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Is there a European minimum
standard regarding custody
procedures and detention
facilities?

Master thesis
20 points

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Criminal Procedure

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Summary

After having worked with a project regarding custody procedures and detention facilities where the goal was to give recommendations to the Former Yugoslav Republic of Macedonia (Macedonia) on issues which needed to be changed for them to fulfil the European minimum standard, I doubted that there really existed any European minimum standards. Therefore, I studied Swedish, British, French and European regulations and made study visits to Police Stations in the different countries. I also included Macedonia to give a picture of what clearly is not European minimum standards.

Areas more explicitly studied are the conditions under which a person can be detained, what rights and entitlements a detainee has and the design of the cells.

The study shows that the European Union countries do not fulfil all the standards set by the European law (i.e. European Convention on Human Rights, The Charter of Fundamental Rights of the European Union and documents from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) but had more detailed regulations and practice in other parts. In my view, the European Union cannot demand more from applicant States than what the members manage to fulfil, therefore the European law cannot be seen as the European minimum standard. The Standard is instead the lowest requirements in the regulations and practice (see page 57). Then one also has to be pragmatic. If a State fulfils nine points of ten and the standard in general is good, then the European minimum standard may be considered fulfilled.

Preface

Already at the age of eleven, I knew I wanted to study law and become a lawyer. Now, fifteen years later I am fulfilling my goal.

It has been six good years and I got the chance to finish them by studying something that really interests me. It would never have been possible if it were not for a couple of special persons.

I would like to thank Sven Gunnar Norsell, National Police Board, Sweden, and Keith Batt, Home Office, the United Kingdom, for being so open and helpful. I would also like to thank all the Police Officers I have met and spoken to during my research.

I am especially grateful to the Wood family, Anne-Marie Meslard and of course Mathew Pattenden. The Woods for helping me with the study visits, letting me stay with them while in England, for sending me material and for being a fun and nice family to know. Anne-Marie because she is a superb friend and has been there all the times when the time was running out and the French authorities did not want to help me. Mathew for being a great tutor last summer, for helping me with material and for having proofread this thesis.

At last I would like to thank Professor Gunnar Bergholtz for having accepted to be my supervisor for this thesis and for his indispensable advice and Karol Nowak for taking the time to be my opponent even though he got a daughter only a couple of weeks ago.

During the years at the Faculty of Law in Lund, I have been supported by my father and mother, brothers and sisters but there is one person who would have been prouder than anyone else and that is my grandmother. Sadly, she passed away this spring and therefore never got the chance to see me graduate. I would like to dedicate this thesis to her and tell her: I made it!... and faster than the other two...

Abbreviations

CCTV	Closed Circuit Television
CPC	Criminal Procedure Code
CPP	Code de Procedure Pénale
CPT	The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	The Convention for the Protection of Human Rights and Fundamental Freedoms. – The European Convention on Human Rights
FUK	Förundersökningskungörelse (1947:948)
FBHA	Förordning (1976:376) om behandlingen av häktade och anhållna m.fl
FörvL	Förvaltningslag (1986:223)
K	Kungörelse
LBHA	Lag (1976:371) on behandlingen av häktade och anhållna m.fl.
MoI	Ministry of Interior
OSCE	Organization for Security and Co-operation in Europe
PACE	Police and Criminal Evidence Act 1984
PD	Custody Policy Document
PF	Polisförordning (1998:1558)
PL	Polislag (1984:387)
RB	Rättegångsbalk (1942:740)
RPSFS	Rikspolisstyrelsens Författningssamling

1 Introduction

1.1 Background

I spent the summer of 2004 as an intern with EUPOL-Proxima, a European Union police mission in the Former Yugoslav Republic of Macedonia (Macedonia). I worked with the law enforcement monitors and especially with one of them, Barrister Mathew Pattenden.

Macedonia wants to become a member of the European Union and therefore it has to fulfil, what we said in the mission, the European Minimum Standards. The goal of EUPOL-Proxima is to assess the situation in Macedonia and to make recommendations regarding issues that have to be changed for the European Minimum Standards to be fulfilled.

Barrister Pattenden was in charge of a project regarding the custody procedures and detention facilities, which meant that he studied how the detainees were treated, if they were notified of their rights, if they got food, if the cells were in a good condition etc. As we were visiting the police stations around the country, I noticed that we did not share the same opinion on what the conditions should be, especially when it came to the conditions of the cells. Our frames of reference were not the same. He compared the conditions to the ones in Great Britain and I to the ones in Sweden. Neither did we find any regulative texts on this matter.

Our diverging opinions regarding the conditions and the lack of regulative texts defining this expression raised the question if there really are any European Minimum Standards regarding these issues.

Henceforth in this thesis, I will write European minimum standard instead of European Minimum Standard as it is unclear whether it really exists.

1.2 Aims and purpose

The purpose of this thesis is to find out whether there are any European minimum standards regarding custody procedures and detention facilities and if not, to make a proposition to such standards.

To obtain this purpose, I have asked the following questions:

- Which rights and entitlements do detainees have? E.g. right to inform next of kin, right to exercise and right to rest.
- What design has a cell? E.g. the appropriate size of a cell and appropriate furniture.

- How are custody procedures and detention facilities regulated in European law? E.g. what is stated in European Convention on Human Rights or in the documents from the European Committee for the Prevention of Torture and Inhuman or degrading Treatment or Punishment (the Anti-Torture Committee)

1.3 Outline

I have divided the thesis in three parts; The European law, the treatment of the detainees and the cells.

In the first part, I write about the European law regarding custody procedures and detention facilities. In the second part, I describe the detainees' different rights and entitlements including some of the different parts of the custody procedure, e.g. the notification of the rights, body search, complaint system etc and finally, under part three, I describe the condition and design of the detention cells. As I write about the European law in the first part, I have chosen to leave the European law out from the other parts even if all the countries are members of the European Council and therefore bound by the European Convention on Human Rights and as, three of the countries are members of the European Union and they, therefore are bound by the Charter of Fundamental Rights of the European Union.

I have tried to describe the custody procedure according to a timeline from the arrival at the police station until the termination of the custody period. I will describe the notification of rights, the need for an interpreter, body search and medical examination. To continue to the time spent in the cell with check-up, provision of food, right to rest and exercise. This part I finish by describing the different countries' complaint systems in case of ill-treatment. In addition to this, I also describe the design of the cells. All this is presented country by country.

1.4 Method and limitations

I have chosen to make a wide and not too profound study to be able to cover as much of the custody procedure as possible.

To obtain the purpose of this thesis, I have chosen to make a comparative study between four countries, Sweden, England, France and Macedonia. Sweden was an obvious choice as it is my native country and is a member of the European Union. England and France were chosen because they too are members of the European Union and because I have knowledge of their legal systems. I chose Macedonia to enable a comparison of standards with a country, which is not a member of the European Union.

Most of the previous research is about pre-trial detention, prisons and court procedures, very little is written about this early phase of the criminal procedure. The most important research on the subject is the work of the Anti-torture committee and its reports about custody procedures and detention facilities. Therefore, I have concentrated my studies on legislative and regulative texts. I only refer to doctrine, case law and other documents in the part about European law, as this regulation is written in a general manner and need specification. In addition to the regulatory texts, I have been visiting three randomly chosen police stations in each country except Macedonia, where I visited many more during last summer's project.

Visited police stations:

Sweden	- Malmö, Lund, Sundsvall
England	- Hornsey, Tottenham, Haringey.
France	- Salon de Provence, Toulon, La Sayne sur Mer
Macedonia	- E.g. Skopje, Tetovo, Struga, Ohrid, Kumanovo

Before the visits, I had prepared a number of issues that I later discussed with police officers in charge of the custody procedure, while visiting the detention facilities. Examples of issues were, are the detainees informed of their rights, are they provided with food, in what condition are the cells etc? In Sweden and England I was also allowed to take pictures of different parts of the detention facilities (see Supplement A and B), this was unfortunately not the case in France and I did not get an authorisation to use the pictures from Macedonia.

Of the whole of United Kingdom, I chose to study only England, as Northern Ireland and Scotland are partly independent and therefore, also partly have their own legal systems.

The custody procedure differs depending on the reason behind the deprivation of liberty, if it is a person detained because he is drunk, because he is an asylum seeker or because he is suspected of having committed a crime. I am concentrating on the cases where a person is a suspect of a crime and I have limited this thesis further by not discussing e.g. terrorist or drug trafficking crimes as these in some aspects are differently regulated. Nor have I written about juveniles or the relation men/women as the custody procedure regarding also these issues in some aspects differ from the regular one.

As I wrote under "Outline", I am describing the custody procedure according to a timeline although I am not discussing the appeal possibilities against the detention decision nor will I in detail describe the interview procedure as both of these includes many special sub elements.

The amount of information given regarding each country can differ as I am referring to what is written in their texts and the countries have been focusing on different issues and have different legal designs.

I only compare the national regulations to European law as the European Law generally goes further than e.g. regulations from the United Nations. However, it has to be said in this context that there are several documents on an international level that regulate these issues. Some of these are The United Nation's Universal Declaration of Human Rights, Standard Minimum Rules for the Treatment of Prisoners and The International Covenant on Civil and Political Rights, The Rome statute of the International Criminal Court etc. The Council of Europe's Standard Minimum Rules for the Treatment of Prisoners should also be mentioned.

My main sources are legislative and regulative texts and the information that I got from the visits. The fact that I have not studied doctrine and case law may have led to misinterpretations of the texts and I may have missed important doctrinal inputs. As said, this makes this investigation a not too profound analysis contrary to a deep analysis of every provision. The visits can have filled some of these lacunas by giving a practical view, although practice and theory are not always the same.

There is also a risk that I have missed relevant texts, because even if I have knowledge about the different legal systems I do not have the training of British, French and Macedonian systems, I do of the Swedish. In this context, I must make the remark that I know that I do not have all the relevant French texts. E.g. I am lacking a circular¹ about the treatment of detainees as I have not been able to find this text nor anyone who knows how to find it.

A greater number than three countries (except Macedonia) and three visits per country might have been preferable for a more reliable result but consideration taken to the contemplated size of the thesis, the number three is sufficient to give a pointer of the Minimum Standard. The fact that the three countries are western countries may also lead to a fallacious result.

¹ Ministerial circular from the 11th of March 2003.

Part 1 – European law

With European Law, I mean ECHR, EU-Charter and documents from the Anti-torture Committee.

In this part, I will describe the regulations on a European level regarding custody procedures and detention facilities, which more specifically means the detainees rights and entitlements and what according to European law is an appropriate design of a detention cell.

For this part, see Supplement C and D.

