

## **Report**

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

**from 16 to 26 September 2014**

The Government of Ireland has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2015) 39.

Strasbourg, 17 November 2015

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**Copy of the letter transmitting the CPT's report**

Mr Michael Flahive  
Assistant Secretary  
Department of Justice and Equality  
72-76 St. Stephen's Green  
IRL- Dublin 2

Strasbourg, 18 March 2015

Dear Mr Flahive,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Ireland from 16 to 26 September 2014. The report was adopted by the CPT at its 86<sup>th</sup> 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 Irish 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 Irish authorities to provide, in the above-mentioned response, reactions to the comments and requests for information formulated in this report.

I am at your entire disposal if you have any questions concerning either the CPT's 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 sixth periodic visit to Ireland provided an opportunity to assess the progress made since the Committee's 2010 visit. To this end, the CPT's delegation examined the conditions of detention and treatment of persons in prisons, including women prisoners. It also focused on the provision of health care, the application of good order measures and the recently introduced complaints system in prisons. The situation of juveniles in prison and in the Oberstown Children's Detention Schools was also examined. Further, the delegation visited a number of police stations to look into the conditions of detention and the safeguards in place. It also looked at immigration detention. The cooperation received from the Irish authorities was very good, both at the central and local levels.

### Law enforcement agencies

The CPT's delegation heard from persons with past experience of police detention that the treatment by the Gardaí has progressively improved. Nevertheless, in the course of the visit, the delegation received several allegations of *physical ill-treatment and verbal disrespect* by Gardaí; the majority of the allegations concerned the time of arrest or during transport to a Garda station. An Garda Síochána officers should be reminded that any form of ill-treatment (physical or verbal) is not acceptable and will be punished accordingly.

As regards *safeguards against ill-treatment*, the CPT welcomes the recent development whereby solicitors are now permitted to participate in police interviews as well as the announcement made by the Irish authorities that this right will be placed on a legislative footing by way of regulations adopted by the Minister of Justice and Equality. On the other hand, the CPT remains concerned about the provision of health-care services within police custody; the current system is not serving as an effective safeguard against ill-treatment and should be thoroughly reviewed.

The CPT welcomes the plans to confer additional powers on the Garda Síochána Ombudsman Commission in the area of criminal investigations. In this respect, it recalls that any police action which may fall within Article 3 of the European Convention on Human Rights, notably allegations of excessive use of force at the time of apprehension, should be investigated by an independent body.

As regards *immigration* detention, the CPT's delegation found that immigration detainees at Cloverhill Prison were held with remand and convicted prisoners and, in some cases, subjected to bullying. The CPT reiterates that, in its opinion, a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence. The Irish authorities should pursue their plans to establish a specifically designed centre for immigration detainees in accordance with the Committee's requirements. Further, as long as immigration detainees are kept in prisons, all appropriate steps should be taken to ensure that their exposure to remand and sentenced prisoners is limited, that they are offered as much time out of cell as possible and that they are afforded open visits.

## **Adult male and female prison establishments**

The CPT acknowledges the considerable steps taken by the Irish authorities to reform the prison system, notably as concerns reducing overcrowding and improving the conditions of detention. Nevertheless, at the time of the visit, there were still 330 prisoners slopping-out and the Irish authorities are called upon to eradicate “slopping out” from the prison system. Until such time as all cells possess in-cell sanitation, the authorities should ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times.

Prisoners met by the delegation stated that the vast majority of prison officers treated them correctly; however, a small number of prison officers are inclined to use more physical force than is necessary and to verbally abuse prisoners. The authorities should reiterate to prison officers that no more force than is strictly necessary should be used in bringing an agitated/aggressive prisoner under control.

In respect of *inter-prisoner violence*, the Committee recognises the progress made to reduce the level of violence in prisons. Nevertheless, it remains far too high and continues to be fuelled by a number of factors; notably, the existence of feuding gangs and a high prevalence of illicit drug use. The Irish authorities should pursue their efforts to address the phenomenon of inter-prisoner violence, including through strengthening the implementation of the drug strategy programme. Further, the Committee reiterates the importance of diligently recording all incidents of inter-prisoner violence and the proper reporting of any injuries indicative of such violence to An Garda Síochána.

In the course of the 2014 visit, the CPT’s delegation examined in detail four recent cases of *deaths in custody* – two self-inflicted and two preceded by assaults on the prisoners who later died. The delegation was concerned that the Irish Prison Service may have failed in its duty of care to these prisoners and that there had been no internal review by the prison management into the circumstances surrounding the deaths of these four prisoners. The CPT considers that every death of a prisoner should be the subject of a thorough investigation to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented. The CPT welcomes the steps taken by the Irish Prison Service following the visit to improve the structures and methods of dealing with all deaths in custody and looks forward to receiving information on the outcome of the investigations into the four cases.

As regards the provision of *health care*, the findings of the 2014 visit illustrate that while it has improved in some prisons it has further deteriorated in others. For example, at Midlands Prison, the delegation found a total lack of organisation and management of health-care services and, at Limerick Prison, access to health care seemed to be inadequate. Further, the CPT makes a number of recommendations regarding the necessity to respect the principle of medical confidentiality, to ensure proper and timely assessments of newly-admitted prisoners and to diligently record and report any injuries. More generally, the Irish authorities should pursue their efforts to identify an appropriate independent body to undertake a fundamental review of health-care services in Irish prisons.

In relation to prisoners suffering from a *mental illness*, the delegation again observed that Irish prisons continued to detain persons with psychiatric disorders too severe to be properly cared for in a prison setting. The CPT recognises that a multi-pronged approach is needed which include the recently established High Support Units in several prisons. However, the units visited at Castlerea, Midlands and Mountjoy Prisons were not properly resourced and did not address the needs of mentally-ill prisoners; there was a complete lack of structured activities and no occupational or recreational therapy, only pharmacotherapy. Moreover, the prison officers in the units were not properly trained to work with prisoners suffering from serious mental disorders.

The CPT's delegation reviewed the implementation of the November 2013 standard operating procedures for the placement of prisoners in *close supervision or safety observation cells*. It found a degree of confusion among prison staff and management as to the specific purpose of each category of cell which, in some cases, led to prisoners not being able to benefit from necessary safeguards. Further, all prisoners placed in close supervision or safety observation cells should be offered at least one hour of outdoor exercise every day. Steps should also be taken to ensure that an inmate's clothes are only removed and replaced with rip-proof clothing following an individual risk assessment and not as a routine measure accompanying placement in one of these cells.

The CPT acknowledges the efforts of the Irish Prison Service to drastically reduce the number of *prisoners on protection* in male prison establishments, notably those under 23-hour lock-up. However, in the light of the Committee's findings and the recent High Court McDonnell judgment of 17 February 2015, the Irish authorities should pursue their efforts to provide prisoners on protection with a range of purposeful activities. As regards the segregation of prisoners who are deemed to pose a danger to other inmates, notably at Midlands Prison, there appeared to be no clear legal basis for regulating their segregation. The CPT recommends that clear rules and procedures be adopted to govern the segregation of those prisoners who present a high security risk, including the right to be informed of the reasons of the measure, to contest the measure, and to have the case reviewed on a regular basis.

As regards *disciplinary matters*, the sanction of "loss of all privileges" still results in prisoners being held in conditions akin to solitary confinement for up to 56 days, which is unacceptable. Moreover, the Irish authorities should clarify the legal basis for placing a prisoner in the equivalent of cellular confinement as a disciplinary punishment for more than three days. Further, the Irish authorities should end the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment. The establishment of a new *complaints mechanism* within the Irish prison system is welcomed; however, prisoners' trust in the new system should be enhanced, *inter alia*, by ensuring that all complaints are investigated within the established timelines.

The report also highlights certain problems specific to *female prisoners*, notably the overcrowding in the Dóchas Centre and female section of Limerick Prison and the need to establish an open prison for women. Further, it considers that more might be done to facilitate female prisoners maintaining contact with their dependent children, including through the provision of financial assistance.



## **Juvenile detention**

The CPT is pleased to note that the detention of all juveniles is now placed under the responsibility of the Ministry of Children and Youth Affairs and that the much criticised St. Patrick's Institution is being closed down. It also notes positively that the number of juveniles in detention has declined since 2010.

The visit to the Children's Detention Schools at Oberstown occurred during a time of transition with the three schools merging into one and the new detention units under construction. Importantly, no allegations of ill-treatment by staff were received; on the contrary, many children spoke positively about staff. Material conditions in the various units were of a varied standard, although they all attempted to offer a personalised environment. Nevertheless, steps should be taken in the Trinity House School to render the bedrooms less austere. All juveniles were offered a wide range of structured activities; the intensive nature of the school classes and the emphasis on physical education were positive. Efforts should be made to increase the number of vocational places on offer.

The CPT is critical of the application of the measure of separation on young persons which, at times, appeared to be used as an informal disciplinary measure instead of a measure of protection. The CPT trusts that the use of separation in the Children's Detention Schools conforms strictly to the criteria laid out in the Irish Youth Justice Service policy and that every measure of separation is properly recorded, including the reasons for any extension, and that any rooms used for separation purposes are adequately equipped. A number of recommendations and comments are also made in relation to improving the medical assessment of each juvenile upon arrival in the establishment, the provision of psychological support, the staffing situation and contacts with the outside world.

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Ireland from 16 to 26 September 2014. The visit was organised within the framework of the CPT’s programme of periodic visits for 2014; it was the Committee’s sixth visit to Ireland.

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

- Julia KOZMA, Head of delegation
- Inga HARUTYUNYAN
- Andrés MAGNÚSSON
- Costakis PARASKEVA
- Therese Maria RYTTER
- Olivera VULIĆ.

They were supported by the following members of the CPT’s Secretariat:

- Hugh CHETWYND (Head of Division)
- Dalia ŽUKAUSKIENĖ

and were assisted by:

- Alan MITCHELL, former Head of Healthcare, Scottish Prison Service, United Kingdom (expert).

**B. Establishments visited**

3. The delegation visited the following places:

**Establishments under the Ministry of Justice and Equality**

**An Garda Síochána:**

- Castlerea Garda Station
- Bridewell Garda Station, Dublin
- Coolock Garda Station, Dublin
- Kevin Street Garda Station, Dublin
- Mountjoy Garda Station, Dublin
- Pearse Street Garda Station, Dublin
- Santry Garda Station, Dublin
- Store Street Garda Station, Dublin
- Henry Street Garda Station, Limerick
- Ballymun Garda Station, Dublin
- Dublin Airport Garda Station, Dublin

**Prison Service:**

- Castlerea Prison
- Cloverhill Prison\*
- Dóchas Women's Centre
- Limerick Prison (female section)\*
- Midlands Prison\*
- Mountjoy Prison
- Portlaoise Prison\*
- Wheatfield Place of Detention\*

**Establishments under the Ministry of Children and Youth Affairs**

- Oberstown Detention Schools

\* Targeted visits were carried out to these establishments.

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

4. In the course of the visit, the delegation held talks with the Minister for Justice and Equality, Ms Frances Fitzgerald, the Minister for Children and Youth Affairs, Dr James Reilly, the Director General of the Irish Prison Service, Mr Michael Donnellan, and An Garda Síochána Commissioner (Interim), Ms Nóirín O'Sullivan. It also exchanged views with senior officials from the Ministries of Justice and Equality and of Children and Youth Affairs. The delegation further met with the Chairman of the Garda Síochána Ombudsman Commission, Mr Simon O'Brien, and the Inspector of Prisons, Judge Michael Reilly, as well as with representatives of the Irish Human Rights and Equality Commission and of civil society active in areas of concern to the CPT. A list of the national authorities and organisations met by the delegation is set out in the Appendix to this report.

The degree of co-operation received during the visit from the Irish authorities was very good, both at the central and local levels. The delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom the delegation members wished to talk. In particular, the delegation would like to thank the CPT liaison officers for the assistance provided both before and during the visit.

**D. Immediate observations under Article 8, paragraph 5, of the Convention**

5. At the meeting which took place at the end of the visit on 26 September 2014, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention as regards the deaths of four specific prisoners in Irish prisons in 2013 and 2014. The Irish authorities were requested to provide by 6 January 2015 information on the effective investigation into how all of these persons were cared for with a view to establishing accountability and ensuring lessons learned.

By letter of 6 January 2015, the Irish authorities informed the CPT of measures taken in response to the afore-mentioned immediate observation, and to other issues raised by the delegation at the end-of-visit talks. This information has been taken into account in the relevant sections of the present report.

**E. National Preventive Mechanism**

6. On 2 October 2007, Ireland signed the Optional Protocol to the United Nations Convention against Torture (OPCAT). However, the Irish authorities took the decision that they would not ratify OPCAT until after they had made provision in law for the establishment of a National Preventative Mechanism (NPM). In the course of the 2014 visit, the Ministry of Justice and Equality informed the CPT's delegation that a draft bill to enable ratification to take place would be sent to the relevant Joint Committee of the Oireachtas by 2015.

**The CPT encourages the Irish authorities to ratify OPCAT and would like to be informed about the progress towards ratification and of the envisaged structure of the National Preventive Mechanism that will be tasked to implement the Optional Protocol.**

## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Law enforcement agencies**

#### **1. Preliminary remarks**

7. The CPT's delegation visited a number of An Garda Síochána (police) establishments in the Dublin area, as well as Garda stations in Castlerea and Limerick.

8. The legislative framework governing detention by the police remains essentially unchanged since previous CPT visits. Under the 1984 Criminal Justice Act, persons may be detained by the police for up to 24 hours. The 1996 Criminal Justice (Drug Trafficking) Act extended the time of detention to a maximum of seven days in the case of persons suspected of drug-trafficking offences; in such cases, detained persons must be physically brought before a judge within 48 hours and thereafter, if police custody is extended by the judge, within a further 72 hours (when the judge may order a further extension of police custody for up to 48 hours). Persons may also be held under the Offences Against the State Act 1939 for up to 48 hours on Garda authority, and a judge may authorise a further 24 hours of police custody.

Further, under established case law, persons under arrest and charged with offences not covered by the acts mentioned above may, in certain situations, be held overnight in a police station.

9. The CPT has consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In its report on the 2006 visit, the CPT commented favourably on the proposed new independent complaints system envisaged by Garda Síochána Act 2005 and this impression was confirmed during the 2010 visit when the Committee had an opportunity to look at the practical operation of the Garda Síochána Ombudsman Commission. In the course of the 2014 visit, the CPT's delegation met with representatives of the Ombudsman Commission.

At the time of the visit, the CPT's delegation was informed of plans to introduce new legislation that would in effect mandate the Ombudsman Commission to investigate all complaints brought against An Garda Síochána, including ones relating to disciplinary matters. Such a change would result in the end of the policy of "leasing" back some cases to An Garda Síochána for investigation. Such a development would be welcomed as the information gathered by the CPT's delegation from interviews with police officers showed that there was a dislike of having to investigate leased back cases. Further, such a move can but strengthen public confidence in the independence of the Ombudsman Commission. However, it will increase significantly the workload of the Ombudsman Commission.

10. The Garda Síochána (Amendment No. 3) Bill 2014, published in November 2014, confers additional powers on the Ombudsman Commission in the area of criminal investigations, and also enables it to now examine Garda practices, policies and procedures at its own initiative. However, it appears that the Ombudsman Commission's mandatory powers of investigation do not include all complaints and cases involving, for example, allegations of sexual offences or excessive use of force during Garda operations, as these may effectively be referred to the Garda Commissioner for investigation by Garda members. Further, An Garda Síochána continues to be involved in investigating serious disciplinary matters. These issues were clearly spelled out by the Irish Human Rights and Equality Commission in their 19 November 2014 submission on the Bill. For the CPT, it goes without saying that any police action which may fall within Article 3 of the European Convention on Human Rights, notably allegations of excessive use of force at the time of apprehension, should be investigated by an independent body such as the Ombudsman Commission.

**The CPT recommends that the Irish authorities consider carefully the mandate of the Ombudsman Commission in the light of the above remarks. Further, it would like to be informed about the outcome of the debates relating to the Garda Síochána (Amendment No.3) Bill 2014 and the implications this may have in terms of resources for the Ombudsman Commission to effectively carry out its mandate.**

11. The CPT understands that there is some debate over whether it would be preferable for the Ombudsman Commission to have its own independent pool of investigators rather than use police officers from An Garda Síochána. There is certainly an argument to be made for the Ombudsman Commission to use seconded police officers to demonstrate its professional competence in carrying out investigations and to build up trust with both the public and An Garda Síochána through its actions. However, now that the Commission has been operating for a number of years perhaps consideration should also be given to recruiting young professionals from outside the police and to training them in carrying out investigations.

**The CPT would appreciate the views of the Irish authorities and Ombudsman Commission on this matter.**

## **2. Ill-treatment**

12. The majority of detained persons interviewed by the delegation stated that they had been treated correctly by the Gardaí. Indeed, the CPT's delegation again heard from persons with past experience of detention that the treatment by the Gardaí has progressively improved. Nevertheless, in the course of the visit, the delegation received several allegations of physical ill-treatment and verbal disrespect by Gardaí; the allegations of ill-treatment mostly involved blows with batons, as well as slaps, kicks and punches to various parts of the body. Some of the allegations concerned juveniles (see also paragraph 117).

The majority of the allegations concerned the time of arrest or during transport to a Garda station, but a few related to the time when the persons were being held in the station.

13. As was the case in 2010, the delegation gathered little medical evidence of ill-treatment. This should not, however, be interpreted as undermining the credibility of the allegations. Most of the cases of alleged ill-treatment received by the delegation pre-dated its visit by several weeks and any injuries which may have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. By way of example, the following cases are mentioned.

One person alleged that when he was arrested and taken to Pearse Street Garda Station in May 2014 he was left completely naked for some time after being strip-searched and was also subjected to a baton blow for “bad-mouthing” a police officer. Another person who was arrested on the street in Dublin in mid-September 2014 stated that after he had been handcuffed behind his back a police officer had punched him in the ribs. Upon his committal to Cloverhill Prison, the nurse had noted “painful right chest wall”.

In an older case dating back to January 2013, a person alleged that he had been violently pulled out of a police van and thrown on the ground in the yard outside Clondalkin Garda Station and that he had received a blow to his head which resulted in him losing consciousness and having to be transported to St James Hospital. He apparently spent three days in hospital being treated for “a forearm and mandibular fracture” and his medical file also contained the prison nurse’s comment “wrist hand and jaw wires in situ”. Further, several persons also alleged that they had been verbally abused or threatened by Gardaí after being arrested, apparently to incite them to make a confession.

These cases are illustrative of the information gathered by the delegation in the course of the 2014 visit, and demonstrate that there can be no room for complacency in the Irish authorities’ commitment to prevent ill-treatment. In this respect, the CPT appreciates the response of the Irish authorities by letter of 6 January 2015 which reiterates An Garda Síochána’s full commitment to preventing ill-treatment of persons in custody. Further, it welcomes the steps taken to instruct all senior managers of their duty to ensure that all personnel are fully briefed on the issues raised by the CPT and has noted that all members of An Garda Síochána are instructed on their responsibilities when exercising lawful force and that any use of force outside those policies can be the subject of a criminal and/or disciplinary investigation. The CPT has noted that the number of allegations of abuse by An Garda Síochána officers upon arrest or at the police station has, according to the Ombudsman Commission statistics, remained stable over the past few years.

**The CPT recommends that the Irish authorities reiterate to An Garda Síochána officers that any form of ill-treatment (physical or verbal) of detained persons is not acceptable and will be punished accordingly.**

### 3. Safeguards against ill-treatment

14. Generally speaking, the main safeguards advocated by the CPT - namely the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor - continue to operate in a satisfactory manner as from the very outset of custody.

