding a number of prisoners serving long sentences (including 18 lifers).[92] A special unit for long-term prisoners had been set up; however, in practice, the regime for lifers and other inmates serving long sentences did not differ much from that of the general prisoner population.

In this context, the CPT wishes to stress that long-term imprisonment has a number of desocialising effects upon inmates. In addition to becoming institutionalised, such prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society, to which many of them will eventually return. In the view of the CPT, the regimes which are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way.

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89 Including vocational training (metal work, carpentry, construction, interior decoration, timber work, painting and catering), general primary and secondary education, and sports.

90 For the population of almost 200.

91 See paragraph 49 above.

92 There were also a few lifers at Kerava and Riihimäki Prisons.

Prisoners serving long sentences should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, as appropriate, to prepare for release.

The CPT recommends that the Finnish authorities take steps to develop the regime offered to life-sentenced prisoners and other prisoners serving long sentences, taking due account of the factors identified above. Further, **the Committee recommends that prison staff be encouraged to communicate and develop positive relationships with this category of prisoner.**

5. Health-care services

76. At the outset of the visit, the delegation was informed by the Finnish authorities that preparations were underway for the transfer of responsibility for the prison health-care system from the Ministry of Justice to the Ministry of Social Affairs and Health. Although the precise date of the transfer had not yet been officially set, it was expected that it could happen in the course of 2016, provided the required additional budgetary resources were allocated in time.[93] Meanwhile, an inter-agency working group set up to prepare the transfer had published a needs assessment report (in June 2014) which *inter alia* concluded that the existing legal framework would require amendments to clarify the legal status of prisoners as patients, and that there was the need to improve the facilities and equipment of prison health-care units. **The CPT would like to be informed of the progress of the above-mentioned preparations for the transfer of the responsibility for the prison health-care services from the Ministry of Justice to the Ministry of Social Affairs and Health.**

77. The staff complements in the health-care units of the four prisons visited were generally far from satisfactory, especially outside the regular working hours on weekdays, and on weekends.

At *Helsinki Prison* in particular, a GP attended three times a week (from 8 a.m. to 4 p.m.) and carried out approximately 20 consultations each time he came. There were also five nurses (one of them part-time), two of whom had been trained in psychiatry; one nurse was present on weekends and was on call outside the normal working hours during the week. However, similar to the situation observed in 2008, there was no nursing presence at night (after 4 p.m.).

At *Kerava Prison*, a doctor attended once a week and the nursing staff complement consisted of three nurses who worked 5 days a week during the daytime. There was no permanent health-care staff presence at night and on weekends.

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93 The additional resources would reportedly be needed mainly in order to adapt the internal structure of the prison health-care service and the recording and reporting procedures to the standards applied in the health-care services run by the Ministry of Social Affairs and Health.

At *Riihimäki Prison*, a doctor attended twice a week and was on call outside these periods. There were also three full-time nurses who worked from 8 a.m. to 4 p.m. on weekdays. As in Kerava, there was no on-site permanent health-care staff presence after 4 p.m. on weekdays and on weekends.

At *Vantaa Prison*, the health-care coverage had somewhat improved since the 2008 visit.[94] A medical doctor now attended the prison 3 days a week, working on 8-hour shifts. There were also five nurses working from 8 a.m. to 4 p.m., five days a week. After 4 p.m. on weekdays (and on weekends) the establishment – which (as should be recalled here) was the main remand prison in the greater Helsinki area – had no health-care staff present on the spot (although the doctor was available on call if required).

To sum up, the CPT cannot but reiterate its assessment from the 2008 visit, namely that the resources in terms of doctors' presence were not satisfactory in any of the prisons visited. The Committee remains of the view that, because of its size, Helsinki Prison should benefit from the equivalent of a full-time doctor. Further, a doctor should be present at Riihimäki Prison at least four days a week (and at least three days a week at Kerava). As concerns Vantaa Prison, although the CPT takes note of the increased time of presence of a doctor[95], in view of the particular needs of the establishment's inmate population (essentially composed of remand prisoners), the Committee is of the opinion that it would be advisable to further increase the doctor's presence (to four days a week). **The CPT recommends that the attendance by a doctor be increased in each of the prisons visited, in the light of these remarks.**

As for nursing staff resources, they could be considered as just about adequate. However, **the CPT calls upon the Finish authorities to take effective steps to ensure that someone qualified to provide first aid (preferably a nurse) is always present, including at night and during weekends, in all the prisons visited.[96]** This would *inter alia* allow discontinuing the current questionable practice of medically untrained staff distributing medication (including methadone and Suboxone[97]) to prisoners during the above-mentioned periods.

78. The delegation observed in the prisons visited that, as a rule, newly-arrived prisoners were medically screened by a qualified nurse (reporting to a doctor) within 24 to 48 hours from admission; however, there were occasional delays of up to 72 hours. In this context, **the CPT reiterates its long-standing recommendation that effective steps be taken to ensure that medical screening of newly arrived prisoners is carried out systematically within 24 hours from arrival.**

79. The medical records in all four prisons visited were generally very well kept. The delegation was also pleased to observe that medical confidentiality was strictly respected. That said, the approach to this matter demonstrated by health-care staff (especially at Helsinki Prison) was too restrictive, effectively obstructing any action to combat ill-treatment and inter-prisoner violence.

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94 See paragraph 94 of CPT/Inf (2009) 5.

95 In accordance with the recommendation made in paragraph 95 of the report on the 2008 visit.

96 Achieving this should be relatively easy at Vantaa Prison, through a better allocation of nursing staff resources between the main accommodation and the Psychiatric Unit (see paragraph 82).

97 Used for drug substitution therapy.

In particular, although health-care staff at Helsinki Prison kept a dedicated register for recording any injuries observed on newly-arrived inmates (as well as any injuries sustained by prisoners subsequently, inside the prison), the names of the inmates concerned (and any information on the circumstances in which the injuries might have been sustained) were mostly not recorded. Furthermore, health-care staff did not report the injuries to competent authorities unless expressly requested to do so by the prisoner concerned.[98]

80. As already stressed by the Committee in the past, prison health-care services can and should make a significant contribution to the prevention of ill-treatment by law enforcement agencies, through the systematic recording of injuries observed on newly arrived prisoners and, if appropriate, the provision of information to the relevant authorities. Any signs of violence observed when a prisoner is being medically screened on admission to such an establishment should be fully recorded, together with any relevant statements by the prisoner and the doctor's conclusions. The same approach should be followed whenever a prisoner is medically examined following a violent episode within the prison. **The CPT calls upon the Finnish authorities to review the existing procedures in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities (e.g. the prosecutor), regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.**

The Committee also wishes to recall that any record drawn up after such an examination should contain:

(i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);

(ii) a full account of objective medical findings based on a thorough examination;

(iii) the doctor's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register.

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98 Even the relevant statistical information (although duly collected on the spot by the health-care staff) was not communicated to anyone outside the prison's health-care unit.