2 European law

2.1 The arrival at the police station

2.1.1 The notification of rights

According to ECHR art. 5.2, the arrested person shall be promptly informed of the reasons for his arrest and the charges against him. This does not have to be done in a certain way, it is enough if it can be concluded from the interviews what the suspicions and charges are.²

Except for the above mentioned information the detainee shall also be notified of his rights. The right to have a next of kin or other third party informed of the detention, the right to have access to a lawyer and the right to request a medical examination by a doctor of one's choice, are three rights that are of fundamental relevance as safeguards against ill-treatment of detainees.³ These should be applicable from the very beginning of the detention as the risk of ill-treatment is the greatest at this point, why the detainee should be notified of these rights immediately.⁴ Exceptions may be made but any possibilities to delay must be clearly defined and shall not continue longer then necessary.⁵

To further ensure that the detainee is informed of and understands his rights, he could be handed a written pamphlet or a form describing the rights. There may even be a possibility for the detainee to sign the form confirming he has been notified.⁶

2.1.2 The rights

2.1.2.1 Notify next of kin

The Anti-torture committee, does not go any deeper in its "CPT Standards"⁷ then to state that the right to notify a next of kin is fundamental. They do develop this issue more in the visit reports, which I will come back to in the next chapter.

² Fox, Campbell and Hartley v. the United Kingdom, Murray v. the United Kingdom and Dikme v. Turkey.

³ CPT/Inf/E (2002) 1, 6.

⁴ *Ibid.*, 6, 9.

⁵ *Ibid.*, 6.

⁶ *Ibid.*, 9 and the Green paper, 14.

⁷ CPT/Inf/E (2002) 1.

2.1.2.2 Legal counsel

ECHR art. 5, the main provision regarding detention, does not say anything about the right to a legal counsel. It should though be possible to refer to article 6.3c as *lex analogia*, where it is stated that a person charged with a criminal offence has the right to legal assistance and under certain circumstances even to free legal assistance. This has been indirectly confirmed by the Anti-torture committee, who has written about the importance of legal assistance while in detention.⁸

Access to a legal counsel ensures that the detainee is fully aware of his rights and that he benefits from them.⁹ The Court has said that it is essential that the arrested can be advised by a legal counsel already during the first police interviews. Only under special circumstances can this right be denied, e.g. when nothing is said during the interview that can hurt the suspect's defence.¹⁰ Therefore, it is essential that the counsel can talk in private with his client.¹¹

The Court has set up certain conditions to when a suspect will have the right to get free legal aid. Firstly, the suspect must be unable to pay for the counsel himself and secondly, that it is necessary for obtaining fairness that he is advised by a legal counsel.¹²

2.1.2.3 Medical examination

The third and last of the fundamental rights is the right to a medical examination. There are no regulations on a European level regarding this issue. Neither the European Convention on Human Rights nor the European Charter for Fundamental Freedoms has any provisions about the detainee's right to request for a medical examination. Only the Anti-torture committee has stated that this right is essential and that a medical examination should be conducted out of sight and of hearing of the police officers and the doctor's conclusion should be reported and given to the detainee and his lawyer.¹³

2.1.3 Interpreter

It is crucial that the detainee understands what is happening, why he is held in custody, what his rights are but also all the documentation.¹⁴ Article 6.3a

⁸ CPT/Inf/E (2002) 1, 6 and 12, also confirmed by The EU Charter art. 48 and the Green paper 22-23.

⁹ Green paper, 14.

¹⁰ John Murray v. United Kingdom, Averill v. United Kingdom, Magee v. United Kingdom and Brennan v. United Kingdom.

¹¹ Campbell and Fell v. United Kingdom, S v. Switzerland, Brennan v. United Kingdom.

¹² Danelius, 242.

¹³ CPT/Inf/E (2002) 1, 6.

¹⁴ Green paper, 14, CPT/Inf/E (2002) 1, 6.

states that any person charged with a criminal offence has the right to free assistance of an interpreter if he cannot understand the language, which should be applicable even in the detention cases.

2.1.4 Body search

Body search is not directly regulated in the different texts but there are many provisions regarding the person's dignity and right to the respect for one's private life, for example ECHR art. 3 (prohibition against torture) and 8 (the right for protection of one's private and family life), EU Charter art. 1 (right to human dignity) and 3 (right to integrity of the person). During a body search and even more during an intimate search there is a danger that the person's dignity and integrity will be hurt and as with the medical examination, this should be carried out away from the view of others.¹⁵

Even if the Anti-torture committee does not say anything about the execution of the body search, it has written in its "CPT Standards" that all objects seized or taken from a detainee must be properly labelled and recorded and put in a locked cupboard or store.¹⁶

2.2 Cell time

These issues are vaguely regulated. All that is said is that the detainees should have access to drinking water and be served food at regular hours, which means that they should get at least one proper meal a day¹⁷ and the ones staying longer than 24 hours should be given the opportunity to get some plain air exercise every day.¹⁸

2.3 Complaint system

The Anti-torture committee underlines in its "CPT Standards" that there must be an independent mechanism for examining complaints of ill-treatment of a detainee, as a working complaint system is one of the most efficient ways of hindering ill-treatment.¹⁹

In this context, it also underlines the importance that the detainee is physically brought before a judge, firstly as the detainee will have the opportunity to make a complaint against the police for ill-treatment, and

¹⁵ CPT/Inf/E (2002) 1, 6 analogously.

¹⁶ *Ibid*, 11.

¹⁷ *Ibid*, 15.

¹⁸ *Ibid*.

¹⁹ *Ibid*, 7.

secondly it enables the judge to see indications for ill-treatment and therefore can take action.²⁰

2.4 Maximum detention period

According to ECHR art. 5.3 the detainee has the right to “promptly” be brought before a judge or the like, as well as he is entitled to a trial within a reasonable time or to be released pending trial. The European Court of Human Rights (the Court) has interpreted the expression “promptly” restrictively. Although, reluctant to set up a maximum limit for the detention period, the Court has expressed in different cases that six to sixteen days are too long and in, at least, older praxis that four days is within the limit.²¹

2.5 The cells

The Anti-torture committee says that a cell should be 7m² in area and 2m from floor to ceiling and at least 2,5m between the walls. It emphasises that it is not meant as a minimum standard, but as a guideline for what is reasonable considering the number of detainees staying there.²² There should be a bench or a chair enabling the detainee to rest. He should also be provided with a clean mattress and beddings.²³ For hygiene, the detainee should have access to toilet and washing facilities.²⁴

The cell should enjoy both artificial and natural light and it should be possible to dim the artificial light at night, making it easier for the detainee to get some sleep and the natural light is so that the detainee can make out the difference between day and night.²⁵

In case of emergency or if the detainee otherwise would like to get in contact with the custody officer, there should be some kind of call system within the cell.²⁶

²⁰ *Ibid*, 14.

²¹ E.g. De Jong, Baljet and Vand den Brink v. the Netherlands, Van der Sluijs, Zuiderveld and Klappe v. the Netherlands, Sakik and others v. Turkey and Case 2894/66 v. the Netherlands Yb 9.

²² CPT/Inf/E (2002) 1, 8.

²³ *Ibid*.

²⁴ *Ibid*, 15.

²⁵ *Ibid*, 8.

²⁶ *Ibid*, 15.

3 CPT's visit reports

3.1 Sweden

The Anti-torture committee (the Committee) states that no detainee in Sweden is under a great risk of being physically ill-treated but in the report from 2004 they had gotten information about cases of ill-treatment and they pointed out that once in custody there is no justification to strike a detainee.²⁷ Even if there have not been many complaints about ill-treatment of detainees by police officers there are still some points where Sweden has to improve.

As written above there are three main rights according to the Committee, the right to have a next of kin informed of the detainee's whereabouts, the right to legal assistance and finally the right to request a medical examination by a doctor of one's own choice. Information of these rights should be given "*promptly*" after the arrest or detention. However, the detainees spoken to said that they had not been properly informed of their rights. Both the information of the right to inform a next of kin and the right to have a legal counsel had been delayed.²⁸ They also said that they met with their counsel for the first time only a couple of minutes before the pre-trial detention hearing, due to that, they felt that their side was not appropriately represented.²⁹

To arrange the issue with delayed notifications, the Committee recommends that there should be a form containing the necessary information about the rights, which should be handed out to the detainees at the arrival to the police station.³⁰

Regarding the right to request a medical examination there is no regulation in Sweden, which makes it up to the police officer's own discretion to decide whether it is necessary.³¹ Although, it has to be said that in practice they do call a doctor if a detainee wants to. In addition there is no possibility in Sweden to appoint an own doctor for the medical examination, which would be preferable.³²

In its first report the Committee noticed that in some police stations there were no special procedure for providing food to the detainees, which meant that there were a risk that the detainees could stay in custody for a long time without food.³³ This has been changed since.

²⁷ CPT/Inf (92) 4, para. 12 and CPT/Inf (2004) 32, paras. 9-10.

²⁸ CPT/Inf (92) 4, paras. 22-23, 29, CPT/Inf (2004) 32, paras. 26-28, 31.

²⁹ CPT/Inf (92) 4, para. 28.

³⁰ CPT/Inf (92) 4, para. 29, CPT/Inf (2004) 32, paras. 26-28, 31.

³¹ CPT/Inf (2004) 32, para. 29.

³² CPT/Inf (2004) 32, para. 29 and CPT/Inf (92) 4, para. 31.

³³ CPT/Inf (92) 4, para. 19.

It raised concern about a couple of cubicles that were around 1,5m² and too small to be detention cells, even for short period detention. These cubicles were not used as cells but sometimes, if the detainees were loud, they were put in there.³⁴ In its latest report the Committee was happy to learn that these cubicles were no longer in use.³⁵

The last issue of interest is that the Committee was not impressed by the Swedish complaint system, as it is handled by the police internally or semi-internally by the prosecutor. It stresses that the investigation procedure shall be trusted to a special agency, which is demonstratively independent from the police.³⁶

3.2 England

The Committee was impressed by the way the British police were dealing with the detainees, it found them very professional.³⁷ It gave them extra credit for the notice boards, where the police note everything of importance about the detainee, the time of arrest, review of detention etc.³⁸ There have however been some allegations about ill-treatment and a couple of young detainees reported that their request for a lawyer had been delayed or even refused.³⁹

In its first report the Committee recommended England to produce a form, which should be signed by the detainee when notified of his rights. This form should be available in other languages in addition to English.⁴⁰ At my visits, I learned that this form now exists and in several languages.

In some of the police stations visited by the Committee, prisoners were temporarily held because of over crowded prisons, which according to the Committee cannot be acceptable.⁴¹

It has also found that some stations had satisfactory washing facilities but not in others. Even if detainees normally only stay for a couple of hours or a day, there are cases where the detainee must stay for a longer period, therefore it is important that the detainees properly can take care of their hygiene.⁴²

³⁴ CPT/Inf (92) 4, para. 18.

³⁵ CPT/Inf (2004) 32, para. 35.

³⁶ *Ibid*, part 3.

³⁷ CPT/Inf (91) 15, para. 207.

³⁸ *Ibid*, para. 215.

³⁹ CPT/Inf (2002) 6, para. 13.

⁴⁰ CPT/Inf (91) 15, para. 213.

⁴¹ CPT/Inf (96) 11 paras. 25-29.

⁴² CPT/Inf (91) 15, para. 211.