By letter of 6 January 2015, the Irish authorities confirmed that it has been the practice of An Garda Síochána since the introduction of the Criminal Justice Act of 1984 Treatment of Persons in Garda Síochána Stations Regulations 1987 to advise persons detained at Garda stations of their rights of notification and access to a solicitor. The letter states that all persons are specifically asked if they want to consult a solicitor and concludes that “the position now is that An Garda Síochána cannot question a detained person who has requested legal advice until such time as that advice has been obtained”.

Further, the CPT particularly welcomes the recent development following the Supreme Court judgment in the case of Gormley and White<sup>1</sup> whereby solicitors are now permitted to participate in police interviews and “to intervene where appropriate”. At the time of the visit, there was some confusion among Gardaí and lawyers on the role of solicitors during such interviews. On 9 December 2014, the draft guidelines for access to solicitors during Garda interviews were approved by the Director of Public Prosecutions and have been submitted for approval to the Law Society. The Committee has been advised that the practice of advising detained persons of their right to have legal representation present during an interview is meanwhile being actively implemented. This is positive, as is the announcement made in the above-mentioned letter that this right will be placed on a legislative footing by way of regulations adopted by the Minister of Justice and Equality. **The CPT would like to be kept abreast of developments in this area.**

15. On the other hand, the provision of health care services within police custody suites remains somewhat problematic; police stations are not equipped with medical facilities; the room for examination of detained persons at Pearse Street Garda Station was totally unsuitable. Local doctors are called on an as required basis by the custody officer with no formal duty doctor rota in place. Detained persons complained to the delegation that the examinations were perfunctory. However, while a doctor might maintain a personal medical record, they are not shared or available to other doctors who might be called subsequently to review the same prisoner. Such a state of affairs is unsatisfactory as the procedure is not only costly (150 Euros per call out) but it does not address the Garda’s duty of care obligations. Doctors should undergo appropriate training in the management of those healthcare problems associated with detention in police custody such as drug and alcohol withdrawal. Further, more formal arrangements should be put in place for a duty doctor rota and for annotated medical records to be made and kept in a secure place, accessible to medical staff only. From the CPT’s standpoint, the current system is not serving as an effective safeguard against ill-treatment and should be thoroughly reviewed.

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<sup>1</sup> See Supreme Court judgment of 6 March 2014 on People (DPP) v Gormley and People (DPP) v White (citation: [2014] IESC 17).



By letter of 6 January 2015, the Irish authorities informed the CPT that a working group had prepared “a specification on medical services required for persons whilst detained in Garda stations” and that, following the identification of a service provider, the service would be commenced in the Dublin Metropolitan Region. It was also stated that the Deaths in Custody in Garda Stations Working Group would look at this service and consider the CPT recommendation within the context of addressing current and future needs.

**The CPT would like to receive a copy of the specification referred to above and to be informed, in due course, of the operation of the new service.**

16. The CPT has repeatedly stressed that the inspection of detention facilities of law enforcement agencies by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons and, more generally, help to ensure satisfactory conditions of detention.

The independent Garda Inspectorate’s mandate is geared towards operational efficiency and effectiveness of An Garda Síochána, but Garda stations are not, at present, subject to independent monitoring of the treatment of detained persons or of the conditions of detention therein. Ratification of OPCAT and the establishment of a National Preventive Mechanism will require such monitoring. **The CPT recommends that steps be taken now to put in place an independent system of monitoring Garda stations.**

#### **4. Conditions of detention**

17. The material conditions at the police stations visited were in general satisfactory for the periods of detention involved; usually less than 24 hours and only rarely exceeding 48 hours. The cells were of adequate size, equipped with toilet facilities, possessed adequate artificial lighting, sufficient ventilation and a call bell and could be properly heated.

However, the holding cell in the reception area at Kevin Street Garda Station which was used for holding vulnerable persons and juveniles was equipped with a concrete bench with wooden seating on the back wall, and a mattress on the floor, but it did not possess a proper means of rest. In its current state, **the CPT trusts this cell will not be used for overnight accommodation.**

## 5. Immigration detention

18. In the course of the visit, the CPT's delegation was informed that immigration detainees were being held in Cloverhill and Limerick Prisons, the Dóchas Centre, as well as in police stations pending their deportation.

Persons refused the right to land are generally returned within a few hours but a not insignificant number could spend one or more nights in a police station or prison. At Cloverhill Prison, the delegation observed that these persons were usually mixed in holding cells (for up to five hours or more) with remand and convicted prisoners. Further, they were not provided with information in a language they could understand about what was happening to them, heightening their anxieties.

The situation of persons held in Cloverhill Prison pending their deportation (i.e. failed asylum seekers) for up to eight weeks was particularly worrying. Persons met by the delegation (one of whom had been in prison for some six weeks) were subject to bullying from remand prisoners with whom they had to share a cell. Further, they were only offered screened visits when the principle should be open visits for extensive periods in an appropriate environment.

Further, prison managers and officers, in the establishments visited by the delegation, all agreed that they were not appropriately equipped or trained to look after immigration detainees.

Moreover, there was no register for persons detained in the holding room in Dublin airport pending their return. **This should be remedied without delay.**

19. The CPT reiterates that, in its opinion, a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence.<sup>2</sup> In those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel.

By letter of 6 January 2015, the Irish authorities announced that a suitable location at Dublin airport has been identified as a facility for immigration detainees and that it would be ready in 2016.

**The CPT recommends that the Irish authorities pursue their plans to establish a specifically designed centre for immigration detainees in accordance with the Committee's requirements. Further, as long as immigration detainees are kept in prisons, all appropriate steps should be taken to ensure that their exposure to remand and sentenced prisoners is limited, that they are offered as much time out of cell as possible and that they are afforded open visits. In addition, interpretation services should be readily accessible in prison to assist immigration detainees and staff as required; in this respect, the telephone interpretation services available at ports of entry should also be available in prisons.**

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<sup>2</sup> See Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals

**B. Adult male prison establishments**

**1. Preliminary remarks**

a. recent developments

20. As a preliminary remark, the CPT wishes to acknowledge the considerable steps taken by the Irish authorities to reform the Irish Prison Service since the CPT's last visit in 2010. In April 2012, the Minister of Justice and Equality launched a Three Year Strategic Plan for the Irish Prison Service which, inter alia, focused on reducing overcrowding in prisons and improving conditions of detention, as well as on rehabilitation and integration of prisoners.

The implementation of the Strategic Plan has led to a number of positive developments. The Irish Prison Service, in conjunction with the Probation Service, commenced the national roll out of the Community Return Programme under which offenders were offered early temporary release in return for supervised community service. The scheme is applicable to suitably assessed prisoners who are serving sentences of more than one and less than eight years. Those participating are granted renewable temporary release after having served 50% of their sentence with the condition that they undertake community service supervised by the Probation Service.

21. The Irish authorities also took action to tackle overcrowding by significantly reducing operational capacities in Mountjoy, Limerick and Cork prisons as well as opening a new 179 cell wing in Midlands Prison, a new 176 cell wing in Wheatfield Place of Detention, and a new 20 bed enhanced regime unit in Dóchas Centre. Furthermore, dedicated committal areas were established in all committal prisons and relevant assessment procedures on committal were introduced. At the time of the visit, the prison population in Ireland stood at 3,810 inmates for an overall capacity of some 4,120 places.<sup>3</sup> However, overcrowding was still a matter of concern in a few prisons, notably Dóchas Centre and Cork Prison which were running above their official capacity at the time of the visit.

In April 2014, the Fines (Payment and Recovery) Act 2014 was adopted which aimed to reduce to the greatest extent possible the use of imprisonment as a sanction for fine default.<sup>4</sup> According to the Irish authorities, the law would be fully functional by the end of 2014, once all the necessary regulations were introduced.

**The CPT would like to receive updated information on the implementation of the Fines (Payment and Recovery) Act 2014.**

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<sup>3</sup> In addition, 621 prisoners were on temporary release.

<sup>4</sup> In 2013, around 8,000 were committed to prison for less than 12 months for failing to pay fines; a quarter of those were women.

22. During previous visits to Ireland, the CPT has been critical of the practice of slopping-out and has repeatedly stated that it is degrading not only for the person using the chamber pot but also for the persons with whom he shares a cell and also debasing for the prison officers who have to supervise the slopping-out procedure. At the time of the CPT's last visit in 2010, nearly one-quarter of the prison population had to "slop out" every day.

In this context, the Committee welcomes the ending of slopping-out in Mountjoy Prison Wings A, B and C and it also welcomes the fact that the new Cork Prison, which is scheduled to become operational towards the end of 2015, will provide for in-cell sanitation. However, at the time of the CPT's visit, there were still 330 prisoners slopping-out in Cork, Limerick and Portlaoise Prisons, the vast majority of them in Cork. The situation in Cork gives particular cause for concern since many prisoners have to share a cell and are confined to their cells for long periods of the day.

The Irish authorities in their letter of 6 January 2015 stated that they would examine the possibilities of extending toilet patrols. The CPT considers that every prisoner should have access to a toilet whenever required and that persons sharing a cell should never have to resort to the use of chamber pots.

**The CPT again calls upon the Irish authorities to eradicate "slopping out" from the prison system. Until such time as all cells possess in-cell sanitation, the authorities should ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night). The CPT would also like to receive updated information on the opening of the new prison in Cork.**

b. prisons visited

23. In 2014, the CPT's delegation carried out follow-up visits to Castlerea and Mountjoy Prisons. Targeted visits were also undertaken to Cloverhill, Midlands, Portlaoise Prisons and Wheatfield Place of Detention to examine, inter alia, the disciplinary procedures and the functioning of the newly established complaints system, as well as the use of close supervision and safety observation cells.<sup>5</sup>

The CPT pays particular attention to prisoners held, for whatever reason (for disciplinary purposes; as a result of their "dangerousness" or their "troublesome" behaviour; in the interests of a criminal investigation; at their own request), under conditions akin to solitary confinement. During the 2014 visit, the CPT's delegation also focused on the conditions of detention for prisoners on protection as well as prisoners segregated from the general population due to their behaviour.

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<sup>5</sup> Castlerea Prison was previously visited by the CPT in 2006; Cloverhill Prison was visited in 2002, 2006 and 2010; Mountjoy Prison was visited in 1993, 1998, 2002, 2006 and 2010; Midlands Prison was visited in 2010; Portlaoise Prison was visited in 1998 and 2010; Wheatfield Place of Detention was visited in 2006 and 2010.

24. **Castlerea Prison**, opened in 1998, is a committal prison for remand and sentenced prisoners with an operational capacity of 340. At the time of the visit, the prison was holding 332 inmates. The prison has four main wings (A to D) and a semi open unit, called The Grove, with 55 places. Wing C hosts a High Support Unit and a Challenging Behaviour Unit.

**Cloverhill Prison** is primarily an establishment for remand prisoners with an operational capacity of 431; at the time of the visit, it was holding 416 inmates.

**Midlands Prison** was described in the 2010 visit report.<sup>6</sup> At the time of the 2014 visit, the prison was accommodating 783 inmates for an operational capacity of 870. Since the last visit, two new wings, E and G, were built to accommodate sex offenders. Midlands Prison has been designated to accommodate sentenced sex offenders from all over the country and at the time of the visit held 357. A Separation Unit for prisoners considered a danger to others was located in C Wing.

**Mountjoy Prison** was described in the 2010 visit report<sup>7</sup> and, at the time of the visit, it held 513 prisoners for an operational capacity of 548. Wings A, B and C had been refurbished to provide each single-occupancy cell with a sanitary facility and to end the practice of slopping-out. D Wing, closed at the time of the visit, was in the process of having in-cell sanitation installed and the refurbishment was expected to be completed by March 2015, increasing the operational capacity of the prison to 672. The basement of C Wing housed a committal area with 21 single cells as well as a Challenging Behaviour Unit with eight single cells.

Mountjoy Complex includes St. Patrick's Institution, built to a radial design with three accommodation wings (B to D). The nearly completed closure of St. Patrick's Institution as a young adult and juvenile institution<sup>8</sup> meant that the establishment was being used as an annex of Mountjoy Prison. At the time of the visit, B Wing was still used to accommodate 17-year-olds on remand, C Wing was holding 79 house workers from Mountjoy Prison and D West Wing was allocated for 72 prisoners on protection from Mountjoy Prison.

**Portlaoise Prison** was described in the 2010 visit report.<sup>9</sup> The CPT's delegation carried out a targeted visit to A Block, which is designated to accommodate inmates undergoing disciplinary punishment from different prisons in Ireland as well as to house prisoners who cannot be accommodated in other areas of Portlaoise Prison; at the time of the visit A Block held 25 inmates for an operational capacity of 40.

**Wheatfield Place of Detention**, located next door to Cloverhill Prison, is a closed working prison for sentenced adult males. With the closure of St. Patrick's Institution,<sup>10</sup> it now also accommodated 18-20 year olds and sentenced 17 year olds since December 2013; the latter being a temporary measure until such time as the new Children's Detention Schools can accommodate them. At the time of the visit, the establishment was holding 498 inmates for an operational capacity of 540.

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<sup>6</sup> See CPT/Inf (2011) 3, paragraph 28.

<sup>7</sup> See CPT/Inf (2011) 3, paragraph 28.

<sup>8</sup> At the time of the visit, five 17 year olds were still being remanded in the St. Patrick's Institution.

<sup>9</sup> See CPT/Inf (2011) 3, paragraph 28.

<sup>10</sup> At the time of the visit, 17 year olds remanded in detention were still being accommodated in St. Patrick's Institution.

## 2. Ill-treatment

25. Prisoners met by the delegation stated that the vast majority of prison officers treated them correctly, and the relations between staff and prisoners could be categorised as respectful in most of the prisons visited. However, a small number of prison officers seem to be inclined to use more physical force than is necessary and to verbally abuse prisoners. Allegations were received of prison officers deliberately provoking prisoners, for example, by referring to their crimes or their family in an inappropriate manner or calling them names. Furthermore, in Wheatfield Place of Detention, the delegation observed for itself a prison officer escalating rather than de-escalating a verbal altercation with prisoners. The delegation also received a few allegations of physical ill-treatment, consisting of punches, kicks and head butts.

In one case, a prisoner at Mountjoy Prison alleged that on 5 September 2014, following an altercation with a prison officer at Cloverhill Prison, the officer punched him in the stomach, pushed him to the ground, sat on his chest and pressed a finger into his right eye. The officer then allegedly pressed a finger on the prisoner's throat which resulted in him coughing up blood and he also alleged that part of a front tooth was broken. Members of the delegation observed the broken tooth and the black eye. The medical records upon admission to Mountjoy Prison on 6 September 2014 noted "recent physical altercation. Injury to back and right eye. Complains of low back pain – nil on inspection". On 5 September, prior to his transfer to Mountjoy Prison, the prisoner had been seen by the doctor at Cloverhill Prison and referred to the Accident & Emergency Department at the local hospital.

**The CPT recommends that the Irish authorities reiterate to prison officers that no more force than is strictly necessary should be used in bringing an agitated/aggressive prisoner under control. Once a prisoner has been brought under control, there can be no justification for using force other than the application of authorised control and restraint techniques. Further, prison officers should be reminded that they will be held accountable for any act of ill-treatment (including verbal abuse) or any excessive use of force. To this end, it is essential that all prison officers receive regular refresher training in the use of control and restraint techniques and that communication skills and de-escalation techniques be promoted among all prison officers.**

26. The Committee has stressed in the past that it is concerned whenever it discovers a culture which is conducive to inter-prisoner violence and intimidation. In its reports on the 2006 and 2010 visits, the CPT referred to the stabbings, slashings and assaults with various objects in certain prisons, notably Mountjoy. It stated that this prison could be considered unsafe for prisoners and prison staff alike. In the period since 2010, considerable efforts have been invested to reduce the level of violence in prisons. The steps taken included investing in more stringent security measures, reducing overcrowding, introducing individual incentivised regime policies, and providing inmates in Mountjoy Prison with single-occupancy cells. Progress has been achieved; nevertheless, the level of violence at Mountjoy Prison and other establishments remains far too high.<sup>11</sup>

Inter-prisoner violence, to a large extent, continues to be fuelled by a number of factors, notably the existence of feuding gangs and a high prevalence of illicit drug use. The Committee must reiterate that the duty of care which is owed by custodial staff to those in their charge includes the responsibility to protect them from other inmates who wish to cause them harm.

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<sup>11</sup> There were 715 recorded incidents of inter-prisoner violence in 2012 and 530 in 2013.

Addressing the phenomenon of inter-prisoner violence requires that prison staff must be alert to signs of trouble and both resolved and properly trained to intervene. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

**The CPT recommends that the Irish authorities pursue their efforts to address the phenomenon of inter-prisoner violence and intimidation.**

27. The delegation was concerned to find a rather poor recording of incidents of inter-prisoner violence in some of the prisons. At Mountjoy Prison, the delegation came across serious assaults that took place on 23 and 24 July 2014 which were not recorded by the prison administration. At Midlands Prison, all incidents were registered in one of the two record books – “Incidents book (unusual incidents)” or “Accident/incident report book” (although the criteria for deciding the classification remained unclear to the delegation). However, the delegation met two prisoners who had recently been placed on protection after having been assaulted by other inmates and yet these assaults were not recorded in either of the two incident records. Furthermore, one of the prisoners had not been examined by a doctor following the assault (bruising around his eye was still visible at the time of the visit). The impression that there were more cases of inter-prisoner violence at Midlands Prison than were being recorded was reinforced by the fact that the majority of incidents in the incident records were described merely as “injury to the head/hand/leg” without giving any further explanation as to the probable causes for the trauma.

**The CPT recommends that the Irish authorities reiterate the importance of diligently recording all the incidents of inter-prisoner violence to the management and staff of all the penitentiary establishments** (see also paragraph 55 for the recording of injuries).

28. The policy of reporting inter-prisoner violence to An Garda Síochána appeared to differ from one prison establishment to another. For example, at Mountjoy and Cloverhill Prisons, the position of the management seemed to be to report only those incidents where the inmate wanted to lodge a complaint. By contrast, at Castlerea Prison, all the incidents were systematically reported. In order to obtain a clear picture of the extent of inter-prisoner violence and to make every effort to investigate and prosecute all violent acts, the CPT would advocate that every instance of inter-prisoner violence resulting in an injury be communicated to An Garda Síochána. It is essential that prisons do not become places of impunity.

**The CPT recommends that any injury indicative of inter-prisoner violence is immediately brought to the attention of An Garda Síochána and a preliminary investigation is initiated.**

### 3. Deaths in custody

29. During the 2014 visit, the delegation examined in detail four recent cases of deaths in custody – two self-inflicted and two preceded by assaults on the prisoners who later died. The delegation was concerned that the Irish Prison Service may have failed in its duty of care to these prisoners.

(i) Prisoner PD from **Mountjoy Prison** died on 26 July 2014. According to the records of the CCTV system, the prisoner was assaulted by a number of other prisoners in the A Wing exercise yard on 23 July 2014. Following the assault, PD was seen by a member of the nursing staff; it was noted that there was bruising around the upper body and right arm and a graze to the right arm and left knee. At midday on 24 July 2014, the prisoner was seen by a general practitioner who recorded “assaulted last night and this morning. Jumped by other prisoners all over. Complains of intermittent abdominal pain, nauseated. Bruising all over back, chest, face. Pale looking, ? abdominal trauma. Plan – referral to A&E”.

The general practitioner annotated his referral to the Accident & Emergency Department as urgent. He suspected that PD may well have sustained intra-abdominal injuries and felt that an urgent surgical opinion was required. However, the patient was not transferred to the hospital. On 25 July 2014, the prisoner was seen by different prison nurses two more times. After the second examination at 4.10 p.m., the nurse recorded “asked to review in reception. States he is feeling worse. Agitated. On examination urinated on the floor because he wanted to. Blood pressure 163/112, heart rate 120. Cold and clammy. Referral letter for A&E done. Chief Officer K aware of transfer on the reserve.” The Committee notes that these symptoms suggest that the prisoner was significantly unwell.