81. As regards psychiatric care, a psychiatrist visited Vantaa and Helsinki Prisons (for up to eight hours a week in each case) once a week. A psychiatrist also visited Kerava Prison, twice a month. However, Riihimäki Prison was still only visited by a psychiatrist once per month. **The CPT calls upon the Finnish authorities to significantly increase the frequency of regular visits to Riihimäki Prison by a psychiatrist (e.g. to one day per week). The Committee also invites the authorities to consider increasing the frequency of visits by a psychiatrist at Kerava Prison.**

82. At the time of the 2014 visit, the Vantaa Prison's Psychiatric Unit had 14 places for persons undergoing forensic psychiatric assessment. The Unit also operated as a hospital for male prisoners of Southern Finland's prisons and police detention facilities undergoing treatment on a voluntary basis. Patients usually stayed for an average of 30 days, but those receiving treatment could stay for longer periods.

Compared with the 2008 visit, there had been visible improvements to the *material environment* within the Unit, and efforts were being made to provide a less prison-like atmosphere. Patients' single and double occupancy cells/rooms were well lit and ventilated, had fully partitioned sanitary annexes and looked less austere than during the previous CPT's visit. The Committee welcomes this positive development.

Health-care staffing levels at the Unit had remained almost the same as during the 2008 visit. There was a full-time forensic psychiatrist (Head of Unit), a part-time psychiatrist and eight full-time nurses trained in psychiatric care, as well as a psychologist. A notable improvement since the previous visit was the recruitment of a part-time occupational therapist who had been engaged for 8 hours a week.

The nurses' contact with patients depended to a large extent on the presence of *custodial officers* whose duty was to accompany the health-care staff inside the accommodation areas. The situation in this respect had actually worsened since the 2008 visit, given the reduction in the working hours of the two custodial officers assigned to the Unit. It is noteworthy that there was neither health-care nor custodial staff present on the Unit between 7 p.m. and 7 a.m. the following day; during this period, patients were locked in their cells/rooms and the only form of supervision by staff was via the CCTV system. Taking into account the fact that many patients smoked inside their cells/rooms during the night, the above-mentioned situation represented a clear fire-security risk.[99] The CPT must stress once again that the profile of the patients held in the Unit calls for the permanent presence of a nurse trained in psychiatric care. **The Committee calls upon the Finnish authorities to take steps to ensure such a presence at Vantaa Prison's Psychiatric Unit; measures should be taken to ensure ongoing custodial staff presence in the Unit (including at night).**

[99] Indeed, a fire had recently broken out in one of the cells/rooms, although luckily it had been detected early enough to avoid injury. In this context, health-care staff told the delegation about another incident (which had occurred sometime before at the psychiatric unit of Turku Prison), which had reportedly resulted in a death of a patient.

83. Inmates' addiction to intoxicating substances (mainly alcohol and drugs) remained a major challenge for the prison health-care services in Finland. In some of the prisons visited (Helsinki and Kerava Prisons, in particular), between 80 and 90% of newly-arrived prisoners were known to have an addiction problem. In this context, the delegation was pleased to observe that adequate detoxification programmes were in place in all the establishments visited. For example, Kerava Prison had two operational dedicated substance abuse programmes, implemented in drug-free units. Two such units existed also at Helsinki Prison and offered methadone substitution and rehabilitative programmes. A similar unit had been set up at Kerava Prison. The CPT welcomes this.

6. Other issues

84. Prisoners generally had adequate opportunities for maintaining contact with the outside world, through visits, correspondence and telephone calls.[100] As a rule, inmates were allowed one 45-minute visit per week and offered the opportunity for an additional 3-hour family visit[101] every few months.[102] There were four types of visiting arrangements in place, depending on the prison managements' risk assessment of a particular prisoner: unsupervised (rare in practice, and usually granted as a reward); open (i.e. over a table) but supervised (the most frequent); semi–closed (i.e. with a partial plexi-glass partition, prohibition of physical contact with visitors, and staff and CCTV supervision) and fully closed (in booths equipped with telephones and a full plexi-glass separation). The last type was essentially applied vis-à-vis prisoners accommodated in high-security and closed units (see paragraphs 63 and 68).

As had been the case during the 2008 visit, the delegation heard many complaints from prisoners subjected to the semi-closed and closed visiting arrangements (especially at Helsinki, Riihimäki and Vantaa Prisons) that they were not allowed to touch their partner and/or children during the visits. They also complained that these restrictions were applied in a blanket manner, for example only because the inmate concerned had been accused of or sentenced for a drug-related offence (and without taking into account the inmate's actual behaviour record inside the prison).

While acknowledging that it may be necessary for certain inmates to be subject, for a given period of time, to restrictions over the manner in which visits take place, **the CPT recommends that the current practice be reviewed so as to ensure that above-mentioned restrictions are applied only to the extent and for the time justified by the threat (e.g. of smuggling illicit substances or other prohibited items) that the prisoner concerned effectively represents.**

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100 See, however, paragraphs 63 and 68.

101 Also referred to (on male units) as a "father and child" visit. In addition, sentenced prisoners could be granted a prison leave.

102 Prisoners had to make a request for such visits, which were granted as a reward for good behaviour.

85. The most severe disciplinary sanction for prisoners foreseen in the Finnish law is solitary confinement, the length of which is a maximum of 14 days.[103] Resort to disciplinary sanctions in general (and to solitary confinement in particular) did not appear to be excessive in the four prisons visited.[104] Examination of the disciplinary records revealed that the length of imposed disciplinary solitary confinement hardly ever exceeded 7 days.

The *disciplinary procedure* contained appropriate safeguards, including the right to be heard, to call witnesses and the possibility of appeal the sanction in court. However, the CPT is concerned by the observed widespread practice of placing inmates in *segregation pending the outcome of disciplinary inquiry*, immediately after the alleged infraction and prior to the imposition of a disciplinary sanction.

In practice, as the delegation could observe in all the prisons visited, prisoners could spend anything between two and 16 days in conditions *de facto* amounting to solitary confinement[105], after which only the official disciplinary solitary confinement period began.

In the Committee's view, this practice could on some occasions be considered as contrary to the relevant legal provisions, and *de facto* amount to a violation the above-mentioned 14-day maximum time-limit for disciplinary solitary confinement; furthermore, prisoners segregated pending the outcome of disciplinary inquiry did not benefit from the safeguards in the context of the formal disciplinary procedure. In some cases, the sanction of disciplinary solitary confinement was shorter than the number of days the inmate had already spent in segregation (or consisted of a mere warning or reprimand) and there was no form of compensation for this available. **The CPT recommends that the practice of placing prisoners in segregation pending the outcome of disciplinary inquiry be reviewed as a matter of priority, in the light of the above remarks. In no case should the actual period spent in solitary confinement on disciplinary grounds exceed the time-limit of 14 days foreseen by the law, and the time spent in preliminary segregation should be included into the calculation of the number of days remaining to be spent in disciplinary solitary confinement.** Further, **prisoners placed in segregation pending the outcome of disciplinary inquiry should be offered the opportunity to be heard and to contest the measure.[106]**

86. Another issue of the Committee's concern is the practice observed at Helsinki Prison; after the end of the disciplinary solitary confinement, inmates were not immediately returned to their normal units but were instead *placed in one of the closed units*, for periods of up to 1.5 months. Although staff assured the delegation that this was done for purely "technical" reasons[107], many of the prisoners interviewed by the delegation perceived this as a part – or extension – of their disciplinary punishment.