In its report from 1997, the Committee did not find the British complaint system independent, therefore England introduced a new agency, the Independent Police Complaints Commission, who will investigate and supervise complaints against the police.⁴³

3.3 France

The Committee wrote in its first visit report that none of the detainees they spoke to had been tortured but instead they got several reports about ill-treatment like boxes on the ear, deprivation of food and medicine etc.⁴⁴ They also learned that the detainees were not informed of the reasons for their detention but that the procedure was soon going to change when the Criminal Procedure Code was revised. The Committee suggested that there should be a form with all the rights for the detainees to sign, confirming that they had been properly informed of their rights.⁴⁵

At the time for the first Committee visit, the detainees did not have a legal right to notify a next of kin or other third party of their detention nor to have access to a lawyer or the right to be examined by a doctor the first 24 hours but this has been changed since.⁴⁶ In 1993 the right to a lawyer after the first 24 hours was introduced in the Criminal Procedure Code. The Committee stressed that it is important that this right applies from the outset of the detention and remarked the importance of the possibility of having the lawyer present during interviews, which is still not possible in France.⁴⁷

Nor were the detainees properly provided with food. The ones who had money got two sandwiches a day at their own expense and the others were either given food by the police officers who paid from their own pockets or they had to stay without food until they were released.⁴⁸ As I wrote earlier, this is from what I have learned, no longer the case, the detainees are now given three meals a day.

The detention cells were mostly beneath contempt as they were filthy, smelly, dark and overcrowded. Some of the cells were however acceptable.⁴⁹ Along the years and the visits, the situation in the cells has improved, especially after the Ministry of Interior's circular of the 11th of March 2003.⁵⁰

From information that the Committee has received there are indications that complaints are not always investigated. There were several detainees, who

⁴³ CPT/Inf (2002) 6, paras. 19-21.

⁴⁴ CPT/Inf (93) 2, paras. 10-11, CPT/Inf (98) 7, para. 12.

⁴⁵ CPT/Inf (93) 2, paras. 45-46.

⁴⁶ *Ibid*, paras. 38, 41, 43.

⁴⁷ CPT/Inf (98) 7, para. 39, CPT/Inf (2004) 6, para. 64.

⁴⁸ CPT/Inf (93) 2, para. 30, CPT/Inf (98) 7, para. 36.

⁴⁹ CPT/Inf (93) 2, paras. 16-29.

⁵⁰ CPT/Inf (2004) 6, para. 58.

reported that they had made a complaint to the investigative judge without any reaction.⁵¹

3.4 Macedonia

There have been a number of allegations about ill-treatment, some of them in the latest report could even be considered as torture.⁵² The Committee is concerned about the fact that the situation is not improving.⁵³

There is a form, where the police is suppose to fill in if the detainee wants a next of kin or other third party to be informed and if he wants a lawyer and the detainee is suppose to sign this form. The Committee criticises Macedonia for not using this part of the form to the extent necessary, more often then not were this form not completed.⁵⁴

The Committee noted that there is no regulation on the right to be examined by a doctor.⁵⁵

People are being held longer in custody then the allowed 24 hours and still in its latest report the Committee is raising concerns that there has not been any change regarding the police detention time limits, the access to a lawyer and that there are no standardized custody form.⁵⁶

The Committee found objects like baseball bats etc. within the custody area, which were explained to be seized objects but as they were not labelled or recorded anywhere, the Committee doubted the explanation. Seized objects shall be labelled and that kind of objects that are not seized do not belong in a police station.⁵⁷

The cells are unfit to keep detainees. They were in general big enough but very filthy, smelly and dark and the mattresses were to dirty to be used.⁵⁸ Some detainees reported that they had not been allowed to go to the toilet⁵⁹ and that they were not given any food.⁶⁰

In Macedonia, it is the Department of Internal Control of the Ministry of Interior who is responsible to investigate complaints about ill-treatment but the Committee does not find them independent and impartial as the

⁵¹ CPT/Inf (98) 7, para. 24.

⁵² CPT/Inf (2001) 20, paras. 11, 14, CPT/Inf (2003) 3, paras. 20-21, CPT/Inf (2004) 29, para. 19.

⁵³ CPT/Inf (2004) 29, para. 27.

⁵⁴ CPT/Inf (2001) 20, para. 30-31, CPT/Inf (2003) 3, paras. 48, 50.

⁵⁵ CPT/Inf (2001) 20, para. 39, CPT/Inf (2003) 3, para. 51.

⁵⁶ CPT/Inf (2003) 3, para. 55 and CPT/Inf (2004) 29, para. 36.

⁵⁷ CPT/Inf (2001) 20, para. 15, CPT/Inf (2003) 3, paras. 35-37, CPT/Inf (2004) 29, para. 37.

⁵⁸ CPT/Inf (2001) 20, para. 24, CPT/Inf (2003) 3, paras 65-68, CPT/Inf (2004) 29, para. 37.

⁵⁹ CPT/Inf (2001) 20, para. 25, CPT/Inf (2003) 3, paras. 65-68, CPT/Inf (2004) 29, para.

37.

⁶⁰ CPT/Inf (2001) 20, para. 26.

investigations are handled by fellow officers.⁶¹ In the Committee's latest visit report, it wrote that improvement has been made in the form of an initiated project to develop a regulatory framework. There are though still a lot of changes that need to be made, e.g. it must be obligatory for police officers to report if they receive an allegation of ill-treatment.⁶²

⁶¹ CPT/Inf (2003) 3, para. 64.

⁶² CPT/Inf (2004) 29, paras. 32-33.

Part 2 – The detainee’s rights and entitlements

During the time held in custody the detainee has certain rights and entitlements. These rights differ from country to country so in this part I will describe the different rights and entitlements and their implication for the detainee.

For this part, see Supplement C.

4 Sweden

4.1 Arrival at the police station

4.1.1 Notification of rights

RB 24:9 states that a person, who has been arrested or detained shall be informed of the suspicions against him and the reasons for his arrest or detention, as well as his right to notify a next of kin. Nothing is written in the paragraph about when this information should be given. I was however told during my visits that this information normally was given during the so-called 24:8 interview, the first interview the police holds with the arrested or detained after the deprivation of liberty (RB 24:8).

4.1.1.1 Notify next of kin

According to RB 24:9, the detainee has the right to have a next of kin or other person particularly close to him informed of his detention. The notification may be delayed if it is believed to hinder the investigation (RB 24:9).

4.1.1.2 Legal counsel

First, when the suspicion reaches the level “*for good reason*” must the suspect be informed of his right to a legal counsel and that he under certain circumstances even has the right to a public defence counsel (FUK 12§). Circumstances when a public defence counsel should be appointed are when required due to the character of the investigation or if the sanctions will involve imprisonment as well as if there are particular reasons regarding the suspect’s personal conditions or the case. He does not have a right to a public defence counsel if he has appointed his own lawyer (RB 21:3a).

The suspect has the right to meet with his counsel in private, but others than the public defence counsel may only meet in private with the client if the custody officer or prosecutor agrees (RB 21:9).

4.1.2 Interpreter

There are no provisions in the Swedish texts about the right to an interpreter while in detention. However, in RB 5:6 it is stated that if party, witness or other in a case does not speak Swedish an interpreter be present. It should be possible to use this provision as *lex analogia* regarding the detention procedure. According to 8§ FörvL should an authority use interpreters when dealing with a person who does not speak Swedish. I was also told during my study visits, that if the detainee is not speaking Swedish the police

inform the prosecutor, who calls an interpreter from a national list of interpreters containing practically all existing languages.

4.1.3 Body search and keeping of property

The body search is conducted when the detainee arrives at the police station, unless it is obviously unnecessary, to remove objects that the detainee is not allowed to carry but also for security reasons so the detainee does not constitute a risk for the police officers, himself and others (2§ LBHA).

If the police finds an intimate search to be necessary, they have to call a doctor, a fully qualified nurse, or if none of those are available, a police officer who has a medical education (4§ FBHA). A witness should also be present when a police officer conducts the intimate search (2b§ LBHA). From my visits, I learned that they are performing intimate searches, in a private room to protect the individual's integrity.

The person conducting the body search or intimate search as well as other people present shall be of the same sex as the detainee, unless it is a doctor that executes the search. (2b§ LBHA)

Objects found shall be kept for the detainee except syringes and/or equal objects that shall be destroyed (2b§ LBHA). All things found are registered in a separate register, which is signed by the detainee when given his things back. If the detainee refuses to sign, a police officer, other than the one keeping the register, shall sign (4a§ FBHA).

In the police stations I visited, they had lockers, one for each detainee. These lockers were either in the book-in area or somewhere close to the custody office.

4.1.4 Medical examination

According to 4§ LBHA medical prescriptions shall be followed and a doctor shall be called if needed or even the hospital. In practice, they call a doctor as soon as they consider it necessary and if the detainee seems to be seriously ill they will take him to the hospital. The detainees are not regularly checked for injuries etc but if they want a medical examination the police will call a doctor if it is not obviously unnecessary.

4.2 Cell time

4.2.1 Check-up

There is nothing regulated regarding check-ups but in two of the police stations, I visited, Sundsvall and Lund, they checked on the detainees at least once an hour depending on his medical and mental health. Malmö never checked on the detainees unless their medical and mental health demanded it.

4.2.2 Food

The detainees shall be served food three times a day, breakfast, lunch and dinner, suited for their religion, culture, medical needs or if they are vegetarians. The detainee shall as well have access to drinking water at all times, preferably through a water panel in the wall (8§ RPSFS 2001:12).

4.2.3 Rest

RB 23:12 enunciate that the police may not use wearing-out as a means to evoke a confession and the detainee should be given necessary rest but there is no specific regulation concerning resting periods but according to the police officers I talked to, the detainee is given eight hours of rest at night and if necessary during daytime.

4.2.4 Exercise

According to 8§ LBHA the detainee shall be given the possibility to spend at least one hour outside and in all three of the police stations I visited, there were one or several exercise yards with possibilities to smoke and get some air. This possibility can be abolished if there are particular obstacles, but exactly what these obstacles could be is not regulated.

4.3 Complaint system

Police officers have a general obligation to report to their supervisor if they get information that a criminal offence under public prosecution has been committed (9§ PL). They also have the obligation to forward to the prosecutor cases involving an employee at the police, if he is suspected of having committed a crime, have hurt anyone or violated any other while on duty (PF 5:1). The detainee may make his complaint to his solicitor, or directly to the prosecutor.

4.4 Maximum detention period

The police can detain a person for a maximum of 12 hours and then the public prosecutor decides whether the person shall continue to be held in custody but the total period may not exceed 96 hours (16§ PL and RB 24:6). Within this period the detainee must be brought before a judge for a decision about pre-trial detention otherwise he has to be released (RB 24:13).

5 England

5.1 Arrival at the police station

5.1.1 Notification of rights

The detainee shall be informed of his rights as soon as possible, unless he is incapable of understanding, is violent or the like, then a delay can be acceptable (PACE C 1.8). His rights are to inform someone of his arrest, to consult privately with a solicitor and under certain circumstances a free independent legal counsel and to consult the PACE Codes of practice (PACE s. 56, 58 and PACE C 3.1-2). Except for the rights, the arrested person shall be informed that he is under arrest and the reason for it (PACE C 10.3).

