

Report

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

from 22 to 24 October 2012

The Government of the United Kingdom has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2013) 15.

Strasbourg, 18 July 2013

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Copy of the letter transmitting the CPT's report

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Strasbourg, 10 December 2012

Dear Ms Deignan,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its ad hoc visit to the United Kingdom from 22 to 24 October 2012. The report was adopted by the CPT at its 79th meeting, held from 5 to 9 November 2012.

The recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the United Kingdom authorities to provide within **three months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for your authorities to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

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

Yours sincerely,

Lətif Hüseyinov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Copy: Mr Matthew Johnson, Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of the United Kingdom to the Council of Europe

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out an ad hoc visit to the United Kingdom from 22 to 24 October 2012. The purpose of the visit was to examine the treatment of foreign nationals during a removal operation by air and the conditions under which the removal operation took place. The monitoring concerned a charter flight organised by the United Kingdom Border Agency (UKBA) between London and Colombo (Sri Lanka), scheduled for departure on 23 October 2012.

2. The visit was carried out by Jean-Pierre RESTELLINI, Acting 2nd Vice-President of the CPT (Head of the delegation) and Jari PIRJOLA, member of the CPT. They were supported by Fabrice KELLENS, Deputy Executive Secretary of the CPT's Secretariat.

B. Consultations held by the delegation

3. On 22 October 2012, the delegation held fruitful consultations with the Home Office Immigration Enforcement (then UKBA) Returns Director and the Country Returns Operations and Strategy Team Manager, as well as with the Managing Director of Reliance Secure Task Management Ltd¹, and the Reliance Contract Director for (then UKBA) Immigration Enforcement escorting operations.

The delegation also met Hindpal SINGH BHUI, the Team Leader in charge of immigration issues at Her Majesty's Inspectorate of Prisons (HMIP)², on 21 October 2012.

C. Cooperation between the CPT and the authorities of the United Kingdom

4. The level of cooperation received from the authorities of the United Kingdom and, in particular, the UKBA staff, was exemplary. The delegation had access to all places of deprivation of liberty it wished to visit, in particular Brook House Immigration Removal Centre, as well as the coaches, vans and aircraft hired for the removal operation. Full access was also given to all information necessary for the delegation to carry out its task, including confidential operational and medical information, and the delegation was able to interview detainees in private.

The delegation also received excellent cooperation from both the managing and operational staff operating under the Reliance Contract.

¹ Reliance Secure Task Management Ltd was contracted in May 2011 for the provision of escorting and related services under the Immigration Act 1971 and services in relation to a short-term holding facility/holding rooms in Northern Europe.

² HMIP has carried out three monitoring missions on return flights, respectively to Jamaica (24-25 March 2011), Nigeria (20-21 April 2011) and Afghanistan (25-26 June 2012). The related monitoring reports and the « Overseas Escorts Expectations » are available on the HMIP website:
<http://www.justice.gov.uk/publications/inspectorate-reports/hmi-prisons/detainee-escort-inspections>.

5. Both the British authorities and Reliance management provided the CPT with extensive documentation concerning removal operations by air and, in particular, previous removal operations to Sri Lanka (carried out respectively on 31 May 2012 and 19 September 2012). The CPT also requested - and obtained - several other important internal documents, such as the UKBA “Service Improvement Plans” established after previous monitoring operations carried out by HM Inspectorate of Prisons (see paragraph 36). Furthermore, it received updated information on the action taken by the UKBA after the death of Mr Jimmy Mubenga on a removal flight to Angola on 12 October 2010 (see paragraph 34). This enabled the delegation to obtain a clear picture of the whole removal process from the point of collection at the Immigration Removal Centres (IRCs) to the point of final destination.

6. Despite the efforts made by the UKBA and a local Foreign and Commonwealth Office representative, the CPT delegation was forbidden to leave the aircraft on arrival in Colombo and to observe the hand-over of the returned detainees to the Sri Lankan immigration authorities (see paragraph 30). This is most unfortunate as such an authorisation could have enabled information to be gathered that would have been of benefit to all concerned.

The CPT invites the authorities of the United Kingdom to consider making an explicit reference to the possibility for national or international monitoring bodies - such as the CPT - to observe removal operations to the country of destination, including the hand-over procedure to the local immigration authorities, when negotiating future readmission agreements.

Furthermore, **specific arrangements should be made, on an ad hoc basis, as regards readmission agreements already in force.**

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Preliminary remarks

7. Since the beginning of its activities in the early 90s, the CPT has examined the treatment of persons deprived of their liberty under aliens' legislation, and this issue was dealt with in a section of the CPT's 7th General Report (CPT/Inf (97) 10, paragraphs 24 to 36). The CPT also set out in that report some basic rules concerning the use of force and means of restraint in the context of removal operations. In 2003, in its 13th General Report (CPT/Inf (2003) 35, paragraphs 27 to 45), the Committee set out more detailed guidelines concerning removal operations by air. Most of these guidelines were subsequently reflected in the "Twenty Guidelines on Forced Return" of the Committee of Ministers of the Council of Europe in May 2005.