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103 Chapter 15, Section 8, of the Imprisonment Act and Chapter 10, Section 8, of the Remand Imprisonment Act. In the event of a sanction of solitary confinement of 14 days being imposed on an inmate, no new solitary confinement should be enforced until seven days have elapsed from the end of the previous sanction.

104 For example, at Vantaa Prison, only 53 disciplinary decisions had been made during the two years preceding the CPT's visit; most of these had been warnings, reprimands or a conditional solitary confinement.

105 Despite the maximum 7 day time-limit for such a preliminary segregation set out in Chapter 15, Section 14 of the Imprisonment Act.

106 Reference is also made here to paragraph 57 (c) of CPT's 21st General Report (CPT/Inf (2011) 28). See http://www.cpt.coe.int/en/annual/rep-21.pdf.

107 When leaving his "regular" unit in order to start serving the disciplinary solitary confinement period, a prisoner "vacated" his cell place, and that place was then usually taken by another inmate – which meant that after the end of the disciplinary measure the inmate had to wait until a place again became available in his unit.

The CPT recommends that steps be taken at Helsinki Prison to ensure that prisoners return to general accommodation immediately after they have served their disciplinary solitary confinement period.

87. As previously, the Finnish law requires that *health-care staff* be notified of any placement in solitary confinement and that, in the case of solitary confinement of more than seven days, such staff be heard on the matter. The CPT has already stated in its report on the 2008 visit[108] that this provision is an important safeguard to ensure that health-care staff are in a position to monitor the health of prisoners placed in isolation; however, in the interests of safeguarding the health-care staff/patient relationship, such staff should not be asked to certify that a prisoner is fit to undergo disciplinary solitary confinement.

In this context, the delegation was concerned to observe that nurses at Helsinki Prison were still requested to certify that there were "no medical reasons not to isolate" an inmate. **The CPT reiterates its recommendation that this practice cease immediately. In this context, reference is also made to the comments in the Committee's 21st General Report.[109]**

88. The *material conditions* in the disciplinary solitary confinement and segregation cells at Helsinki, Riihimäki and Vantaa Prisons had not changed significantly since the visit and could still be considered as on the whole acceptable.[110] However, some of the cells at Vantaa Prison were dirty, with walls smeared with excrement and covered with graffiti; **the CPT recommends that steps be taken to remedy this.**

At Helsinki and Vantaa Prisons, the toilet facilities in the disciplinary solitary confinement cells were still in full view of custodial staff and within the reach of CCTV cameras. **The Committee reiterates its recommendation that steps be taken to ensure that the privacy of prisoners placed in conditions of disciplinary solitary confinement at Helsinki and Vantaa Prisons is preserved when they are using a toilet and washing themselves.**

As for the disciplinary solitary confinement cells at Kerava Prison, they were located along a basement corridor with no permanent staff presence.[111] The cells were poorly lit, equipped only with a concrete sleeping platform and an unscreened steel toilet built into the platform, and rather cold. **The CPT recommends that the material conditions in the disciplinary solitary confinement cells at Kerava Prison be improved, in the light of the above remarks.** Further, **permanent physical presence by custodial staff should be ensured whenever a prisoner is held in the disciplinary unit.**

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108 See paragraph 106 of CPT/Inf (2009) 5.

109 See paragraphs 62 and 63 of CPT/Inf (2011) 28.

110 See the description in paragraph 109 of CPT/Inf (2009) 5.

111 Instead, reliance was had on remote supervision via the CCTV.

89. In the report on the 2008 visit[112], the CPT criticised the practice of using so-called "examination overalls" vis-à-vis prisoners believed to be concealing unlawful substances (e.g. drugs) or items inside their body.[113] Following numerous complaints by inmates[114], the use of these overalls had been suspended, also pending the outcome of a complaint on this subject to the European Court of Human Rights. The Court issued its judgment in January 2014[115] and found that the use of "examination overalls" had lacked sufficient legal basis. At the time of the 2014 visit, the Finnish authorities were in the process of drafting relevant amendments to the Imprisonment Act, which would among others make clear that inmates obliged to wear "examination overalls" would have to be granted ready access to a toilet at all times. **The Committee would like to be informed of the entry into force of these amendments, and to receive their text (as adopted).** Further, **the Committee reiterates its recommendation that prison staff at all prisons where this measure is likely to be applied receive detailed instructions on the manner of its implementation. These instructions should *inter alia* make clear that ready access to a toilet includes the night time and that prisoners obliged to wear "examination overalls" should be offered a minimum of privacy when using a toilet (e.g. by having tinted glass partitioning of the toilet facility installed in the cells).**

90. As regards complaints' procedures, the delegation was pleased to note that *external* complaints' mechanisms were well established and were known and understood by the inmates in each of the four prisons visited. It was clear that prisoners were making frequent use of the external complaints mechanisms available.[116]

By contrast, the prisons visited seemed to lack a formalised *internal* complaints' procedure and prisoners were not duly informed of how to complain to the establishment's director. There were no complaint boxes, and internal complaints were not systematically recorded and followed up. **The CPT recommends that the Finnish authorities review the internal complaints procedures in prisons, in the light of the above remarks. Prisoners should be able to make written complaints at any moment and place them in a locked complaints box located in each accommodation unit. All written complaints should be registered centrally within a prison before being allocated to a particular service for consideration. In all cases, internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the prison.**

Many of the prisoners interviewed by the delegation did not know whether it was possible for them to appeal a decision by the prison's director (and some believed that it was not allowed, referring to the verbal and written information they had reportedly received from the staff). **The Committee would like to receive clarification of this point from the Finnish authorities.**

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112 See paragraphs 111 and 112 of CPT/Inf (2009) 5.

113 The overalls (from feet to neck) were "locked" by staff with plastic strips when the prisoner was not using a toilet (including during outdoor exercise).

114 Who *inter alia* claimed that there had been serious delays in access to the toilet so that they had had to defecate in the overalls.

115 Case Lindström and Mässeli v. Finland, application No. 24630/10.

116 For example, the Parliamentary Ombudsman received approximately 100 – 150 complaints from prisoners each year.

D. Niuvanniemi Hospital

1. Preliminary remarks

91. The legal provisions governing involuntary psychiatric hospitalisation and treatment have remained for the most part unchanged since the 2008 visit.[117] The main important development was the adoption of long-announced amendments to the Mental Health Act, which have finally entered into force on 1 August 2014. These amendments concern mainly the possible involvement of an external expert in the review of a patient's involuntary hospitalisation (see paragraph 109 below).[118]

In addition, as previously, the status and the rights of patients in health care (including mental care) are stipulated in the Act on the Status and Rights of Patients.[119]

92. At the outset of the visit, the delegation was informed by senior officials from the Ministry of Social Affairs and Health that a comprehensive review of the MHA was under preparation, also in the perspective of future ratification by Finland of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Further, the delegation was informed about the draft Act on Self-Determination of Patients (which was being examined by the Parliament at the time of the visit), aimed at offering psychiatric patients more rights, access to more information and better legal assistance.