It was recorded in the medical records at 11.56 p.m. on 25 July 2014 that the prisoner had declined to go to the Accident & Emergency Department. On 26 July at approximately 3.30 a.m., PD was found collapsed on the floor of his cell. The prisoner was transferred by ambulance to the Accident & Emergency Department at the Mater Hospital where he subsequently died.

(ii) Prisoner SL was found dead in his cell at **Midlands Prison** on 12 February 2013. He was an infirm elderly man with a history of cardiac disease, asthma, diabetes and arthritis. On 26 January 2013 he was transferred from a single to a double-occupancy cell despite the recommendation of the general practitioner that the prisoner should be accommodated in a single cell considering his condition and vulnerability.

Moreover, his cellmate was known to prison management as a violent prisoner, especially after drinking, and he had already been caught several times brewing “hooch” (homemade alcohol). However, no formal risk assessment seems to have taken place to determine whether SL should share a cell and, if so, with whom. Clearly, the prisoner with whom he was put was not suitable.

The post-mortem report examination showed “several injuries to the head, chest and arms. All of the injuries were minor bruises and/or abrasions and there was no associated internal trauma e.g. fractures, significant internal bleeding or damage to any vital organ which should be expected to cause or contribute to this man’s death.<...> The injuries sustained may have been due to punches, or even kicks.” The pathologist certified the death as having been caused by a cardiac arrest precipitated by blunt force trauma to the head and trunk.



Midlands Prison management could not provide the CPT's delegation with the timeline as to who had entered the cell at what time on the day of the death, or when SL was last seen alive. It was, however, known that prior to SL having been found collapsed in the cell, six prisoners had been going in and out of the cell in order to drink "hooch". Further, no explanation was provided as to why prison officers had attempted to pull up the trousers of the deceased upon the discovery of the body instead of leaving the scene uncontaminated.

(iii) Prisoner CP was found hanging in his cell at **Limerick Prison** on 7 October 2013, and died a few days later at the regional hospital. The inmate had a history of deliberate self-harm and attempted suicide; he was diagnosed by the psychiatrist as having a borderline personality disorder and a history of drug and alcohol misuse.

On 27 September 2013, it was recorded by nursing staff that CP was declining to take his prescription antidepressants. He was referred to the general practitioner and psychiatrist for further assessment and on 2 October 2013 to the psychologist but no arrangements were made for him to be seen by any of them.

It was not possible to determine, from a review of the medication record of the prisoner, whether medication had been offered and taken by the prisoner and whether it had been offered and declined by him, as frequently there was no record of the medication having been offered at all.

(iv) Prisoner MS was found dead in his cell at **Cloverhill Prison** on 26 August 2014 having bled to death from a number of wounds that had been self-inflicted by a razor blade. The inmate had a past medical history that included depression, numerous previous self-harm episodes, panic attacks, anxiety, confusion and memory loss.

The prisoner was seen frequently by the mental health team at Cloverhill Prison and on 24 June 2014 the psychiatrist wrote to the Director of Care and Rehabilitation of the Irish Prison Service requesting his transfer to the adjoining Wheatfield Place of Detention where he could access psychology services that were not available to the same extent at Cloverhill Prison. The psychologist at Wheatfield Place of Detention agreed to this transfer; however, the transfer was not effected by prison management.

On 18 August 2014, the prisoner jumped out of a window on the second floor of Naven Courthouse. He required a surgical repair of a fractured left femur and was discharged from Our Lady of Lourdes Hospital on 26 August 2014 and returned to Cloverhill Prison that evening. Upon his return, he was placed in the close supervision cell where he should have been observed by staff every fifteen minutes. The records showed that he was last observed by staff some thirty minutes before having been found dead in his cell.

The delegation was concerned by the lack of a whole system approach to the management of the prisoner's vulnerability, in particular a disregard by prison management of the recommendations by health-care staff, which may well have been a factor in his ultimate, self-inflicted death.

30. In April 2012, the Ministry of Justice and Equality announced that all deaths of prisoners, including those arising from natural causes or suicide, would be the subject of an independent investigation by the Inspector of Prisons. This has established a three-pronged investigative process, namely, an investigation by An Garda Síochána, the Coroner's investigation and inquest coupled with an independent investigation by the Inspector of Prisons.

However, during the 2014 visit, the CPT's delegation was concerned to find that there had been no internal review by the prison management into the circumstances surrounding the deaths of these four prisoners. In each of the four cases raised by the CPT's delegation, there were a number of troubling factors which did not appear to have been examined by the Irish Prison Service and yet required prompt action. The Committee is all the more concerned since the non-suicide deaths appear to be symptomatic of a culture of impunity for violent acts committed within Irish prisons.

The CPT considers that every death of a prisoner should be the subject of a thorough investigation to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented. Such inquiries are necessary in order to identify possible means to improve the system of prevention in place as well as to provide the relatives of the deceased person(s) with relevant information concerning the circumstances of the death.

**The CPT would like to receive information on the outcome of the investigations into the four cases of death in custody outlined above.**

31. By letter of 6 January 2015, the Irish authorities informed the CPT that the Director General of the Irish Prison Service had improved the structures and methods of dealing with all deaths in custody. Every incident would be the subject of an internal review and assessment of the circumstances of the death to determine accountability and any lessons learned and the same applied both in the prison concerned and across the prison system generally.

Further, each prison complex would establish a local multi-disciplinary Death in Custody/Suicide Prevention Group which would be chaired by the Governor. That group would play an active role in identifying the lessons to be learned and in developing and overseeing the implementation of any corrective action plan. It is expected that the local group would also carry out periodic audits to ensure that the action agreed were being followed. The CPT welcomes these steps taken by the Irish Prison Service.

#### **4. Conditions of detention**

##### a. material conditions

32. As mentioned above, during the visit the delegation mainly focused on the conditions of detention for prisoners on protection as well as prisoners segregated from the general population due to their behaviour. The material conditions for these specific groups are described later in the report while a general assessment of the situation in the main accommodation units of the prisons visited is set out below.

At **Castlereagh Prison**, the inmates were accommodated in single or double-occupancy cells, suitably equipped and of an adequate size, with in-cell sanitation.

At **Mountjoy Prison**, following the refurbishment the cellular accommodation provided good living conditions: all inmates were accommodated in single-occupancy cells of an adequate size, suitably furnished and with in-cell sanitation. There were about 26 cells per landing, several of them allocated to non-smoking prisoners. Each landing had four showers which could be accessed by prisoners every day.

At **Midlands Prison**, the cells of A wing (each approximately 8m<sup>2</sup>) accommodated two prisoners and were equipped with a bunk bed, a television, a table and a chair and had in-cell sanitation. They had good access to natural light and the artificial lighting and ventilation were sufficient. However, cells of 8m<sup>2</sup> are not suitable for accommodating two prisoners.

The single-occupancy cells in newly built E and G wings were suitably equipped, of an adequate size (approximately 8m<sup>2</sup>), and possessed partitioned in-cell sanitation, including a shower.

**The CPT recommends that cells of 8m<sup>2</sup> cease to be used to accommodate more than one prisoner.**

b. regime

33. In February 2012, the Irish Prison Service adopted the Policy on Incentivised Regimes. It provides for a differentiation of privileges between prisoners based on their level of engagement with prison services and their behaviour. Newly committed prisoners enter the prison on a standard level regime. They may later progress to the enhanced level if they meet the criteria for it, notably through demonstrating exemplary behaviour and satisfactory engagement in the structured activities on offer, or regress to basic level if they fail to meet the criteria for standard level<sup>12</sup> and/or consistently refuse to engage in structured activities.

The privileges on the enhanced level include a higher gratuity payment from a standard €1.70 to €2.20 per day, priority access to better quality accommodation, and increased contact with the outside world. Regression to the basic level, on the other hand, results in loss of privileges including a reduction in the gratuity payment to €0.95 per day, and reduced contact with the outside world (but not below one 30-minute visit and three phone calls per week). The CPT considers that all prisoners should be offered at least one hour of visits every week as a minimum standard which may or may not be increased through the application of the incentivised regime process, but should not be reduced.

The CPT supports the individualised approach to a prisoner's treatment and is of the view that progression from one regime level to another should be based on the prisoner's attitude, behaviour, participation in activities (educational, vocational, or work-related), and adherence to reasonable pre-established targets set out in a sentence plan and observance of the internal rules. The challenge is to ensure that the incentivised regime is applied in an objective manner by prison staff to all prisoners. **The CPT would be interested to learn about the results of an evaluation of the Policy on Incentivised Regimes since its introduction in February 2012.**

34. Since the last CPT visit in 2010, the Irish Prison Service has expanded the Integrated Sentence Management (ISM) system to cover all prisons. Under ISM, a newly committed prisoner with a sentence of one year or greater is assessed by an ISM co-ordinator and a personal plan for each prisoner is drawn up. The plan is reviewed regularly between the ISM co-ordinator and the prisoner. However, far too many prisoners serving sentences longer than one year still did not have any type of sentence plan. For example, at Castlerea Prison, due to the limited number of staff the majority of eligible prisoners were not included in the ISM; priority was given to those with the shortest sentences or time left until their release from prison.

**The CPT reiterates its recommendation that a sentence plan be drawn up for all prisoners, with particular attention paid to the needs of persons sentenced to life-imprisonment and other prisoners serving lengthy sentences.**

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<sup>12</sup> To stay at the standard level, the prisoner, inter alia, must comply fully with the prison's rules and all reasonable instructions, cooperate with staff in the performance of their duties, attend and fully participate in relevant sentence management assessments, avoid conflict and argument, avoid escalating tension.

## 5. Prisoners on protection

35. The CPT welcomes the steps taken by the Irish Prison Service to drastically reduce the number of prisoners on protection, notably those under 23-hour lock-up. At the time of the visit, the number of prisoners on 22-hour and 23-hour lock-up stood at 42, down from 211 as of July 2013. A further 211 prisoners were subjected to a restricted regime and spent up to 21 hours in their cells every day.

36. At **Castlerea Prison**, the prisoners on protection (47 at the time of the visit) were accommodated on B1 and B2 Wings in single and double-occupancy cells. None of the prisoners were on 23-hour lock-up and the prison management was able to ensure that prisoners could freely associate with each other. Inmates were allowed out of their cells for at least four hours per day; they could attend school two to three days a week where they mixed with other prisoners and could participate in several workshops (cooking, English, computer literacy, music, woodwork); some of the prisoners worked (mainly cleaning) but there were far too few jobs for the number of inmates. The vast majority of these prisoners were on the standard level of the incentivised regime, with a few on basic and a few on enhanced.

37. At **Mountjoy Prison**, the Separation Unit, used to accommodate prisoners on protection, was closed down a few days before the CPT's visit due to poor material conditions and a lack of adequate services, and the protection prisoners were transferred to the D West Wing of St. Patrick's Institution. At the time of the visit, there were 72 protection prisoners on this wing but due to the lack of space, four protection prisoners were accommodated in the committal area and one in the Challenging Behaviour Unit of Mountjoy Prison. **Every effort should be made to avoid placing prisoners on protection in the Challenging Behaviour Unit.**

38. The D West Wing of St. Patrick's Institution consisted of 72 single-occupancy cells distributed across three floors. At the time of the visit, the protection prisoners were divided among five groups – each colour coded (red, green, yellow, orange and blue) to signify with whom the prisoners could associate. A sixth group of inmates was composed of individuals who could mix with everyone and who could participate in a full programme of activities every day. At the time of the visit, one prisoner was on “protection all others”, which meant that he had no interaction with any of the other detainees and stayed in his cell 23 hours a day.<sup>13</sup>

The regime at D West Wing was limited: yellow group attended school three times a week for two hours each time, while red, green and orange groups attended twice a week and blue group only once a week. The only two other activities were exercise in the yard (one hour per day), and the gym (one hour per day).<sup>14</sup> A computer class was offered daily on weekdays, but it was poorly attended. Thus, prisoners had out-of-cell activities for two to four hours per day; in addition, they had one hour of out-of-cell time daily on the landing for cell cleaning, washing clothes, showers and phone calls.

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<sup>13</sup> He had fallen out with his group and a new group had to be found for him; reportedly, this would not take very long.

<sup>14</sup> To ensure the safety of prisoners in different groups, a complex system was in place, e.g. the orange group went to school while the blue group received visitors and the red group went for outdoor exercise.

Although none of the protection prisoners was on the basic level of the incentivised regime, the prison management admitted that the incentivised regime system did not work so well on the protection wing, due to the limited number of activities that could be offered. The inmates thus received their incentivised regime stamps for displaying good behaviour rather than taking part in activities.<sup>15</sup>

39. Prisoners on protection in Mountjoy Prison can receive two visits per week.<sup>16</sup> Visits are generally screened to ensure the safety of the prisoners.<sup>17</sup> Nevertheless, prisoners on the enhanced level of the incentivised regime were offered one 30-minute visit per month under open conditions.<sup>18</sup>

The CPT accepts that in certain cases it will be justified, for security-related reasons, for visits to take place in booths. It also acknowledges that open visits may require additional staff resources. However, “open” visiting arrangements should be the rule and “closed” ones the exception, for all legal categories of prisoners. Any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the prisoner or their visitors.

40. At **Midlands Prison**, the 30 prisoners on protection were accommodated in C2 Wing, in cells measuring some 9m<sup>2</sup>. Cells of this size are suitable for single-occupancy but should not be used to hold two prisoners, as was the case in a number of the cells. In some cells, the sinks were leaking, there was no hot water and the windows were broken. Further, the sanitary facilities in any cell accommodating more than one prisoner should be fully partitioned (i.e. up to the ceiling); **the CPT recommends that steps be taken to remedy these deficiencies.**

41. At the time of the visit, 23 of the protection prisoners were on 23-hour lock-up. The delegation received complaints that they were often offered less than one hour out of their cells every day. Moreover, once a prisoner was placed on protection, he was downgraded to the basic level of the incentivised regime system which meant that he only received three phone calls and one 30-minute open visit per week. The Governor of Midlands Prison explained that this was due to the limited availability of staff to ensure the safety of prisoners; he also explained that the management wanted to discourage prisoners from asking for protection and that it did not want to dis-incentivise other prisoners who made an effort to participate in education and activities by giving the prisoners on protection the same privileges.

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<sup>15</sup> Five stamps per week are necessary to remain on the same level of the incentivised regime. Usually, such stamps are given for attending the school or taking part in activities.

<sup>16</sup> Depending on their regime, it is either one 30-minute visit and one 15-minute special visit per week (for the standard level) or one 30-minute visit and an additional 30-minute special visit per week (for the enhanced level).

<sup>17</sup> According to the authorities, there have been incidents during open visits when prisoners attacked each other; on one occasion, the visitor of one prisoner attacked another prisoner.

<sup>18</sup> Prisoners on protection at Midlands Prison, on the other hand, were offered “open” visits.

42. At **Wheatfield Place of Detention**, the intention of the management had been to have no prisoners on protection and to ensure that all prisoners could associate freely, especially as the establishment was supposed to be a working prison with at least 80% on inmates gainfully employed. The arrival of the young adults and juveniles from St. Patrick's Institution had put these plans on hold. Nevertheless, it was hoped that in 2015, once sentenced 17-year-olds were no longer held at Wheatfield Place of Detention but in the Children's Detention Schools, it would be possible to transfer any remaining protection prisoners out of Wheatfield.

At the time of the visit, there were some 60 prisoners on protection. Six young adults (i.e. 18 to 20-year-olds) were accommodated in unit 3G, on the same wing as three juveniles on protection. All the prisoners attended school three times a week, which was mandatory, were offered access to several workshops (art, cooking, mechanical), and could access the gym a few times a week as well as associate together on the wing every evening which was equipped with table tennis and billiards tables.

The situation of adult prisoners on protection, most of whom were located in units 2G and 5G, was far less favourable. The delegation received many complaints from inmates about the poor regime of being confined to their cells for 21 hours or more and no access to any activities. They also complained that their visits were only available on Tuesday mornings which was inconvenient for their families as it was during the school and work-day.

Some six prisoners were also accommodated for protection reasons on Wing West 2, where the regime was even more restrictive, with daily out-of-cell time for some limited to one hour or less of outdoor exercise. For example, one prisoner (Daniel McDonnell) who had been placed in West 2 against his wishes for his own protection in February 2014 had given up going to the outdoor exercise yard some two months earlier and, as he had no one to talk to, was becoming more and more introverted. Moreover, as he has a long sentence ahead of him, it is essential that efforts be made to provide him with a more meaningful regime, including access to purposeful activities and the possibility to associate with other prisoners.

43. The Committee understands that progression or regression from one regime level to another should be based on the behaviour of each individual prisoner as well as his participation in activities. Prisoners on protection who have not committed any disciplinary offence but are unable to access activities due to their protection status should not be de facto punished by being placed on the basic level of the incentivised regime system.

Moreover, it is very important for prisoners to be able to maintain good contact with the outside world. This is all the more the case for prisoners on protection who may have a greater need to maintain contact with the outside world since they cannot have any safe contact with other inmates.

In addition, conditions akin to solitary confinement can have an extremely damaging effect on the mental, somatic and social health of the prisoner. The damaging effect can be immediate and increases the longer the measure lasts and the more indeterminate it is. The Committee wishes to stress that, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the authorities should strive to minimise the deleterious effects of such segregation. For those prisoners placed on protection (i.e. 21-hour to 23-hour lock-up) for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible.

**The CPT recommends that the Irish authorities pursue their efforts to provide prisoners on protection in Midlands and Mountjoy Prisons, and Wheatfield Place of Detention for more than a short period with a range of purposeful activities, taking into consideration the above remarks. Further, it recommends that all prisoners on protection be offered one hour a week of visits, preferably under open conditions.**

In this context, the CPT wishes to refer to the High Court judgment of 17 February 2015 in the case of Daniel McDonnell and the Governor of Wheatfield Prison, which concludes that the placement of this prisoner in conditions akin to solitary confinement for his own protection for eleven months constitutes a clear breach of his constitutional rights to bodily and psychological integrity. Moreover, the judgment refers to the unlawful nature of the application of Rule 63 as no end date was defined at each renewal of the direction (roughly every four weeks) and the Governor of the prison had not himself made the direction. The CPT also considers that for persons placed on protection against their wishes, there ought to be an opportunity to challenge the measure at a higher administrative level and that the person concerned should be part of the discussion to seek an alternative solution.

**The CPT would be interested to learn what steps have been taken to improve the situation of prisoner Daniel McDonnell in West 2 of Wheatfield Place of Detention. Further, it would like to be informed of the general measures that have been taken to prevent similar such cases arising in the future, in the light of this judgment.**

## **6. Segregation / “dangerous” prisoners**

44. In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. The perceived high security risk of such prisoners may result from the nature of the offences they have committed, the manner in which they react to the constraints of life in prison, or their psychological/psychiatric profile. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners brings with it a greater risk of inhuman treatment.

45. At **Midlands Prison**, the Separation Unit in C1 Left Wing, consisting of 11 single-occupancy cells, was accommodating 11 prisoners at the time of the visit who were deemed to pose a danger to other prisoners and to the good order of the establishment. The delegation was informed that these prisoners were held there for security reasons and that they were “regularly reassessed” as to the necessity for them to stay on the unit. However, there appeared to be no clear legal basis for allocating these prisoners to this unit or for prisoners to appeal such a placement. Rule 62 of the Prison Rules 2007 regulates “removal from association” and contains a number of procedural safeguards regulating the application of this rule to a prisoner. It was not, however, applied to the prisoners in the Separation Unit.