8. In December 2011, the President of the CPT sent a letter to all Parties to the Convention, including the United Kingdom, seeking information on the removal operations organised by them. Information was requested concerning the legal framework and practical organisation of removal operations by air. The United Kingdom provided the information requested by letter of 28 February 2012.

9. At the outset, it should be recalled that the practice of the deportation of foreign nationals by air ("return flights") is becoming ever more frequent and widespread throughout Europe and that in the CPT's opinion, such operations entail a manifest risk of inhuman and degrading treatment (during preparations for the deportation, during the actual flight or when the deportation is aborted). Of course, **a State's fundamental obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or inhuman or degrading treatment or punishment must also be kept in mind in this context.**

10. UKBA removal operations to Sri Lanka are considered by the authorities as among the most "high profile" immigration operations to be carried out. Operation "Tetyra 8" was the third operation of its kind organised in 2012 and initially involved some 51 Sri Lankan nationals (adult males and females; no children). The aircraft left Stansted airport one hour after its scheduled departure time with 28 detainees aboard. The remaining 23 detainees benefited from national judicial review and last-minute injunctions from the High Court in London (see paragraph 12).

It should be noted that four detainees had lodged an application with the European Court of Human Rights, requesting the suspension of their removal order under Rule 39 of the Court's Rules of Procedure. The European Court of Human Rights rejected all those applications and the four persons concerned were removed to Sri Lanka.

B. Preparation for removal

11. The organisation of a removal operation involves numerous tasks of a legal, administrative, operational and logistical nature³. These tasks are divided between the UKBA - mostly responsible for the legal procedures - and Reliance, contracted for the practical organisation of the removal operation. In practice, a tentative list of persons to be deported (some 120 possible candidates) is drawn up by the UKBA some six weeks before the removal date. At that stage, the list (or “flight manifest”) usually includes both persons detained in IRCs, as well as persons staying on UK territory (some of them being subjected to certain measures of restriction of liberty).

12. Chapter 60 (« Judicial Review and Injunctions ») of the UKBA Detention and Removals Enforcement Instructions and Guidance deals particularly with issues relating to avenues of legal recourse (both national and international) as regards removals of foreign nationals. The delegation was satisfied that all persons to be removed had been informed in due time of the removal decision, the possibility to appeal it, and the date of their removal to Sri Lanka⁴. As regards access to legal advice and avenues of legal recourse, the delegation observed for itself that many of the detainees kept regular contact with their lawyers/solicitors until the very last minute (in fact, until the moment the doors of the aircraft were closed)⁵. In this regard, it is noteworthy that on 19 October 2012, 51 deportees were still registered by the UKBA on the “flight manifest”, while only 28 of them left the United Kingdom four days later. Similar situations had been observed in September and May 2012, when previous flights to Sri Lanka were organised.

13. Contrary to the usual practice, a “reserve list” of some 12 potential candidates for chartered deportation to Sri Lanka was not drawn up for the 23 October flight. In any case, if such a list had been established, the detainees concerned would have been informed in writing of their presence on it, following a recommendation from HMIP which has recently been implemented by the UKBA (see paragraph 36).

14. The delegation attended the briefing organised on 23 October 2012 at 7.00 a.m. [.....]. It was satisfied with the content of the briefing, which included, in particular, instructions concerning the use of force and reaction in the event of emergencies. [...] “coach commanders” were assigned, each supported by numerous escort and security staff, as well as a paramedic, the planned ratio of detainee/escort staff for this particular removal operation being [...]. The delegation also noted that the escort and security staff wore civilian clothes and an armband (upon which was attached their photo and their name). After the briefing, the [...] coach commanders went to their respective pick-up locations (Brook House, Tinsley House or Yarlswood) to collect a total of 38 persons (32 men and 6 women). The delegation decided to board the coaches assigned to Brook House IRC.⁶

³ The UKBA Detention and Removals Enforcement Instructions and Guidance can be found on the UKBA website:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/>
Chapters 46 to 62; Chapter 58 deals particularly with overseas escorts.

⁴ According to UKBA Detention Service Order 07/2011, save certain exceptions, notice of removal should be given in accordance with the following minimum timescales: 72 hours (including at least two working days) in normal enforcement cases and a minimum of five working days in third country and non-suspensive appeal cases. The same five working days rule applies to removals by chartered flight.

⁵ After landing in Colombo, the UKBA representative made a final call to his Headquarters in London in order to make sure that no other injunctions had been issued during the flight.

⁶ At the request of the United Kingdom authorities, the CPT agreed to delete certain operational details of the flight. The deletions are indicated by square brackets.