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117 The involuntary hospitalisation procedure is as follows: an outside independent doctor makes a "referral for observation" (Section 9 of the Mental Health Act No. 116/1990 – MHA) to a hospital if he believes the preconditions for involuntary hospitalisation (enumerated in Section 9 of the MHA) are most probably met. At the hospital, the patient is met by another doctor who also checks whether these preconditions are most probably met. If he agrees with the opinion of the referring doctor and the patient does not agree to stay in the hospital, he/she is taken under observation (Section 9 of the MHA). At the latest on the fourth day since the start of the observation period, a treating doctor writes his opinion and states whether he believes the preconditions for involuntary hospitalisation are met (the patient must be heard in this context). If the patient is a juvenile, the opinion of the parents or other legal representatives must be sought as well (Section 11 (1) of the MHA). Also at the latest on the fourth day of observation, another doctor of the hospital (not the treating doctor) should issue an administrative decision: if he/she concludes that the preconditions for involuntary hospitalisation are met, the patient is kept involuntarily as long as the preconditions are fulfilled. However, the deciding doctor usually does not personally meet the patient (Section 11 (2) of the MHA). The review of an involuntary placement decision takes place – in the case of forensic patients – before the end of the first six months (Section 17 (2) of the MHA), and in the case of a civil patient, before the end of the first three months (Section 12 (1) of the MHA) and subsequently after further six months (Section 12 (2) of the MHA); it should be performed by the doctor ("preferably specialised in psychiatry") who took the initial placement decision. If after these (in total) nine months the hospital believes that the treatment of the civil patient has to be prolonged, an external referral is again needed, just as for initial placement (Section 12, paragraph 2 and Sections 9 and 10 of the MHA). The patient is then taken to an outside doctor for assessment and is, if this doctor makes a referral, sent back to the hospital for observation and, if needed, placed there for three months, which can be prolonged once by six months. Decisions on continuation of the involuntary hospitalisation of civil or forensic patients require an additional approval by the Administrative Court (for civil patients only in case of the prolongation decision taken after three months, not after six, for forensic patients after six months). The court's decision is taken by a judge and a psychiatrist (in case of disagreement by two judges and the psychiatrist, each of them having one vote), who, however, would usually not personally examine the patient.

118 The amendments also introduce the possibility for doctors who are not working in the public health system to refer patients for involuntary hospitalisation.

119 Act No. 785/1992.

It was also announced that the result of the above-mentioned review of mental health legislation should, among others, be that conditions for involuntary hospitalisation and treatment would become stricter. **The CPT would like to receive more updated and detailed information on these subjects.**

93. The delegation carried out a follow-up visit to Niuvanniemi Hospital in Kuopio[120], one of Finland's two State psychiatric hospitals.[121] The hospital, founded in 1885, is located some 4 km from the centre of the town of Kuopio in an extensive forested area close to the shores of Kallavesi Lake. It serves as a high-security hospital for long-term treatment of forensic patients and civil patients considered "dangerous" or otherwise "challenging" or "difficult to treat". The hospital has 13 wards for adults, out of which eight are for male patients, one for female patients and four are mixed wards. In addition, a mixed ward with 13 beds (referred to as NEVA ward) is reserved for juveniles (aged 9 to 18).[122]

At the time of the visit, Niuvanniemi Hospital had a total of 296 beds and was accommodating 289 patients, of whom approximately 12% were women; the juvenile ward was operating at full capacity.[123] Among the patients, some 60% had been declared criminally irresponsible, 11 were undergoing psychiatric assessment in the context of criminal proceedings[124] and all the remaining patients were considered as involuntary civil ones[125]. The overwhelming majority of the patients were diagnosed as suffering from psychosis (mainly schizophrenia), and many of them had concomitant diagnoses such as personality disorders, drug or alcohol dependence, and in a few cases a mild learning disability. Some 40% of the patients were considered "difficult to treat", many of them transferred from other hospitals or (in rare cases) from prisons.[126]

Due to the specific profile of the hospital and of the patients, the patients' average length of stay was quite long (over 8 years for forensic patients and over 5 for civil ones). Further, several patients had been living at the hospital for more than 30 years and it was likely (according to the management) that they would remain there "for life".

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120 The CPT's first visit to Niuvanniemi Hospital took place in September 2003. The general description of the establishment and patients' living conditions made in the report on that visit is still on the whole adequate (see Section D of CPT/Inf (2004) 20).

121 The other is Vanha Vaasa Hospital, visited by the CPT in April 2008 (see Section D of CPT/Inf (2009) 5).

122 Once turned 18, patients are usually transferred to hospitals and other structures closer to their homes or, more rarely, to adult wards in Niuvanniemi.

123 There were nine boys and four girls, aged from 11 to 18.

124 The delegation was informed that the assessment period was 55 days in average.

125 There was no segregation of patients according to their legal status – allocation to wards was on medical grounds only (i.e. the treatment and care needs).

126 There were ten patients transferred from prisons at the time of the visit. They had been referred for treatment by recommendation of the Criminal Sanctions Agency, and some continued (legally speaking) to serve their sentence in the hospital while for others the procedure for declaring them criminally irresponsible had been initiated by the hospital.

2. Ill-treatment

94. The delegation heard no allegations of any form of ill-treatment of patients by staff of Niuvanniemi Hospital.[127] On the contrary, most of the interviewed patients spoke highly of the staff, especially of the patients' own "dedicated nurses" and other staff having regular therapeutic contact with them. Further, inter-patient violence did not appear to be a major problem and whenever such incidents occurred, staff intervened promptly and adequately.

That said, a few patients alleged occasional rude behaviour and verbal abuse by certain nurses and orderlies. The occurrence of such incidents was also confirmed by one of the Patients' Ombudspersons (the last such complaint received by him dated back to a month prior to the delegation's visit) and acknowledged by the hospital's medical director, who nevertheless stressed that the management was determined to react firmly to any such situation. While welcoming this, **the CPT invites the management of Niuvanniemi Hospital to remain vigilant and to regularly remind staff that patients should be treated with respect and that any form of ill-treatment – including verbal abuse – is unacceptable and will not be tolerated.**

3. Patients' living conditions

95. As had been the case in 2003, the delegation found the living conditions throughout the hospital to be of a high standard, especially in the recently refurbished wards (some of the wards were still undergoing refurbishment at the time of the visit, e.g. Ward 4). Patients were generally accommodated in spacious[128], adequately furnished[129], individual or double rooms; the hospital also had a few bigger rooms (for three to five patients each). The delegation noted efforts to create a warm and personalised environment.