5.1.1.1 Notify next of kin

The detainee may inform a person he knows of his detention. If it is not possible to get in contact with this person, he may try with up to two others (PACE C 5.1). This right may be exercised every time the detainee is moved to a new police station so that they are aware of his whereabouts (PACE C 5.3). The detainee shall sign the custody record, whether he wants to notify anyone or not (PACE C 3.5b).

5.1.1.2 Legal counsel

As stated above the detainee shall be informed of his right to a solicitor. In addition to orally given notification, there should be posters in the custody area advertising this right in English, Welsh, the main minority and European languages (PACE C 6.3 and notes of guidance 6H). When notified the detainee shall sign the custody record to confirm whether he wants a solicitor or not (PACE C 3.5 a-b).

The notification of the right to a solicitor may be delayed under certain circumstances, for example in case of a serious arrestable offence or a drug trafficking case and if the person has not yet been charged for that offence. Other examples are if there is a risk that anyone will be hurt or an accomplice alerted (PACE C Annex B1 and B2). Even if there is no reason to delay the notification, there might still be reason to delay the meeting between the detainee and his lawyer, e.g. if the authorising officer suspects the solicitor to pass on messages from the detainee to accomplices, or there is a risk of physical harm to others (PACE C 6.6 and PACE C Annex B3). A delay may only last for as long as it is considered necessary but never longer than 36 hours and a detainee shall always have the right to consult with a solicitor in good time before a court hearing (PACE C Annex B6 and B7).

5.1.1.3 The right to consult the PACE

This right may only be restricted if the detainee uses this right to hinder the investigation. (PACE C notes for guidance 3D)

5.1.2 Written notice of entitlements

Except for the rights listed above the detainee shall also be given a written notice of entitlements, which should list reasonable standards of physical comfort, food and drink, access to toilets and washing facilities, medical attention, entitlements of visits from outside parties, exercise etc. (PACE notes of guidance 3A). This notification should be available in English, Welsh, the main minority and European languages as well as in an audio version (PACE C notes of guidance 3B).

5.1.3 Interpreter

There must be an interpreter present during any interview with a detainee, who does not speak English. An exception can be made if the interviewing police officer speaks the detainee's language and the detainee has given a written consent (PACE C 13.2). A police officer may however never be the interpreter when legal advice is given (PACE C 13.9). There is a national list of interpreters paid by public expense that should be used when an interpreter is necessary (PACE C 13.1 and 13.3).

It is important that the interpreter arrives as quickly as possible so that the detainee can be properly informed of the charges against him and his rights (PACE C 13.10). I learned during my visits that they sometimes call an interpreter to translate over the telephone so that the detainee could be notified and informed immediately.

5.1.4 Body search and keeping of property

Both a regular body search and an intimate search may be conducted if there otherwise is a risk that the detainee will hurt himself or others (PACE s. 54 to 55).

A regular body search should be handled by a police officer of the same sex as the detainee, while an intimate body search must be conducted by a registered medical practitioner or nurse, except in cases where an officer of at least inspector rank believes that there otherwise is a risk of harm. In these cases, the police officer must be of the same sex as the detainee and in addition, there must be a witness present, who also has to be of the same sex as the detainee. (PACE C 4.1, Annex A3 and 6)

The objects found on the detainee shall be safely kept by the custody officer in a locker or elsewhere if appropriate (PACE C 4.1). The custody officer decides if and what property the detainee may keep in the cell considering the risk of harming himself or others, if there is a risk that he will interfere with evidence, escape etc. He shall also inform the detainee of the reasons for the removal (PACE C 4.2). It is up to the discretion of the custody officer to decide whether the removed objects shall be recorded. If they are, the detainee shall be given the opportunity to sign the document as correct and if he refuses, this shall be recorded as well (PACE C 4.4). At the police stations I visited the recorded objects were kept in a cupboard next to the charge desk.

5.1.5 Medical examination

If the custody officer finds that the detainee's physical or mental health calls for medical attention, alternatively that the detainee asks for it, he will call a doctor or if necessary take the detainee to the hospital. There shall also be a possibility for the detainee to be examined by a doctor of his own choice at his expense. (PACE C 9.5 and 9.8)

5.2 Cell time

5.2.1 Check-up

If the detainee feels fine and there are no other reasons to believe that the detainee suffers from a medical or mental disease the custody officer shall check on him at least once an hour. If the risk assessment shows that the detainee is intoxicated or in an other way ill, the custody officer shall check on him and even wake him up at least every half hour (PACE C 9.3). I understood under my police station visits that they usually check on these detainees every 15 minutes.

In England, Closed Circuit Television is used and there are cameras in all the cells and in the general custody area, why apart from the physical checks the custody officer does at least every hour, he has a constant overview of the cells and the detainees. (PD1.03.16)

5.2.2 Food

PACE C 8.6 together with PACE C notes for guidance 8B state that the detainee should be offered at least three meals a day at regular hours, two light meals and one main meal and that drinks are included. Upon reasonable request, the detainee should be given drinks even between meals. Consideration should be taken to special needs, religious believes and other

dietary needs and the detainee may have food supplied by family members at their expense, if the custody officer approves.

The police officers showed at my visits that the food is provided in pre made boxes to be heated in a microwave.

5.2.3 Rest

A detainee has the right to at least eight hours of rest within a 24 hours period, normally at night but this depends on when the detainee last slept, his physical condition etc. It is very important that this period is not interrupted, except if the detainee himself asks for the rest period to be interrupted or if it is necessary to hinder that anyone gets hurt, for medical reasons or similar. If the resting period is interrupted, the detainee has the right to a new period of rest, except in the case where he asked for the interruption. (PACE C 12.2)

5.2.4 Exercise

The detainee must be given the opportunity to daily stay a short moment in plain air. (PACE C 8.7)

According to PD1.02.02 it is only at large custody sites that an exercise yard is requested but may of course exist at all kinds of custody sites. Even a small enclosure with grill cover is acceptable. The stations I visited did not have any exercise yards.

5.3 Complaint system

A complaint about physical or mental abuse given by a detainee or on behalf of a detainee, shall be sent to an officer of at least inspector rank, who is not connected to the investigation. He will then send it to the new agency, the Independent Police Complaints Commission (IPCC)⁶³, who investigate and supervise complaints against the police. (PACE C 9.2)

5.4 Maximum detention period

A person may only be detained for 24 hours without being charged (PACE s. 41). However, a superintendent may decide to prolong the detention period up to 12 hours if he believes that there is a risk that evidence will be destroyed, if the offence is a serious arrestable offence or if the investigation

⁶³ CPT/Inf (2002) 6, paras. 19-21.

is being conducted diligently and expeditiously, which means 36 hours after the arrest or beginning of detention (PACE s. 42).

If further detention is wanted, an application must be handed to a magistrates' court, who then by considering the same circumstances as the above mentioned will decide whether the detention period should be extended with up to another 36 hours (PACE s. 43). After this period a last application for extension can be made, where the court may decide to prolong the detention for 36 hours but never longer than that total detention period will be 96 hours from the arrest or beginning of detention (PACE s. 44). 96 hours is with other words the maximum time a person can be detained before he has to be charged or released.

6 France

6.1 Arrival at the police station

6.1.1 Notification of rights

The detainee shall immediately be informed of the nature of the crime of which he is a suspect of and be notified of his right to inform a next of kin of his arrest, the right to be examined by a doctor and the right to meet with a solicitor. (CPP art. 63-1)

6.1.1.1 Notify next of kin

The detainee may inform a parent, a brother or a sister or his employer but the detainee may be deprived of this right if the prosecutor believes it is necessary considering the investigation. (CPP art. 63-2)

6.1.1.2 Legal counsel

The detainee has the right to meet with a solicitor of his choice after the first hour in detention. If he cannot choose or the one chosen cannot attend, a solicitor from a national list will be appointed. They may meet in private for a maximum of 30 minutes, which means that the detainee does not have the right to have a solicitor present during interviews. Before the meeting, the solicitor shall be informed by the judicial police officer of the nature of the crime for which his client is a suspect. (CPP art. 63-4)

If the detention is prolonged, then the detainee may meet with his solicitor at the beginning of this extension. (CPP art. 63-4)

6.1.1.3 Medical examination

The detainee has the right to be examined by a doctor at the beginning of the detention and if the detention period is prolonged. The doctor is chosen by the prosecutor or the judicial police officer, who also may appoint a doctor at any time during the detention, which is a right that also accrue the family of the detainee. (CPP art. 63-3)

6.1.2 Interpreter

It is stated in CPP art. 63-1 that the detainee shall be informed of his rights in a language he understands. During my visits, I was told that if the situation calls for an interpreter they inform the prosecutor who calls one from a national list. If, though, there is a police officer at the station that speaks the language in question, he can take the role as an interpreter. The

Police make sure the detainee understands everything that happens, which means that the interviews are interpreted as well as the documents and not only the charges and the rights.

6.1.3 Body search and keeping of property

It was explained to me that the body search was conducted in the custody office by a police officer of the same sex as the detainee and if it was necessary to do an intimate search this was conducted by a doctor.

The objects removed from the detainee were recorded in a custody record, which the detainee signs when the items have been returned to him. In two of the police stations, the objects were kept in a locked cupboard in the custody office respectively in a room within the custody area. In the third station, there were several smaller lockers so that the individuals' belongings could be separately kept.

6.2 Cell time

6.2.1 Check-up

There is no regulation regarding check-ups and from what I understood during my visits, the detainees are not regularly checked. One station had Closed Circuit Television, which was, according to the Police satisfactory as they could see the detainees on the monitors at all times.

6.2.2 Food

In the new circular it is stated that the detainees shall be provided with hot meals for free at regular hours, which should be adjusted to suit all religious and cultural differences as well as vegetarians.⁶⁴ The meals are served in boxes that are micro-wave heated and at one of the police stations I was told that sometimes, if the boxes were finished, food was bought from a hamburger restaurant. I was also told that the detainee was given drinks on request.

6.2.3 Rest

The only thing about rest that is regulated, is that eventual breaks during interviews shall be recorded in the police report (CPP art. 64). According to the police officers I met, the detainees have the right to eight hours of rest and sleep per day.

⁶⁴ CPT/Inf (2004) 6, para. 58.

6.2.4 Exercise

There were no exercise yards in the three police stations I visited nor a possibility to safely let the detainees pass time in plain air, to smoke or exercise. According to what I was told, the detainees were not let out at all, e.g. if the detainees wanted to smoke they had to do so in the cells.

6.3 Complaint system

It was explained to me, that if a detainee submits a complaint about physical or psychological abuse the officer forwards it to the prosecutor who then decides whether he will proceed with the case.

6.4 Maximum detention period

The judicial police officer has the authorisation to hold a suspect in custody for 24 hours. If the police consider it necessary to prolong the period for another 24 hours the person has to be brought before the prosecutor. This is not necessary in flagrant cases, the prosecutor then takes the decision without seeing the suspect (CPP art. 63 and 77). Only in drug and terrorist cases may the detention be prolonged for another 48 hours, a decision taken by a judge (CPP art. 706-26 and 706-23).