15. On arrival at Brook House IRC, the delegation observed the hand-over procedure between the IRC staff and Reliance escorts. The hand-over took place in the “departure area” of the IRC, which offered only very limited space. Consequently, most of the escort staff stayed on the coach, in order to avoid overcrowding. Detainees were brought one by one to the departure area where a coach commander greeted them. He systematically notified all detainees of the purpose of the journey, asking them if they were ready to follow the escorts without resistance, which all of them did. While a formal hand-over document was signed for each detainee between the IRC staff and the coach commander, two escorts performed a thorough rub-down search (looking in particular for blades). This search was carried out in the corridor in front of the departure desk, offering no real privacy to detainees (although female detainees were searched by Reliance female staff). **The CPT recommends that more appropriate arrangements, offering more privacy, be found for searching detainees at Brook House IRC.**

16. Reliance staff spent time and considerable care checking the transfer of the detainees’ property (including cash, phone and SIM cards) in bags that were sealed in front of the detainees concerned⁷. Staff were attentive to every last-minute request made by detainees concerning property, as this appears to be the most common complaint made by detainees during removal operations. On one occasion, a member of the IRC staff even went back to a detainee’s room to check whether documents had been left behind. Every detainee signed several forms related to the transfer of property and received a copy of each form.

17. After the search, each detainee was brought to a coach, where he/she had to stay with his/her escort(s) during the journey to Stansted Airport. Cold food and drinks were provided, and access to toilets and a telephone was granted on request. The delegation observed that during the transfer between the building and the coach (as well as the transfer between the coach and the airport building in Stansted), all detainees - even elderly persons or persons moving with difficulty - were systematically subjected to a form of “light” control technique (i.e. taken by the arms on both sides by an escort), even if they were in a secure area and were totally compliant. Several detainees displayed some reluctance as regards this measure, although they did not formally complain. In the CPT’s opinion, such indiscriminate use of a control technique is not justified and can unnecessarily raise tension. The use of control and restraint techniques by escorts during transfer should be justified in each individual case by a risk assessment⁸. **The CPT recommends that measures be taken to ensure that this is indeed the case. Furthermore, more efforts should be made to reduce the very long time spent in coaches before boarding the aircraft⁹.**

18. Two escort teams (coaches N°1 & 2) worked successively at Brook House IRC. Escort staff interacted in a very humane and caring way with detainees. However, a significant difference was observed between the two teams. Clear and concise instructions were given by team leader N° 1 to the detainee and his escorts, relieving stress and thereby facilitating the whole process. This was less obvious with team N° 2, as there was at times some confusion, team leader coach N° 2 giving orders with too many escorts present in the corridor¹⁰, a state of affairs which was not conducive to a calm atmosphere.

⁷ Detainees kept all necessary phone numbers with them and could make any phone calls on request.

⁸ Such a detailed risk assessment was readily available, both on the “flight manifest” and on each “Person Escort Report” (PER).

⁹ Up to seven hours for the detainees who boarded coach N° 1 at Brook House IRC.

¹⁰ Several escorts not directly involved in the hand-over were talking loudly and drinking coffee.

A Reliance manager present in the corridor subsequently indicated to the delegation that measures would be taken to remedy the above-mentioned shortcoming. **The CPT trusts that this has been done.**

19. As already indicated, Reliance escort staff were generally confident in their role and demonstrated a genuine willingness to engage positively with detainees, thereby contributing to a safe and calm atmosphere during the hand-over and the subsequent transfer. However, a removal operation will always be a stressful experience for the persons concerned, and some of the detainees in the operation monitored showed clear signs of distress during the process. Although they benefitted from some support and counselling from both the Head Nurse at the IRC and their escorts during the journey, the CPT is of the opinion that more could have been done to help detainees cope with the situation. Efforts should be made much earlier in the process, in particular through psychological support and counselling. This should be part of a wider programme preparing persons for removal (including the provision of humanitarian and medical contact points at the destination, etc.). The presence of an interpreter throughout the whole process (including on board the aircraft) could also avoid unnecessary last-minute difficulties due to legal or practical misunderstandings¹¹. **The CPT recommends that the authorities take measures to address these two issues.**

20. It is undisputed that for some vulnerable detainees, a removal operation can be particularly traumatising. In order for the escorts to behave appropriately, a special procedure (called “Assessment Care in Detention and Teamwork” or “ACDT” – Detention Service Order 06/2008”) was in place for such detainees, describing in detail the specific risk(s) related to their case (be they somatic or psychiatric, etc.). Information relating to past criminal activities and security-related issues (troublesome or aggressive behaviour, etc.) was also readily available. The individual risk assessments were summarised - using different colours - on the “flight manifest” as well as on the PER. As regards “ACDT”, the delegation noted that this procedure was applied to two of the detainees, one of whom self-harmed during his transfer from his living unit to the “departure area” at the IRC, after he had twice received conflicting information concerning his departure (both from the UKBA and his solicitor). Both cases were treated with great care throughout the whole journey¹². By way of example, the detainee who self-harmed was transported alone in a van to Stansted Airport, escorted by two experienced staff members who maintained a constant dialogue with him. However, he was subjected to a “passive handcuffing procedure” for several hours (1.20 p.m. to 6.35 p.m.)¹³, **a measure which appears excessive for someone who was under constant and close surveillance by two experienced escorts.**

¹¹ The delegation was informed that interpreters had been used for removal operations until 2004.