Reportedly, the inmates were offered the same regime as the rest of the prison population and most of them were on the enhanced level of the incentivised regime. However, there were only very few activities in which they could engage; access to a small courtyard for daily outdoor exercise, a gym and the school. At the time of the visit, seven of the eleven prisoners were on 23-hour lock-up and interviews with inmates and staff on this unit confirmed the absence of any meaningful regime. Further, it appeared that some inmates were offered not much more than 15 minutes out of their cells every day while others spent more than three hours out of their cells. **The CPT recommends that the Irish authorities ensure that all prisoners are offered a minimum of one hour of daily outdoor exercise.**

46. In the CPT's view, there must be a clear legal basis for the placement of a prisoner in a high-security unit. It also goes without saying that any measure of segregation should not be imposed for longer than the risk which a particular prisoner presents makes necessary. This calls for regular reviews of the decision to impose the measure. Further, prisoners should as far as possible be kept fully informed of the reasons for the imposition of the measure and, if necessary, its renewal.

**The CPT recommends that the Irish authorities adopt clear rules and procedures to govern those prisoners who present a high security risk, notably:**

- **prisoners placed in segregation or in respect of whom such placement is extended be informed in writing of the reasons therefor and sign an attestation that they have received the decision (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);**
- **prisoners in respect of whom a segregation (or increased supervision) measure is envisaged be given an opportunity to express their views on the matter;**
- **prisoners are informed of the possibility to use the assistance of a lawyer in case of contesting the measure;**
- **prisoners have their case reviewed on a regular basis, according to the same procedure (information on reasons for extending the measure, right to be heard, decision notified in writing, etc.); such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment;**
- **prisoners have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation measure (the remedies available to them should be set out in the decision).**

47. As regards the regime, prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. It is crucial that such prisoners are provided with a tailored programme of purposeful activities of a varied nature. 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 an educator), in consultation with the inmates concerned. Interaction/association between prisoners should be the norm; conditions akin to solitary confinement should only be used when absolutely unavoidable in order to deal with a person who is assessed to be acutely dangerous to others and for the shortest period necessary. **The CPT recommends that the Irish authorities review the regime for prisoners who present a high security risk in the light of the above remarks.**

## 7. Health-care services

48. In the report on the 2010 visit to Ireland, the CPT had expressed its concerns regarding the provision of health care in certain prisons, notably as regards management, the reactive nature of health-care interventions, long waiting lists, and the frequency of missed appointments. The findings of the 2014 visit illustrate that the situation has improved in some prisons while it has further deteriorated in others, such as Midlands Prison.

In its preliminary observations to the Irish authorities at the end of the 2014 visit, the CPT's delegation commented that the health-care service in some prisons was in a state of crisis and urged the Irish authorities to invite the Health Information and Quality Authority (HIQA) or similar body to undertake a fundamental review of health-care services in Irish prisons. By communication of 6 January 2015, the Irish authorities responded that such a review was outside the remit of HIQA and that discussions were underway to identify a similar mechanism to undertake the review. The CPT wishes to recall the importance of having in place an effective prison health-care service which is capable of meeting the broad range of health problems found in prison. Once again, the findings from the 2014 visit highlighted poor management of prison health-care services and disjointed throughcare provision. Doctors working in prisons appeared disconnected from the national health-care service and prison health-care did not receive the necessary management support, with clinical opinions not acted upon and lack of escort staff available within prisons resulting in numerous prisoners missing medical appointments.

The recent policy trend in Europe has favoured prison health-care services being placed either to a great extent, or entirely, under Ministry of Health responsibility. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of Health Ministries in this area will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.

**The CPT recommends that the Irish authorities identify an appropriate independent body to undertake a fundamental review of health-care services in Irish prisons. Further, it would appreciate the observations of the Irish authorities on the question of bringing prison health-care services under the responsibility of the Ministry of Health.**

a. staff and facilities

49. The health-care team at **Castlerea Prison** comprised one general practitioner, visiting the prison every weekday for three hours only, a nurse manager and eight nurses (one of whom was a mental health nurse). During weekends, a locum doctor was on call. As regards nursing staff resources, they can be considered as sufficient for a prison establishment of some 350 inmates. However, the prison should have the equivalent of at least one full-time general practitioner.

The prison did not have a visiting psychiatrist since the previous one left in June 2014; a psychologist visited the prison for one day every two weeks. An optician, a chiropodist and an addiction counsellor visited the prison regularly; a dentist was present in the establishment every second Monday.

**The CPT recommends that steps be taken to ensure a psychiatrist visits Castlerea Prison on a regular basis** (see also paragraph 64).

50. At **Mountjoy Prison**, there was one general practitioner attending the prison during weekday mornings and a locum general practitioner, working full time Monday to Friday. Various other locum general practitioners covered committals and emergencies during weekend mornings. In addition, a general practitioner, specialising in addictions, visited the prison twice a week.

At the time of the visit, the nursing team consisted of a chief nurse and the equivalent of 16.5 fully qualified nurses while 7.5 nursing posts were vacant; their work was being covered by agency nursing staff. For an inmate population of 548 (and even 672 after opening D Wing) such nursing staff levels are satisfactory. However, as regards doctors, a prison of the size and complexity of Mountjoy should have the equivalent of at least two full-time general practitioners.

The vacant nursing posts had not been filled since the beginning of the economic crisis. However, the hiring of high numbers of agency staff to fill their absence resulted in both a lack of continuity of care and an unfamiliarity of working within prisons which may well amount to an increased cost on the prison system.

51. At **Midlands Prison**, the health-care staffing arrangements have not changed since the time of the 2010 visit. There were two full-time general practitioners, a chief nurse and 14 nurses (one of whom was a mental health nurse). However, the delegation learned that health-care staff numbers had not been increased since the opening of the prison in 2001 despite the fact that the prison's population had doubled during that period.

In addition, the placement of a large number of elderly offenders in the newly opened E and G Wings has caused challenges for health-care staff insofar as there are a greater number of frailer prisoners who by their nature are more demanding in terms of the health care that they require. This had led to an increased use of agency nursing staff and locum medical staff. In the Committee's view, the Irish Prison Service would benefit from a needs assessment using a prisoner profile/staffing matrix to determine how many additional health-care staff are needed at Midlands Prison.

52. Moreover, due to the lack of prison officers at Midlands Prison available to provide escorts to and from the health centre, often only around half of the patients listed to see a doctor on a particular day would be seen. The staff shortages also affected hospital consultations and follow-up treatments which were often cancelled because of a lack of staff to transfer prisoners to hospital.

The delegation was also concerned to find a total lack of organisation and management of health-care services at Midlands Prison. The health-care service was reactive; there was a lack of structured follow-up and there were long waits to be seen by medical staff (in some cases up to several weeks). There was also a lack of inter-disciplinary organisation and, in respect of those prisoners who self-harmed, there was a total absence of any structured follow-up process.

**The CPT recommends that the Irish authorities take steps at Midlands Prison to remedy the deficiencies referred to above. As a first step, it should be ensured that all prisoners are seen without delay by a member of the health-care service. Further, measures should be taken to increase the time of attendance of the general practitioners at Mountjoy, Midlands and Castlereagh Prisons.**

53. As regards medical confidentiality, the delegation observed that it was generally respected in the prisons visited, both as regards medical consultations and the storing of medical documentation.

However, the practice of handcuffing a prisoner to a prison officer during external medical consultations in the hospital, at all times, even when the consultation takes place in a secure room, regrettably, has not changed. In the CPT's view, to routinely apply handcuffs to a prisoner undergoing a medical consultation/intervention is not acceptable from the standpoint of medical ethics and human dignity. Practices of this kind prevent an adequate medical examination from being carried out, will inevitably jeopardise the development of a proper doctor-patient relationship, and may even be prejudicial to the establishment of objective medical observations.

**The CPT reiterates its recommendation that the Irish authorities take the necessary steps to ensure that external medical consultations of prisoners respect the principle of medical confidentiality and human dignity, taking due account of the above remarks.**

b. medical examination on admission and recording of injuries

54. The updated 2011 Irish Prison Service Health-Care Standards require an initial committal assessment carried out by nursing staff on the day of reception. Further, within 24 hours of reception a doctor should undertake a clinical assessment of the prisoner's physical and mental state of health.

The requirement for medical examination upon admission seemed to be generally observed in the prisons visited. However, the comprehensiveness of the examination was very variable. At **Midlands Prison** it was generally comprehensive, while at **Mountjoy Prison** the doctor's notes were particularly scant.

At Mountjoy Prison, the delegation also received a number of allegations that there was no proper physical examination upon admission. According to the inmates, the procedure was limited to a few general questions and usually did not include a physical inspection of the prisoner. The situation was different in Castlerea Prison, where the general practitioner would perform a full physical examination within 48 hours of admission.

**The CPT recommends that the Irish authorities ensure strict adherence to the Health-Care Standards, including a proper interview and physical inspection of every newly-admitted prisoner by a medical doctor as soon as possible after admission.**

55. The situation as regards the recording of injuries (on admission or during imprisonment) was such that injuries were usually recorded but the quality of the records was again variable.

However, at **Cloverhill Prison**, the delegation was informed that there was no automatic reporting obligation for health-care professionals to bring information consistent with allegations of ill-treatment to the attention of the relevant authority. According to the prison management, it is up to the prisoner to lodge a complaint. The Committee is concerned by this finding, even more so as this practice seems to be current in other prisons as well.

The CPT continuously emphasises the important contribution which health-care services can and should make to combating ill-treatment of detained persons, through the methodical recording of injuries and the provision of information to the relevant authorities. If a detained person is found to bear injuries which are clearly indicative of ill-treatment but refuses to reveal their cause or gives a reason unrelated to ill-treatment, his/her statement should be accurately documented and reported to the authority concerned together with a full account of the objective medical findings.

A corollary of the automatic reporting obligation is that the health-care professional should advise the prisoner concerned of the existence of that obligation, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the relevant authority is not a substitute for the lodging of a complaint in proper form.

**The CPT recommends that the Irish authorities review the existing procedures in order to ensure that whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a detained person, that information is immediately and systematically brought to the attention of An Garda Síochána, regardless of the wishes of the person concerned.**

**The record drawn up after the medical screening 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, and**
- iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

**The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.**

**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. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.**

c. drug-related issues

56. The presence in prison of inmates with drug-related problems gives rise to a number of particular difficulties for the prison authorities. These include health and security issues, as well as the choice of forms of assistance which are to be offered to the prisoners concerned. Further, the widespread availability of illicit drugs within a prison is bound to have very negative repercussions on all aspects of prison life, and may undermine the motivation of prison officers.

The CPT's delegation observed that drug misuse and a high prevalence of drugs remained a major problem in all the prisons visited. Prison staff admitted that there were still significant problems with illicit drug misuse and that many of the incidents in the prisons were drug-related.

In this regard, the Irish Prison Service drugs policy and strategy paper "Keeping drugs out of prison" remains relevant since it aims to eliminate the supply of drugs into prisons and provide prisoners with a range of opportunities which encourage them to adopt a drug-free lifestyle, before and after release, thereby reducing demand for drugs. Furthermore, prisoners should be provided with the opportunity to serve their sentence in a drug-free environment; where drug-free units are established, the drug-free policy should be rigorously enforced.

**CPT recommends that the Irish authorities continue to pursue vigorously the drug strategy programme designed to put an end to the supply of drugs, to reduce as far as possible the demand for drugs and to provide appropriate assistance to prisoners with drug-related problems, including substitution treatment. Further, increased efforts should be made to ensure that drug-free units live up to their name.**

57. In the report on the 2010 visit, the CPT criticised the manner in which the methadone treatment programme was carried out in some prisons. During the 2014 visit, the delegation visited the drug treatment centre at **Mountjoy Prison** and was generally satisfied with the approach to methadone prescribing there. A "stepped" drug assessment and treatment approach including non-pharmacological interventions was the essence of the treatment rather than simply a focus on methadone.

However, from interviews with the male inmates recently transferred from **Limerick Prison**, the delegation learned that the prison doctor there refused to prescribe methadone and that the "methadone doctor" only visited twice a week resulting in a haphazard and incomplete treatment programme. In addition, drug withdrawals at Limerick Prison were not managed well.<sup>19</sup> **The CPT recommends that the Irish authorities take the necessary steps to remedy these deficiencies.**

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<sup>19</sup> A prisoner suffering from the severe side effects of drug and alcohol withdrawal had not received a timely consultation from a "methadone doctor" nor had he been appropriately treated by the general practitioner.

d. psychiatric care in prisons

58. In the course of the visit, the CPT's delegation had an opportunity to examine the care offered to prisoners suffering from a mental illness, notably in the High Support Units in Castlereagh and Mountjoy Prisons and in the special wing in Cloverhill Prison.

As was the case in 2010, in principle, prisoners suffering from a mental illness either remain in prison or are transferred to the Central Mental Hospital (CMH) under the terms of Article 15 of the 2006 Criminal Law (Insanity) Act.

59. The Irish authorities have accepted the need to enhance psychiatric services for prisoners and the 2006 policy document "*A Vision for Change*" recommended that mental health services provided in the prison context should be person-centred, recovery oriented and based on evolved and integrated care plans. At the forefront of the approach has been the establishment of a "Court diversion scheme" at Cloverhill Prison by which mentally-ill prisoners suspected of having committed an offence could be transferred to a psychiatric facility. The diversion scheme is carried out by the Central Mental Hospital's "In Reach Service", based in Cloverhill Prison, which also screens all remand prisoners for mental disorders. The "In Reach Service" also visits Midlands, Mountjoy, Portlaoise Prisons and Wheatfield Place of Detention.

To complement these "In-Reach services", High Support Units (HSUs) have been established in several prisons to provide expert, supportive, short term input for prisoners who are in an acutely disturbed phase of a mental illness or require observation for a physical illness. The HSU should provide a more controlled and supportive environment for a vulnerable prisoner as a short term intervention. The first HSU was established in Mountjoy Prison in December 2010.

60. The HSU in **Mountjoy Prison**, located in the medical unit, comprises 9 single cells with in-cell sanitation. The HSU project was driven by two needs. The first was a requirement to reduce the use of special observation cells in the prison without any increase in injuries or self-harm. The second need was for step-down accommodation for sentenced prisoners with mental illnesses, who had responded well to treatment at the CMH. When returned to prison to serve out the remainder of their sentence, they would be susceptible to relapse due to the ready availability of drugs in prison wings, and the stresses of interactions with other prisoners. In its first year of operation, 96 prisoners passed through the unit and a study noted a 59 per cent reduction in the average monthly use of special observation cells compared to the year before the HSU opened.

At the time of the 2014 visit, there were eight prisoners in the HSU, four of whom were on a waiting list to be transferred to the CMH at Dundrum. The prisoners were allowed out of their cells for about eight hours a day, during which time they could go to the communal area, where there was a television and a recently installed table tennis table, and to a small gym. Prisoners could also have access to a video club. However, the delegation was concerned to find that there was a complete lack of structured activities for this group of prisoners, many of whom had a severe and enduring long-term mental illness. There was no occupational therapy, individual or group psychotherapy or recreational therapy; only pharmacotherapy. In sum, they idled away their time watching TV; some of the prisoners simply rocked back and forth in their chairs.

A psychiatrist visits the HSU once a week and is supported by a community psychiatric nurse. In addition, the unit is staffed by three prison officers at any one time, all of whom demonstrated their good intentions but none of whom had received any specific training on how to provide care to the prisoners in their charge.

61. The HSU in **Castlereagh Prison**, located on the lower floor of C Wing, comprises seven single-occupancy cells, six of which were occupied at the time of the visit; two of the prisoners were waiting for transfer to the CMH. The prisoners were allowed out of their cells for some seven hours a day but they were not engaged in any occupational therapy or educational activities. Further, there was no visiting psychiatrist or mental health team and the officers working on the unit, although committed, recognised themselves that they were not properly trained to work with prisoners suffering from serious mental disorders.

62. As regards **Midlands Prison**, there was no HSU but a consultant psychiatrist and a community psychiatric nurse, both from the CMH, provided eight half-day sessions every week and were seeing 68 patients at the time of the visit. Two specific issues came to the delegation's attention: it appeared that quite often there were no prison officers available to bring the prisoners to the medical unit to be seen by the psychiatrist and, secondly, that there was a need for better communication between the psychiatry team and the general practitioners; in this respect, the general practitioners who are responsible for health care in the establishment should take the lead. **Steps should be taken to address these two deficiencies.**

63. As was the case in 2010, the CPT's delegation again observed that Irish prisons continued to detain persons with psychiatric disorders too severe to be properly cared for in a prison setting; in particular, at Cloverhill Prison outside of the specific D2 vulnerable wing, a number of prisoners continue to be accommodated in special observation cells for considerable periods of time. For example, this was the case of MS (see paragraph 29 (iv) above) who was in a close supervision or safety observation cell from 8 September 2013 to 3 January 2014, 15 February to 3 April 2014, 15 to 23 May 2014 and 26 May to 18 August 2014 (i.e. some eight and half months in the course of less than a year). This not only represents a clear violation of the Prison Rules 2007 but would appear to breach the prisoner's constitutional rights outlined in the 2012 Kinsella judgment<sup>20</sup> in which the judge concluded that 11 days in a "padded" cell constituted a violation of the prisoner's constitutional right to the protection of the person and hence of Article 40.3.2 of the Constitution.

In their letter of 6 January 2015, the Irish authorities agreed with the CPT's position that there is a clear limit to the care that can be offered to mentally-ill persons in a prison setting. A prison setting cannot be expected to offer the full range of therapeutic options that should be available in a psychiatric hospital; indeed, even as regards pharmacotherapy a prison setting imposes restrictions, as was pointed out in the report on the CPT's 2010 visit.<sup>21</sup>

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<sup>20</sup> See *Kinsella v The Governor of Mountjoy Prison* [2012] 1 I.R. 467 Hogan J.

<sup>21</sup> See CPT/Inf (2011) 3, paragraph 87.



64. Consequently, for some persons detained in Irish prisons, the only suitable accommodation is a psychiatric hospital or more specifically, the CMH given its statutory role. However, the capacity of the CMH remains a concern for the CPT. It is positive that the plans to re-locate and expand the CMH on the grounds of St Ita's Hospital in Portrane are proceeding. The delegation was informed that the new facility should open by mid-2018 and will result in a net increase of 15 beds. However, at the time of the visit there was a list of some 26 prisoners awaiting transfer to the CMH, some of whom had been waiting as long as a year. Further, the CMH was apparently now admitting more civil psychiatric patients in recent years following the closure of several large psychiatric hospitals. This would suggest that even with the increase in capacity, the CMH will not be in a position to meet the demands on it from the criminal justice system.

The CPT recognises that there needs to be a multi-pronged approach to addressing the mental health needs of prisoners. In addition to the CMH offering beds for the most acute mentally-ill prisoners, consideration should be given to enhancing the possibilities for regular psychiatric hospitals to receive mentally-ill prisoners. Further, if the HSUs in prisons are to provide a stepping stone towards admission to a psychiatric hospital or a step-down unit for managing persons returned to prison from a psychiatric facility, it is essential that they be provided with the appropriate resources. This means that an HSU should not only be visited on a regular basis by a mental health team (psychiatrist, psychologist and psychiatric nurse) but that the staffing complement should include psychiatric nurses and officers with special training to work with mentally-ill prisoners, and a structured programme of activities should be offered to all prisoners accommodated within an HSU.

**The CPT recommends that the Irish authorities reflect further on the steps required to enhance the availability of beds in psychiatric care facilities for acute mentally-ill prisoners. Further, it recommends that the staffing at HSUs be reviewed in order to include the appropriate expertise in the light of the above-mentioned remarks.**

**The CPT would like to receive updated information on the provision of psychiatric care in all Irish prisons, in particular as regards Castlerea Prison. Further, it would like to be informed how many prisoners are currently waiting to be admitted to the CMH and of these prisoners how many are placed in ordinary prison accommodation, how many in HSUs and how many in close supervision or special observation cells.**

## **8. Other issues**

### **a. reception and first night procedures**

65. During the 2010 visit, the CPT's delegation was concerned that in the prisons visited, with the exception of Midlands Prison, there were no rigorous admission procedures or an induction programme to acquaint prisoners with the regime and running of the prison. The Committee recommended that the Irish authorities introduce proper reception and first night procedures as well as an induction process for newly-admitted prisoners in establishments which are points of entry to the prison system. In response to the report, the Irish authorities stated that dedicated committal areas had been introduced in all committal prisons together with relevant assessment and placement procedures on committal. The CPT welcomed such a development.