7 Macedonia

7.1 Arrival at the police station

7.1.1 Notification of rights

An arrested person shall immediately be informed of the reason for his arrest as well as his rights, which are the right to remain silent, the right to a solicitor and to have him present during interviews. Finally, he shall also be informed of his right to notify his family, or any other relative, of his arrest. (CPC art. 3 and MoI rulebook art. 30)

7.1.1.1 Notify next of kin

If the detainee wants to inform a family member or the employer of his detention, an authorised official shall undertake this within three hours from the beginning of the detention. (MoI rulebook art. 32)

7.1.1.2 Legal counsel

CPC art. 63 states that everyone has the right to a counsel in the pre-criminal and court procedures and that the detainee must be informed of his right to a legal counsel before the first interview. If the detainee has requested a legal counsel, he cannot be interviewed before the counsel's arrival unless the delay exceeds two hours. (CPC art. 188)

A detainee may communicate freely and without supervision with his counsel, except if there is a risk of escape or that the detainee will destroy evidence as well as influencing witnesses. Another reason for restriction is if the police believe that the detainee communicates to e.g. accomplices through his lawyer (CPC art. 70). The counsel has the right to take part of all the documentation regarding his client (CPC art. 69). In reality, the lawyer often was not allowed to take part of essential information about the evidence against his client. The detainee also had to pay for the legal counsel himself.

7.1.2 Interpreter

In CPC art. 3 it is stated that the detainee shall be informed of the suspicions against him and his rights in a language he understands. In some of the visited stations, it was said that there exists a national list of interpreters and in others, that there is no such list. They all mostly used police officers as interpreters but told me that interpreters were used not only to notify the detainee of his rights but also to translate during interviews. I got the impression that the translation of the rights was not handled properly.

The detainee's entitlements and rights were available in seven languages on a poster given by the Organization for Security and Co-operation in Europe (OSCE). Most police stations had hung the poster on the wall but sometimes in places where the detainees could not see them. There were also pamphlets from the Helsinki Committee in seven different languages with the same information to be handed to the detainee, if this was done or not differed from station to station.

7.1.3 Body search and keeping of property

A police officer should search the detainee at the arrival at the police station for the purpose of discovering and taking away objects, which the person could use for attack or self-injury (MoI rulebook art. 33). The police officers I spoke to said that the detainees are searched by a police officer of the same sex, if possible.

The property, removed from the detainee was recorded in a special logbook signed by the detainee both at the removal and when they returned the property to him. Some stations had lockers, where they put the property but some stations put the items in a plastic bag on the floor in the custody office.

7.1.4 Medical examination

There is no regulation on this subject but even so, there seemed to be a system that worked, which means that a doctor was called when necessary or the detainee was taken to the hospital if he was badly hurt or ill.

7.2 Cell time

7.2.1 Check-up

The police should perform regular check-ups on the detainees (MoI rulebook art. 31). From the information I got during the study visits, they were checked every hour or half an hour, especially at the stations where there were no alarm system in the cells.

7.2.2 Food

A person who is detained for more than six hours, have the right to be provided with food (MoI rulebook art. 37). According to the police officers, the police's economy does not cover the costs of providing food to the detainees, why they have to buy their own food. The ones who cannot afford it have to turn to family members or in some cases, the police officers pay

for the food from their own pocket. Some police stations had a petty cash system where they collected money so they could pay the food directly or reimburse the police officer who had paid. Some police officers we talked to said that it was possible to reimburse the money afterwards from the Ministry of Interior but whether this is true is unclear.

7.2.3 Rest

There is no regulation regarding rest periods but according to the police officers, the detainees were given an eight hours rest period per day.

7.2.4 Exercise

There is no regulation regarding the right to fresh air and from our observations the detainees were not allowed to spend time in plain air during their time in detention and none of the police stations had exercise yards.

7.3 Complaint system

There is no regulation regarding the complaint system but I learned that the Ministry of Interior is responsible for complaints against ill-treatment by authorised officials. However, some of the police officers we spoke to meant that they handed the complaints to the superintendent, who then decided whether it should be forwarded to the Ministry of Interior. Others said that all complaints were directly sent to the Ministry. Either way, there were many complaints that never were investigated or that took unnecessary long time, thus my opinion is that they do not have a complaint system that works.

7.4 Maximum detention period

The detainee may be held in custody for a maximum of 24 hours from his arrest then he must be released or be brought before a judge for a decision of pre-trial detention. (CPC art. 185 (4))

Part 3 – The Cells

In this part, I will describe the design and the condition of the cells in the different countries as well as the access to toilets and washing facilities and which security measures that are taken for the safety of both the Police and the detainee.

For this part, see Supplement D.

8 Sweden

For this chapter see Supplement A.

8.1 Size and furniture

The cell shall be at least 6m² and 2,40m from floor to ceiling (2§ K (1958:215)). The national police board has gone even further by stating that the cell should be at least 7m² and contain a toilet and washing facilities with sensor-given armature to hinder that the detainee hurts himself or anybody or anything else.⁶⁵ The cells I have been visiting were at least the recommended size but had neither toilet nor washing facilities, inside the cell, only outside in the corridor but I got informed that these facilities exist in newly built cells.

In the cell there should be a bed, a chair, a table, a shelf and other necessary equipment, all in a material, which do not allow the detainee to hurt himself or anybody else (3§ K (1958:215)). Beddings should be fireproof and impossible to tear apart and the mattress should have a layer that protect dirt and wet from penetrating and be easy to clean and disinfect (2§ RPSFS 2001:12). During my visits, I saw that there were mattresses in all cells and that they were in a waterproof material and I was told that the detainees were provided with beddings.

The cells are designed to keep one detainee but if it is necessary because of lack of room or if the detainee wants to, the police can hold two or more detainees in the same cell. This is however not acceptable if it constitutes a security risk or if it might damage the investigation. (3§ LBHA)

8.2 Light, ventilation and temperature

In every cell, there should be a window, which allows natural light although protecting the detainee from the view of unauthorised persons outside the police station. (2§ K (1958:215))

The temperature in the cell may not be lower then +20°C during daytime and +18°C during nighttime (1§ RPSFS 2001:12 Allmänna råd). and there must be a ventilation system that airs the cell three times a day (1§ RPSFS 2001:12 Allmänna råd).

In the cells I visited, there were both natural and artificial light. There was a possibility to dim the artificial light at night to allow the detainee to get

⁶⁵ Råd för projektering, 2, 6.

proper sleep without hindering the custody officer to see what happens in the cell. There were also a ventilation system and from what I could feel, the temperature was pleasant.

8.3 Toilets and washing facilities

It is important that the detainee can take care of his own hygiene, whereas he should have access to washing facilities like toilets and shower facilities with armature made of stainless steel to hinder the detainee from hurting himself or break anything. (2§ RPSFS 2001:12 Allmänna råd)

Clothes and toilet articles shall be given to the detainee if needed and if appropriate. (6§ K (1958:215))

As I wrote above, there were no toilets and washing facilities within the cells, instead they were in the corridor, with an ununlockable door and the armature was to a majority made of stainless steel.

8.4 Security

There must be an alarm system, which makes it possible for the detainee to contact the custody officer (2§ RPSFS 2001:12). In the custody suits I visited, there was an alarm alerting the custody officer, if the detainee needed help.

In all the detention facilities, I visited in Sweden, there were a window in the cell door which enabled the custody officer to see everything that were going on inside the cell.

8.5 Cleaning

The cell should be cleaned every day but at least after every detainee (1§ RPSFS 2001:12 Allmänna råd). E.g. in Malmö, I was told the cells are cleaned when the detainees are eating lunch and therefore out of the cell. In addition, the detainees clean their own cells after their release or before they are moved to pre-trial detention. According to my opinion, the cells looked clean and from the information I got the cells were cleaned every day.

The beddings should be changed when necessary or at least once a week. If necessary, they should be cleaned between every detainee but otherwise it is enough to air, whip and brush the beddings. (7§ RPSFS 2001:12)

9 England

For this chapter see Supplement B

9.1 Size and furniture

The cell should be designed to keep one person and be at least 7m² in area and from floor to ceiling at least 3m but 3,2m is preferred. Preferably, the cell should contain a bed and toilet with washing facilities. The ones I visited did measure at least the prescribed size and contained a bed and a toilet but the washing facilities were outside the cell (PACE C 8.1, PD1.04.23a-c and f). For more information about toilet and washing facilities see section 8.3.

The cells visited were designed to hold one detainee.

Beddings and mattresses of “*reasonable standard*” and in a “*clean and sanitary*” condition should be provided, which, from the information I got, they were. (PACE C 8.3)

The walls in the cells visited were covered of tile, which is easy to keep clean but also easy to break and therefore can constitute a danger.

9.2 Light, ventilation and temperature

There must be enough light in the cell, which also means that it must be possible to dim the light at nighttime to allow the detainee proper sleep (PACE C 8.2). Both natural and artificial light is preferable as it is important that the detainee can make a difference between day and night but the windows can be glazed to keep the detainee’s integrity by hindering outsiders’ view (PD1.03.06g).

The temperature in the cell should be +21°C plus/minus two degrees for an outside maximum of +25°C. For outer temperatures above +28°C the temperature inside should be allowed to rise one degree per degree outdoors. (PD3.02.02)

All cells must be provided with a ventilation system which send the extracted air directly back to the atmosphere, which means that the air should not be recycled. (PD3.02.13)

There were both natural and artificial lights in all the cells as well as a ventilation system and from what I could feel the temperature was pleasant.

9.3 Toilets and washing facilities

As already stated, the detainee must have access to toilet and washing facilities, (PACE C 8.4) where the toilet should be of a material, preferably stainless steel, which will hold against physical attack and hinder the detainee to hurt himself or others (PD1.01.05 + PD2.07.02). The police officers must be able to supervise the detainee while washing without unnecessarily violating the detainee's integrity. (PD2.07.03)

In the custody suits I visited, the washing facilities were situated outside in the corridor and as one can see in the picture, there is a partial door, which keeps a bit of privacy for the detainee but enables the custody officer to supervise.

9.4 Security

There should be a call button in all cells with a reassurance lamp outside so the detainees can call for help if necessary. It should be possible to shut the sounder off if a detainee is misusing the system to disturb the custody officer but never the indicator lamp. (PD3.05.02)

In the cell door there must be a hatch, which allows the custody officer to see everything that happens inside in the cell, without having to open the door. (PD1.04.23i)

As I mentioned under part two, they are using Closed Circuit Television to a great extent in England. There is a camera in each detention cell and all throughout the custody suite, which are monitored by the custody officer. (PD1.04.23q)

9.5 Cleaning

This part of the English regulation is at this moment revised, thus I have not found any regulation on this matter but from the information I got during my visits, the cells are cleaned every day or at least after every detainee and the beddings are cleaned when necessary. In my opinion, the cells were proper. There were no visible dirt and there was a neutral smell.