¹² Furthermore, their respective “ACDT” (red) files were particularly well kept.

¹³ The “passive handcuffing procedure” is applied where a risk assessment has indicated that their use is necessary to achieve the removal in safe conditions. A “Passive Handcuff Report” is completed every time such practice is to be used. See also the “ACDT File” of detainee N° 57; handcuffs were at times removed to allow the detainee concerned to make/receive phone calls. They were finally removed after the detainee boarded the aircraft.

21. The delegation noted that a “fit to fly” medical certificate was not a general requirement for the organisation of a removal operation from the United Kingdom. In practice, such a certificate was only provided on request in a specific case. In the CPT’s opinion, a condition of the handing over of a detainee from an IRC to Reliance staff - a private company contracted by the UKBA to carry out overseas escorts - should be the systematic delivery of a “fit to fly” certificate issued by a medical doctor. This is all the more important when paramedics (and not a medical doctor) are accompanying deportation flights, as is the case in the UK. **The CPT recommends that such a measure be implemented without delay.**

22. At least two paramedics were available throughout the whole journey¹⁴. At the IRC, both had contact with the Head Nurse, who gave them copies of “medical notes” concerning each detainee, in sealed envelopes. The paramedics systematically consulted these medical notes during the hand-over operation, and checked the envelopes containing medication. However, it should be noted that **only one of the paramedics wore a distinctive sign identifying his role.**

23. To sum up, save a few points referred to above, each stage of the preparation of the removal process was carefully planned and organised, staff were well briefed, and every effort was made for the removal to be carried out in a humane way.

C. Execution of the removal

24. On arrival at [.....]¹⁵, detainees and escorts were required to remain in the coaches/vans for another hour. Contact was made with the UKBA staff who would accompany the flight (one Chief Immigration Officer (CIO) and two assistants). Detainees were then transferred one by one - the escorts using the same “light” control technique as at the IRC - through two security checks (a metal detector and a second rub-down search). **The need for this second rub-down search is debatable, as detainees had been kept under close surveillance by their escort(s) throughout the whole journey.** Detainees were then transferred by airport shuttle to the aircraft. Reliance staff filmed both search and boarding procedures, which were also monitored by two UKBA representatives.

25. Except for two families who remained together on board (in particular, an elderly couple), male and female detainees were kept in two separate parts of the Boeing 767 - 300 ER. Each detainee sat with his/her escort(s) by his/her side, none of them under restraint. Detainees received hot meals and cold drinks during this long-haul flight (lasting more than 10 hours) and were able to watch videos. Furthermore, escorts made genuine efforts to reduce stress and relax the atmosphere, engaging in dialogue with the detainees. The conditions on board can be described as generally very good and no incident whatsoever occurred during the flight.

¹⁴ During the initial phase of the removal, three paramedics were present (one in each coach). They were subcontracted by Reliance from Taylormade.

¹⁵ At the request of the United Kingdom authorities, the CPT agreed to delete certain operational details.

26. Two remarks should nevertheless be made as regards the material conditions on board. Although access to a toilet was offered on a regular basis, the door of the toilet was left slightly open for security reasons. Staff, however, made efforts to reduce embarrassment to a minimum. Furthermore, detainees were not given blankets or pillows during the flight. **The CPT invites the authorities to reconsider their policy on both issues; decisions in relation to these matters should be based on an individual risk assessment.**

27. The UKBA Chief Immigration Officer (CIO) held a “surgery” during the flight, enabling any detainee who wished to do so (14 in total) to raise any issues before landing in Colombo. This is a most welcome practice. For example, the surgery gave the opportunity for detainees to receive information concerning the type of help and/or support they might expect on arrival from humanitarian or health organisations. Despite the efforts made by the CIO, the surgery was at times hampered by the absence of an interpreter (for example, an elderly lady whose fluency in English was limited needed linguistic assistance from a fellow detainee during the surgery). **Reference should be made here to the recommendation in paragraph 19.**

The delegation also noted that the conditions under which the surgery was organised left something to be desired, in particular as regards the overwhelming security arrangements (the detainee was surrounded by some eight escort staff, at close distance), which created an oppressive atmosphere and was not really conducive to dialogue. **The CPT recommends that the security arrangements for such surgeries be revised in the light of the above remarks, taking into consideration the detainee’s individual risk assessment.**

28. The two paramedics on board were asked to provide some basic care (medication distribution, control of sugar level of a diabetic, etc.) during the flight. Answering a question by the delegation, both of them indicated that they would not hesitate to oppose the removal of a given detainee for imperative medical reasons. The UKBA Chief Immigration Officer and Reliance Senior Security Officer (SSO) managers present on board confirmed that they would follow such an opinion. Further, the paramedics stated that the use of chemical restraint during removal operations was unethical and strictly prohibited by law. The CPT welcomes both statements, which reflect the Committee’s position on these issues.