66. In the course of the 2014 visit, the CPT's delegation found that all prisoners underwent proper reception and first night procedures which included being provided with information on the establishment and a risk and needs assessment carried out prior to them being allocated to a wing. In this respect, the provision of a comprehensive information booklet to prisoners is positive. Making such information available in other languages than English would be useful, notably at **Cloverhill Prison**, where foreign national prisoners had to rely on a translation provided by other prisoners of the same nationality. Further, prisoners with reading and writing difficulties complained that they were not provided with any oral explanation of what was contained within the booklets.

Given the overwhelming impression on a person entering a prison establishment for the first time, **consideration might be given to phasing the induction programme over several days in order to enable newly-admitted prisoners a greater opportunity to take in the information. In addition, all foreign nationals who do not speak English or a language spoken by staff should be provided with interpretation services.**

**The CPT recommends that the Irish authorities take steps to ensure that foreign national and prisoners with reading and writing difficulties be provided with information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally and in the form of a brochure.**

b. discipline

67. In the report on the 2010 visit, the CPT reiterated its major reservations over the effect in practice of the sanction of "loss of all privileges" for a period of up to 60 days based on Article 13.1(d) of the Prisons Act 2007.<sup>22</sup> The report observed that such a measure can result in inmates being held for prolonged periods in conditions akin to solitary confinement (i.e. confined alone in a cell with no stimulation or contact with the outside world). The Committee also underlined that contacts between a prisoner and his/her relatives should under no circumstances be totally withdrawn.<sup>23</sup>

As regards the operation of the disciplinary process, in the report on the 2010 visit, the CPT recommended that the Irish authorities draw up guidelines for the imposition of disciplinary punishments and ensure that the procedural requirements for the inquiries into breaches of prison discipline are diligently applied.

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<sup>22</sup> Article 13.1(d) of the Prisons Act 2007 reads: prohibition, for a period not exceeding 60 days, on:  
(i) engaging in specified authorised structured activities or recreational activities,  
(ii) receiving visits (except those from a doctor or other healthcare professional, his or her legal adviser, a chaplain or member of the visiting committee to the prison, the Inspector of Prisons, a judge or representative of a court or tribunal, a member of either House of the Oireachtas, a representative of the Minister, Parole Board, Human Rights Commission or European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment or, if the prisoner is a national of another state, a diplomatic or consular officer of that state),  
(iii) sending or receiving letters (except letters from a person mentioned in subparagraph (ii) or the United Nations Committee against Torture or any document relating to the registration of electors (including entry in the postal voters' list) or to voting at an election or a referendum),  
(iv) using money or credit or any other facilities, including telephone facilities, or  
(v) possessing specified articles or articles of a specified class the possession of which is permitted as a privilege.

<sup>23</sup> See CPT/Inf (2011) 3, paragraph 93.

68. In April 2014, the Irish Prison Service issued Guidelines on the Imposition of Disciplinary Sanctions to ensure uniformity in the application of disciplinary sanctions and procedures throughout the prison system. In the interests of transparency and the principle of the rule of law, these guidelines should be made public. The document sets out the guidelines for disciplinary hearings and introduces a new upper limit of 40 days for the imposition of the sanction of “loss of all privileges”. Further, loss of family visits should not be employed as a sanction in response to a breach of discipline, even when the breach occurred during a visit, as the option of screened visits is always available for operational, administrative or security reasons.

In addition, since the visit in 2010, Challenging Behaviour Units have been established in some of the prisons to accommodate prisoners serving a disciplinary punishment.

During the visit, the CPT’s delegation was able to confirm from interviews with prisoners and documentation that contacts with family were no longer totally withdrawn as part of a disciplinary punishment; prisoners were entitled to receive one visit and one phone call per week. This is a positive development.

69. According to the Guidelines on the Imposition of Disciplinary Sanctions, “where the sanction imposed prohibits the prisoner from engaging in authorised activities, the nature of activities prohibited must be specified in the sanction imposed (e.g. prohibited evening recreation for 7 days, prohibited tuck-shop orders for 7 days, restricted gym/library/workshop access for 14 days)”. It appears that none of these prohibitions, even when the sanction of “loss of all privileges” is imposed, would result in a prisoner being placed in conditions akin to solitary confinement (i.e. 23-hour lock-up). Indeed, a specific disciplinary punishment of three days of cellular confinement exists in law. However, the findings of the delegation indicate that in reality, prisoners continue to be sentenced to periods of up to 56 days of solitary confinement as a disciplinary punishment.

An examination of the relevant documentation showed that in the majority of disciplinary cases, the sanction imposed according to Article 13.1(d) of the Prisons Act 2007 was one or more of the following: prohibition of evening recreation (i.e. lock-up in the cell after 5 p.m.), ordinary visits (except from family), phone calls, use of gym, using money/credit for periods ranging from 7 to 56 days.

70. In numerous cases where the disciplinary sanction involved more than “prohibition on evening recreation”, the prisoner concerned would be transferred to the Challenging Behaviour Unit or segregation unit within that prison or to another establishment. The regimes in force in these units consisted invariably of confinement to cell for 23 hours, with only one hour or less of access to outdoor exercise. Certain units, such as A Block in Portlaoise Prison or D Block in Cork Prison, were dedicated punishment blocks. Once the punishment was served, the prisoner would usually return to the establishment from which he had come.

For example, the delegation met a prisoner in the Challenging Behaviour Unit of Mountjoy Prison who had been transferred from Cloverhill Prison after he had received a disciplinary punishment of 56 days of prohibition on evening recreation, personal visits, using money/credit and phone calls.<sup>24</sup> Within the Challenging Behaviour Unit, he was locked in his cell for 23 hours a day, and alleged that during the first two weeks he was not even offered access to the outdoor exercise yard. The delegation met numerous prisoners who were de facto serving a disciplinary punishment of solitary confinement for periods of up to 56 days.

71. In the light of the delegation's findings during the 2014 visit, it remains the case that the sanction of "loss of all privileges" results in prisoners being held for prolonged periods in conditions akin to solitary confinement. The CPT has made it clear in previous reports that the imposition of such a regime for up to 56 days as a disciplinary sanction is totally unacceptable.

Given the potentially very damaging effects of solitary confinement, the CPT considers that the principle of proportionality requires that it be used as a disciplinary punishment only in exceptional cases and as a last resort, and for the shortest possible period of time. The CPT considers that the maximum period of solitary confinement as a disciplinary punishment should be no longer than 14 days for a given offence. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system.

**The CPT reiterates its recommendation that the Irish authorities take the necessary steps to clarify the legal basis for placing a prisoner in the equivalent of cellular confinement as a disciplinary punishment for more than three days. Further, the Irish authorities should ensure that no prisoner is placed in conditions akin to solitary confinement as a disciplinary punishment for a period in excess of 14 days and that sequential disciplinary sentences do not result in an uninterrupted period of solitary confinement in excess of this maximum period.**

72. The Challenging Behaviour Unit at **Castlerea Prison** is located in C2 Wing and comprises three punishment cells, one close supervision cell and one safety observation cell. The prisoners on punishment at the time of the visit (for a period of up to 56 days) were offered outdoor exercise twice a day either alone or with other prisoner.

The delegation was concerned to learn that prisoners placed in the disciplinary cells were not visited daily by the health-care staff but rather only upon the request of the inmate. The CPT wishes to remind that medical personnel should be very attentive to the situation of prisoners placed under solitary confinement.

**The CPT recommends that the Irish authorities amend the relevant legislation and practice in the light of Rule 43.2 of the revised European Prison Rules.<sup>25</sup>**

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<sup>24</sup> At Midlands Prison, contrary to the Guidelines on the Imposition of Disciplinary Sanctions, the prisoners were given a sanction of prohibition on specific activities without specifying their nature, just adding the word "other".

<sup>25</sup> European Prison Rule 43.2 reads: The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff.

73. At **Mountjoy Prison**, the Challenging Behaviour Unit, located adjacent to the committal area, consists of eight single-occupancy cells where prisoners are placed under a regime of 23-hour lock-up. The cells, each measuring approximately 7 m<sup>2</sup>, are equipped with a concrete platform and a mattress, a semi-partitioned toilet, a wash basin, a chair, a cupboard, a TV set and a kettle. Access to natural light is sufficient and artificial lighting and ventilation satisfactory. There is a shower with four shower heads and a separate exercise yard where prisoners may exercise daily for an hour. There is no staff office and due to staff cuts in recent years the unit is staffed by officers on duty in the committal area who only check the unit every 30 minutes.

On the day of the visit, there were five prisoners in the unit, one for purposes of protection and the other four following a breach of prison discipline, for periods ranging from 14 to 56 days.

At **Midlands Prison**, the delegation was informed that the establishment had stopped receiving prisoners on punishment from other prisons in 2011. Instead, Midlands Prison now sends its prisoners to Portlaoise Prison as well as to Mountjoy Prison to serve a disciplinary punishment; at the time of the visit, there were reportedly three prisoners from Midlands serving a sanction of “loss of all privileges” for a period of up to 40 days in Portlaoise Prison’s A Block.<sup>26</sup>

The A Block of **Portlaoise Prison** was described in the 2010 visit report<sup>27</sup> and the material conditions remain adequate. Two out of the five eight-cell units in A Block are closed units used to accommodate prisoners transferred from other blocks or from other prisons to serve a disciplinary punishment (10 at the moment of the visit). As regards the regime for prisoners on punishment, the delegation noted that, according to the prison management, inmates supposedly spent up to four hours out of their cells to exercise in the yard or use the gym with up to two other prisoners; they were entitled to one visit and one phone call per week. There were no educational or other purposeful activities in place. However, it transpired from interviews with a number of prisoners and staff and from records that they were only offered one hour out of cell per day.

74. The Committee has reservations regarding the practice of routinely transferring inmates to other prisons to serve a disciplinary sanction under Article 13.1(d) of the Prisons Act 2007.<sup>28</sup> In particular, persons who received a disciplinary sanction of “loss of all privileges” were not only transferred to another prison to serve their punishment but were subsequently held in the segregation block or Challenging Behaviour Unit in conditions akin to solitary confinement for the period of the loss of privileges. As far as possible, a prisoner should serve any disciplinary sanction within the same establishment as that in which the offence was committed. The Committee understands that in some cases it might be necessary to transfer a prisoner for operational reasons to another establishment but this should be a permanent transfer and not merely for the duration of the disciplinary punishment.

**The CPT recommends that the Irish authorities end the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.**

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<sup>26</sup> Midlands Prison in turn had to take an equal number of Portlaoise prisoners in order to even up the numbers. From 1 January to 22 September 2014 some eighty prisoners were transferred from Midlands to Portlaoise.

<sup>27</sup> See CPT/Inf (2011) 3, paragraph 96.

<sup>28</sup> The phenomenon of “transfer as punishment” appears to be well known among the prisoners and has several names, notably “the ghost train”, “the Shanghai”, “highway/road 69”.

c. use of special observation cells

75. According to Rule 64 of the Prison Rules 2007, a prisoner shall be accommodated in a special observation cell only if “it is necessary to prevent the prisoner from causing imminent injury to himself or herself, or others and all other less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances”.<sup>29</sup> During the 2010 visit, the CPT’s delegation was deeply concerned by the situation of prisoners placed in special observation cells and urged the Irish authorities to clearly identify the purpose of the special observation cells and to ensure that clear operating procedures governing the placement of inmates were in place.

In response to the report, the Irish authorities mandated the Irish Inspector of Prisons to look into the use of the special observation cells (that is both safety observation and close supervision cells). Following the recommendations of the Inspector, in November 2013, the Irish Prison Service introduced separate standard operating procedures on the use of safety observation and close supervision cells. The visit carried out in 2014 provided a good opportunity to examine the implementation of the Standard Operating Procedures in practice.

76. According to the Standard Operating Procedures on Close Supervision Cells, such cells may be used for managing violent or distressed prisoners and only when alternative and less restrictive methods of control are considered by the Governor as inadequate. A prisoner must be observed by a prison officer every 15 minutes in a close supervision cell. The Governor and doctor must visit each prisoner accommodated in a close supervision cell on at least a daily basis. After the initial period of 24 hours, the measure may be extended by the Governor for an additional 24 hours. If a prisoner is accommodated in a close supervision cell for longer than five days, the Governor shall submit a report to the Director General of the Irish Prison Service, who thereafter must provide written authorisation to a Governor for the measure to be extended.

According to the Standard Operating Procedures on Safety Observation Cells, such cells may only be used when a prisoner poses an immediate threat of serious harm to him/herself and/or others and when all alternative interventions to manage the patient’s unsafe behaviour have been considered. The authority to direct that a prisoner be accommodated in a safety observation cell is irrevocably delegated to medical practitioners and registered nurses only. A prisoner placed in a safety observation cell must be observed by a prison officer at least once every 15 minutes. A registered nurse will review the patient at least every two hours and a medical review must be carried out by a registered medical practitioner every 24 hours. After the initial period of 24 hours, a new order may be issued by a registered medical practitioner, following an examination, for a further period not exceeding 24 hours up to a maximum of three renewals (72 hours). Thereafter, the Director General and the Director of Care and Rehabilitation of the Irish Prison Service must be notified in writing on a weekly basis.

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<sup>29</sup> Rule 64 has been described in more detail in the 2010 visit report. See CPT/Inf (2011) 3, paragraph 79.

77. At **Castlerea Prison**, one close supervision cell and one safety observation cell were located in the Challenging Behaviour Unit. The cells were suitably equipped, access to natural light was adequate and the artificial lighting and ventilation sufficient.

At **Mountjoy Prison**, the five close supervision cells (two in B Base, two in C1 Wing and one in the medical unit) each measured approximately 8 m<sup>2</sup> and were equipped with a mattress and a plinth, a table and a chair, a TV in protective casing, a call bell and in-cell sanitation. The artificial lighting was sufficient but there was no access to natural light in the cell in B Base. There was also a problem with ventilation in the cells on C1 Wing with temperatures rising to 35°C in July 2014.<sup>30</sup> There were also two safety observation cells in the medical unit which were lined with a resistant spongy material to prevent prisoners from self-harming and also had a glass safety door to allow better observation.

At **Midlands Prison**, the four close supervision cells in A and E Wings each measured approximately 9 m<sup>2</sup> and were suitably equipped. Access to natural light was adequate and the artificial lighting and ventilation sufficient. However, the close supervision cell in B Wing possessed only a mattress on the plinth and had no in-cell sanitation; the prisoner in the cell at the time of the visit had to use a bucket and slop out. Such a state of affairs should be ended. All close supervision cells should be equipped with in-cell sanitation and, in the meantime, arrangements should be made to ensure that prisoners are able to access the toilet when required.

**The CPT recommends that the Irish authorities remedy this situation accordingly.**

78. In the report on the 2010 visit, the CPT had stressed that after placing a prisoner in a special observation cell (whether for medical reasons or to calm a violent inmate), rip-proof clothing should only be provided where necessary, after an individual risk assessment. However, during the 2014 visit, the CPT's delegation found that prisoners placed in close supervision or safety observation cells routinely had all their clothing removed (including underwear) and were provided with rip-proof ponchos. It is noteworthy that the Standard Operating Procedures on Close Supervision Cells require an individual risk assessment as to whether "items or parts of the prisoner's clothing may be used by the prisoner to harm others or to cause significant damage" before an inmate's clothes may be removed.<sup>31</sup>

**The CPT recommends that the Irish authorities ensure that there is no routine removal of prisoners' clothes upon their placement in close supervision or safety observation cells. To this end, the Standard Operating Procedures on Close Supervision Cells should be properly applied and the Standard Operating Procedures on Safety Observation Cells should be amended accordingly.**

79. As mentioned above, the Standard Operating Procedures make a clear distinction between the use of safety observation cells for health-care purposes and close supervision cells for good order purposes. However, the delegation found that there was a degree of confusion among prison staff and management as to the specific purpose of each category of cell. It appeared that safety observation cells and close supervision cells were at times used interchangeably.

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<sup>30</sup> The close supervision cells in the C1 Wing were lined with a resistant spongy material.

<sup>31</sup> See Standard Operating Procedures on Close Supervision Cells, paragraph 4.3.1.

For example, at both **Midlands and Mountjoy Prisons**, the records from the close supervision cell logs showed that prisoners were placed in these cells for varying reasons, some of which were contrary to their intended purpose, notably: “threats of self-harm”, “self-harm observation”, “suicidal intentions”, “attempted suicide”, “doctor’s recommendation”, “own request”. An examination of the relevant documentation and interviews with prisoners and staff seemed to indicate that prisoners who should have been placed in safety observation cells were in fact accommodated in close supervision cells. This is a matter of concern since inmates who pose an immediate threat of harm to themselves should be placed in the safety observation cells where they can benefit from the necessary medical safeguards.

In addition, as regards the use of the safety observation cells, the delegation came across a few cases in several prisons where, contrary to the requirements of the Standard Operating Procedures, the inmates were not observed by a nurse every two hours and/or visited by the general practitioner every day.

For example, an inmate at **Mountjoy Prison** was placed in the safety observation cell from 3 a.m. on 11 February 2014 until 6.30 p.m. on 22 February 2014. According to the records, he was only seen by the general practitioner on four of the nine days he was held in the safety observation cell. In addition, no record could be found of his detention having been referred to either the Director General or the Director of Care and Rehabilitation after the initial 72 hours had expired.

Further, the record keeping of placement in the special observation cells at Mountjoy Prison was of poor quality; with no other information recorded except for the prisoner’s name in many cases.

**The CPT recommends that the Irish authorities review the use of close supervision and safety observation cells to ensure that all placements and supervision strictly conform to the Standard Operating Procedures.**

80. Furthermore, with the exception of Wheatfield Place of Detention, there were no records regarding outdoor exercise offered to inmates placed in close supervision or safety observation cells<sup>32</sup>; indeed, the vast majority of prison officers, as well as members of the management, were under the impression that such prisoners were not entitled to at least one hour of outdoor exercise per day. At Cloverhill Prison, one prisoner was placed in the close supervision cell and, at the time of the visit, had been held there for five weeks. He claimed that during that period he was not allowed to leave the cell except to go to court.

The Committee considers that all prisoners, regardless of their situation, should be offered at least one hour of outdoor exercise every day.

**The CPT recommends that the Standard Operating Procedures be amended with a provision explicitly entitling prisoners to at least one hour's outdoor exercise every day, as from the very first day of placement in either a close supervision or safety observation cell. Immediate steps should be taken to ensure that all such inmates are offered at least one hour of outdoor exercise every day.**

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<sup>32</sup> This was also echoed during the interviews with the prisoners who alleged that they were kept in the cells for 24 hours per day.



d. complaints procedures

81. A well-functioning complaints system is in the interest of all parties; it can serve as a valuable source of information for prison management about potential problems in the establishment as well as allaying tension among prisoners by ensuring that their concerns are treated seriously and, where appropriate, that suitable remedies are offered.

In this context, the CPT acknowledges the important steps taken by the Irish Prison Service to address the concerns raised in its report on the 2010 visit regarding the absence of an effective complaints mechanism in prisons. In 2013, the Prison Rules were amended to incorporate a new complaints mechanism and in June 2014 the Irish Prison Service Complaints Policy 2014 was adopted which aimed to provide prisoners with an accessible and effective means to make a complaint.

The policy established six categories of complaints:

- Category A complaints deal with assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service;
- Category B complaints are complaints of a serious nature, but not falling within any other category of complaint (e.g. verbal abuse of prisoners by staff, inappropriate searches or any other conduct against a prisoner of a nature likely to bring discredit on the Irish Prison Service);
- Category C complaints are basic service level complaints (and may include complaints about visits, phone calls, reception issues, missing clothes, not receiving post on time, not getting appropriate exercise);
- Category D complaints are complaints against professionals which, for example, may include medical personnel, legal/financial representatives;
- Category E complaints are those made by visitors to the prison;
- Category F complaints relate to complaints against decisions made by the Irish Prison Service Headquarters in relation, for example, to such matters as the granting of temporary release, prison transfers.

