Mannréttindaskrifstofa Íslands

Laugavegi 7 - 101 Reykjavík.

Sími /Tel: 552 2720 - Fax: 552 2721 –

Slóðir: www.mannrettindi.is og www.humanrights.is
Netfang: icehr@humanrights.is

U M S Ö G N

MANNRÉTTINDASKRIFSTOFU ÍSLANDS

UM FRUMVARP TIL LAGA UM FULLNUSTU REFSINGA,

ÞSKJ. 673 – 465. MÁL.

Mannréttindaskrifstofa Íslands (hér eftir MRSÍ) hefur farið yfir ofangreint lagafrumvarp með hliðsjón af mannréttindaákvæðum stjórnarskrár lýðveldisins Íslands, nr. 33/1944, Mannréttindasáttmála Evrópu, sbr. lög nr. 62/1994, alþjóðasamningi Sameinuðu þjóðanna (SÞ) um borgaraleg og stjórnmálaleg réttindi, sem fullgiltur var af Íslands hálfu, með tilteknum fyrirvörum, hinn 22. ágúst 1979, Evrópusamningi um varnir gegn pyndingum og ómannlegri eða vanvirðandi meðferð eða refsingu, sem fullgiltur var af Íslands hálfu hinn 19. júní 1990 og samningi SÞ gegn pyndingum og annarri grimmilegri, ómannlegri eða vanvirðandi meðferð eða refsingu, sem fullgiltur var af Íslands hálfu hinn 23. október 1996. Ennfremur hefur MRSÍ litið til dóma Mannréttindadómstóls Evrópu um málefni fanga og ýmissa ályktana Evrópuráðsins, einkum tillagna um fangelsisreglur sem samþykktar voru hinn 12. febrúar 1987 – hér eftir nefndar Evrópureglurnar frá 1987.

Sé tekið mið af fyrirliggjandi lögum um fangelsi og fangavist má segja frumvarpið sé að því leyti til bóta að það er ítarlegra og ýmislegt tekið þar inn úr reglugerðum þeim, sem vísað er til í greinargerðinni með frumvarpinu. Hinsvegar eru í því ýmis varhugaverð ákvæði og önnur ófullnægjandi sem MRSÍ telur sér skylt að gera athugasemdir við svo sem:

1. **Ákvæði um vistun afplánunarfanga í fangageymslum lögreglum.**
2. **Menntunarkröfur forstöðumanna fangelsa.**
3. **Valdbeitingarheimild fangavarða.**
4. **Þagnarskyldu fanga og starfsfólks fangelsa.**
5. **Vistun ungmenna með fullorðnum föngum.**
6. **Réttindi fanga í sambandi við flutninga milli fangelsa og fangelsisdeilda.**
7. **Læknisskoðanir fanga.**
8. **Leyfi fanga.**
9. **Líkamsleit á gestum fanga og**
10. **kæruheimildir.**

Verður nú farið yfir greinar frumvarpsins lið fyrir lið.

UMSÖGN UM EINSTAKAR LAGAGREINAR FRUMVARPSINS.

I. kafli. Stjórn og skipulag fangelsismála.

1. – 2. gr.
Engar athugasemdir.

3. gr., 1. og 2. mgr:
MRSÍ mælir gegn því að gæsluvarðhaldsfangar verði vistaðir í fangelsi ásamt afplánunarföngum. Sú tilhögun er í beinni andstöðu við alþjóðasamning Sameinuðu þjóðanna (SÞ) um borgaraleg og stjórnmálaleg réttindi, 10. gr. og samrýmist ekki þeirri grundvallarreglu, að hver maður skuli talinn saklaus uns sekt hans sé sönnuð að lögum, sbr. og Evrópureglurnar frá 1987, 11.gr. 3.mgr.[1]

3. gr., 3. og 4. mgr:
Að mati MRSÍ er nauðsynlegt að kveðið sé á um hámarkstíma, 1-2 sólarhringa í mesta lagi, í fangageymslum lögreglu, hvort heldur er um að ræða afplánunarfanga eða gæsluvarðhaldsfanga. Því aðeins gæti slík vistun komið til greina, að aðbúnaður væri sambærilegur við fangelsi, t.a.m. aðstæður til útivistar, fræðslu og samneytis við annað fólk en því er væntanlega ekki að heilsa í fangageymslum lögreglustöðva hér á landi. MRSÍ hlýtur að mótmæla þessu ákvæði enda gengur það í berhögg bæði við 3.gr. Mannréttindasáttmála Evrópu og 7.gr. alþjóðasamnings Sameinuðu Þjóðanna um borgaraleg og stjórnmálaleg réttindi.

4. gr.
Engar athugasemdir.

5. gr.
Hér vantar að mati MRSÍ, að tilgreint sé hverjar kröfur skuli gerðar um menntun forstöðumanna fangelsa. Er ekki einu sinni áskilnaður um að þeir hafi lokið prófi frá Fangavarðaskóla ríkisins. Í nútíma þjóðfélagi ætti fortakslaust að gera kröfu um háskólamenntun til slíks starfs og jafnframt að áskilja að viðkomandi hafi notið tiltekinnar fræðslu um mannréttindi.

6. gr.
Engar athugasemdir.

