

**RESPONSE BY THE ICELANDIC GOVERNMENT TO THE REPORT ON THE
VISIT TO ICELAND CARRIED OUT BY THE EUROPEAN COMMITTEE FOR
THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT (CPT) FROM 17 TO 24 MAY 2019**

May 2020

1. Introduction

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT) issued a report in November 2019 on the fifth periodic visit of the CPT to Iceland from 17 to 24 May 2019. The Ministry of Justice received the report on 20 November 2019 and subsequently submitted it to the bodies and organisations the Committee met with during its visit and requested their response, i.e. the Ministry of Social Affairs, the Ministry of Health, the National Commissioner of Police, the District Prosecutor, the Director of Public Prosecutions, the State Prison and Probation Administration, the Directorate of Immigration, the Directorate of Health, the Icelandic Human Rights Center, the Association of Prisoners (Afstaða), the Icelandic Mental Health Alliance (Geðhjálp) and the Althingi Ombudsman's Office.

The Icelandic Authorities place a strong emphasis on the active implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and welcome the Committee's monitoring. The authorities wish to thank the Committee for its useful comments on what could be done better when it comes to the protection of persons deprived of their liberty in Iceland.

This account contains the response by the Ministry of Justice to the recommendations, comments and requests that fall within the ministry's field of competence; it was prepared in cooperation with the Ministry of Health, the District Prosecutor, the State Prison and Probation Administration and the Police Monitoring Committee. Due to the ongoing situation resulting from the COVID-19 pandemic, the Ministry of Health requested an extension until Autumn 2020 to submit its response to the recommendations relating to health issues, as stated in a letter to the Committee dated 30 March 2020.

2. Urgent requests made at the end of the visit

At the end of the visit the CPT's delegation made two urgent requests concerning the prison system. The first urgent request was regarding windowless cells for remand prisoners in Akureyri. As stated in a letter to the Committee in June 2019, measures were immediately taken in response to the request and the cells in question were taken out of service.

As regards the second urgent request the Icelandic authorities were requested to transmit to the Committee a detailed action plan for the provision of health care and for tackling the issue of drugs in prison. In a letter dated 3 December 2019 an action plan was sent to the Committee.

3. National Prevention Mechanism

Recommendation 11

The CPT asked to be provided with information on activities of the Icelandic NPM in 2019 and the first half of 2020.

Response from the Icelandic NPM:

The first visit was carried out in October 2018 to the Psychiatric Department of Reykjavík University Hospital (The Kleppur campus). The team visited three closed wards at the hospital, the forensic psychiatric ward, the secure psychiatric ward and the specialised rehabilitation psychiatric ward. Another visit was carried out in November 2018 to the closed ward of Stuðlar, Diagnostic and Treatment Centre for Juveniles.

In 2019 two visits were carried out by the Ombudsman. The first visit was carried out in April to the Reykjavík Police Headquarters, and the second visit was carried out to Sogn prison in October. The reasons for only two visits being carried out in the year 2019 were personnel changes in the NPM team and the unexpected length of time it took to draft the first report.

Three visits are planned for 2020. The first visit was carried out in January to Hólmsheiði prison, where the Ombudsman monitored the detention on remand. Other visits planned for 2020 will be carried out to a secure establishment for children and to another prison. The report from the first monitoring visit to the Psychiatric Department was published in October 2019. The Ombudsman's visit brought to light various issues concerning the legal basis of the placement and treatment of patients at the aforementioned wards. This required a closer investigation that took longer than had been anticipated. Reports from the monitoring visits to Stuðlar, Diagnostic and Treatment Centre for Juveniles, and the Reykjavík Police Headquarters are expected to be published in the first quarter of 2020. Hopefully, the subsequent reports will be published earlier after each visit.

The NPM is involved in the Nordic OPCAT network, which was established to facilitate learning and the exchange of relevant information between the Nordic countries. Meetings are held twice a year in January and August.

In October 2019, the Ombudsman also welcomed a delegation from the Estonian Chancellor of Justice working on OPCAT monitoring.