In all the prisons visited, the delegation found that complaint boxes and standard complaint forms to cover all categories of complaints were freely available. The boxes were emptied every working day by a delegated officer and the complaints were subsequently categorised by a Governor.

82. In the course of the 2014 visit, the delegation focused its attention on the examination of the Category A complaints since those dealt with the alleged ill-treatment of prisoners by staff. According to the Prison Rules (Amendment) 2013, any allegation of a criminal offence has to be notified to An Garda Síochána and the Governor has to take measures to preserve all relevant material including CCTV recordings; arrange for the prisoner to be examined by a member of the health-care services and any injuries or marks to be recorded and photographed if any physical force is alleged; arrange for the names of all prisoners, staff and others who may be potential witnesses to be recorded. Within seven days of being notified of a Category A complaint, the Governor has to refer the complaint and the evidence gathered to the Director General of the Irish Prison Service and also notify the Inspector of Prisons.

The Director General appoints an investigation team comprising one or more persons from a pool of 22 independent investigators.<sup>33</sup> The investigation team may gather evidence, interview persons and take statements. They are given access to the prison and to all records to which the complaint relates. The investigation of Category A complaints should not, except in exceptional circumstances, exceed three months. If an investigation is not completed within three months an interim report has to be submitted to the Governor and the Director General of the Irish Prison Service documenting the progress made and the reasons why further time is required to complete the report.

Based on the report from the investigators, the Governor takes the decision regarding the complaint. If the complainant is not satisfied with the outcome of the investigation, he/she may write to the Inspector of Prisons and the Director General of the Irish Prison Service. However, the Irish authorities acknowledged that this did not constitute an appeals mechanism and that steps would be taken to rectify this legal lacuna.

**The CPT would like to receive information whether the relevant amendments establishing an appeals mechanism for Category A complaints have been adopted.**

83. There were 25 Category A complaints at **Mountjoy Prison** during the year from September 2013 to September 2014.<sup>34</sup> In general, the complaints register was well kept and the relevant records were noted meticulously. The quality of the investigations, on the other hand, varied considerably – from very diligent with comprehensive reports to poor ones. For example, in one case, while investigating a prisoner’s complaint on alleged ill-treatment by staff when using control and restraint techniques, the investigators did not even check the CCTV footage.

Further, the delegation detected delays in some cases of up to three and a half months between the lodging of the complaint and the start of the investigation by an external investigator; in one case, the incident happened on 29 January 2014 but the investigator was only mandated by the Irish Prison Service in mid-April and the investigation only started on 14 May 2014. It appeared that, contrary to the Complaints Policy, the whole procedure, from filing of the complaint until the complainant was informed of the result, lasted on average between two and seven months.

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<sup>33</sup> The Director General may decide not to appoint an investigation team if he or she is satisfied that the complaint is vexatious, without foundation or falls outside the scope of the Prison Rules (Amendment) 2013.

<sup>34</sup> Two of them were made orally and noted in the log book but then the persons concerned refused to take a form and eventually withdrew the complaint.

At **Midlands Prison**, in the 12 months prior to the visit, there were 16 Category A complaints registered. In total, five complaints were about physical ill-treatment and one about verbal abuse by staff. In all these cases the investigations were still open; the earliest dating back to beginning of June. The delegation was concerned that investigations were not being carried out expeditiously with investigators coming to Midlands Prison every few months to deal with complaints. For example, in one case, the alleged incident happened on 1 June but the investigator only interviewed the officers in question on 22 August. An incident of 3 June was notified to the Governor on 23 June; the Irish Prison Service was in turn only notified on 18 July. Investigations into an incident of 10 June started only on 7 August. A case of 8 August, notified to the Governor on 18 August, seemed (on 22 September) to have not yet been assigned to an investigator.

Expeditious investigation is of key importance to the effective functioning of the complaints system. The Committee is concerned that such delays might have a negative impact on the whole investigation and the new complaints system risks losing its credibility.

**The CPT recommends that the Irish authorities take measures to ensure the regular training of independent investigators on comprehensive and effective investigation of complaints. The CPT also recommends that the Irish authorities make additional efforts to ensure that the investigation of Category A complaints takes place and is completed within the time limits provided by the Irish Prison Service Complaint Policy, i.e. within three months.**

84. At **Midlands Prison**, the delegation was concerned to find that some files did not contain clear information on whether the complainant was medically checked following the incident; indeed, certain complainants claimed that they had not been seen by a doctor after the alleged incident.

The CPT pays particular attention to the role to be played by prison health-care services in relation to combating ill-treatment. The accurate and timely documenting of injuries will greatly facilitate the investigation of cases of possible ill-treatment and the holding of perpetrators to account. Any prisoner who has been involved in a violent episode within prison should be examined by a doctor without delay.

**The CPT recommends that the Irish authorities take the necessary steps to ensure that every prisoner involved in a violent episode is subject to a comprehensive health-care assessment by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after the incident.**

e. transport of prisoners

85. In the course of the 2014 visit, the CPT's delegation again received complaints from prisoners about unsatisfactory conditions of prison transportation. In particular, prisoners stated that they were held in the small individual compartments of transport vehicles for prolonged periods as some courthouses did not possess holding cells (for example, Dungarvan District Court or Wexford) or had too few cells (such as Navan). In some instances, prisoners had spent up to 12 hours in the transport vehicle and, on occasion, had had to urinate in the closed compartment of the transport vehicle as there was apparently insufficient staff to facilitate toilet escorts. This state of affairs was confirmed by prison officers who were alarmed at the way in which escorts were taking place. Further, the delegation learned that prisoners (except for the elderly, disabled and women) were still routinely handcuffed during journeys. The Committee recalls that handcuffing during transportation should be resorted to only when the risk assessment in the individual case clearly warrants it and be done in a way that minimises any risk of injury to the detained person.

**The CPT reiterates its recommendation that the Irish authorities review the system of transportation of prisoners in the light of the above remarks and examine the possibility of establishing holding cells in those courts where none currently exist.**

**C. Adult female prison establishments**

**1. Preliminary remarks**

a. introduction

86. Women deprived of their liberty constitute a group with distinctive needs, biological as well as gender-specific. Some female prisoners also have particular vulnerabilities due to their social and cultural roles. In all Council of Europe member States, women inmates represent a comparatively small minority of prisoners. This can render it very costly for States to make separate provision for women in custody, with the result that they are often held at a small number of locations (on occasion, far from their homes and those of any dependent children), in premises which were originally designed for (and may be shared by) male detainees. In these circumstances, particular care is required to ensure that women deprived of their liberty are held in a safe and decent custodial environment.

Due to significantly different proportions in numbers, there is a risk that gender-specific needs of female prisoners will be disregarded. However, it is important that a number of factors is taken into account when dealing with women offenders, including sexual/physical abuse or domestic violence they might have suffered before the imprisonment, a high level of mental health-care needs, a high level of drug or alcohol dependency, specific health-care needs of women, their caring responsibilities for their children and/or their families, and the high likelihood of post-release victimisation and abandonment by their families.

87. Women constitute a very small proportion of the general prison population in Ireland, approximately four per cent out of a total prison population of 3,810 at the time of the visit. Most female prisoners are committed for short-term prison sentences for non-violent offences, including non-payment of fines, and in general they pose a low risk to society. Further, according to research undertaken by the Irish Penal Reform Trust, a large proportion of them suffer from mental health problems and/or substance addiction, and come from an abusive family.

All women sent to prison, even for minor offences or non-payment of fines, are sent to either the Dóchas Centre in Dublin or Limerick Prison. At present, there is no open or semi-open prison for women in Ireland, which places women in a less favourable position as compared with male offenders.

88. In March 2014, the Irish authorities adopted a Joint Probation Service – Irish Prison Service Strategy 2014-2016 “An Effective Response to Women Who Offend”. The Strategy acknowledges the specific needs of women offenders and aims to provide more tailored women-centric interventions, to reduce offending among this group, and to improve opportunities for reintegration. In addition, the Irish Prison Service has established a working group to examine possible locations for a new open centre for female prisoners.

**The CPT recommends that the Irish authorities move ahead rapidly with their plans for an open prison for women. Until such time, consideration should be given to enhance the provision of home leaves for female prisoners who would otherwise have qualified for placement in an open prison. Further, the CPT would like to receive information on the implementation of the Strategy 2014-2016 “An Effective Response to Women Who Offend”.**

b. overcrowding

89. The **Dóchas Centre**, opened in 1999, is the only dedicated prison for remand and sentenced females aged 18 years and over; it forms part of the Mountjoy Complex.<sup>35</sup> With an operational capacity of 105, it was holding 122 inmates at the time of the visit (98 sentenced and 24 remand) and two immigration detainees awaiting deportation. The Centre has eight accommodation houses; three of them are declared to be drug-free and the cells inside them are not locked during the night.

However, to relieve the situation of overcrowding the inmates were also accommodated in recreation rooms and offices in the units that had been converted into cells. The delegation was informed that many women could not make use of the community return or community support programmes, and thus be released earlier, since they had nowhere to go. According to the counterparts met by the delegation, one of the steps to alleviate this state of affairs is the opening of the centre for homeless women in Finglas, Dublin that would accommodate women released early from the Dóchas Centre.

**The CPT would like to receive information as to whether the facility in Finglas has been opened to accommodate homeless women.**

90. **Limerick Prison** has been described in the 2010 visit report.<sup>36</sup> Since the last visit, renovation works were completed in the female section of the prison which provided an additional 14 cells and at the time of the visit, the section was holding 20 inmates for an operational capacity of 24 (four of them remand prisoners).

Although at the time of the visit the unit was not overcrowded, the Governor reported and the documentation confirmed that most of the time the unit was accommodating some 30 to 32 women for 24 places; in such cases, six to eight women had to sleep on mattresses on the floor. Such a situation should not continue. The Irish authorities informed the delegation that the Capital Expenditure Plan 2012-2016 included the construction of a new accommodation block in Limerick Prison for female prisoners, comprising 50 single-occupancy cells and eight “step down” apartments.

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<sup>35</sup> The Dóchas Centre was visited in 2002 and 2010 (to visit a particular prisoner).

<sup>36</sup> See CPT/Inf (2011) 3, paragraph 28. Limerick Prison was visited in 1998, 2006 and 2010.

**The CPT would like to receive information on the progress regarding the construction of the new accommodation block in Limerick Prison.**

91. The Committee reiterates the importance of drawing up a coherent strategy covering both admission and release from prison, to ensure that imprisonment really is the measure of last resort. Emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, inter alia, to the prisoner's personality and the nature of the sentence.

This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the Committee reiterates that a strategy for the sustainable reduction of the prison population should be guided by relevant Recommendations of the Committee of Ministers of the Council of Europe.

**The CPT recommends that the Irish authorities continue their efforts to end overcrowding in female prisons, having regard, inter alia, to the principles set out in Recommendation No. R (99) 22 and other pertinent Recommendations of the Council of Europe's Committee of Ministers.**

## **2. Ill-treatment**

92. The CPT's delegation gained the impression that relations between female inmates and staff were, on the whole, positive and of a constructive nature in both establishments visited. However, a few complaints were received about officers using more physical force than was necessary.

For example, at the female section of **Limerick Prison**, an inmate claimed that some three weeks prior to the CPT's visit, after wrecking the flower bed in the yard and refusing to return to her cell, she was physically assaulted by prison officers. The prisoner alleged that the officers had pinned her to the ground and sat on her head; as a consequence, she had received a black eye. After the incident the prisoner was examined by a nurse who registered "minor bruises" in her medical record.

**The CPT recommends that Irish authorities reiterate to prison officers that no more force than is strictly necessary and proportionate should be used to bring an agitated and/or violent prisoner under control.**

93. At **Dóchas Centre**, the delegation received a few allegations concerning sexual relationships between male officers and female prisoners, and that one particular officer regularly made inappropriate comments to female prisoners. The delegation was unable to confirm the veracity of the allegations regarding sexual relationships; nevertheless, **the CPT encourages the Irish authorities to remain vigilant with regard to inappropriate behaviour and sexual relationships between prison staff and female inmates, and that any allegations be taken seriously.**

94. At **Dóchas Centre**, the delegation received many allegations of inter-prisoner bullying and violence. A high number of low level incidents created an atmosphere of tension among inmates which was exacerbated by a high prevalence of drugs in the prison.<sup>37</sup> Although there were no prisoners on protection, the delegation met two inmates who were afraid to leave their cells even to go to the dining room and who, subsequently, had not been receiving warm food for several months.<sup>38</sup> The delegation was concerned by the passive approach of staff, who took no proactive measures to tackle the inter-prisoner bullying. This state of affairs was confirmed by several female prisoners met by the delegation in Limerick Prison who had until recently been accommodated in the Dóchas Centre.

**The CPT recommends that the Irish authorities take the necessary steps to put in place a robust strategy for tackling inter-prisoner violence and intimidation in the Dóchas Centre. Further, proactive steps should be taken to ensure that all inmates benefit from out-of-cell activities and are able to access warm food.**

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

#### a. material conditions

95. At **Dóchas Centre**, the majority of prisoners were accommodated in single-occupancy cells of an adequate size, suitably furnished and with in-cell sanitation, including a shower. The cells had good access to natural light and the artificial lighting and ventilation were sufficient. Single-occupancy cells in the Willows House (a self-contained unit for prisoners on the enhanced level of the incentivised regime) were bigger (approximately 16 m<sup>2</sup>) and equipped to a higher standard.

However, as stated above, some inmates were accommodated in recreation rooms and offices converted into cells. For example, one former recreation room in Rowan House accommodated four to six women. The room had a separate shower and a toilet and was equipped with six beds, four chairs and two tables and a TV set but no lockers for personal items, which had to be stored under the beds. **The CPT trusts that recreation rooms and offices will no longer be used for accommodation purposes once the occupancy levels fall below 105.**

96. The female section in **Limerick Prison** consisted of 12 double-occupancy cells. The cells (each approximately 9m<sup>2</sup>) were furnished with a bunk bed, a table, a cupboard, a sink and a toilet. They had good access to natural light and the artificial lighting and ventilation were sufficient. However, they were dilapidated and cold. **The CPT recommends that the Irish authorities pursue the refurbishment of the female section in order to provide adequate material conditions for inmates. Further, the CPT emphasises that, ideally, cells measuring 9 m<sup>2</sup> should be used to accommodate only one prisoner.**

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<sup>37</sup> The delegation has also received allegations of sexual exploitation among female prisoners in exchange for drugs.

<sup>38</sup> One of the prisoners claimed that she had not been to the canteen for the past ten months.



b. regime

97. At **Dóchas Centre**, prisoners were offered a wide range of activities. There were 15 workshops which included courses in jewellery making, computer literacy, business administration, beauty care, horticulture, crafts, photography and English. Work training activities were also available and included catering, kitchen, sewing, hairdressing, laundry, gardening, industrial skills, computers and industrial cleaning. For recreation and sports activities, inmates had access every day to a sports ground and a fitness gym equipped with cardio-vascular workout machines.

However, at the female section in **Limerick Prison** the situation had not evolved since the visit in 2010.<sup>39</sup> Due to lack of space and poor material conditions, the inmates had restricted access to meaningful activities. The classroom for arts and crafts was located in an underground area and there was no natural light in the room. Access to other educational and vocational activities was often problematic, as it had to be coordinated with the timetable of male prisoners. Women also could not work in the prison's kitchen, as only male inmates were working there.

**The CPT reiterates its recommendation that the Irish authorities make additional efforts to provide female inmates at Limerick Prison with better access to meaningful activities.**

4. **Health-care services**

a. staff and facilities

98. The health-care team at **Dóchas Centre** consisted of a chief nurse officer, six registered nurses and one medical orderly. While one of the nurses was a registered midwife, there were no registered mental health nurses. A general practitioner attended the establishment for four hours every weekday morning, while at weekends a locum general practitioner was on call and attended as required. For an inmate population of some 100 to 130 inmates, such health-care staff levels are adequate.

Access to health care seemed to be good. Inmates were able to request to see a nurse or a doctor during any of the four medication rounds that took place every day. On average, the general practitioner saw between 10 and 15 patients each day. Cervical smears, routine vaccination and breast examination were all undertaken by the general practitioner.

In addition, a consultant psychiatrist visited for two half-days each week; an optician and chiropodist attended the prison as well. A dentist attended once every two weeks but during the few months before the CPT's visit the dentist had been present every week.

A multidisciplinary team meeting took place once a week and was attended by the psychiatrist, general practitioner, probation services, community psychiatric nurses and nursing staff. The medical member of the delegation, who was present during a team meeting, was impressed with the quality of the multidisciplinary discussion; however, there was no detailed record of that discussion or any multidisciplinary written care plan. **The CPT would appreciate the observations of the Irish authorities on this matter.**

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<sup>39</sup> See CPT/Inf (2011) 3, paragraph 51.

99. The staffing of the health-care team at **Limerick Prison** (including the female section) was one chief nurse officer and eight fully qualified nurses/nurse officers. At the time of the CPT's visit, 2.5 nursing posts were vacant. The general practitioner usually attended the prison for around one hour every weekday morning which was totally inadequate for a prison with an operational capacity of 220 male prisoners and 20 female prisoners. A locum doctor attended on Saturdays and was often in the prison for up to three hours at a time. As regards nursing staff resources, they can be considered as sufficient. However, a prison of this size should have the equivalent of one full-time general practitioner.

Access to health care seemed to be inadequate at Limerick Prison. The records showed that it was often the case that many of the prisoners who were listed to see the general practitioner were not in fact seen or were examined in a very cursory manner. For example, on 19 September 2014, the general practitioner is recorded as having arrived at the prison at 08:05 and having left at 08:55. During that time, twenty-one persons attended the health centre including four groups that could not mix with each other as they had to be kept separate for safety reasons. The output of the general practitioner would seem to imply that the doctor could not cope with the commitment of providing medical services at Limerick Prison.

**The CPT recommends that the Irish authorities take measures to ensure that the general practitioner employed at Limerick Prison is suitably motivated, spends more time in the prison on consultations and that prisoners are able to have proper access to health care, in the light of the above remarks. Further, steps should be taken to ensure that the prison has the equivalent of a full-time general practitioner.**

b. medical assessment on admission

100. Women inmates entering the **Dóchas Centre** received a comprehensive medical examination upon admission. Newly-admitted prisoners were seen by a nurse within a few hours of their admission and by the general practitioner the following day. Both the notes of the nurse and of the general practitioner were particularly detailed.

At **Limerick Prison**, the review of a number of prisoners' records showed that, in general, the nurse committal pro forma was well annotated, whereas the general practitioner's admission notes were particularly scant, to the extent that little inference could be drawn as to the state of health of the individual.

**The CPT recommends that the Irish authorities take steps at Limerick Prison to ensure that every prisoner benefits from a full clinical assessment of the prisoner's physical and mental health, and that the findings are duly recorded.**

c. drug related issues

101. At **Dóchas Centre**, drug misuse, mainly prescription tablets, was a serious problem; they were thrown over the wall or were brought in by visitors, or inmates themselves brought them back after a temporary release. As stated above, accessibility to drugs was one of the factors fuelling the inter-prisoner violence and intimidation in the establishment. The substitution therapy, i.e. methadone, was prescribed for prisoners with opiate addiction— 43 at the time of the visit – who had their urine checked weekly to ensure compliance.

At **Limerick Prison**, there was a “methadone doctor” who attended the prison twice a week. The prison general practitioner, even though he was a “methadone doctor” in Limerick City, did not prescribe methadone in the prison. The result was that, if a prisoner taking methadone was committed to Limerick Prison on a Friday afternoon, it would be the following Wednesday afternoon, at the earliest, that s/he could have this prescription continued. This is totally unacceptable.