The juvenile ward (NEVA) merits particular mention because of truly excellent living conditions offered there. All the living areas were in a very good state of repair and spotlessly clean, bright and airy. The juveniles' rooms (all single) measured at least 18 m² each and were very well furnished and personalised with posters, pictures, plants, etc.

In all the wards, association and other communal facilities (e.g. day rooms, dining and smoking areas) were pleasantly furnished, comfortable and offered a warm atmosphere. The sanitary facilities included special equipment for persons with limited mobility, and patients had ready access to them at all times. No problems were reported or observed as regards the supply of personal hygiene items and the food served to patients.

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127 At the outset of the visit, the Hospital's medical director mentioned an incident – dating back to several years ago – in which a male nurse had repeatedly slapped a female patient while she was being subjected to mechanical restraint. The staff member concerned had been punished disciplinarily and assigned to another type of work (without direct contact with patients); further, he (as well as the hospital) had been sentenced by court to pay damages to the patient concerned.

128 E.g. single rooms measuring between 8 and 10 m²; double rooms measuring between 15 and 30 m². The minimum observed in all wards was 7 m² of living space per patient.

129 Beds with full bedding, tables, chairs, wardrobes, shelves, etc.

96. Those patients who were not allowed to move freely on the establishment's vast grounds or to go to the town (i.e. some 50%) could take outdoor exercise (at least one hour per day, but mostly more) in spacious secure yards attached to the wards, equipped with benches and tables and offering some protection from inclement weather. Unlike in 2003, persons admitted for psychiatric assessment were also offered the possibility to take outdoor exercise every day. The CPT welcomes this positive development.

4. Treatment and staff

97. The use of psychiatric medication appeared appropriate. Further, all patients had individual treatment plans (which were drawn up and regularly reviewed with the patients' participation), and staff worked in multidisciplinary therapeutic teams. Medical records were detailed and well kept, and medical confidentiality duly respected. The prevailing positive therapeutic milieu was clearly enhanced by the absence of window bars and special security staff, and by the general open doors policy within the wards. The CPT welcomes this state of affairs.

98. Electroconvulsive therapy (ECT) was rarely used at Niuvanniemi Hospital, as a last-resort measure (in case of threat to the patient's life) to treat severe depression or catatonic stupor. It was always applied with anaesthesia and muscle relaxants, and was administered by specially trained staff. Recourse to ECT was recorded in patients' medical files; however, there was still no specific register established for recording recourse to ECT, and the patients' written consent was not sought before undergoing this therapy.[130] **The CPT reiterates its previous recommendation that such a specific register be set up in all psychiatric establishments in Finland where recourse is had to ECT and that patients' written informed consent be sought before undergoing this therapy.** On this latter issue, reference is also made to the recommendation in paragraph 112 below.

99. The programmes available at Niuvanniemi Hospital offered a wide range of therapeutic and rehabilitative activities (individual psychotherapy, support and group therapy, education[131], work therapy, life skills training, art, sports, etc.). Patients had access to modern workshops[132], a spacious and well equipped indoor sports hall, several gyms and outside sports grounds. Further, a number of patients were allowed to help (on a voluntary basis) maintain the hospital's outdoor and green areas, in exchange for a small salary.[133]

As regards recreational activities, patients had access to common areas on the wards, where they could watch TV/DVD, and could listen to the radio, read books (from home or from the hospital's large library), newspapers and magazines, play computer and board games, table tennis and billiards, and had access to the internet. Occasionally, outings were organised to the cinema, theatre and swimming pool in town. The offer of diversions was especially generous on the NEVA ward.

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130 The delegation was told that verbal informed consent was "usually" sought, and that prior to recourse to ECT, the patient's legal representative would be consulted (if the patient had one).

131 General education (up to secondary level) and vocational training, with particular attention being paid to the needs of juveniles (who received individualised tuition provided by teachers coming from outside). Some patients attended schools in town and a few followed university level education at Kuopio University.

132 In a large purpose-built building comprising *inter alia* carpentry, metal processing, bicycle repair and picture framing workshops.

133 74 patients worked outdoors nearly every day (at least during a part of the day).

Overall, the situation observed was even better than in 2003: all patients, including those in a worse condition, had access to some organised daily activities including work therapy. The management considered that this (combined with increased staff presence, see below) helped reduce the recourse to means of restraint/seclusion (among other things).[134] The Committee cannot but express satisfaction with this positive development.

100. The staff complement had further improved since the 2003 visit[135], with more (and better trained) nurses[136], twice as many psychologists (eight), 50% more social workers[137] and, even more impressively, over five times more occupational therapists.[138] On average, there were between 0.67 and 1.53 nurses per bed on adult wards (depending on the type of patients) and 3.17 nurses per bed on the NEVA ward. Ward-based staff[139] typically included a ward nurse, an assistant ward nurse, eight to twelve other nurses (two to three nurses in total at night) and ten to twenty nursing auxiliaries[140]. Each ward was visited on a daily basis by a psychiatrist[141], a psychologist, an occupational therapist and a social worker. Staffing was particularly generous in the NEVA ward, with 8 nurses present during the day (and three at night)[142] and two occupational therapists permanently and exclusively employed on the ward.

The CPT welcomes this impressive increase in the number of staff, especially occupational therapists and other staff involved in activities at Niuvanniemi Hospital. As already mentioned, the result was that patients received more attention and stimulation, which in turn helped them improve and reduced the number and the severity of crisis situations. The only relatively more problematic situation was observed on Ward 7, which was accommodating a number (seven or eight) of patients requiring permanent direct physical proximity by a nurse; the consequence was that the remaining 35 patients[143] did not benefit from all the attention they should have received. **The CPT invites the Finnish authorities to reflect upon ways to address this problem, e.g. by allocating additional nursing staff resources to that ward.**

101. As in 2003, Niuvanniemi Hospital had a service contract with a private security firm. However, the contract terms had been amended since, making it clear that security guards were not to be permanently present on the hospital grounds and could not intervene inside the wards unless expressly requested by the health-care staff. Further, the guards would never be involved in restraining patients, their task being primarily to protect the establishment's property. The Committee welcomes this.

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134 See also paragraph 102 below.

135 In the report on the 2003 visit, the CPT stated as follows: "Staffing levels at Niuvanniemi Hospital were fully satisfactory. With a capacity of 284 beds, the hospital had the full-time equivalent of 19.5 psychiatrists (including the Chief Medical Doctor, 3.5 other senior doctors, 11 specialist and 4 trainee doctors), 62 nurses with a higher nursing qualification (a number of whom had undergone training in psychotherapy/support therapy) and 254 mental health nurses. Psychological assessment was an important aspect of the work carried out at the hospital; 4 full-time clinical psychologists were employed for this purpose. The hospital also had two occupational therapists (in addition to other staff involved in the provision of activities) and 4 social workers, one of whom acted as the Patients' Ombudsperson."

136 353 nurses in total, including 131 with a higher nursing qualification.