5. Police establishments

Recommendation 15

The CPT trusts that the Icelandic authorities will continue their efforts to prevent and combat ill-treatment by police officers. These efforts should include ongoing training activities and a firm message of “zero tolerance” of ill-treatment to all police staff. In particular, continuous attention must be paid to the training for police officers in preventing and minimising violence in the context of an apprehension.

Further, in order to obtain an updated picture of the situation, the Committee would like the Icelandic authorities to supply information, in respect of 2019 and the first half of 2020, on:

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

Response from the Icelandic Government:

Both police students and police officers are trained in human rights, ethics and cultural diversity at the University of Akureyri and the Centre for Police Training and professional Development. The regulations on use of force stipulate the Principle of proportionality, i.e. A public authority shall reach an adverse decision only when the lawful purpose sought cannot be attained by less stringent means. Care should then be taken not to go further than necessary (administrative Procedures Act no. 37/1993. Article 12).

Training in the physical part of use of force is linked to the theoretical training by realistic scenarios where students and police officers are trained in de-escalation and empathy is a key element in the

training as role reversal is also a part of that training. We hope to develop this training further in the coming years.

Table 1. Cases concerning ill treatment in the year 2019 according to information from the District Prosecutor:

Investigation cancelled	1
Case dismissed*	1
Indictment**	1
Total	5

The Office of the District Prosecutor received five cases that may be said to concern ill-treatment by the police. Two of those cases have not yet been processed, investigation was cancelled in one case and one was closed with reference to Article 145 of the Law on Criminal Procedure and the Director of Public Prosecutions has upheld that decision. In one case an indictment was issued against a police officer for misconduct in the course of their official work, but a judgement has not been issued in the case. It should be mentioned that the investigation into that case was initiated by the District Prosecutor.

Table 2. Cases concerning ill treatment in the year 2020 (January – April) according to information from the District Prosecutor:

Investigation cancelled	0
Case dismissed*	1
Indictment**	0
Total	8

Eight cases that may be said to concern ill-treatment by the police have been received by the Office of the District Prosecutor so far this year. The investigation into one case was cancelled, but the others have not yet been processed.

Updated number of complaints for the whole of the year 2019 is 21 complaint registered by the PMC that relates to alleged ill treatment on behalf of the Icelandic police. It should be mentioned that a vast majority of these relates to complaints of ill treatment by the police during or following an arrest. Of these 21 complaints in the year of 2019, eight were received by the District Prosecutor, either directly or sent by the PMC. Of those cases, five are still being investigated by the District Prosecutor and in two cases the District Prosecutor decided to end the investigation. Out of these two cases, one was appealed to the Director of Public Prosecution that upheld the decision of the District Prosecutor and one of these cases was not appealed. It should be mentioned that the PMC cannot appeal decisions to end investigations by the District Prosecutor. Under Icelandic law, only the person directly affected by the decision can appeal the decision to end an investigation to the Public Prosecutor.

Of the remaining thirteen complaints, two were sent to the relevant chief of police as a staff issue, the PMC determined that the matter did not give rise to further treatment and in six cases the PMC is awaiting information and /or is analysing the matter.

In the 2017-2019, the PMC has registered in total 283 complaints/cases received by the committee; 81 cases in the year 2017, 100 cases in the year 2018 and 102 cases in the year 2019. Approximately 150 of those cases are ongoing in February 2020.

Updated number of complaints for 2020 (January to April) is 3 complaint registered by the PMC that relates to alleged ill treatment on behalf of the Icelandic police. Of those cases, one is still being investigated by the District Prosecutor.

Recommendation 17

The CPT once again reiterates its recommendations concerning the legal framework of access to a doctor and delaying notification of custody. Their implementation is long overdue (even if the situation in practice does not at present give rise to any particular concern for the Committee).

Response from the Icelandic Government:

An amendment to Regulation No. 651/2009 is in progress in the Ministry of Justice, relating to the legal status of arrested persons, questioning by the police, etc. The regulation will meet the recommendation by the CPT concerning the legal safeguards with regard to arrested persons when it comes to access to a doctor on the one hand and notification of custody on the other hand.