**The CPT recommends that the Irish authorities continue to pursue vigorously the drug strategy programme designed to put an end to drug misuse in prisons. Further, it recommends that the Irish authorities take steps at Limerick Prison to enhance harm reduction programmes, including substitution treatment, and to ensure appropriate continuation of community-based methadone treatment upon imprisonment.**

d. mother-and-baby unit

102. In Ireland, women sentenced to a term of imprisonment who have children under the age of one may be allowed to keep their babies with them in prison until they turn one year, based on an assessment of the best interest of the child. Such prisoners are accommodated in the mother-and-baby unit in the **Dóchas Centre** which made a positive impression on the delegation.

The mother-and-baby unit had four individual rooms of which two were occupied at the time of the CPT’s visit. The rooms, measuring approximately 16 m<sup>2</sup>, were suitably equipped with a bed, a table and a chair, and each had an adjoining sanitary annexe with a shower, a sink and a toilet. Large windows in the rooms provided good access to fresh air and natural light, however, the women complained about the low temperature in the rooms, as there was no central heating. **The CPT trusts that this deficiency will be remedied.**

The unit had a common living room (approximately 20 m<sup>2</sup>), which was nicely decorated with children’s paintings and equipped with sofas and toys. There was also a kitchen (approximately 16 m<sup>2</sup>) with a table and chairs, cooking and washing facilities, a refrigerator and a separate yard.

The specific sanitary and hygiene needs of the mothers were adequately met. Sanitary and hygiene products were supplied as needed to the mothers free-of-charge (nappies, soap, shampoo, washing powder, clothing). Similarly, the mothers were provided with baby food for their babies.

At the time of the CPT's visit, the two mothers were on the enhanced level of the incentivised regime. They were allowed to stay with their babies all day long, and could also take them to classes and workshops.

103. The prison doctor sees the pregnant prisoners as a general practitioner and provides ante-natal care. The women receive shared care and are also referred to obstetricians outside the prison. Infants receive vaccinations at two, four and six months. A public health nurse comes once a week for the first six weeks after the childbirth and sees the infant.

## 5. Other issues

### a. reception and first night procedures and information to prisoners

104. At **Dóchas Centre**, the delegation gained a positive impression of the reception and first night procedures. Newly-admitted prisoners were provided with an information brochure in English which contained first night information as well as house rules and daily routines. However, the brochure was available only in one foreign language, Polish. The prison management informed the delegation about the plans to put in place a proper induction programme by the end of the year that would also provide assistance for persons with reading and writing difficulties entering the prison. This would be a welcome development. In addition, all foreign nationals who do not speak English or a language spoken by staff should be provided with interpretation services.

At **Limerick Prison**, on the contrary, there was no information on the establishment and the house rules were not provided to the newly-admitted female prisoners.

**The CPT recommends that the Irish authorities take the steps to ensure that all newly-admitted prisoners, including foreign national and prisoners with reading and writing difficulties, be provided information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally and in the form of a brochure.**

### b. disciplinary/security measures

105. At **Dóchas Centre**, the delegation received many complaints regarding the application of the disciplinary procedures. The inmates alleged that the punishment system was arbitrary and lacked transparency, and that very often the sanctions depended on the likes and dislikes of the prison management. Such a perception by prisoners undermines the operation and trust in the system and fuels tension among the inmates. The CPT recalls that it is in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice; any grey zones in this area involve the risk of seeing unofficial (and uncontrolled) systems developing. The prisoners should clearly know what punishment could be awarded for different breaches of prison discipline. The Committee does not criticise the fact that good relations exist between staff and inmates in custodial settings – far from it. However, there is a very real difference between the situation where good relations are based on mutual respect for the rights and obligations of all staff and inmates and one where they are based on favouritism towards a privileged minority.

Furthermore, the delegation was concerned to discover that, on occasion, prisoners were sent from Dóchas Centre to Limerick Prison to serve a disciplinary punishment. For example, a prisoner who received a disciplinary sanction in Dóchas Centre – 28 days of prohibition of evening recreation – was transferred to Limerick Prison for that period of time. The Committee has reservations regarding the practice of routinely transferring inmates to other prisons to serve a disciplinary sanction under Article 13.1(d) of the Prisons Act 2007. As far as possible, a prisoner should serve any disciplinary sanction within the same establishment as that in which the offence was committed. The Committee understands that in some cases it might be necessary to transfer a prisoner for operational reasons to another establishment but this should be a permanent transfer and not merely for the duration of the disciplinary punishment.

**The CPT recommends that the Irish authorities ensure that the application of the disciplinary procedures at Dóchas Centre operate in a transparent and fair manner for all prisoners. Furthermore, the CPT recommends ending the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.**

106. Rule 62 of the Prison Rules allows for the removal of a prisoner from structured activity or association with other prisoners on grounds of order, subject to certain safeguards.<sup>40</sup> Nevertheless, at **Dóchas Centre**, the delegation came across several cases where inmates were held in the segregation unit from four to 20 days without a clearly stated legal basis and with the prisoners concerned not being informed of the reasons for such a placement. The Governor of Dóchas Centre gave the impression that such placements were based on “gut feeling” or to give a prisoner some time for “reflection”. However, this deprived prisoners of the legal safeguards provided by the legislation, namely the right to be informed of the reasons and to provide their views as well as the right to have the decision regularly reviewed.

**The CPT recommends that the Irish authorities ensure that the removal of a prisoner from structured activity or association with other prisoners on grounds of order at Dóchas Centre strictly adheres to the Prison Rules 2007 and the safeguards contained therein.**

c. use of special observation cells

107. At **Dóchas Centre**, there was one close supervision cell and one safety observation cell, each of which measured approximately 9 m<sup>2</sup>. They were equipped with a mattress and a plinth, a table and a chair, a TV in protective casing, a call bell and in-cell sanitation. Access to natural light was adequate and the artificial lighting and ventilation sufficient. The cells were lined with a resistant spongy material to prevent prisoners from self-harming; the safety observation cell also had a glass safety door for better observation. There was also one cell called the High Support Room (identical to the other two but not lined with a resistant spongy material) which, according to the prison management, was used to temporarily accommodate inmates who needed extra care.

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<sup>40</sup> According to the Rule 62 of the Prison Rules 2007, the prisoner has to be informed of the reasons for such a removal, the decision has to be reviewed at least once every seven days and such a measure cannot last longer than is necessary to ensure the maintenance of good order or safe or secure custody.

The delegation was informed that there were many instances of self-harm among the population at the Dóchas Centre. Prisoners who self-harmed were often relocated to one of the above-mentioned three cells. In this respect, the delegation gained the impression that there was an over-use of the close supervision cell and a relative under-use of the safety observation cell due to the fact that the nursing resources did not permit nurses to engage every two hours in a meaningful way with prisoners placed in the safety observation cell. For example, a prisoner known to the prison management for numerous suicide and self-harm attempts was placed in the close supervision cell after she was once again found with a ligature around her neck.

Furthermore, due to the confusion with the nomenclature of the cells,<sup>41</sup> staff struggled to record the use of special observation cells accurately, making it impossible to understand which cell the prisoner had been held in at any given time and for how long.

**The CPT recommends that the Irish authorities review the use of close supervision and safety observation cells at Dóchas Centre to ensure that all placements and supervision strictly conform to the Irish Prison Service Standard Operating Procedures 2014.**

108. The female section of **Limerick Prison** had one special observation cell which was used both as a close supervision cell and as a safety observation cell. It was adequately equipped, access to natural light was adequate and the artificial lighting and ventilation sufficient. The records for this cell did not provide information as to whether prisoners were allowed to have a minimum of one hour of outdoor exercise per day.

**The CPT recommends that the Irish authorities take steps to ensure that all inmates placed in either a close supervision or a safety observation cell are offered at least one hour of outdoor exercise every day.**

d. contact with the outside world

109. At the outset, it should be recognised that a high percentage of female prisoners are mothers and the primary caretakers in the family. Thus, separation from families and children can have a particularly detrimental effect on both the female prisoners and their families and children. However, due to the limited number of establishments where women can serve their sentences, female prisoners are often located far away from their homes which impacts negatively on contacts with their families.

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<sup>41</sup> The close supervision cell was also referred to as Room 7 and Pad 1; the safety observation cell was also referred to as Room 6; the high support room was also referred to as Room 5 or Room 8 or Pad 3 or Safety Observation Cell 3.

110. At both the **Dóchas Centre** and **Limerick Prison**, female inmates could, as a rule, enjoy open visits with their families.<sup>42</sup> At Dóchas Centre visits took place in the smaller dining hall; ten tables with four chairs each as well as a play corner for children were available for the visitors. Further, prisoners on enhanced regime could use video links to other prisons where their partners/relatives might be detained and inmates from Dóchas Centre were offered the possibility to visit their partners/relatives within the Mountjoy Complex. Depending on the level of the incentivised regime, inmates were allowed from three to 14 phone calls per week, each six minutes long.

Some female prisoners complained to the delegation that they had not seen their families, including children, for up to three months. The fact that there are only two establishments in Ireland where women may serve a custodial sentence inevitably means that some female prisoners will be incarcerated several hours away from their homes. This has repercussions for their contact with the outside world, making regular family visits very difficult and sometimes impossible due to financial constraints. This not only affects the women negatively, but it also impacts on the children's contact with their imprisoned mothers.

The Committee recognises the critical importance of maintaining family relationships for female prisoners and supports the application of Rule 26 of the UN Rules for the Treatment of Female prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) which requires that female prisoners' contact with their families, including their children, and their children's guardians and legal representatives should be encouraged and facilitated by all reasonable means.

**The CPT invites the Irish authorities to examine the possibility of providing financial assistance to those female prisoners who do not have the necessary means to maintain regular contact with their dependent children.**

e. complaints procedures

111. At **Dóchas Centre**, the complaints register revealed that since April 2013 there had been three Category A complaints relating to the Dóchas Centre. Upon receiving a Category A complaint, the complainant is immediately sent to see the doctor; the prison also informs the liaison officer at Mountjoy Garda station.

As regards **Limerick Prison**, there were two Category A complaints by female prisoners in the six months prior to the visit. Both cases were still under investigation at the time of the CPT's visit. The delegation got the impression that independent investigators, appointed by the Irish Prison Service, visited Limerick Prison only every two to three months and cases took longer than three months to be concluded.

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<sup>42</sup> Depending on the regime they are on, it is either one 30-minute visit and one 15-minute special visit per week (for the standard level) or one 30-minute visit and an additional 30-minute special visit per week (for the enhanced level) or one 30-minute visit per week (for the basic level).

In one case, the prisoner CJ (Christina Joyce) lodged a complaint on 7 April, 2014 regarding the incident that had happened on 5 April 2014 (the prisoner alleged that she had been physically assaulted by a prison officer). An external investigator was assigned on 14 April 2014. The file checked by the delegation contained the photo of the black eye taken after the incident; however, it did not contain any note of an outcome nor of any investigative steps undertaken by the investigator, such as the questioning of the officer or witnesses, nor of a request to secure CCTV footage.

**The CPT recommends that the Irish authorities take steps to ensure that the investigation of Category A complaints takes place and is completed within the time limits provided by the Irish Prison Service Complaint Policy, i.e. within three months. The CPT would also like to receive information on the outcome of the complaint from prisoner CJ, including the investigative steps that were undertaken.**

Further, at the time of the visit, there was a continued scepticism among female prisoners as to the effectiveness of the complaints system. **The CPT recommends that the Irish authorities take steps to promote the complaints system and enhance the trust in it among the prisoners.**



## **D. Juvenile detention**

### **1. Preliminary remarks**

112. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child, the Beijing Rules and the European Rules for Juvenile Offenders Subject to Sanctions or Measures is that juveniles should only be subjected to a measure of deprivation of liberty as a last resort and for the shortest possible period of time. The CPT fully subscribes to this position. The CPT also considers that juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young.

In Ireland, following the adoption of the Children's Act 2001, the official policy is to place children in custody only where no alternative is appropriate. Further, the Criminal Justice Act 2006 made provision for all juveniles under 18 years of age to be placed in Children's Detention Schools. The Committee is pleased to note that this policy intention is coming to fruition and that the detention of all juveniles is now placed under the responsibility of the Ministry of Children and Youth Affairs.

113. In April 2012, the Irish government announced a three-year programme to end the detention of 16 and 17 year old boys in the much criticised St. Patrick's Institution<sup>43</sup> and to expand the capacity of the Children's Detention Schools at Oberstown. As from 1 May 2012, all newly remanded and sentenced 16 year olds have been detained at the Children's Detention Schools. Further, the Minister of Justice decided to close down St. Patrick's Institution and, as an interim measure pending the completion of the new units at Oberstown, all sentenced 17-year-olds were transferred to a dedicated unit at Wheatfield Place of Detention in December 2013. In February 2014, the remaining 18 to 20-year-olds at St. Patrick's were also transferred to Wheatfield Place of Detention. For legal reasons, it has been deemed necessary to continue to hold 17-year-olds on remand at St. Patrick's Institution until such time as the new units at Oberstown become operational.

114. In the course of the 2014 visit, the CPT's delegation visited the Children's Detention Schools at Oberstown, the dedicated unit at Wheatfield Place of Detention for sentenced 17 year olds and the wing at St. Patrick's Institution where 17-year-olds on remand were being held.

At the time of the visit, the three schools which comprised the Children's Detention Schools were holding nine children on remand and 26 sentenced children, including three girls, for an operational capacity of 46.

- Trinity House School had three eight-bed units, one of which was closed due to staffing shortages, and was holding four boys on remand and 10 sentenced boys;
- Oberstown Boys School had three eight-bed stand-alone units (Ardgillan, Baldongan and Cuan Beag) and was accommodating five remand and 13 sentenced juveniles;
- Oberstown Girls School was accommodating three sentenced juveniles for a capacity of six.

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<sup>43</sup> See Irish Inspector of Prisons Report on St. Patrick's Institution of 26 July 2012 and his 2012 Annual Report of 23 May 2013, in which he calls for the closure of St. Patrick's. See also the CPT reports on the visits to Ireland in 2006 (CPT/Inf (2007) 40) and 2010 (CPT/Inf (2011) 3).

There were nine sentenced 17-year-olds being held at Wheatfield Place of Detention and five remand 17-year-olds accommodated at St. Patrick's Institution. The CPT's delegation visited these units and provided feedback to the authorities at the end of the visit on the conditions of detention for 17-year-olds. As the units were scheduled to close down in early 2015, the report will focus on the situation found in the Children's Detention Schools in Oberstown.

**The CPT wishes to receive confirmation that the juvenile units at St. Patrick's Institution and Wheatfield Place of Detention have now been closed down and that all remand and sentenced juveniles are being held in the Children's Detention Schools.**

115. It should be stated at the outset that the visit occurred during a time of transition. The existing three detention schools at Oberstown were in the process of merging into one institution. Further, the six new detention units, each with a capacity to hold ten juveniles, were still under construction.

Once completed, the Children's Detention Schools would have an operational capacity of 90 places,<sup>44</sup> 84 boys and six girls. The CPT is mindful of the necessity to have a step by step carefully managed process in the opening up of the new Detention School units and that it is more important that the transition happens smoothly with the management procedures and staff in place than a rushed timetable that may lead to the juveniles being placed in an unstable environment. The CPT noted positively that the number of juveniles in detention had significantly declined over the past four years. **In this context, it trusts that the intended capacity of 90 places will not be immediately filled given that, at the time of the visit, there were less than 50 remand and sentenced juveniles in detention in Ireland.**

## 2. Ill-treatment

116. The CPT's delegation did not receive any allegations of ill-treatment of children by staff.<sup>45</sup> On the contrary, many children spoke positively about staff and the atmosphere in the various units was generally positive, and the delegation noted that there was a young-person centered and caring approach in place.

117. In the course of the visit, the delegation met several young persons who alleged that they had been the victim of excessive use of force at the time of apprehension, at the beginning of September 2014. The child protection officer had been informed of the cases and intended to speak with the parents and to inform them about the existence of the Garda Síochána Ombudsman Commission. However, he told the delegation that in most cases, parents apparently do not want to pursue the matter as there is a perception that making a complaint will not achieve anything and might merely serve to raise local tensions.

Further, staff claimed that on occasion newly-arrived boys would display clear markings around their wrists caused by handcuffs; this was confirmed by the nurse.

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<sup>44</sup> Oberstown Girls School and two of the units of Oberstown Boys School were slated to be demolished.

<sup>45</sup> Neither were any allegations received at St. Patrick's Institution or Wheatfield Place of Detention.

The CPT considers that every allegation of ill-treatment should be brought to the attention of the relevant authorities directly and not be left to the parents or relatives of a juvenile to decide whether or not to pursue a complaint. The response of the Irish authorities of 6 January 2015 states that where allegations of ill-treatment of a child arise, the designated liaison person will report the matter directly to the Garda Síochána Ombudsman Commission (GSOC). This approach is to be welcomed. To this end, it would be beneficial if there was a dedicated child liaison officer within GSOC to whom any reports of alleged ill-treatment by Gardaí could be sent. **The CPT would appreciate the comments of the authorities on this matter.**

### 3. Living conditions

118. Material conditions in the various units were of a varied standard, from decent to rather poor, although they all attempted to offer a personalised environment: juveniles had their own rooms in small living units of up to a maximum of eight residents.

The Cuan Beag unit<sup>46</sup> consisted of six bedrooms (each measuring 10m<sup>2</sup>) which were appropriately furnished (bed, table, chair, wardrobe, a television set and a DVD player) with good access to natural light and sufficient ventilation. The adjoining sanitary annexe consisted of a shower, toilet and wash basin. The rooms were also equipped with a call bell. The unit was bright and airy with the bedrooms looking out onto an open inner-courtyard which was equipped for playing games or for passing the time. There was also a small garden and gym at the back of the unit. The unit contained an open-plan kitchen for morning and evening meals and spacious, homely, dining and living areas with sofas, television and games, as well as a “quiet” room equipped with video games. Two former classrooms were also used as individual bedrooms but they will revert to their original purpose or be used for other association activities when the unit reverts to a girls’ facility.

The three Trinity House Units were of a similar design: the common areas were furnished with sofas, armchairs, television sets and decorated with age-appropriate posters and warm colours. There were also two “quiet” rooms with video games and a communal kitchen. In sum, they reflected the homely supportive environment that the establishment aimed to promote. However, the bedrooms (each measuring 8m<sup>2</sup>) were rather austere and did not enable boys to create a personal comfort zone which is important to their well-being. The rooms had insufficient access to natural light due to the addition of a sanitary annex at the back of each room, and were not equipped with any furniture; the walls were blank, the mattress was placed on a concrete plinth, the television was placed in the wall behind a plastic casing and clothing was stored outside the room.

The living conditions in the two other Oberstown Boys School units (Ardgillan and Baldongan) were of a similar standard to that of Trinity House except that the bedrooms had no in-room sanitation and televisions were only provided to boys at night.

**The CPT recommends that steps be taken to render the bedrooms in the Trinity House School units less austere and to provide greater visual stimuli for the children.**

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<sup>46</sup> At the time of the visit, this unit accommodated sentenced boys but with the opening of the new detention units, it will revert to being the girls’ unit with six places.

119. The detention school model is based on individualised care, education and rehabilitation to reduce the risk of re-offending and promote the positive reintegration of each child into his/her community. To this end, the emphasis during the week is for all the residents to take part in a full day of structured activities: they attend school and/or workshops during weekday mornings and early afternoons, followed by leisure or sports activities with other juveniles and/or staff every afternoon. In the evenings, juveniles participate in a communal meal (6 p.m.), and in a planned activity until supper time (8 p.m.), after which they are locked in their rooms for the night between 9 and 9.45 p.m.<sup>47</sup>

All children undergo a formal educational assessment in order to establish a learning programme for each student. Students are encouraged to study for Junior Certificate examinations and Further Education and Training Awards Council (FETAC) modules. To this end, each weekday consisted of five 50 minute lessons with an emphasis on literacy and numeracy, promoting life skills (home economics) and encouraging creativity through arts and crafts (including woodwork and metalwork). Use of interactive whiteboards and computers were in evidence. The intensive nature of the classes with only three students per teacher allowed individual coaching and it was clear from the results that children were motivated to study for, and succeed in, their examinations. This is positive. Nevertheless, efforts should be made to expand the number of vocational places on offer, only one in the kitchen at the time of the visit, which will become even more important once 17-year-old remand and sentenced juveniles are held in the Detention Schools.