10 France

As the French authorities were not willing to send me any of their regulative texts, this chapter is to its crucial parts based on my own observations, except for some information I have found about the Circular from the 11th of March 2003.

10.1 Size and furniture

The cells should be at least 7m² with a bench, big enough to allow a mattress, for the detainee to rest.⁶⁶

In two of the three stations I visited, there were only wooden benches without mattresses. The size of the cells differed but they were made to hold more than one detainee. The third station was opened in 2004 and therefore had a modern standard where the cells measured around 7m² and planned for only one detainee, who also was provided with a mattress.

France differed from the other countries by having the wall facing the corridor made of glass, giving a total view in to the cell.

10.2 Light, ventilation and temperature

The cell should enjoy natural light and there is a plan to install ventilation in all cells.⁶⁷

In the two older police stations, there was neither artificial nor natural light in the cells although there were artificial light in the corridor without any possibility to dim. They also lacked ventilation but I found the temperature to be pleasant.

In the more modern facility, there were artificial lights in the cells, which could be turned off. There were still no direct natural light but indirectly from the end of the corridor. They also had good ventilation.

10.3 Toilets and washing facilities

The detainees should have access to toilets and washing facilities outside the cells, which they also had, and in the newer police station, they were made of stainless steel.⁶⁸

⁶⁶ CPT/Inf (2004) 6, para. 59.

⁶⁷ *Ibid.*

⁶⁸ CPT/Inf (2004) 6, para. 59.

10.4 Security

For the safety of both the detainee and the police officers, there should be video surveillance and an alarm system so that the detainee can contact the custody officer.⁶⁹

In none of the facilities visited, they had alarm systems but one of them used video surveillance.

10.5 Cleaning

The cells should be cleaned every day.⁷⁰ The first station I visited looked clean but worn, the second was not clean and from my point of view beneath contempt. I even learned that they hardly ever cleaned the blankets. The third station was on the other hand both clean and fresh.

⁶⁹ *Ibid.*

⁷⁰ *Ibid*, para. 58.

11 Macedonia

There are no official regulation regarding the design of the detention cells in Macedonia, thus it is important to point out that many of the issues is up to the different police stations' own discretion.

As with the chapter about France, much of the information here given, is based on my own observations.

11.1 Size and furniture

All the cells I saw were of a satisfactory size for one or two detainees and contained one or two beds. Normally the detainee had to sleep directly on the bench as mattresses only were provided in some of the facilities visited. The mattresses provided were also often dirty and soiled and the blankets were cleaned only rarely, one station told us they were cleaned only once a year.

11.2 Light, ventilation and temperature

The cells we visited were often placed in the basement but had windows, though covered by a metal plate with only small holes in it (maximum 5mm in diameter). This allowed little light to enter, which only allowed the detainee to see the difference between day and night but never were to get any actual light. There were no artificial lights in the cells, either because the lamp was broken or for safety reasons as they used regular light bulbs on a cord, which could be used for suicide attempts.

There were no heating, which made it cold even during the summer and there were no ventilation, which often resulted in an unpleasant smell.

11.3 Toilets and washing facilities

The detainees and the police officers used the same toilets and washing facilities, which is not recommendable regarding the risk for escape and the integrity of both the detainee and the police officers. The facilities were often made of tile and porcelain, which increases the risk for self-harm and harm to other.

11.4 Security

Only a few of the detention facilities we visited had an alarm system. Normally the detainees had to shout to get in contact with the custody officer, which could be quite difficult as they were situated in the basement.

The observation hole in the door was often too small to be able to see anything in the cell, also considering the lack of light. This constituted an unnecessary risk for the police officers, who could not observe properly what was happening inside the cell.

The floors in the cells were often made of wood and could easily be ripped up and used as weapons.

11.5 Cleaning

The cells were dirty and filthy. The floor and walls were made of plain concrete, sometimes painted but still it was difficult to keep clean. We were however told that the cells were cleaned regularly.

The police officers told us that they thought the detention facilities were so bad that they tried not to put the detainees in the cells but preferred to handcuff them to radiators in offices or put them in the temporary custody room next to the custody office.

12 Analysis and conclusion

The purpose of this thesis is to find out whether there exists a European minimum standard regarding custody procedures and detention facilities, and if not, to propose such European minimum standards. To obtain the purpose I asked the following questions:

- What rights and entitlements have a detainee?
- What design has a cell?
- How are custody procedures and detention facilities regulated in European law?

As established in the Introduction, I lack information about the French regulation. I do not think the only explanation to why I have not found more is that there is none, therefore I once again want to make the reader aware of this lacuna and encourage a critical view regarding these parts of the analysis.

To facilitate the reading and the understanding of the analysis and my conclusion, I have summarized the information about the countries in two tables to be found under supplement C for the detainee's rights and entitlements and D for the cells. I have also made two table constituting four different European minimum standards, European minimum standards in theory, in practice, the lowest common standard of the theory and practice and at last the preferable European minimum standards. These are to be found under supplement E and F.

12.1 The detainee's rights and entitlements

For this section, see Supplement C.

The given rights and entitlements in the different countries are similar to each other, the detainee should e.g. in all countries be informed of the suspicions against him and the reason for his arrest, as well as of his rights, which in all countries are, the right to inform a next of kin and the right to a legal counsel. In France, the right to request for a medical examination is added and according to the European law it may also be a doctor of the detainee's own choice. In England the detainee also has a right to consult the PACE Codes of Practice. The countries, excluding Sweden have expressly stated that the detainee shall be informed and notified immediately or as soon as possible. In Sweden, I was told that in practice the detainee is informed during the first interview, the 24:8 interview. Even if the detainee shall be informed immediately, in France he does not have the right to consult with his lawyer during the first hour in detention.

The European minimum standard on this issue is with other words that the detainee shall be informed of the suspicions against him and the reason for his arrest together with the right to inform a next of kin and his right to a legal counsel after the first hour of the detention. As there is no regulation in Sweden regarding when the information should be given, the European minimum standard is that this information can be given at any time. In practice, the detainee also has a right to request for a medical examination but not one of the detainee's own choice.

According to the English, French and European regulations, the detainee shall be informed of his rights etc., in a language he understands. Through *lex analogia* the detainee has a right to an interpreter and there is also a general demand on the Swedish authorities to use interpreters when dealing with people who do not speak the language. This would mean that in Sweden there is a demand that the whole procedure should be interpreted, a right, which does not exist in the other countries in theory but in practice. There is a national list of interpreters in all the European Union countries but France often uses police officers as interpreters. To sum up, the detainee has no right to an interpreter in theory, although in practice he has the right to an interpreter, not only for the notification of rights but as well during interviews and to translate documents.

The European minimum standard is very clear regarding body search. A body search should be conducted by a police officer of the same sex as the detainee and if it is necessary to do an intimate search, it should be handled by a doctor or a nurse. Under certain circumstances an intimate search may be handled by a police officer of the same sex as the detainee. In those cases, Sweden and England demand that a witness of the same sex as the detainee shall be present. In the European law, there is no direct regulation about the realisation of a body search, it is only stated that an individual's integrity should be protected. The removed objects during the body search should be registered and the record signed by the detainee when getting the items back. The things shall be kept in a locked cupboard or the like.

I mentioned the right to request for medical examination. According to French and European legislation, this is one of the fundamental rights. In Sweden and England, it is not expressly written that the detainee shall be informed of this right. Although, in Sweden it is stated that medical prescriptions shall be followed and that the detainee shall be taken to the hospital if necessary and in United Kingdom it is written that a doctor shall be called or the detainee taken to the hospital if necessary. Therefore, both in theory and in practice the detainee has a right to request for a medical examination.

There is no regulation regarding check-ups except in England, where the custody officer shall check on the detainees at least once an hour as well as they should have Closed Circuit Television monitoring the detainees. This is

also followed in practice. In Sweden, two of the three stations checked on their detainees at least once an hour but in France, there were no regular checks. This means that neither in theory nor in practice does the check-up fall under European minimum standards. In my opinion, the Police should check on the detainees even if they are under video surveillance, the detainees health and security must be of highest priority.

In Sweden and England, it is stated that the detainees shall be provided with food three times a day including drinks, suited for different religious or medical needs and for vegetarians. France and the European law do not specify how often the detainee shall be provided with food but according to the European law, it should be at least one proper meal per day with something to drink. In conclusion, the European minimum standard is that the detainee shall be provided with food at regular hours.

The only countries where the detainees have a legal right to rest is Sweden and England, where the detainee has a right to necessary rest respectively eight hours of rest per day. In France, it is only stated that any rest period should be recorded in the custody record. The question is not regulated in the European law, although the right exists in practice as all the countries are giving their detainees eight hours of rest per day. The right to rest is with other words not a European minimum standard in theory but in practice.

According to the European law, the detainees should be given the possibility to exercise once a day if they are held longer than 24 hours. In Sweden and England, the detainees are given respectively one hour and a short moment. The stations I visited in Sweden had all exercise yards outside but the ones in England did not. In France, the detainees are not given the opportunity to stay under plain air and there were no exercise yards. The European minimum standard does, neither in theory, nor in practice contain the right to exercise.

France does not have a regulation regarding the complaint system but in practice the complaints are taken by a police officer, who then hand them over to the prosecutor, the same procedure as in Sweden. In England, the complaints are sent to an officer of at least inspector rank. The European law means that it has to be an independent mechanism that handles the complaints. It is difficult to say what the European minimum standard is regarding this question, but all countries agree that there shall be a system to handle complaints about ill-treatment.

In Sweden, United Kingdom and France the maximum time a person can be detained is 96 hours. Macedonia has set the limit already at 24 hours. With other words, the European minimum standard is clear, in theory. A person can be detained for a maximum of 96 hours, although the countries utilizes these hours differently. It is either the police, the prosecutor or a judge that decides whether a person should be detained or if the detention period should be extended. This is an issue that I have not been able to study in practice therefore it is impossible for me to say whether the 96 hour limit is

followed by the countries thus I cannot say anything about the European minimum standard in practice regarding this issue.

12.2 The cell

The cell should be at least 7m². Sweden has in addition 6m² but as 7m² is from a more recent text, it would be the limit as *lex posterior*. The recommended measures from floor to ceiling differ and France has not set up a limit at all. The measures between the walls are only regulated in the European texts. In conclusion, I find the European minimum standard to be 7m² in area and that the other measurements to be unregulated. It should only be one detainee per cell with the measures given above but it is possible to keep two or more detainees per cell if the size is suitable.

All the countries state that the cell should contain a bed or a bench big enough for the detainee to lie down. There should also be a mattress and beddings. Some of the facilities in France had beddings but too dirty to use and as far as I know, there is no regulation to provide the detainees with beddings. According to Sweden, England and the European law, the cell should also contain a toilet and washing facilities. In the United Kingdom, there were toilets in the cells but no washing facility and in Sweden, I was told that this was built in new cells. This means that according to the theoretical European minimum standard there should only be a bed or a bench with a mattress big enough to lie on and no toilet nor washing facilities. In practice, it is enough to have a bench to sit, as the benches in France were not made for lying down. In Sweden, there is also a demand that e.g. the mattress should be water resistant but this is not the case with the other countries, therefore the Standard has to stay with that there should be a mattress.