Recommendation 18

The Committee would welcome receiving an update of the work of the PMC in the second half of 2019 and the first half of 2020, including any PMC's comments on systemic and/or substantive issues regarding the matters falling within the CPT's mandate.

Response from the Icelandic Government:

Following an amendment to Section 35 of the Police Act, a new Police Monitoring Committee (PMC) was set up in 2017. Composed of three members (the Chair appointed by the Minister of Justice, the second member nominated by the Bar Association and the third nominated by the Icelandic Human Rights Center), supported by administrative staff and possessing its own budget, it is an independent body authorised to receive complaints, analyse them and forward them to competent organs (usually the National Police Commissioner or the District Prosecutor). The PMC also receives copies of all complaints of police misconduct registered by the police and prosecution authorities, as well as information of any cases of death or injury in police custody. It does not carry out visits to police establishments, but it performs a supervisory/quality check function in respect of all disciplinary and criminal cases concerning alleged police misconduct, and the relevant agencies are required to keep the PMC informed of the progress and the outcome of these procedures. The PMC may then issue an advisory opinion regarding the procedure and its outcome, addressed to the relevant bodies for consideration and reaction.

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The PMC is currently in the process of examining the procedures for when an arrested person requests and/or needs medical assistance. The matter was initiated by the PMC, with a decision in November 2018. The PMC has requested a copy of the applicable written procedures by each of the Police Commissioner in Iceland. The PMC is currently analysing the answers and documents received from the Police Commissioners.

Under article 35. a. of the Police Act nr. 90/1996, one of the obligations of the PMC is to examine cases where people have lost their lives or sustained serious physical injury in connection with the work of the police, irrespective of whether or not there is a suspicion of criminal activity. The PMS is currently examining three cases that fall under this category.

In 2019, the Police Monitoring Committee decided to classify separately requests received from citizens which may concern degrading treatment and to include coverage on the number and conclusions of such cases in its annual report. The PMC noted in its annual report for 2018 that it had registered a total of 25 cases concerning ill-treatment by police. A total of 20 cases were either sent by the PMC to the District Prosecutor for investigation or notified to the PMC by the Office of the District Prosecutor. The District Prosecutor cancelled investigation in 17 cases, two cases were dismissed but one case was still under investigation when the annual report was issued. Of these 20 cases, five were transmitted to the Public Prosecutor and one of them resulted in an indictment.

In its annual report for 2018, the PMC furthermore addressed three issues which concerned Police organisation and procedures that had been noted by the Committee. First, the PMC emphasised the establishment of common procedures in the areas possible, among other things in order to strengthen the coordination of procedures between Police districts. The PMC also came to the conclusion that common procedures were useful for the working environment of police officers and could improve the legal safeguards of the citizenry. Secondly, it had come to the attention of the PMC how the use of so-called body cameras and recording equipment in police vehicles was organised. The PMC pointed out that recordings from these cameras were often the only evidence of what transpires in interactions between police and citizens, but that not all districts use such cameras, and that the districts that use such equipment use different types of equipment and differ in whether they use it continually or not. Thirdly, the PMC recommended that police districts extend the storage period of video recordings from surveillance cameras in police stations, from body cameras and police vehicles, to at least three months.

The aforementioned annual report from 2018 stated that the PMC had received a total of 102 complaints in 2018. Of the complaints received, 44 related to conduct by police staff and 42 concerned arrests. The

classification of cases received in 2019 has not been completed but an annual report from PMC for 2019 is expected by the middle of 2020.

The PMC stated in its annual reports for both 2017 and 2018 that it had in the course of its duties received notifications and information on arrests and deprivations of liberty of persons, that may be rooted in illnesses suffered by the arrested person, possibly where other measures did not seem to be available. The PMC pointed out that it was possible that the Police Act provided the appropriate authorisations for arrest, e.g. in case of public disturbance or nuisance or to protect the safety of the persons concerned or the general public. On the other hand, a person could not be detained longer than necessary, cf. the provisions of the Police Act, and strict requirements applied to depriving people of their liberty according to the Constitution. The PMC further noted that there would have to be a special investigation into the possible illness of the person in question and their right to health care.