Physical education played an important part of the daily programme. Juveniles could use a variety of indoor and outdoor sports facilities (e.g. a sports hall, well-equipped indoors gym(s), a tennis court). They generally had the possibility to exercise outdoors for at least one hour a day, often for longer or several times a day. Outdoor physical excursions (runs, hiking) in the community were organised from time to time.

**The CPT recommends that efforts be made to increase the number of vocational places on offer. Further, it would like to be informed whether there has been any change in the educational approach towards juveniles following the opening of the new detention school buildings and the arrival of 17-year-old remand and sentenced juveniles.**

120. The delegation received many complaints from juveniles that they had at times in recent months been effectively confined to their rooms until after midday and, on occasion, longer apparently due to insufficient staff being present to unlock them. For example, in Trinity House 3, the boys' rooms were apparently only unlocked at 2.30 p.m. on 8 August 2014. The designated liaison person for children had been informed of this matter. It is essential that arrangements be put in place to ensure that a minimum regime is in force even when staffing levels fall below their ideal of five care workers for eight young persons. In the response of 6 January 2015, the Irish authorities state that "all managers and staff in the Children's Detention Schools have been directed that the practice of confining children to their rooms until after midday is to cease with immediate effect." **The CPT welcomes this action and would be interested to learn about the results since the introduction of this policy and, if necessary, of any consequent measures taken.**

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<sup>47</sup> The Detention Schools operated an incentive scheme which meant that juveniles who attained a higher level received certain privileges (increased weekly allowance and later lock-up time).

#### 4. Staff

121. A positive aspect at the Children's Detention Schools was that the small living units were, in principle, well-staffed; five care staff were on duty for a maximum of eight boys between midday and 10 p.m. every day; three were on duty between 9 a.m. and 12 noon and two were on duty from 10.30 p.m. to 8 a.m. This permitted supportive relationships to be developed between care workers and the juveniles. In addition, the classes in the schools were set up to ensure that there was one teacher to work with three juveniles; a very favourable ratio for providing individualised support. It was also positive that the Children's Detention Schools had a speech and language therapist to assist children with verbal expression.

The favourable staffing levels combined with the fact that the majority of staff were care workers with practical experience, reflected the commendable emphasis the Children's Detention Schools placed on education and rehabilitation rather than on control and security.<sup>48</sup>

However, there was some concern among staff about the impact of the Children's Detention Schools taking on the care of remand and sentenced 17-year-olds. The integration of the 16-year olds had progressed smoothly but the older boys would arrive at the same time as the schools merged into one establishment and expanded from a capacity of 46 places to a capacity of 90 places. These changes required ensuring the recruitment and training of additional staff and ensuring that the current approach and ethos were maintained. To this end, those staff working with 17 year olds will require additional supervision and support.

**The CPT would like to be informed of the staff developments in terms of staffing numbers and staffing ratios for the various units.**

122. Further, at the time of the visit there appeared to be a progressive reduction in the number of staff on long-term sick leave and in the number of sick days. Nevertheless, it is important that the management has a clear understanding behind the reasons fuelling staff absences and that they take measures to debrief staff after managing challenging behaviour and consult with staff on a regular basis, particularly during the transition period.

**The CPT would like to receive information on the current trend of staff absences and on the measures in place to support staff.**

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<sup>48</sup> The Staff consisted of 197 men and women, including 98 residential care workers, 32 night supervisors, 15 unit managers, four senior managers, an admissions officer and a social worker. There were also 23 teachers, including the principals, for the two schools.

## 5. Health care

123. At the time of the visit, the Children's Detention Schools employed a full-time registered nurse. In addition, a general practitioner visited three times a week. Juveniles may access the nurse every day when she carries out her rounds on each unit and the doctor will see everyone who has requested to see her. The Assessment, Consultative Therapeutic Services (ACTS) of Tulsa, the Child and Family Agency were engaged in addressing the mental health needs of juveniles in detention; it included the presence of a psychologist every weekday as well as a drug addiction counsellor, and a speech and language therapist. A psychiatrist visited primarily for the purpose of writing court reports but did provide some support in assessing juveniles.

All juveniles are medically assessed upon arrival in the Children's Detention Schools by the nurse on the day of admission and by the doctor when she next visits. The screening consists of a full medical history and a physical examination, including the use of body maps to note down any injuries or marks.

124. As regards the recording of injuries, the practice was to note down all injuries and scars on a body map and to enquire how the injuries occurred. If a child alleges that he or she has been assaulted, the doctor takes a statement from the child and documents the injuries and then passes the information to the child protection officer or to the child's solicitor. If the allegations concern excessive use of force by the Gardaí, the child protection officer will inform the parents and it is up to them whether or not to pursue the matter. The delegation noted that the medical service did not keep a register for allegations or signs of injuries noted on children nor any record of allegations forwarded to the child protection officer.

The CPT has consistently pointed out that health-care services can make a significant contribution to the prevention of ill-treatment of detained persons through, inter alia, the systematic recording of injuries, whether vis-à-vis new arrivals or following a violent episode in an establishment.

In addition to the current practice of recording any injuries on a body chart and taking a statement from the juvenile concerned, **the CPT recommends that measures be taken to ensure that the record drawn up after the medical examination of a juvenile contains the doctor's observations indicating the consistency between any allegations made and the objective medical findings.**

**Further, injuries should be photographed and filed in the medical record of the juvenile and all types of injuries should be recorded in a special trauma register. Whenever injuries are recorded which are consistent with allegations of ill treatment made by a juvenile (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately brought to the attention of the Garda Síochána Ombudsman Commission regardless of the wishes of the young person concerned or of his/her parents.**

125. Upon admission to the Children's Detention Schools, every juvenile was screened using the MAYSI-2 questionnaire to see whether he or she may have special mental health needs. Thereafter, individual mental health and communication interventions for juveniles were available. The main issue brought up by members of the ACTS team was the high rate of drug misuse by the juveniles and the need to have in place individual consultations by the drug addiction counsellor as well as control and preventive measures across the Children's Detention Schools. Care staff also needed to be aware that in managing behavioural problems among juveniles, the influence of drugs was not overlooked and to this end care staff could benefit from more training on methods of effective communication and work with juvenile addicts. In this respect, the CPT considers it important not only to provide psychological help to those who score high on the MAYSI-2 questionnaire but that group support sessions be provided to all juveniles. Further, it is important that care staff and members of the ACTS team have a regular opportunity to meet and reflect on their work.

**The CPT would appreciate the comments of the Irish authorities on the above remarks, especially in light of the on-going re-evaluation of the level of psychology and psychiatric service input.**

## **6. Other issues**

### **a. admission and induction**

126. Proper admission and induction procedures are essential for ensuring that juveniles are able to integrate into the Children's Detention Schools smoothly and, if performed properly, will permit any specific care issues to be identified and taken into consideration when allocating the juvenile to a unit and putting in place a personalised programme. At the time of the visit, upon admission to the Children's Detention Schools, all juveniles were interviewed by the admissions officer and provided with a detailed information brochure which explained the day-to-day operation of the establishment. The juvenile was allocated to a unit where he/she spent half a day in his/her room acclimatising to his new environment and being observed by the care workers, before integrating with the rest of the group.

With the opening up of the new detention units, the delegation was informed that Trinity House School would operate as the unit for juveniles on remand and for the general admission of all juveniles. **The CPT would like to be informed about the admission procedures for all newly-admitted juveniles to the Children's Detention Schools.**

b. discipline, security and use of force

127. The Children's Act 2001 sets out clearly that the principal object of the children's detention schools shall be to provide appropriate educational and training programmes and facilities for children and to promote their reintegration into society and prepare them to take their place in the community as persons who observe the law and are capable of making a positive and productive contribution to society. To achieve this aim, the Law provides for "proper moral and disciplinary influences" to be exercised upon children and allows for the Director of the children's schools to discipline children who breach the rules.<sup>49</sup> In this respect, it should be noted that there were no disciplinary sanctions in place in the Children's Detention Schools but only measures to guarantee the maintenance of good order.

The Irish Youth Justice Service has adopted, with the approval of the Board of Management of the Children's Detention Schools, several policies on the treatment of challenging children which may require the application of physical restraint or separation.

128. As regards the use of physical restraint,<sup>50</sup> the CPT found that staff were provided with clear guidance on how to manage young people's challenging behaviour and that physical interventions were to be used only as a last resort. Key factors stressed with regard to physical interventions include: they are never to punish or coerce, are intended to be pain free, should involve the use of the least amount of force necessary and for the least amount of time. Further, "following a restraint the young person should be offered medical treatment if required [...] and afforded the opportunity to reflect, learn and recover from the experience."<sup>51</sup> Staff appeared to have a clear understanding of the policy and how to apply it. Further, a review of the records indicated that there had been a decrease in the application of physical restraint from 58 times in 2009 to 41 in 2013, which is to be welcomed.

Nevertheless, from interviews with young persons and from a review of the documentation, it was not clear to what extent young persons were properly debriefed following the application of physical restraint nor whether the care workers involved and any witnesses (young persons) were also debriefed with a view to recovering from the experience as well as to learning lessons for the future.

**The CPT would appreciate the comments of the authorities on this matter of debriefing and learning lessons following the application of physical restraint.** Further, the CPT noted that on 13 August 2014, one young person had apparently been handcuffed to take him to his room following an assault on a staff member. The Committee considers that mechanical restraints such as handcuffs should not be deployed in a children's detention school and **recommends that the Irish authorities take the necessary steps to ensure that they are no longer resorted to at the Children's Detention Schools.**

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<sup>49</sup> See Sections 158 and 201 of the Children Act 2001.

<sup>50</sup> See IYJS and Crisis Prevention Institute Behaviour Management Policy and Procedures for Children Detention Schools of 4 April 2011.

<sup>51</sup> Ibid.- page 7.



129. Separation<sup>52</sup> is intended for as short a time as possible to reduce the risk of harm to the young person concerned or to his or her peers. The separation should be a last resort once other interventions to help the young person regain control or prevent disruptive actions or dangerous behaviour which threatens the safety, security and welfare of others, have proved unsuccessful. The criteria for separation are:

- i. where a young person is likely to cause significant harm to him/herself or others;
- ii. where a young person is likely to cause significant damage to property.<sup>53</sup>

A review of the separations showed that during the period May to August 2014, there had been 139 instances of separation at Oberstown Boys School and 99 instances of separation in Trinity House School for an average population of 19 and 14 boys, respectively. Some 18 instances of separation concerned boys possessing contraband or being under the influence of drugs upon admission. The majority of cases concerned inappropriate behaviour (including physical and verbal abuse) and usually resulted in separation for periods of less than one hour, often only 15 minutes. However, several boys were separated for periods of up to 8 hours, usually when it concerned bullying. One boy was transferred to Trinity House Unit 2 for two weeks in August 2014 where he was kept on his own in order to manage his behaviour. Further, one boy was placed in separation on 27 occasions during the period May to July for a total of 99 hours and 45 minutes. The use of separation would appear to be an integral aspect of managing the behaviour of young persons at the Children's Detention Schools instead of a policy of protection; every effort should be made to reduce its application.

130. The delegation received many complaints from boys about what they perceived to be an excessive use of separation, which they did not think addressed their behavioural issues in a meaningful way. An examination of the records seemed to indicate that the reason for separation was not always in line with the criteria referred to above. Separation was sometimes imposed for smoking, for not taking directions or verbal abuse towards staff and therefore resembled an informal disciplinary measure. Further, finding contraband does not fall within the criteria for separation and together with other issues of drug misuse should form part of a distinct policy for managing drugs within the Children's Detention Schools. Moreover, from the records examined, it was not always clear as to why the separation of a boy continued beyond a certain period.

In their letter of 6 January 2015, the Irish authorities informed the CPT that the Children's Detention Schools had developed a strategy to address the concerns raised by the delegation in the course of the visit. Further, additional training was being provided to staff to ensure compliance with legal and best practice requirements, and a review of the separation policy would be undertaken during the first quarter of 2015. The Committee welcomes the measures taken by the Irish authorities.

**The CPT would like to be informed of the outcome of the review of the separation policy and to receive detailed information on the oversight of each measure. Further, it trusts that the use of separation in the Children's Detention Schools conforms strictly to the criteria laid out in the Irish Youth Justice Service policy and that every measure of separation is properly recorded, including the reasons for any extension. The Committee reiterates that a measure of separation should never be applied as an informal disciplinary measure.**

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<sup>52</sup> See IYJS Separation Policy for the Children Detention Schools of September 2012.

<sup>53</sup> Ibid. – page 6.

131. In each of the boys' units, apart from Cuan Beag, there was a small room (measuring less than 5m<sup>2</sup>) which was used for carrying out searches of boys upon admission and for the purpose of single separation, and was known as "protection room". The rooms were unfurnished and had minimal access to natural light and did not possess a toilet. Under such conditions it is not surprising that young persons found the experience of being placed in one of these rooms to be stressful. The rooms did not meet their intended purpose of protection. Moreover, several allegations of lengthy placement in these rooms were received. In one case, a boy stated that he had been kept in the room in only his boxer shorts and a T-shirt overnight and had had to sleep on a mattress on the floor.

**The CPT recommends that any room used for separation purposes should provide access to natural light and have sufficient ventilation. Further, it should possess a means of rest and young persons should be provided with appropriate clothing. Placement in such rooms should be for the shortest possible time.**

c. contacts with the outside world

132. Contacts with the outside world were generally satisfactory. All young persons were entitled to two phone calls of 15 minutes per day to a list of pre-approved numbers which could increase to four calls as an earned privilege. Visits were organised on Thursday evenings and weekends and lasted at least one hour and had to be pre-planned. The visits took place in a room which was covered by CCTV but not audio and a member of staff was available outside the visit room if required. Many young persons stated that they did not receive visits because they found it too difficult or the time and cost for the family was too great, especially if they lived outside the Dublin area and had to take public transport, or they were estranged from their family.

As the purpose of the Children's Detention Schools is to facilitate the young person's reintegration into the community and to provide a degree of throughcare, whether regarding education, vocational, health or family support, **the CPT encourages the Irish authorities to consider steps to facilitate children in the Children's Detention Schools receiving visits from family and other appropriate persons.**

d. complaints and inspections

133. The CPT considers that juveniles should have avenues of complaint open to them within the Children's Detention Schools and should be entitled to address complaints – on a confidential basis – to an independent authority. Complaints procedures should be simple, effective and child-friendly, particularly regarding the language used. Juveniles should be entitled to seek legal advice about complaints and to benefit from free legal assistance when the interests of justice so require.

At the Children's Detention Schools, the Irish Youth Justice Service policy for Complaints Procedure from December 2010 envisages two types of complaints: informal which are resolved within the accommodation units by the care worker with support from his or her line manager if necessary; and a formal complaints procedure consisting of a preliminary assessment by the unit manager, an investigation by the deputy director and a possible appeal to the director. However, very few if any complaints were ever registered as the figures for 2012 and 2013 illustrate, with a total of just five complaints for all three schools during these two years, three of which concerned the Girls' School.

134. As of March 2014, a designated liaison person for children (formerly Child Protection Officer) was appointed who was charged with safeguarding all children in the establishment and investigating any complaints and who was independent of the management of the establishment. In the six months following his appointment, 15 complaints were referred by various staff members to him for investigation of which nine were complaints or allegations made by young persons.<sup>54</sup> The designated liaison person investigated each allegation and through his work was able to make a number of general recommendations to improve current policies. For example, staff should be aware of whether a young person is likely to react violently if touched by another person; or communication among staff should be such as to ensure that two young persons in conflict with each other do not come face to face shortly after an incident.

The appointment of a designated person to address complaints is positive. Further, all young persons were informed about the complaints procedure and green complaints forms were present in all the units. However, not one of the green forms had been submitted in the months prior to the visit. Indeed, none of the young persons met by the delegation had any confidence in the complaints procedure, expressing the view that a complaint would not achieve anything or would merely be discarded, as one young boy alleged. It is important that efforts be made to develop trust among both staff and juveniles in the complaints procedure.

In their letter of 6 January 2015, the Irish authorities informed the CPT that the Complaints and Reporting System was being reviewed by the management of the Children's Detention Schools and that a refresher programme had been put in place to ensure that all staff were fully informed and understood the system and their role. Steps to establish a database to allow for analysis and trend identification in the complaints submitted were also envisaged. In addition, young persons entering the Children's Detention Schools would be made aware of the Complaints and Reporting System by their key worker and the support of the NGO "Empowering People in Care" (EPIC) would be sought to enhance the young people's understanding of the complaints system. The Office of the Children's Ombudsman (OCO) would also visit the Children's Detention Schools to explain the rights of all young persons to make complaints directly to the OCO. These are positive steps.

**The CPT would appreciate receiving information on the number, type and outcome of complaints submitted during the first six months of 2015. It would also like to receive a copy of the new Campus handbook.**

135. The CPT has noted that the Health Information and Quality Authority (HIQA), an independent authority responsible for driving quality, safety and accountability in residential services for children, older people and people with disabilities in Ireland, is mandated to inspect the Children's Detention Schools. Inspections are carried out annually using the 2008 Standards and Criteria for Children's Detention Schools produced by the Irish Youth Justice Service as the reference tool. The latest inspection visit took place from 28-30 October and 4 November 2014 and was published on 23 February 2015.

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<sup>54</sup> An additional two complaints referred to allegations of physical ill-treatment by the Gardaí (see paragraph 117) and three more complaints related to child welfare issues occurring outside the CDS.

**APPENDIX**

**LIST OF THE NATIONAL AUTHORITIES,  
NON-GOVERNMENTAL ORGANISATIONS AND OTHER ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**Department of Justice and Equality**

Frances FITZGERALD	Minister
Marion MANNION	Special Adviser to the Minister
Michael FLAHIVE	Assistant Secretary
Gerry MCDONAGH	Prison and Probation Policy Division, CPT National Liaison Officer
Scline SCOTT	Prisons Policy
Michael KIRRANE	Garda Division
Michael DONNELLAN	Director General, Irish Prison Service
Fergal BLACK	Director of Care and Rehabilitation, Irish Prison Service
Seamus SISK	Irish Prison Service
Noirin O'SULLIVAN	Acting Commissioner, An Garda Síochána
Fergus HEALY	Chief Superintendent, An Garda Síochána
John TWOMEY	An Garda Síochána

**Department of Children and Youth Affairs**

James REILLY	Minister
Mark COSTIGAN	Special Adviser
Camille LOFTUS	Special Adviser
Elizabeth CANAVAN	Acting Secretary General

Albert O'DONAGHUE	Alternative Care Policy
Michelle SHANNON	Director of Irish Youth Justice Service
Dan KELLEHER	Irish Youth Justice Service
Tony O'DONOVAL	Irish Youth Justice Service
Tadhg DELANEY	Irish Youth Justice Service
Anne WALL	Child and Family Agency
Wendy DOYLE	Child and Family Agency
Pat BERGIN	Oberstown Children's Detention School
Deirdre SEERY	Oberstown Children's Detention School

**Other authorities**

Garda Síochána Ombudsman Commission

Inspector of Prisons

Irish Human Rights and Equality Commission

**B. Non-governmental organisations**

Irish Council of Civil Liberties

Irish Penal Reform Trust

Children's Rights Alliance

**C. Other organisations**

Irish College of Psychiatry