The medical member of the delegation checked the contents of the emergency case taken on board by the paramedics. The contents were very limited. By way of example, the resuscitation equipment/treatment available was limited to a defibrillator and adrenaline and the paramedic had to rely on the oxygen bottle available on the aircraft in the event of need. In the CPT’s opinion, **health-care staff accompanying removal operations by charter flight should be systematically provided with a fully equipped emergency case (i.e. including a variety of emergency medical equipment, as well as the medication most commonly used in emergency situations).**

Furthermore, although both paramedics were professionally competent, **the presence on board of removal charter flights of a medical doctor (instead of a paramedic or a nurse) would be highly desirable.**

D. Hand-over to the local authorities and debriefing-related issues

29. Just before landing in Colombo, the paramedics in charge gave copies of the respective medical notes to the detainees who wished to keep them. They also provided vulnerable detainees with a small supply (three months) of medication, in order to ensure on-going treatment could be maintained. This is most welcome.

Detainees were also offered booklets summarising basic information on the country of destination. However, as far as the delegation could ascertain, the form entitled “detainee feedback system” - which is part of the Reliance Service Improvement System - was not circulated. **This is unfortunate, as the form constitutes a clear attempt on the part of Reliance to offer a good service**¹⁶.

30. As already indicated (see paragraph 6), the Sri Lankan immigration authorities forbade the delegation from leaving the aircraft. Therefore, it was not in a position to monitor the hand-over procedure to the local authorities¹⁷. The delegation did observe that all detainees left the aircraft without resistance, most of them showing signs of appreciation to their escorts. **The CPT requests that the authorities provide a copy of the report drawn up by the Migration Delivery Officer (MDO) upon the arrival of the “Tetyra 8” removal flight, describing the hand-over procedure of detainees in Colombo on 24 October 2012**¹⁸.

31. The removal operation to Sri Lanka was certainly a long, intense and tiring operation for escort staff. However, this should not prevent debriefing sessions from taking place, both at team and senior levels. In the CPT’s opinion, it is of critical importance that debriefing sessions be organised after such removal operations, for three main reasons.

Firstly, such a debriefing is absolutely necessary for operational purposes (as it is the case after any police or army operation), as it enables escort staff, team leaders and senior staff (UKBA and Reliance) to identify weaknesses in procedures and tactics, possible staff mistakes or (in)appropriate responses to emergency situations, with the final aim of carrying out removal operations in the most humane and effective way possible.

Secondly, operational debriefing exercises would enable both Reliance and UKBA senior staff to set up a database of problems/incidents and solutions that could be used during initial and on-going training¹⁹. More generally, this would guarantee that the considerable experience gained over the last 10 years by escorts does not vanish with the departure of its most experienced members or a change of contracting company.

¹⁶ This form is used for both escorted journeys and time spent in holding facilities.

¹⁷ Unlike the escorts, who were authorised to spend some time in the transit area.

¹⁸ A similar report, concerning a deportation flight operated on 28/29 February 2012, is available in the UKBA Country Information Report on Sri Lanka, Annexe E, pages 235 to 238:
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/srilanka12/>.

¹⁹ The information collected in the database could also, in certain conditions, be used not only at national level, but also at the European level, for example, in the context of the revision of FRONTEX (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) best practices on forced removals.

Thirdly, debriefings organised at team level would enable staff to share emotions and reduce tensions and stress, in particular if difficulties were encountered during the removal operation (use of force by staff, self-harming detainees, etc.).

The CPT recommends that debriefing sessions be systematically organised after removal operations, both at team and senior levels, in the light of the above remarks. This should also be stipulated in the agreement between the UKBA and its contracting partners.

32. During the return flight, the delegation examined several operational documents used by Reliance senior staff, in particular the “global risk assessment document” elaborated by the Charter Operations Manager, the updated flight manifests (including the information collected on specific individual risk assessments, based on a well designed “harm matrix”), the bulk movement table, as well as one-third of the 29 PERs (selected at random) and the two ACDT files drawn up for two vulnerable detainees (see paragraph 20). All these documents were well kept and regularly updated during the flight.