An incident of this kind reported to the PMC became the basis for a special investigation at the initiative of the PMC. That investigation concerned the possible illness of the arrested person and their right to adequate health care. In November 2018 the PMC initiated an investigation into what procedures apply when persons suffering from an illness are accommodated in cells and a doctor or nurse has to be called for the arrested person. The PMC has requested these procedures from Commissioners of Police and a review of the documentation is currently underway.

Pursuant to Article 35 of the Police Act No. 90/1996, the PMC shall examine cases where people have lost their lives or sustained serious physical injury in connection with the work of the police, irrespective of whether or not there is a suspicion of criminal activity. The PMC is currently examining three such cases, but findings have not been released.

7. Prisons

Recommendation 23

The CPT recommends that the Icelandic authorities amend the Execution of Sentences Act and restore the obligation to draw up individual sentence plans for all sentenced prisoners; as a first priority, such plans should be developed for prisoners serving long sentences. The current absence of such plans makes it more difficult to offer individually tailored purposeful activities to prisoners³⁴ and to prepare the inmates for their eventual return to the community at large. Once the aforementioned amendment is adopted, particular attention will have to be paid to involving (to the extent possible) prisoners in the drafting and reviewing the sentence plans, so as to secure their commitment to the implementation of the plans and to their social rehabilitation.

Response from the Icelandic Government:

Pursuant to Article 24 of the Execution of Sentences Act, the State Prison and Probation Administration shall, in cooperation with the prisoner, draw up a sentence plan if this is considered necessary according to experts of the Prison and Probation Administration. The State Prison and Probation Administration does not agree that an individual sentence plan must be drawn up for each prisoner, as this has not been considered necessary by the experts of the Administration. The Icelandic authorities agree with this viewpoint, since this alone does not prevent prisoners from receiving adequate treatment in prison.

Many prisoners complete their sentences without any problems, have housing upon completion of their sentences, stable employment, do not have alcohol or drug problems, etc. These persons can normally

serve their sentence in the way deemed most appropriate by the State Prison and Probation Administration, i.e. start their sentencing in a closed-type prison, quickly progress to an open-type prison, proceed from there to the Vernd halfway house where they work or study during the day and finish the last part of their sentence at home with an electronic monitoring anklet. However, the State Prison and Probation Administration reaffirms that legalising the obligation to draw up individual sentence plans might mean that other regulatory or important duties deemed necessary by prison authorities cannot be carried out. The State Prison and Probation Administration further notes that even though an individual sentence plan is not drawn up for every prisoner, this does not preclude the person concerned from receiving adequate treatment from a psychologist, from being able to serve part of a sentence while in treatment, being accommodated in a treatment facility, etc. It should also be noted that sentence plans are almost invariably drawn up for prisoners serving long sentences if experts deem this to be necessary.

Upon arrival in prison an admission and care assessment is carried out by the State Prison and Probation Administration. A mental health team for prisons was established on 1 January 2020 which will offer targeted, continuous and personalised addiction treatment for prisoners serving their sentences. The goal is to establish this service before the end of 2020. It will have a focus on treatment plans for each prisoner and place an emphasis on prevention education.

Recommendation 24

Considering the crucial role of duly trained prison staff, present in sufficient numbers and representing the appropriate range of specialities, in providing a safe environment for prisoners and enabling their social rehabilitation, the Committee recommends that increased efforts be made by the Icelandic authorities to secure the necessary financial and human resources for the prison system.

Response from the Icelandic Government:

The Icelandic authorities will take this under serious consideration.

Recommendation 27

The Committee trusts that staff at Litla-Hraun Prison in particular will continue to be vigilant and make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation. Achieving this objective will require improving the training of custodial staff in dynamic security.

Response from the Icelandic Government:

One of the most important current tasks of prison authorities is improving the situation and living conditions of inmates in prisons, especially in Litla-Hraun. Expectations are high for the mental health team established on 1 January this year, which is inter alia intended to address addiction problems among prisoners but the prison authorities will also undertake measures at Litla-Hraun to improve the conditions of prisoners and custodial staff and thus increase the safety of the prisoners. These measures will create more leeway for custodial staff to engage in other tasks, e.g. taking greater part in the daily activities of the prisoners, spending more time in their accommodation units, etc.