137 Six full-time staff, two of whom also worked as Patients' Ombudspersons.

138 I.e. eleven staff.

139 Most of the adult wards had between 20 and 25 beds.

140 There were 168 nursing auxiliaries in total.

141 At night, there was one duty psychiatrist for the whole hospital.

142 The total nursing staff complement on NEVA ward was 22, plus 17 nursing auxiliaries.

143 Ward 7 was bigger than most of the other wards – its capacity was 43 beds.

5. Means of restraint/seclusion

102. The delegation was informed, both at the Ministry of Social Affairs and Health and at Niuvanniemi Hospital, that there had been a significant decrease in the use of means of restraint/seclusion in the recent years.[144] This was said to be *inter alia* the result of implementation of the National Mental Health and Substance Abuse Plan for the years 2009-2015 (which among others aimed at the reduction of recourse to restraint by at least 40%) and of the dedicated pilot project carried out at Niuvanniemi in 2008 and 2009. In this context, the hospital's management mainly referred to the combined effect of the significant reinforcement of staff resources and the related increase of the offer of therapeutic activities for patients.

While welcoming this positive trend, the CPT is of the view that there is still room for reducing further the resort to means of restraint/seclusion at Niuvanniemi Hospital (and, as applicable, in other psychiatric establishments throughout the country). **The Committee invites the Finnish authorities to continue their efforts in this area.** Legislative measures could facilitate these efforts, e.g. by regulating in more detail the circumstances under which particular types of restraint measures may be resorted to, and by setting maximum time-limits for their application (see also paragraph 106 below).

103. Patients were at times placed in seclusion rooms[145] and, less frequently, in (6-point) belt restraints[146]. All restraint/seclusion measures were ordered by a doctor and mechanical restraints were generally applied for brief periods (2 to 5 hours). A nurse had to be present continuously whenever a patient was restrained, and written observations on the patient's condition had to be made at least every 30 minutes. As for patients in seclusion, a doctor saw them at least once a day (sometimes twice or three times a day) and nurses were instructed by the doctors to check the patient's situation at least every 30 minutes (in some cases every 10 minutes).[147] Staff in direct contact with patients received initial and refresher training in manual control and other means of restraint vis-à-vis agitated or violent patients.

The CPT has no concerns regarding the conditions in seclusion rooms, which were spacious (e.g. 21 m² in Ward 4), bright, airy, clean, well equipped (sleeping platform, blanket, cushion, small table, mirror, clock, radio, call bell) and offered adequate privacy. As a rule, secluded patients could keep their personal clothes and were allowed to read books and magazines.

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144 Country-wise, the recourse to mechanical restraints (belts) had dropped from over 500 to less than 400 cases per year between 2008 and 2012; as for seclusion, the drop was from approximately 1000 to some 700 instances per year. At the hospital, two patients on average had been retrained with a belt each day in the course of 2010 (for a little less than a day each time), while this had been reduced to one patient on average (for less than half a day each time) in 2013. As for seclusion, the drop between 2010 and 2013 was somewhat less spectacular but still noteworthy: from an average of 10 patients per day (and average duration of 5 days) to nine per day (average duration – 4 days). The average duration of seclusion in respect of juveniles was shorter than for adult patients (i.e. some 15 hours).

145 There had been 247 seclusion measures (in respect of 58 patients, including 6 juveniles) between 1 January and 31 August 2014.

146 16 incidents between 1 January and 31 August 2014, including 4 on NEVA ward.

147 In addition to ongoing surveillance via CCTV.

104. Regarding the use of belt restraints on the NEVA ward, the CPT is of the view that juveniles below 16 years of age should in principle never be subjected to means of restraint. The risks and consequences are indeed more serious taking into account the young persons' vulnerability. In extreme cases where it is deemed necessary to intervene physically to avoid harm to self or others, the only acceptable intervention is the use of physical (manual) restraint, that is, staff holding the juvenile until he/she calms down. **The Committee recommends that the practice of applying belt restraints on the NEVA ward be reviewed in the light of the above remarks.**

105. A relatively small number of the most "challenging" patients were being subjected to prolonged seclusion (e.g. 6 patients had spent more than 100 days in seclusion in 2013, the longest period being 231 days). That said, seclusion measures were in fact applied in a gradual and differentiated manner, with most patients being secluded only for some part of the day (e.g. only at night) and being able to interrupt seclusion several times during the day (to go for outdoor exercise, to take meals together with others, to go to the shower or to the toilet, etc.).

The hospital's medical director told the delegation that the management were seeking solutions to reduce the constraints imposed on the few patients requiring prolonged seclusion. A pilot project was to begin shortly on Wards 3 and 7, consisting of providing "open-area seclusion" (i.e. creating secure larger areas within the wards, inside of which such patients would have more freedom of movement). **The CPT would like to receive detailed information on this pilot project and, in due course, on its outcome.**

106. Although staff systematically debriefed patients at the end of each restraint/seclusion measure, some of the patients with whom the delegation spoke clearly experienced these measures as punishment for inappropriate behaviour.[148] This was particularly the case of those of the patients who had been forced to wear special jackets for several days after their release from seclusion (and, on occasion, for even longer periods).[149] The jackets had sleeves sewed to the jacket sides, effectively preventing the movement of the patient's arms. The use of these jackets was initially ordered by a doctor; that said, the measure could subsequently be prolonged, and could even become more or less "permanent" as the delegation was told. The jackets were worn in full view of other patients, a number of whom told the delegation that they experienced this as frightening and threatening.

In the CPT's view, the above-mentioned jackets represent in fact a "modernised" form of straitjackets, and should be considered a relic of the past. **The Committee recommends that their use be stopped in the medium term and that ways be sought actively to gradually replace them with other, less degrading means; pending this, the application of the jackets should be the subject of detailed regulations and instructions, with a view to ensuring that they are only used for the shortest period of time in extraordinary situations, based on an individual risk assessment, and not as a routine measure following seclusion.**

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148 This was also confirmed by one of the Patients' Ombudspersons.

149 For example, a patient on Ward 7 had been in the jacket 4 times on 25 September 2014, for one hour, 3 hours, 2 and a half hours, and 2 hours, with intervals of 45 minutes, 2 and a half hours, and 45 minutes respectively, and then he was free of the jacket from 8 p.m. to 1 p.m. the following day. He had been subjected to a similar pattern of straightjacket use every day for several weeks. Another patient from the same ward was in a jacket every day, all day (not at night), e.g. from 7 a.m. to 8 p.m., for four and a half months, between mid-November 2013 and the end of March 2014. Before and after that, he had been in the jacket for briefer periods during the daytime, but had it on most days.

More generally, **the CPT recommends that the existing legislation be amended so as to set a maximum legal time-limit for any form of mechanical restraint (including the belts and the jackets) – e.g. 2 hours at a time – each prolongation requiring a new separate decision by a doctor.**

107. Recourse to restraint/seclusion was properly recorded (in both the patients' files and at hospital level) and reported to the State Provincial Office every 2 weeks.[150] There were also good, up-to-date and detailed statistics on hospital, region and country level (with specified types and duration of the means used), published on the website of the National Supervisory Authority for Welfare and Health (VALVIRA). The CPT is pleased to note that its previous recommendation has been implemented, namely the records and statistics also included the recourse to chemical restraint.