That being said, the delegation noted that the “chartered removal events log” drawn up on arrival in Colombo by the SSO (and signed by the CIO) only partially reflected the chronology of events, as no mention was made of the incident of self-harm at Brook House IRC, the interventions of paramedics during the flight, or the use of restraint during the journey. **The CPT would like to receive the observations of the authorities on this subject.**

Furthermore, **it would like to receive a copy of the “Tetyra 8” charter flight report and the “passive handcuff report” drawn up for detainee N° 57.**

E. Other issues related to the CPT's mandate

1. Use of force

33. The use of force (and other restraint measures) is one of the major issues at stake during removal operations and the CPT has already made recommendations on this matter (see paragraph 7). The UKBA has drawn up two sets of guidelines in this regard: one under Chapter 58 of the Detention and Removals Enforcement Instructions and Guidance, relating to "Overseas Escorts"; the second under Detention Services Order 08/2008, relating to "The use of handcuffs on detainees under escort". Reliance has transposed these guidelines into "Core Standard Operating Procedures" (SOP) 04 ("Handcuffs and restraint") and 05 ("Use of Force")²⁰. Chapter 58 clearly limits the use of mechanical restraints to handcuffs and, in wholly exceptional cases, leg restraints²¹. Safeguards are also in place: restraints should only be used by trained and certified escort staff who have attended a first aid training course; authority to use mechanical restraint is vested in the Detainee Escorting and Population Management Unit (DEPMU)²², with the explicit agreement of the master/commander while on the vessel; no restraints should be applied to the upper body, neck or head; there should be no medical contraindications; etc.

Detention Services Order 08/2008 details the issue further, describing the risk assessment to be carried out before any use of handcuffs (which should be based on multiple sources), the purpose of handcuffing, the authority for the use of handcuffs, the types of handcuffs, the recording of their use and the application and removal of handcuffs, as well as the restrictions on handcuffing.

Both Chapter 58 and Detention Services Order 08/2008 are compatible with the above-mentioned CPT recommendations. However, they do not specifically deal with the use of force and other means of restraint in a limited/restricted space such as an aircraft. It is therefore not entirely surprising that non-accredited techniques (such as the "interlock" restraint identified by HMIP monitors) have exceptionally been used on charter flights. Both the UKBA and Reliance are fully aware of the problem and expect new, specific training to be put in place in March 2013 (see paragraph 35).

Finally, the delegation welcomes the fact that when force and/or restraint are applied to detainees, it is usually applied by members of the security team²³ accompanying the removal operations (and not by the escorting officers accompanying each detainee).

²⁰ A separate document describes in great detail the mechanics of breathing, the notion of restraint asphyxia and the risks related to it, the important warning signs and the actions to be taken in case of incident.

²¹ "There would have to be particularly compelling reasons for leg restraints to be used other than on board or immediately before boarding and they may be used on board only if authorised by the DEPMU HMI or Detention Services on-call Manager and if the master/commander of the vessel explicitly consents" (Chapter 58, Section 5.2.).

²² "The escort team leader may however decide, at the contractor's risk, to use handcuffs without having obtained prior authority. Their use in such circumstances may only be justified in the interests of safety and/or security in an emergency situation" (See Chapter 58, Section 5.1.).

²³ The members of the security team are experienced escorts and certified instructors in restraint techniques.

34. In this context, reference should be made to the case of Jimmy Mubenga, a 46-year-old man who died from cardiorespiratory collapse after having been restrained by three G4S²⁴ escorts while being removed on 12 October 2010 on a British Airways scheduled flight to Angola²⁵. This was both the first death on an aircraft of a person forcibly returned from the United Kingdom and the first death of a detainee in the custody of private sector escorts (i.e. since about 1994). On 17 July 2012, the Crown Prosecution Service (CPS) concluded on the basis of the police investigation, consultation with medical experts and experienced counsel, that there was not sufficient evidence to prosecute the three escorts (for gross negligence manslaughter, unlawful act manslaughter, or misconduct in public office) or G4S (for corporate manslaughter). The delegation was informed that the Prisons and Probation Ombudsman (PPO) would report on this matter in the autumn and that an inquest would take place in May 2013. **The CPT would like to receive copies of both the PPO report and the inquest findings in due course.**

35. As for the lessons to be learned from Mr Mubenga's death, the CPS's experts suggested that there were shortcomings in the training of escorts (in particular in relation to positional asphyxia, how it might occur and the warning signs for identifying it) and highlighted the lack of specific training for use of restraint on board an aircraft. As a result, the UKBA commissioned a revised training package for overseas escorts from the National Offender Management Service (NOMS). This project started in May 2012 and should be completed by March 2013. The implementation of the revised training package will start once the new training manual and materials are available and approved by an independent advisory panel and agreed by Home Office Ministers. **The CPT recommends that efforts be made for this specific training to be accredited and implemented at the earliest opportunity.**

In this context, the CPT is of the opinion that **technical expertise should be sought not only from the respective police and prison training centres, but also from training centres involved in developing control and restraint techniques used in mental health establishments (and, in particular, control and restraint techniques used vis-à-vis high-risk patients)**²⁶.

²⁴ G4S Care and Justice Services (UK) Limited.

²⁵ As an immediate measure, the UKBA suspended the use of restraint techniques on scheduled removal flights for ten days whilst an initial review of use of force practices and training was carried out by NOMS.

²⁶ A similar recommendation has been made by Baroness Nuala O'Loan in her Report to the United Kingdom Border Agency on "Outsourcing Abuse", published in March 2010.