The Ministry of Education, Science and Culture has also decided to establish a working group on the re-evaluation of the content and framework of education for prisoners and custodial staff. The group's role is to collect and analyse data on the issue, and present the Minister of Education and Culture and the Minister of Justice with proposals for the future organisation of education for prisoners and custodial

staff. The group is expected to present results before the end of 2020.

Recommendation 28

The CPT recommends that steps be taken to address the shortcomings at Litla-Hraun, Hólmsheiði and Kvíabryggja Prisons. Regarding the latter establishment, the Committee would like to be provided with more detailed information on the proposed extension. On a more general issue, the Icelandic authorities should reflect upon the manner to provide safe(r) accommodation to women serving their sentence in an open prison.

Response from the Icelandic Government:

The overhaul of the cells in question has been put on the maintenance schedule of Litla-Hraun.

As regards the prison at Hólmsheiði, no cells in the women's unit have frosted windows. Cells in the isolation unit have frosted windows to prevent outside view because otherwise prisoners there would have a view of the road outside the prison which could jeopardise investigative interests. Four additional cells in another unit were equipped with such frosted films, but the prison administration has already acted to remove them.

Following the visit by the CPT the accommodation arrangements for female prisoners in open-type prisons have been changed. They are no longer accommodated at Kvíabryggja but at the prison at Sogn where their cells can be separated from the cells of male prisoners, in addition to having separate toilet and shower facilities. It is thus easier for custodial staff to monitor the female prisoners and ensure their safety.

No further developments are planned at Kvíabryggja at the moment.

Recommendation 31

The CPT recommends that the Icelandic authorities pursue their efforts to develop the offer of work and other organised activities for all inmates, in particular those serving long sentences. The Committee is also of the view that tailored programmes of therapeutic and rehabilitative activities should be offered to prisoners with mental disorders⁵⁹ and learning disabilities. All this (as well as the generalised implementation of individual sentence plans) will require better trained custodial staff⁶² but also recruiting more social workers, teachers and work instructors, as well as more input from prison psychologists and addiction specialists. The CPT recommends that steps be taken in the light of the above remarks.

Response from the Icelandic Government:

The prison administrations at Litla-Hraun and Hólmsheiði are continually searching for new projects for the prisons, both independent projects as well as projects undertaken in cooperation with the business sector. Studies are available to all prisoners. Since the CPT visited the prison at Hólmsheiði, a manager has been engaged for a full-time position at the prison so that it is no longer the same staff member who oversees the store and the workplace. The position entails inter alia increasing the number of projects at the prison and since the manager started, paid work hours for prisoners have increased significantly.

All prisoners can engage in leisure activities whether it is of their own choosing or activities organised by the prison. If a prisoner wants to engage in leisure activities of their own choosing, they have access to facilities at the prison. Courses are mainly offered on a volunteer basis and that arrangement will continue. The recently established mental health team will create more leeway for the existing

psychologists and social workers to focus on specific cases in depth and increase the organised activities of the prisoners.

As previously noted, the Ministry of Education, Science and Culture has decided to establish a working group on the re-evaluation of the content and framework of education for prisoners and custodial staff. The group's role is to collect and analyse data on the issue, and present the Minister of Education and Culture and the Minister of Justice with proposals for the future organisation of education for prisoners as well as custodial staff. Results from the group are expected before the end of 2020.

Recommendation 32

The bulk of the prisoners in the establishments visited were entitled to generous out-of-cell time⁶⁵ and had access to well-appointed common areas, indoor gyms and outdoor exercise yards (for at least one hour – for inmates in security and disciplinary units – and for up to 4.5 hours per day for the rest of the prisoners) with some sports equipment. That said, despite the Committee's earlier recommendations, the exercise yards in *Litla-Hraun* and *Akureyri* had not been fitted with shelters against inclement weather. The CPT calls upon the Icelandic authorities to remedy these deficiencies. At *Akureyri Prison*, the delegation was concerned to note that despite the Committee's earlier recommendation, remand prisoners on court-ordered isolation would still only be allowed outdoor exercise either before 8 a.m. or after 10 p.m. (when cell doors were locked in the general detention area). This is not acceptable. The CPT calls upon the Icelandic authorities to enable remand prisoners at *Akureyri Prison* to take their outdoor exercise during the day time.