Sweden and England have said that the material within the cell should be attack resistant. No such demand exists in French law. In practice, the furniture was made of attack resistant materials but the cell walls in England were made of tile, which is easy to break so there is a risk of self-harm. The theoretical European minimum standard does not set up any regulation regarding the material but in practice, the furniture was attack resistant.

According to all three countries, the cell should enjoy both natural and artificial light and Sweden and England have added that it should be possible to dim the artificial light whereas in France, there is only a possibility to turn them off.

The regulations about the temperature differ between the countries and France does not have a regulation regarding this issue at all, thus according to the European minimum standard in theory there is no special limit. However, in practice, the temperature was pleasant in all three countries why the European minimum standard should be, that the temperature in the cell should be pleasant.

In Sweden and France, there is ventilation in the cells and according to their regulatory texts, there should be. In France, there is a plan to install ventilation in the cells and this issue is not regulated in the European texts. In theory, the minimum standard is that there should be a ventilation system but in practice, there is no such demand.

To make it possible for the detainee to get in contact with the Custody Officer if necessary, Sweden and the United Kingdom have alarm systems in the cells. In France, there are no such system but according to the new circular it will be installed, therefore in practice there should be an alarm system but not in theory. In all three countries, there were good possibilities to see in the cell by a window or a glass wall. England has Closed Circuit Television and France is planning to install video surveillance but this is not the case with Sweden.

Finally, all countries have regulated the cleaning procedure of the cells even if England is revising theirs at the moment. They all say that the cells should be cleaned every day but according to Sweden and England, it might be limited to after every detainee. The French older cells were, however, not clean.

12.3 European minimum standards

I have made four lists of points constituting European minimum standards in theory (the Theory), European minimum standards in practice (the Practice), the lowest common standard of the theory and practice (The Lowest) and finally the preferable European minimum standards (the Preference). They are to be found last in this chapter.

The Theory is summarizing the lowest requirements in the different countries' regulations, the Practice, the lowest conditions in practice and in the Lowest are the lowest common standards of the theory and practice. In the list of preferable European minimum standard, I have put together points from both theory and practice that I find should be the European minimum standard.

The Theory and the Practice almost contains the same number of points, the difference lay in the number of rights and entitlements. In practice the detainee not only has the right to inform next of kin and to be assisted by a legal counsel, he also has the right to request for a medical examination and the food given shall be suited for different needs. On the other hand, there should be no demand of neither natural nor artificial light in practice. These differences make the Lowest to be an even shorter list. The Preference is the longest list, which is not too surprising. Already, there are more conditions to fulfil to detain someone. Most of the listed points are parts of the European law but I have added some from national practice and regulation. E.g. a provision regarding body search and that it should be conducted by a

police officer of the same sex as the detainee and that an intimate search preferably is handled by a doctor or a nurse. I also find there should be a provision about the detainees' right to eight hours of rest and one about the temperature in the cell etc. All these rights decreases the risk of ill-treatment and that the detainee otherwise feels disrespected.

The Theory and the Practice could both be seen as the European minimum standard. The Preference is not, at least not yet, the European minimum standard. The European law might be seen as the European minimum standard but is this true in reality and is it enough? The Convention is concentrating on the conditions under which a person can be deprived of his liberty and the right to legal assistance and an interpreter. The Charter is only generally stating that everyone's integrity shall be protected and respected. The Anti-torture committee has in its Standards emphasised some issues they find important, which are the right to a legal counsel, the right to inform a next of kin, the right to request a medical examination, the right to an interpreter, that a body search should be conducted by a police officer of the same sex as the detainee. The Committee has also commented on the cells and on what condition they should be in, that the cell should be at least 7m² or otherwise suitable for the number of detainees held in it, that there should be a bed or a bench to rest, that there should be a toilet and washing facilities in the cell etc.

The tables (Supplement C and D) compared to the lists of points, show that the Theory does not measure up to the European level but that the Practice does and goes even further. E.g. the body search is more detailed in the Practice than in the European regulation, where it is only generally stated in form of protecting the individuals integrity and that removed objects should be registered etc. As the existing European law does not coincide with neither the minimum standards of the national regulations nor the practice, I find that it cannot be seen as the European minimum standard. The Minimum Standard is set by the different countries and for the Minimum Standard, one should focus on the practice, the standard the detainees are meeting in reality. However, without disregarding the regulations as they consolidate the standard. The lowest European minimum standard is with other words the lowest common standard of the regulations and the practice depending on what is being done in reality, therefore I have done a list of these lowest common standards. The European Union cannot have other demands on applicant States than the members themselves manage to fulfil.

I said in the introduction to this thesis that I chose to include Macedonia in my research to show a standard that clearly is not a European minimum standard. The question is now, was I right, or do Macedonia fulfil the European minimum standards? By comparing the Theory and the Practice to Macedonia, I find it clearly do not reach the European minimum standard whether in theory, practice or preference. In theory, it almost measures up to the rights and entitlements of the detainee, except that there is no regulated complaint system and there are no regulation in the country regarding the cell design at all. The result is similar when studying the Practice,

considering that there is a complaint system but the detainees generally are not provided with food unless they are paying themselves. However, when studying the Lowest the answer is not so easy. The only points Macedonia does not fulfil are that the detainee generally are not provided with food and that the cells are not cleaned on a daily basis. These lacunas are not to be neglected but Macedonia is according to this analysis no longer so far away from a European minimum standard.

In conclusion, I find that there is a European minimum standard, but it is not the European law nor the countries regulations or practice but the lowest common standard of theory and practice. This European minimum standard is however not regulated, which would have been preferable or it would have been even better if there were a regulation of a preferable European minimum standard. This would then rather be called European best practice or the like.

I do not think we can demand more from applicant States to the European Union than from the member states but of course, pragmatism is always welcome and if a country is fulfilling nine points out of ten and has a good standard in general then the rules should be flexible. This is even more important as obviously not even the member states manage to fulfil the standards set by the Anti-torture Committee.

Supplement A



An example of a cell at the police station in Malmö, Sweden



An example of a cell at the police station in Sundsvall, Sweden



An example of a toilet with washing facility and a shower at the police station in Malmö, Sweden



Another example of a toilet with washing facility at the police station in Sundsvall, Sweden. The window on the right side is for enable the custody officer to observe the detainee. The custody officer can see the detainee but the detainee cannot see the custody officer.



An example of a cell door (from the inside) at the police station in Sundsvall, Sweden.

Supplement B



An example of a cell at the police station in England



An example of a cell door (from the inside) in England



An example of a toilet within a cell in England.



An example of a shower in a detention facility in England

Supplement C

See next page.

	Sweden	United Kingdom	France	Macedonia	European law
Notification of rights	<p>Informed of :</p> <ul style="list-style-type: none"> - the suspicions against him and the reason for his arrest - the right to inform a next of kin - the right to a legal counsel (free legal counsel) <p>No regulation on when the detainees should be informed but generally they are informed during the 24:8 interview.</p>	<p>Informed as soon as possible of:</p> <ul style="list-style-type: none"> - the suspicions against him and the reason for his arrest - the right to inform a next of kin - the right to a legal counsel (free legal counsel + poster) - the right to consult the PACE Codes of Practice. <p>The detainee signs the custody record whether wants to inform someone or have a legal counsel.</p> <p>Should also be given a written notice of entitlements.</p>	<p>Informed immediately of:</p> <ul style="list-style-type: none"> - the suspicions against him and the reason for his arrest - the right to inform a next of kin - the right to a legal counsel of his choice, after 1h of detention for a maximum of 30min. - the right to request for a medical examination 	<p>Informed immediately of:</p> <ul style="list-style-type: none"> - the suspicions against him and the reasons for his arrest - the right to remain silent - the right to inform a next of kin - the right to a legal counsel (at own expense) <p>OSCE poster and Helsinki Committee pamphlets.</p>	<p>Promptly informed of:</p> <ul style="list-style-type: none"> - the suspicions against him and the reasons for his arrest - the right to inform a next of kin - the right to a legal counsel (free legal counsel) - the right to request a medical examination of his own choice <p>Should also be given a written form or pamphlet with the rights, which should be signed by the detainee when notified.</p>
Interpreter	<p>Shall be an interpreter present.</p> <p>Although in practice they do have the right to an interpreter. There is a national list of interpreters</p>	<p>Shall be an interpreter present but under certain circumstances can a police officer interpret.</p> <p>To enable an immediate notification there is a telephone system.</p>	<p>Shall be informed in a language he understands.</p> <p>In practice they interpret everything, notification, interviews and documents.</p> <p>Is a national list of interpreters but police</p>	<p>Shall be informed in a language he understands.</p> <p>Interprets during the whole procedure.</p> <p>Often police officers who interpret.</p>	<p>Shall have a right to an interpreter to understand the whole procedure including documents.</p>

			officers are often used.		
Body search etc.	<p>Is conducted at the arrival to the police station by a police officer of the same sex as the detainee.</p> <p>Intimate search - doctor, qualified nurse or police with medical education and of the same sex as the detainee. If police officer there must be a witness present also of the same sex as the detainee.</p> <p>Removed objects are registered and the detainee signs confirming its correctness.</p> <p>Objects are kept in a locker close to the custody office</p>	<p>Conducted by a police officer of the same sex as the detainee.</p> <p>Intimate search – doctor, nurse or if there is an immediate risk of harm a police officer of the same sex as the detainee with a witness present, also of the same sex as the detainee.</p> <p>If custody officer finds it necessary, the objects are registered and the detainee signs confirming its correctness.</p> <p>Objects are kept In a locker by the Custody officer.</p>	<p>No regulation.</p> <p>In practice the body search is conducted by a police officer of the same sex as the detainee.</p> <p>Intimate search – conducted by a doctor.</p> <p>Removed objects are recorded in the custody record, which is signed by the detainee at the return.</p> <p>The objects are kept in a locked cupboard.</p>	<p>At the arrival to the police station by a police of the same sex as the detainee</p> <p>The removed objects are removed registered and the detainee signs confirming its correctness.</p> <p>The objects are sometimes kept in lockers but sometimes in plastic bags on the floor or the like.</p>	<p>The person’s integrity and dignity must be protected</p> <p>Removed objects should be labelled, recorded and kept in a locked cupboard or the like.</p>
Medical examination	<p>Follow medical prescriptions and take the detainee to the hospital if necessary.</p> <p>In practice the detainee has the right to be</p>	<p>A doctor is called if necessary or if the detainee asks for it.</p> <p>May call a doctor of his choice at his own expense.</p>	See above.	No regulation but a doctor is called if necessary or the detainee is taken to the hospital.	See above