2. Role of national monitoring bodies

36. In its 13th General Report (see CPT/Inf (2003) 35, paragraph 45), the CPT had already highlighted the importance of the monitoring by independent bodies of removal operations by air. The CPT is therefore pleased to note that members of HM Inspectorate of Prisons started to monitor removal operations by air in March 2011 and that three such missions have been carried out to date (see paragraph 3). The reports drawn up by HMIP - and subsequently made public - describe in detail the removal operations carried out by Reliance and the UKBA and formulate clear recommendations. Furthermore, HMIP recently made public its "Overseas Escorts Expectations".

In the meantime, the UKBA has already drafted two "Service Improvement Plans" in response to the reports on the removals to Jamaica and Nigeria. The CPT notes that virtually all recommendations made by HMIP (in fact, a total of 41 recommendations out of 48) were accepted (in full or in principle). Detailed comments accompanied the responses to the Inspectorate recommendations. The level of cooperation between the UKBA and HMIP monitors can only be described as very good.

The CPT trusts that such operations will continue to be the subject of regular monitoring by HM Inspectorate of Prisons. Furthermore, the delegation was informed that Immigration Monitoring Boards (IMB) might in the near future play a role in the context of "in-flight" monitoring of removal operations. **The CPT would like to receive more information on this subject.**

3. Staff related issues

37. The proper conduct of removal operations by air depends to a large extent on the quality of the staff assigned to escort duties. Clearly, escort staff must be selected with the utmost care and receive appropriate, specific training designed to reduce the risk of ill-treatment to a minimum. 80% of Reliance escort staff are ex-G4S escort staff, recruited solely to carry out overseas escort operations. The remaining 20 % are composed of staff recruited more recently, who may be asked to carry out overseas as well as national escorting duties. All escort staff attended a six-week DCO course and are certified by the UKBA. However, as already indicated, no specific training has been given until now concerning the use of control and restraint techniques in aircraft. In this connection, reference should be made to the recommendation in paragraph 35.

38. As already mentioned, it is undisputable that overseas escorting duties are stressful, intensive and tiring. Therefore, the CPT considers that **the recruitment procedure of overseas escorts should include some form of psychological assessment.** Furthermore, once recruited, **it is essential that measures be taken in order to avoid professional exhaustion syndrome and the risks related to routine, and to ensure that staff maintain a certain emotional distance from the operational activities in which they are involved.** Team debriefings (see paragraph 31) play a very important role in this context, as well as the provision, on request, of specialised psychological support for staff. Finally, **care should be taken that escorts rotate regularly between long and short-haul missions, or between overseas and national duties (contracts permitting).**

4. Complaint procedures

39. The complaint system in place at the UKBA covers persons detained in immigration removal centres, short-term holding facilities, holding rooms or during escort (national and overseas). The delegation examined the accessibility and efficiency of the complaint system for persons subjected to a removal procedure.

As regards accessibility, a three-page document entitled “Making a complaint” is available at any IRC, together with complaint forms in 15 different languages (including Tamil). Furthermore, the delegation observed that detainees were able to submit complaints orally to both Reliance escort teams and UKBA representatives during the whole journey (during the hand-over at the IRC, on the coach, during boarding or during the flight). The surgery organised during the flight (see paragraph 27) was also clearly aimed at collecting any complaints from persons being removed. Further, it was clear to the delegation that complaints could have been made to national monitors (such as HMIP representatives) if they had been present during the boarding or on the flight.

As regards efficiency, the UKBA Detention Service Order 03/2011 sets out in detail the comprehensive procedure to be followed when a detainee submits a complaint²⁷. The different types of complaint (serious or minor misconduct, service delivery complaints, health-care complaints, etc.) are examined by specific entities, either within the UKBA (such as the Professional Standards Unit) or, if necessary, outside the UKBA (for example, by the Prisons and Probation Ombudsman or the police). Complaints examined within the UKBA have to be responded to within specific timescales (varying from 10 working days to 12 weeks), depending on the type of complaint. The UKBA Detention Services Customer Service Unit (DSCSU) is responsible for oversight of all complaints.

40. The delegation examined four complaints that were made by detainees vis-à-vis Reliance escort staff (respectively in July, September, October and December 2011), two of them making reference to possible cases of ill-treatment. It noted that after careful consideration, only part of the complaints were substantiated (detainee’s wrist held too tight; female detainee held by the hair). In both cases, the outcome was “words of advice”. **The CPT would like to receive updated information on the complaints made by persons subjected to a removal procedure by air in 2012 (nature of the allegation, results of the investigation, outcome of the procedure).**

²⁷ Other essential reference documents are the « Complaints Management Guidance » and the « Guidance Manual for UKBA staff and contractors working under contract to detention services, UKBA », both available on the UKBA website.