Response from the Icelandic Government:

The authorities will seek to remedy the outdoor yard facilities at *Litla-Hraun* and *Akureyri*, taking into account the comments by the Committee. No prisoner is forced to stay outdoors in bad weather and all prisoners can go indoors in case of inclement weather.

The location of isolation cells in the prison in *Akureyri* is such that prisoners cannot be let out without them walking past other prisoners which could jeopardise investigative interests. The authorities will seek to remedy this, taking into account the comments by the Committee.

Recommendation 33

The situation with respect to activities was less favourable as regards inmates accommodated on the ground level of House 4 at *Litla-Hraun Prison*, several of them reportedly being sex offenders. For quite obvious reasons, some of these inmates were afraid to associate with the rest of the prisoner population, which resulted in them being unable to attend workshops, classes and to take their daily outdoor exercise (as there was no separate secure exercise area for them). The management and staff tried to alleviate the negative consequences of this situation by being more present in the unit and by offering those inmates some compensation e.g. longer time in the gym (under appropriate supervision, preventing contact with other categories of prisoners); however, the fact remained that some of the inmates concerned only left their unit to go to the visiting area or to see the doctor. The Committee recommends that more efforts be made to offer some activities (in a secure environment) to these prisoners. At the end of the visit to *Litla-Hraun Prison*, the Director told the delegation that he had decided to allow the aforementioned prisoners to use the exercise yard by themselves (without the presence of other inmates) for one hour each day. The CPT welcomes this initiative which can be considered as a first step forward; however, the prisoners concerned (and, more generally, any other prisoners who might have a reason to fear their fellow inmates) should ideally have the same entitlement to daily outdoor exercise as all the others, under conditions which guarantee their safety. This may well require constructing a separate, secure outdoor exercise yard for them.

Response from the Icelandic Government:

The authorities will seek to address these comments by the Committee.

The authorities refer to the action plan submitted to the Committee on 1 December 2019. It states that an analysis of requirements is planned for Litla-Hraun which will include proposals for changes to the facilities, since the current buildings are inadequate for access control and separation of the prisoner population. Experts and health care workers will be consulted so that their facilities will be in accordance with the service they provide.

Recommendations 35 to 44

The Ministry of Health will reply to recommendations 35–44 on health services in Autumn 2020. The action plan by the Minister of Justice and the Minister of Health on health care in prisons and measures to address drug problems among prisoners has already been submitted to the CPT.

Recommendation 46

Although in practice inmates were rarely sent to disciplinary isolation for longer than a few days, the Committee is of the view that, given its potentially very damaging effects, the maximum period of disciplinary isolation should be no more than 14 days for a given offence, and preferably lower. The CPT recommends that Section 74 of the Execution of Sentences Act be amended accordingly.

Response from the Icelandic Government:

The authorities will take under consideration whether it is appropriate to amend Article 74 of the Execution of Sentences Act in accordance with the comments by the CPT.

Recommendation 47

As for isolation on security grounds, the only issue of concern worth mentioning here is the presence – in the dedicated cell at *Hólmsheiði Prison* – of metal rings connected to the floor and surrounding the area for the location of the mattress. Though the delegation had absolutely no reason to doubt the veracity of explanations provided by the staff (that the rings had been fitted during the construction of the prison due to a planning mistake and that they had never been used), the CPT recommends that the aforementioned rings be removed.

Response from the Icelandic Government:

The prison administration has confirmed that the rings have been removed, as they have never been used and there is no special need for them.

Recommendation 48

The delegation noted that internal complaints (unlike the external ones) could not be made in a confidential manner (e.g. in a sealed envelope). The Committee recommends that steps be taken to remedy this *lacuna* (by providing complaint forms and envelopes that prisoners could place in a locked complaints box, located in each accommodation unit, to be opened only by specially designated persons). Furthermore, the CPT's delegation was told by management and staff in the prisons visited that their respective establishments had never (or only very rarely) received internal inspections, be it from the Ministry of Justice or the PPA. Considering the importance of effective internal oversight in ensuring adequate treatment

Response from the Icelandic Government:

The authorities have received information from the State Prison and Probation Administration that the first proposal concerning internal complaints in the institution will be implemented.