	examined by a doctor if he asks for it but not one of his own choice.				
Cell time	<p>Check up – no regulation, but 2 stations checked on the detainees at least once an hour.</p> <p>Food – 3 times a day suited for religion, medical needs and if is vegetarian. Should have access to water at all times but no water panels in the cells</p> <p>Rest – No specific regulation but the detainee should be given necessary rest and is in practice given 8h/day.</p> <p>Exercise – Shall have 1h/day. All three stations had exercise yards.</p> <p>Complaint system – The police has a general obligation to report crimes but also a special obligation to report crimes</p>	<p>Check up – at least once an hour + CCTV</p> <p>Food – 3 meals a day + drinks suited for religion, medical needs and if vegetarian. Drinks are also given upon request. Family can provide with food if the Custody officer approves.</p> <p>Rest – 8h/day</p> <p>Exercise – short moment per day. The stations visited did not have any exercise yards.</p> <p>Complaint system – sent to officer of at least inspector rank, not connected to case and then to IPCC.</p>	<p>Check up – No regulation and did not perform any regular check ups. CCTV was enough.</p> <p>Food – hot meals at regular hours suited for religion, medical needs and if vegetarian, at the States expense.</p> <p>Rest – No direct regulation but it is stated that any rest should be recorded in the custody record. In practice the detainees were given 8h/day.</p> <p>Exercise – No regulation and they were not given the possibility to go out.</p> <p>Complaint system – No regulation but according to the police officers they forward the complaints to the prosecutor.</p>	<p>Check up – they check the detainees every hour.</p> <p>Food – a person detained longer then 6h has the right to be provided with food but it is often paid by the detainee himself, his family or a police officer.</p> <p>Rest – No regulation but they are given 8h/day.</p> <p>Exercise – No regulation and there were no possibility for the detainee to go outside.</p> <p>Complaint system – No regulation but MoI is responsible. The complaint is either handed to the superintendent or directly to the MoI.</p>	<p>Check up – No regulation</p> <p>Food – Shall be given food and drinks at regular hours with at least one proper meal a day.</p> <p>Rest – No regulation</p> <p>Exercise – If detained more then 24 hours they should be given the possibility to exercise every day.</p> <p>Complaint system – There must be an independent mechanism.</p>

	committed by colleges on duty. These are all sent to the prosecutor.				
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Supplement D

See next page.

	Sweden	United Kingdom	France	Macedonia	European Law
Size and furniture	<p>Area: 6m² (7m²) Floor to ceiling: 2,40m</p> <p>1 detainee/cell.</p> <p>Should contain toilet and washing facilities.</p> <p>Bed, chair, table, shelf, fireproof beddings, water resistant mattress.</p> <p>Attack resistant material.</p>	<p>Area: 7m² Floor to ceiling: 3m (3,2m)</p> <p>1 detainee/cell</p> <p>Bed, toilet,</p> <p>Should contain washing facilities</p> <p>Beddings and mattress</p> <p>The bed was made of wood, the toilet of crockery and the walls of tile.</p>	<p>Area: 7m²</p> <p>several detainees/cell 1 detainee/cell</p> <p>Should be a bench, big enough for a mattress but two of the stations visited only had wooden benches to sit on.</p> <p>Some had blankets but often to dirty to use.</p>	<p>No regulation</p> <p>The cells were of a satisfying size for one to two detainees.</p> <p>Bed, not all facilities had mattresses and blankets.</p>	<p>Area: 7m² Floor to ceiling: 2m Between walls: 2,5m Or acceptable size for the number of detainees in the cell.</p> <p>Bench or chair, mattress, beddings.</p> <p>Toilet and washing facilities.</p>
Light, ventilation and temperature	<p>Natural and artificial light with a possibility to dim.</p> <p>Daytime: 20°C Nighttime: 18°C</p> <p>Ventilation system that airs the cells 3 times a day.</p>	<p>Natural and artificial light with a possibility to dim</p> <p>At least 21°C but may differ depending on the outside temperature</p> <p>Ventilation system that extract air directly back to the atmosphere.</p>	<p>Should enjoy both natural and artificial light. None of the cells had natural light and only the new cells had artificial light.</p> <p>Pleasant temperature.</p> <p>Plan to install ventilation.</p>	<p>No regulation</p> <p>In general neither natural nor artificial light.</p> <p>No heating</p> <p>No ventilation</p>	<p>Natural and artificial light with possibility to dim.</p>
Toilets and washing facilities	<p>Armature of stainless steal.</p>	<p>Attack resistant material, preferably stainless steal.</p>	<p>Toilets and washing facilities were situated outside the cell in the</p>	<p>No regulation</p> <p>In general the police</p>	<p>See above</p>

	<p>Unlockable door.</p> <p>The toilet and washing facilities were placed outside the cell in the corridor.</p>	<p>Should be a possibility to supervise.</p> <p>The washing facilities were situated in the corridor with a partial door.</p>	<p>corridor.</p>	<p>officers and the detainees used the same toilets and washing facilities.</p> <p>Tile and porcelain.</p>	
Security	<p>Alarm system.</p> <p>Window in the cell door.</p>	<p>Alarm system</p> <p>There must be a hatch in the cell door allowing supervision</p> <p>CCTV</p>	<p>No alarm system nor video surveillance but it should be.</p> <p>Glass wall.</p>	<p>No regulation</p> <p>Only a few had an alarm system</p> <p>Practically no observation possibilities through the cell door.</p>	<p>Alarm system</p>
Cleaning	<p>The cells were clean.</p> <p>Cells should be cleaned every day or at least after every detainee</p>	<p>The cells were cleaned every day or at least after every detainee.</p>	<p>The cells should be cleaned every day but at least one of the visited stations was filthy.</p>	<p>No regulation</p> <p>Cleaned regularly but looked in general dirty and filthy.</p>	<p>Clean mattresses and beddings.</p>

Supplement E

See next page.

	The Theory	The Practice	The Lowest	The Preference
Notification of rights	<p>The detainee shall be informed of the suspicions against him and the reason for his arrest.</p> <p>The detainee has the right to inform next of kin of his arrest.</p> <p>The detainee has the right to a legal counsel.</p>	<p>The detainee shall be informed of the suspicions against him and the reasons for his arrest.</p> <p>The detainee has the right to inform next of kin of his arrest.</p> <p>The detainee has the right to a legal counsel.</p> <p>The detainee has the right to request for a medical examination.</p>	<p>The detainee shall be informed of the suspicions against him and the reasons for his arrest.</p> <p>The detainee has the right to inform next of kin of his arrest.</p> <p>The detainee has the right to a legal counsel.</p>	<p>The detainee shall be informed of the suspicions against him and the reason for his arrest.</p> <p>The detainee has the right to inform next of kin of his arrest.</p> <p>The detainee has a right to a legal counsel.</p> <p>The detainee has a right to request for a medical examination by a doctor of his own choice.</p>
Interpreter	The detainee shall be informed in a language he understands.	The detainee has the right to an interpreter for the notification and during interviews.	The detainee shall be informed in a language he understands.	The detainee has a right to an interpreter so that he understands the whole procedure including the documents.
Body search	A body search shall be conducted by a police officer of the same sex as the detainee. An intimate search shall be conducted by a doctor, a nurse or if no other solution is possible a police officer of the same sex as the detainee and with a witness present, also of the same sex as the detainee.	A body search shall be conducted by a police officer of the same sex as the detainee. An intimate search shall be conducted by a doctor, a nurse or if no other solution is possible a police officer of the same sex as the detainee and with a witness present, also of the same sex as the detainee.	A body search shall be conducted by a police officer of the same sex as the detainee. An intimate search shall be conducted by a doctor, a nurse or if no other solution is possible a police officer of the same sex as the detainee and with a witness present, also of the same sex as the detainee.	A body search shall be conducted by a police officer of the same sex as the detainee. An intimate search shall be conducted by a doctor, a nurse or if no other solution is possible a police officer of the same sex as the detainee and with a witness present, also of the same sex as the detainee.

	Removed objects should be recorded and the detainee shall sign the form when the objects are returned to him.	Removed objects should be recorded and the detainee shall sign the form when the objects are returned to him.	Removed objects should be recorded and the detainee shall sign the form when the objects are returned to him.	Removed objects should be recorded and the detainee shall sign the form when the objects are returned to him.
Medical examination		See under notification of rights.		See under notification of rights.
Celltime	<p>The detainee shall be provided with food at regular hours.</p> <p>There shall be a system to handle complaints about ill-treatment of detainees.</p>	<p>The detainee shall be provided with food at regular hours suited for religious and medical needs as well as vegetarian preferences. The detainee should also be provided with drinks on request.</p> <p>The should have the right to eight hours of rest per day.</p> <p>There shall be a system to handle complaints about ill-treatment of detainees.</p>	<p>The detainee shall be provided with food at regular hours.</p> <p>There shall be a system to handle complaints about ill-treatment of detainees.</p>	<p>The Police should check on the detainee at least once an hour.</p> <p>The detainee shall be provided with food at regular hours suited for religious and medical needs as well as vegetarian preferences. The detainee should also be provided with drinks on request.</p> <p>The detainee shall have the right to eight hours of rest per day.</p> <p>The detainee should be given the opportunity to exercise outside for an hour a day.</p> <p>There shall be an independent mechanism to handle complaints about ill-treatment of detainees.</p>

Supplement F

See next page.

	The Theory	The Practice	The Lowest	The Preference
Size and furniture	<p>The cell should measure at least 7m².</p> <p>There should only be one detainee per cell.</p> <p>There should be a bed or a bench with a mattress for the detainee to rest.</p>	<p>The cell should measure at least 7m².</p> <p>There should only be one detainee per cell.</p> <p>There should be a bench for the detainee to rest.</p>	<p>The cell should measure at least 7m².</p> <p>There should only be one detainee per cell.</p> <p>There should be a bench for the detainee to rest.</p>	<p>The cell should measure at least 7m² in area and 3,2m from floor to ceiling. The measurements between the walls should be at least 2,5m.</p> <p>There should only be one detainee per cell.</p> <p>There shall be a bed or a bench with a mattress for the detainee to rest. The mattress should be made of a water resistant material.</p> <p>The detainee shall be provided with clean beddings.</p> <p>The materials of the furniture and walls should be made of an attack resistant material.</p>
Light, ventilation and temperature	<p>The cell should enjoy both artificial and natural light.</p> <p>There shall be a ventilation system in the cell.</p>	<p>The temperature in the cell should be pleasant.</p>		<p>The cell shall enjoy both artificial and natural light with a possibility to dim the artificial lights.</p> <p>The temperature in the cell should be pleasant considering the time of the year.</p>

				There shall be a ventilation system in the cell.
Toilets and washing facilities	The detainee shall have access to a toilet and washing facilities.	The detainee shall have access to a toilet and washing facilities.	The detainee shall have access to a toilet and washing facilities.	There should be a toilet and washing facilities within the cell.
Security	There shall be an alarm system for the detainee to contact the custody officer if necessary.	There shall be a possibility to see into the cell without opening the door.		There shall be an alarm system for the detainee to contact the custody officer if necessary. There shall be a possibility to see into the cell without opening the door.
Cleaning	The cells should be cleaned every day.	The cells should be cleaned every day.	The cells should be cleaned every day.	The cells should be cleaned every day or at least after every detainee.

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