APPENDIX

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

Cooperation between the CPT and the authorities of the United Kingdom

comments

- the authorities are invited to consider making an explicit reference to the possibility for national or international monitoring bodies - such as the CPT - to observe removal operations to the country of destination, including the hand-over procedure to the local immigration authorities, when negotiating future readmission agreements. Specific arrangements should be made, on an ad hoc basis, as regards readmission agreements already in force (paragraph 6).

Preliminary remarks

comments

- a State's fundamental obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or inhuman or degrading treatment or punishment must be kept in mind in the context of deportation of foreign nationals by air (paragraph 9).

Preparation for removal

recommendations

- more appropriate arrangements, offering more privacy, to be found for searching detainees at Brook House IRC (paragraph 15);
- measures to be taken to ensure that the use of control and restraint techniques by escorts during transfer is justified in each individual case by a risk assessment (paragraph 17);
- measures to be taken to increase the level of psychological support and counselling to detainees in order to better prepare them for their removal, as well as to ensure the presence of an interpreter throughout the whole removal process (including on board the aircraft) (paragraph 19);
- the handing over of a detainee from an IRC to Reliance overseas escort staff to be made subject without delay to the delivery of a "fit to fly" certificate issued by a medical doctor (paragraph 21).

comments

- more efforts should be made to reduce the very long time spent by detainees in coaches before boarding the aircraft (paragraph 17);
- the CPT trusts that measures have been taken to remedy the shortcoming observed in relation to one of the escort teams during the hand-over procedure carried out at Brook House IRC (paragraph 18);
- the “passive handcuffing procedure” applied to a detainee who self-harmed at Brook House IRC appeared excessive for someone who was under constant and close surveillance by two experienced escorts (paragraph 20);
- only one of the paramedics wore a distinctive sign identifying his role (paragraph 22).

Execution of the removal

recommendations

- the security arrangements for “surgeries” during the flight to be revised in the light of the remarks made in paragraph 27, taking into consideration the detainee’s individual risk assessment (paragraph 27).

comments

- the need for the second rub-down search carried out at Stansted Airport is debatable, as detainees had been kept under close surveillance by their escort(s) throughout the whole journey (paragraph 24);
- the authorities are invited to reconsider their policy as regards leaving the door of the toilet slightly open when it is used by a detainee and not providing detainees with blankets and pillows during the flight; decisions in relation to these matters should be based on an individual risk assessment (paragraph 26);
- health care staff accompanying removal operations by charter flight should be systematically provided with a fully equipped emergency case (i.e. including a variety of emergency medical equipment, as well as the medication most commonly used in emergency situations) (paragraph 28);
- the presence on board of removal charter flights of a medical doctor (instead of a paramedic or a nurse) would be highly desirable (paragraph 28).

Hand-over to the local authorities and debriefing-related issues

recommendations

- debriefing sessions to be systemically organised after removal operations, both at team and senior levels, in the light of the remarks made in paragraph 31. This should be stipulated in the agreement between the UKBA and its contracting partners (paragraph 31).

comments

- the form entitled “detainee feedback system” - which is part of the Reliance Service Improvement System - constitutes a clear attempt on the part of Reliance to offer a good service and should be circulated to detainees (paragraph 29);
- the observations of the authorities on the fact that the “chartered removal events log” drawn up on arrival in Colombo by the SSO (and signed by the CIO) only partially reflected the chronology of events during the journey (paragraph 32).

requests for information

- a copy of the report drawn up by the Migration Delivery Officer (MDO) upon the arrival of the “Tetyra 8” removal flight, describing the hand-over procedure of detainees in Colombo on 24 October 2012 (paragraph 30);
- a copy of the “Tetyra 8” charter flight report and the “passive handcuff report” drawn up for detainee N° 57 (paragraph 32).

Other issues related to the CPT’s mandate

Use of force

recommendations

- efforts to be made in order to accredit and implement at the earliest opportunity the revised training package for overseas escorts (paragraph 35).

comments

- technical expertise should be sought not only from police and prison training centres, but also from training centres involved in developing control and restraint techniques used in mental health establishments (and, in particular, control and restraint techniques used vis-à-vis high-risk patients) (paragraph 35).

requests for information

- as regards the death of Jimmy Mubenga, copies of both the Prisons and Probation Ombudsman’s report and the inquest findings (paragraph 34).

Role of national monitoring bodies

requests for information

- more information on the role to be played in the future by Immigration Monitoring Boards in the context of “in-flight” monitoring of removal operations (paragraph 36).

Staff related issues

comments

- the recruitment procedure of overseas escorts should include some form of psychological assessment (paragraph 38);
- it is essential that measures be taken in order to avoid professional exhaustion syndrome and the risks related to routine, and to ensure that staff maintain a certain emotional distance from the operational activities in which they are involved (paragraph 38);
- care should be taken that escorts rotate regularly between long and short-haul missions, or between overseas and national duties (contracts permitting) (paragraph 38).

Complaint procedures

- updated information on the complaints made by persons subjected to a removal procedure by air in 2012 (nature of the allegation, results of the investigation, outcome of the procedure) (paragraph 40).