Regarding internal inspections it should be pointed out that the staff of the State Prison and Probation Administration and the prisons work closely together, so there is in effect no inspection role held by the administrators when it comes to the staff of the prisons. Most of the decisions made in the prisons are made in cooperation with and/or at the recommendation/instruction of the State Prison and Probation Administration and complaints concerning them can be addressed directly to the Ministry of Justice. However, the State Prison and Probation Administration pays close attention to all rules and procedures being followed and updates them if necessary. Staff at the State Prison and Probation Administration also regularly visits the prisons and meets with directors, duty officers and others, where issues that need to be rectified are reviewed. Actual oversight of the prison administration is in the hands of the Ministry of Justice and the Althingi Ombudsman, which in addition to general oversight is also responsible for specialised monitoring, i.e. OPCAT, as previously stated.

8. Psychiatric establishments**Recommendations 50 to 61**

The Ministry of Health will reply to recommendations 50-61 in Autumn 2020.

Recommendation 59

The CPT recommends that the Icelandic authorities regulate the use of means of restraint in the legislation instead of leaving it solely to the discretion of the psychiatric establishments.

Response from the Icelandic Government:

Article 28 of the Act on Legal Competence No. 71/1997 contains a provision on chemical restraint and other means of restraint of a patient who has been involuntarily hospitalised, who presents a danger to himself or others, or if the patient's life or health is else endangered. The provision does not distinguish between the application of means of restraint due to illness or due to the temporary mental state of patients, that is aimed at preventing them from harming themselves or others. The provision can also, as applicable, refer to a person who has been deprived of their legal competence and committed to a hospital against his or her will, cf. Article 58(2) of the Act on Legal Competence.

Article 28(4) states that the Minister of Health is empowered to issue rules in further detail on the use of chemical restraint and other means of restraint. The Minister of Health set up a working group in Summer 2019 to assess the need for further instructions regarding the implementation of the coercive instruments in the Legal Competence Act. It is hoped that the setting of such rules will establish a clearer framework and limits for the use of chemical restraint or other means of restraint, in addition to defining more clearly what use of means of restraint may entail. In the first evaluation of the OPCAT-team of the Psychiatry Department of the National University Hospital of Iceland (Landspítali) at Kleppur it was pointed out that the aforementioned regulation can only apply to medical treatment and thus there is no legal authorisation for the application of other means of restraint, such as body search, other types of searches, confiscation of items, etc. The Minister of Health set up a working group at the end of 2019, that was entrusted with drawing up an action plan to address these comments made by the OPCAT-team. The Ministry of Health will provide more detailed answers in Autumn 2020.

Recommendation 63

The CPT continues to find the criteria for involuntary hospitalisation to be rather vague and subject to possible misinterpretation to the detriment of the persons concerned. The Committee reiterates its recommendation that the Icelandic authorities amend the Legal Competence Act and introduce criteria which would ensure that involuntary hospitalisation takes place only when a patient's placement is absolutely necessary to prevent danger to the patient or to other persons.

Response from the Icelandic Government:

As stated in the previous reply by the Icelandic authorities, amendments have been made to Article 19 of the Act on Legal Competence with the Amendment Act No. 84/2015, which were aimed at improving the rights of individuals facing involuntary hospitalisation. A medical doctor deciding on involuntary hospitalisation must determine the position of the person in question to the involuntary hospitalisation if possible, cf. the last sentence of Paragraph 2. Furthermore, there is now a requirement in Paragraph 4 for a doctor to make a visit and assess the situation before a person is involuntarily committed to hospital according to Paragraph 2 or 3.