6. Safeguards

108. It should be stressed that the existing legal procedures for involuntary hospitalisation[151] were followed scrupulously at Niuvanniemi Hospital. That said, the CPT remains concerned by the – at best – very limited progress in addressing its long-standing recommendations aimed at improving the legislative framework.

109. To begin with the positive, it is to be welcomed that patients are now provided with the possibility of requesting the opinion of a second, outside, doctor, when their case is being reviewed by the administrative court. This recent amendment to the MHA[152] was the consequence of the judgment by the European Court of Human Rights in the case X. v. Finland.[153]

According to the new rules, an external expert[154] must be involved in the review of the placement in case the patient wishes it; [155] thus, the independent expertise is not obligatory and not *ex officio*. The delegation observed that patients at Niuvanniemi Hospital were generally well informed of this new possibility, as well as of the (equally new) additional right to request examination by a psychiatrist of their own choice, albeit on their own cost.[156]

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150 Pursuant to Section 22f (4) of the MHA.

151 See paragraph 91 above.

152 In force since 1 August 2014.

153 X. v. Finland, judgment No. 34806/04, issued on 3 July 2012. The Court *inter alia* stated that, due to the absence of an opportunity for patients to benefit from a second, independent psychiatric opinion, the Finnish law was lacking an important safeguard against possible arbitrariness in decision-making concerning the continuation of an involuntary hospitalisation.

154 Who must not necessarily be a psychiatrist but may be a general practitioner (or a doctor with another speciality) "with experience in psychiatry". At Niuvanniemi Hospital, the delegation came across a case in which such an external doctor was a GP from Kuopio health care centre. The hospital's management told the delegation that, in practice, it was extremely difficult to find a psychiatrist in the Kuopio region who would not have any links with (never mind being employed at) Niuvanniemi Hospital.

155 Section 12 a of the MHA.

156 There were no such examples in practice at Niuvanniemi Hospital, at the time of the delegation's visit.

While welcoming these developments and while understanding the practical difficulties involved, **the CPT recommends that the Mental Health Act be further amended so as to provide for an obligatory psychiatric expert opinion (independent of the hospital in which the patient is placed) in the context of the initiation and review of the measure of involuntary hospitalisation.** In the Committee's view, this additional safeguard is needed because persons admitted to a psychiatric hospital against their will are not always in a position to appreciate whether it is necessary (or not) to request a second opinion. It is also a more appropriate response to the concerns expressed by the European Court of Human Rights in the case X. v. Finland.

110. Another positive development since the 2008 visit is that progress has at last been made regarding the provision of written information to patients, including on the establishments' daily routine and (especially) patients' rights. At the outset of the visit, the delegation was shown a draft brochure for patients, devised by VALVIRA, which contained all the relevant information. Further, ward-specific written information was available to patients at Niuvanniemi Hospital, both in the form of brochures and notices posted on the walls in communal areas.[157] **The CPT would like to be informed whether the above-mentioned VALVIRA brochure has now been formally approved and distributed to patients in all psychiatric establishments in Finland, and whether it is also available in other languages than Finnish.**

111. By contrast, the CPT is extremely concerned by the apparent persistent inefficiency of judicial reviews of involuntary hospitalisation measures. Administrative court decisions were routinely delayed by several months[158], oral hearings were a very rare exception[159] and judges hardly ever came to the hospitals to see the patients; further, the delegation was told that courts almost always agreed with the doctors' suggestions to continue involuntary hospitalisation.[160]

This gave the court procedure the appearance of "rubber-stamping", which is all the more of concern given the relatively high percentage of involuntary hospitalisations in Finland[161] and the long average periods of involuntary hospitalisation (i.e. 3 – 4 months).[162]

The CPT again calls upon the Finnish authorities to take effective steps to ensure that there is always a meaningful and expedient court review of the measure of involuntary hospitalisation. Further, **steps should be taken to ensure that psychiatric patients have the effective right to be heard in person by the judge during the involuntary hospitalisation procedure.**

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157 And most of the patients interviewed by the delegation appeared well aware of their rights and of avenues of complaint available to them.

158 Up to 2 months in Niuvanniemi but (according to the information received at the Ministry of Social Affairs and Health and from the Parliamentary Ombudsman) even longer in other regions i.e. up to 3 months. In extreme cases, this could mean that the court decision reached the hospital after the patient had already been released, or the 3-month period had expired and a new review had to be initiated.

159 They only took place upon the patient's (or his/her legal representative's) express request, but even in such cases the requests were sometimes rejected by the court (as the delegation saw in some of the patient files at Niuvanniemi).

160 In this context, the delegation received allegations according to which, on occasion, courts decided to approve the continuation of involuntary hospitalisation exclusively on the basis of medical data that was already outdated (i.e. reflecting the situation at the time of admission, some months earlier). Not seeing and hearing the patient in person, the court had no opportunity to confront the medical data with the actual situation at the time of review.

161 According to the information received at the Ministry, approximately 8 thousand out of the total of some 30 thousand psychiatric hospitalisations per year in Finland were involuntary.

162 But much longer in Niuvanniemi, see paragraph 93 above.

112. Despite the Committee's recommendations repeatedly made at least since the 1998 visit, involuntary hospitalisation of a psychiatric patient continued to be construed as automatically authorising treatment without his/her consent. In practice, doctors at Niuvanniemi Hospital sought to obtain patients' *verbal* consent to treatment, but there was no *written* proof that such informed consent had been given. Further, a patient's refusal or subsequent withdrawal of consent to treatment did not result in an external independent psychiatric review as to whether treatment could be provided against the patient's will. In addition, patients could still not appeal against such decisions to a court.[163]

It is noteworthy that, in the above-mentioned decision in case X. v. Finland, the European Court of Human Rights *inter alia* stated that the applicant's situation was aggravated by the fact that a care order issued for involuntary hospitalisation of a psychiatric patient also contained an automatic authorisation to treat the patient, even against his/her will, without an immediate appeal possibility.

In the light of this, **the CPT calls upon the Finnish authorities to introduce at Niuvanniemi Hospital (as well as in all other psychiatric establishments in Finland), without further delay, a procedure whereby patients and (if they are legally incompetent) their legal representatives are placed in a position to give their free and informed consent to treatment (prior to its commencement), for example by signing a special form with information about the suggested course of treatment.**

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

113. The CPT has in the past expressed its favourable view of the role played in Finnish psychiatric hospitals by Patients' Ombudspersons.[164] Also in Niuvanniemi, the two Patients' Ombudspersons *inter alia* informed patients of their rights and assisted them with sending complaints, both internally and to outside bodies.[165]

That said, as previously, Patients' Ombudspersons had no right to represent patients in procedures before judicial or administrative bodies. Therefore, **the Committee must reiterate its recommendation that steps be taken to ensure that involuntary psychiatric patients have effective access to legal assistance (independent of the admitting hospital).[166]**

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163 The only avenues of complaint available in such cases were to the regional State administration and to VALVIRA, and appeals were not suspensive.