Article 19(2) only states that a decision on involuntary hospitalisation of a person possessing legal competence shall be taken by a medical doctor and referred to a head doctor or their deputy as soon as possible, if the person in question suffers from a serious psychotic disorder or if this is deemed highly probable, or if the person's condition is reasonably deemed analogous to that leading from such disorder or a serious alcohol or drug dependency. Article 19(3), which concerns the extension of involuntary hospitalisation for a period up to 21 days upon the approval of a District Commissioner, further provides that such extension of involuntary hospitalisation must be deemed „inevitable“ by a medical doctor. Even though no further conditions are set regarding the condition of the individual which the decision concerns to be deemed as presenting a significant danger of them harming themselves or others, it is one of the principles of Icelandic administrative law that onerous measures are only applied with due consideration taken in accordance with the principle of proportionality. That requirement is more important the more onerous the administrative decision is. Keeping this in mind, the Ministry of Justice will address the requests by the CPT and seek to clarify the wording of the Act in this regard. It is furthermore under consideration to review the wording of the provision, taking into consideration the UN Convention on the Rights of Persons with Disabilities. In this context it may be pointed out that a dedicated parliamentary committee is at the present working on a complete revision of the Act of Legal Competence on the basis of Parliamentary Resolution No. 41/149 from 19 June 2019. The Ministry of Justice will consult with and advise this committee. The latest CPT report and the comments therein on the current Act on Legal Competence were discussed in a meeting between the Minister of Justice and the Chairperson of the committee at the end of 2019. The Ministry has provided the parliamentary committee with a copy of its response to the CPT.

Recommendation 64

The CPT recommends that the Icelandic authorities take steps to ensure that a psychiatric opinion (independent of the hospital in which the patient is placed) is always sought in the context of extension of involuntary hospitalisation

Response from the Icelandic Government:

The Ministry of Justice will take this comment by the CPT under consideration and has already presented it to the aforementioned committee working on the review of the Act on Legal Competence.

Recommendation 65

The Committee calls upon the Icelandic authorities to amend the Legal Competence Act to ensure that the deprivation of legal competence (which may well be necessary to protect the patient's personal and financial interests) requires additional grounds and a separate procedure.

Response from the Icelandic Government:

The amendments to the Act on Legal Competence made with Act No. 84/2015 sought to address the previous comments by the CPT in this regard by adding to the Act an authorisation to extend involuntary hospitalisation for up to a total of 12 weeks upon a court ruling. This ensures the possibility to apply less stringent measures than the deprivation of legal competence. However, as noted, an extension beyond that time limit does require depriving the individual of legal competence. The argument for this was that it was not considered appropriate to deprive a legally competent individual of their competence in the longer term. The Ministry of Justice will address this comment by the CPT and seek to create the possibility of extending involuntary hospitalisation more than once, without depriving an individual of their legal competence. This has been communicated to the parliamentary committee working on the review of the Legal Competence Act.

Recommendation 66

The Committee calls upon the Icelandic authorities to amend the relevant legislation as regards both civil and forensic patients; if the period of involuntary placement is unspecified (or exceeds 6 months), there should be an automatic judicial review at regular intervals of the need to continue hospitalisation.

Response from the Icelandic Government:

Article 29(1) of the Act on Legal Competence clearly states that a person's involuntary hospitalisation may never last longer than the head doctor considers necessary, and any decision on continuing involuntary hospitalisation is thus always based on a medical assessment, regardless whether the patient is legally competent or not. Article 58(2) of the Act on Legal Competence states that a decision on involuntary hospitalisation of a person deprived of legal competence requires the assessment of a medical doctor of whether the life or health of the deprived person is in danger. Article 59 of the Act further ensures the right of a person deprived of legal competence to refer a decision according to Article 58(2) to the courts. The amendments to the Act on Legal Competence made with Act No. 84/2015 tightened the conditions for depriving an individual of their legal competence and introduced changes to the measure so that it is always temporary, as an effort to react to the comments by the CPT. Since deprivation of legal competence is always temporary, the involvement of a judge is guaranteed in case an extension of the deprivation is sought. However, the Act does not state for how long a person may be temporarily deprived of legal competence. The Ministry of Justice will thus take the comment by the CPT under review and examine whether there is a need for clearer provisions on the regular review of involuntary commitment procedures. This has been communicated to the parliamentary committee working on the review of the Legal Competence Act.