164 Who are not independent from the hospitals in which they work. As a rule, one or two of the social workers perform this function in addition to their regular tasks.

165 Pursuant to Section 11 of the Act on the Status and Rights of Patients. The available complaints procedures and bodies were already described in reports on previous visits to Finland (e.g. paragraph 141 of CPT/Inf (99) 9).

166 The Parliamentary Ombudsman told the delegation that patients frequently lacked legal representation in the context of the involuntary hospitalisation procedure (including in court).

114. Patients at Niuvanniemi Hospital had good possibilities to maintain contacts with their families and friends, and such contacts were actively encouraged by the establishment. A number of patients could leave the hospital for certain periods of time, subject to authorisation by the treating doctor. Moreover, patients had access to a telephone, in most cases without restrictions[167], and could send and receive correspondence in unlimited amounts. There was also limited access to e-mail. The CPT welcomes these positive practices.

However, most of the wards still did not have proper visiting facilities offering some privacy to patients and their visitors; consequently, visits usually took place in the entrance areas of the wards or (in the summer) outdoors in the park. Some of the patients (and staff) interviewed by the delegation complained about this state of affairs.

The CPT reiterates its recommendation that the conditions under which visits take place at Niuvanniemi Hospital be improved. This should include setting up designated facilities for visits, which should offer a minimum of privacy to patients and their visitors (although, if necessary, visits could be subject to staff supervision).

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115. Finally, the CPT would like to make a general observation regarding Niuvanniemi Hospital and the situation of its patients. Despite the management's somewhat "pessimistic" view expressed at the outset of the delegation's visit to the establishment, namely that for a significant proportion of "difficult to treat" patients Niuvanniemi was the "last available option" and the place where they were likely to spend many years (if not the rest of their days), the delegation's expert psychiatrist, who interviewed many of these patients, gained the clear impression that – for several of them at least – their condition was sufficiently good to allow them to move back closer to their communities, provided appropriate structures and solutions were available for them.

The need to continue efforts aimed at de-institutionalisation and further developing such structures was also stressed by the Parliamentary Ombudsman, including in the context of the forthcoming ratification of the UNCRPD. In the light of this and of its delegation's own observations, **the Committee recommends that the Finnish authorities pursue actively their de-institutionalisation efforts and, more precisely, strive to find solutions for the patients at Niuvanniemi Hospital whose condition would make it possible for them to live closer to their homes, families and friends.**

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[167] Some patients received from the hospital basic mobile phones (without a camera) and could make and receive calls using their own SIM cards.

APPENDIX

LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of the Interior

Ms Marjo ANTTOORA	State Secretary
Mr Tapio PUURUNEN	Senior Adviser, International Affairs Unit

Police Department

Mr Kauko AALTOMAA	Director General
Ms Sanna HEIKINHEIMO	Police Director
Mr Keijo SUURIPÄÄ	Chief Superintendent
Mr Ari-Pekka DAG	Senior Specialist

National Police Board

Mr Mikko PAATERO	National Police Commissioner
Mr Timo VUORI	Deputy National Police Commissioner
Mr Esko KESTI	Chief Superintendent
Mr Jukka HERTELL	Superintendent
Mr Jussi HUHTELA	Superintendent

Border Guard Department

Mr Ari-Pekka KOIVISTO	Government Counsellor
Mr Seppo HÄKKINEN	Border Security Expert
Mr Ilkka HERRANEN	Border Security Expert

Migration Department

Mr Jorma VUORIO	Director General
Mr Tuomo KURRI	Director
Mr Tero MIKKOLA	Senior Adviser

Ministry of Justice

Ms Tina ASTOLA	Permanent Secretary
Mr Arto KUJALA	Head of Department of Criminal Policy
Ms Leena KUUSAMA	Government Counsellor
Ms Ulla MOHELL	Government Counsellor
Ms Marianne MÄKI	Ministerial Adviser
Ms Tuuli HERLIN	Senior Planning Officer
Ms Eira MYLLYNIEMI	Planning Officer
Mr Kristian HOLMAN	Legal Adviser
Mr Matti VARTIA	Senior Officer, Legal Affairs

Criminal Sanctions Agency

Mr Esa VESTERBACKA	Director General
Ms Kirsti KUIVAJÄRVI	Development Director
Mr Heikki VARTIAINEN	Medical Director
Ms Katri JÄRVINEN	Region Director
Ms Riitta-Leena SALOVAARA	Inspection Manager
Mr Ari JUUTI	Senior Inspector
Ms Eila LEMPIÄINEN	Senior Inspector
Ms Virva OJANPERÄ-KATAJA	Senior Specialist
Ms Maria MAJANEN	Legal Officer
Ms Anne KOHVAKKA	Lawyer

Ministry of Social Affairs and Health

Ms Päivi SILLANAUKEE	Permanent Secretary
Ms Annakaisa IIVARI	Director, Department for Social and Health Affairs
Ms Pirjo KAINULAINEN	Ministerial Counsellor, Legal Affairs
Ms Helena VORMA	Ministerial Counsellor, Health/Medical Affairs
Ms Riitta BURRELL	Ministerial Adviser
Mr Eero LAHTINEN	Ministerial Adviser
Ms Marjo LAVIKAINEN	Ministerial Adviser
Ms Maija ILES	Senior Officer, International Affairs Unit

National Institute for Health and Welfare

Mr Juhani ESKOLA	Director General
Ms Aulikki AHLGRÉN-RIMPILÄINEN	Senior Medical Officer
Mr Juha MORING	Senior Medical Officer, Chairman of Board at Niuvanniemi and Vanha Vaasa Hospitals
Ms Irma KOTILAINEN	Senior Medical Officer, Forensic Psychiatry
Ms Leena BROTHERUS	Lawyer, Forensic Psychiatry

National Supervisory Authority for Welfare and Health

Mr Markus HENRIKSSON	Head of Unit, Department of Health Care Supervision
Ms Sandra LIEDE	Senior Officer, Legal Affairs, Department of Licensing

Ministry of Foreign Affairs

Mr Arto KOSONEN	Director, Unit for Human Rights Courts and Conventions
Mr Rauno MERISAARI	Human Rights Ambassador
Ms Mia SPOLANDER	Legal Officer, Unit for Human Rights Courts and Conventions

Office of the Parliamentary Ombudsman

Mr Petri JÄÄSKELÄINEN	Parliamentary Ombudsman
Mr Jussi PAJUOJA	Deputy Parliamentary Ombudsman
Ms Päivi ROMANOV	Secretary General
Ms Kaija TANTTINEN-LAAKKONEN	Principal Legal Adviser
Mr Juha HAAPAMÄKI	Principal Legal Adviser
Mr Mikko ETELÄPÄÄ	Secretary to the Parliamentary Ombudsman
Ms Anu RITA	Secretary to the Parliamentary Ombudsman

B. <u>Non-governmental organisations</u>

Finnish Association for Mental Health

Finnish League for Human Rights

Refugee Advice Centre