7.gr.
Að mati MRSÍ er þetta ákvæði varhugavert. Vafalaust kunna þau tilvik að koma upp að valdbeiting af hálfu fangavarða sé óhjákvæmileg en hætt er við að fangaverðir gætu gengið lengra í þeim efnum en nauðsyn krefðist ef lagaheimild til valdbeitingar væri

[1] In principle, untried prisoners shall be detained separately from convicted prisoners unless they consent to being accommodated or involved together in organised activities beneficial to them.

orðuð eins rúmt og hér er gert. Að mati MRSÍ er nauðsynlegt að þrengja heimildina á þann hátt, að fangaverðir skuli aldrei beita valdi nema í sjálfsvörn eða öðrum til bjargar og þá aldrei umfram brýnustu þörf og því aðeins, að engin önnur úrræði séu fyrir hendi. Vísast hér til 63. gr. Evrópureglnanna frá 1987.[2]

8. gr.
Að mati MRSÍ er þetta ákvæði **afskaplega varhugavert.** Vissulega er sjálfsagt að kveða á um þagnarskyldu um einkahagi bæði fanga og starfsmanna fangelsa, persónulegar aðstæður þeirra og ýmis atvik sem upp kunna að koma innan múranna. Annað mál er að kveða á um þagnarskyldu um "starfshætti fangelsa og fangelsisyfirvalda". Ekki verður annað séð af orðalagi ákvæðisins en að þagnarskyldan skuli verða fortakslaus. **Hvorki þar né annars staðar í frumvarpinu er gert ráð fyrir neinu utanaðkomandi eftirliti með starfsemi fangelsa**. Virðist hér til dæmis komið í veg fyrir að hvort heldur er starfsmenn eða fangar geti komið á framfæri athugasemdum um starfshætti í fangelsum sem þeir kunna að telja brot á réttindum fanga. Sú spurning hlýtur að vakna hvernig starfsmenn og fangar eiga að bregðast við þegar pyntingavarnanefnd Evrópu kemur í könnunarferðir sínar til Íslands. Er þeim óheimilt að svara spurningum hennar?

Þegar þetta atriði er skoðað í ljósi hugmynda er fram hafa komið um að heimila uppsagnir opinberra starfsmanna án undanfarandi áminninga verður ekki annað séð en unnið sé að því leynt og ljóst að hefta tjáningarfrelsi þeirra langt umfram það sem verið hefur. Ljóst er að það kann að auðvelda yfirmönnum opinberra stofnana að beita agavaldi sínu gagnvart þeim starfsmönnum sem kunna að hafa sjálfstæðar skoðanir en hætt er við að afleiðingarnar verði afdrifaríkar fyrir almenning í landinu þegar fram í sækir – enda vísir menn sagt að ekkert sé eins hættulegt heilbrigði lýðræðislegs samfélags og óhóflega hlýðnir opinberir starfsmenn. Þetta ákvæði gæti - ef lögleitt yrði - leitt til þess að hylmað yrði yfir misbeitingu valds og mannréttindabrot í íslenskum fangelsum.

II. kafli. Fullnusta óskilorðsbundinna fangelsisrefsinga og fl.

A. Almennt (gr. 9. – 16)

9.gr. – 10. gr..
Engar athugasemdir.

[2] 1. Staff of the institutions shall not use force against prisoners except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

2. Staff shall as appropriate be given special technical training to enable them to restrain aggressive prisoners.

3. Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been fully trained in their use.

11. gr., 2. mgr.
MRSÍ leggur til að í lok þessarar málsgreinar verði bætt við: *"…nema sérstakar ástæður réttlæti frestun".* Síðasta setning málsgreinarinnar er full afdráttarlaus og gefur enga möguleika til undantekninga, hversu brýnar ástæður sem kunna að vera fyrir hendi.

11. gr., 4. mgr.
Spurning er hvort ekki væri gleggra að orða málsgreinina svo: *"Frestur samkvæmt þessari grein er bundinn því skilyrði að dómþoli fremji ekki **aftur** refsiverðan verknað*".

12. gr.
Engar athugasemdir

13. gr.
Í 2. málslið þessa ákvæðis er svo að sjá sem fangelsisyfirvöldum sé í reynd veitt heimild til að lengja refsitíma viðkomandi fanga. Að mati MRSÍ gengur ákvæðið gegn þeirri grundvallarreglu að dómstólar dæmi refsingu fyrir afbrot en fangelsismálayfirvöld sjái um að framfylgja henni. Framkvæmdavaldinu virðist hér veitt heimild til að seilast um of inn á svið dómsvaldsins.

14. gr. 1. mgr.
Í þessari grein þyrfti að taka skýrar af skarið með að ungir brotamenn ættu ekki að afplána refsingu með fullorðnum föngum, sbr. 10. gr. alþjóðasamnings Sameinuðu þjóðanna (SÞ) um borgaraleg og stjórnmálaleg réttindi[3], en þar kemur fram að ófullveðja brotamenn skulu aðskildir frá fullorðnum mönnum og sæta meðferð sem hæfir aldri þeirra og réttarstöðu. Væri æskilegt að afmarka nánar í frumvarpinu meðferð ungra fanga. Markmið afplánunar ætti fyrst og fremst að vera betrun og félagsleg endurhæfing fanga – sbr. 3.mgr. 10. gr. fyrrnefnds samnings - enda verður ætíð að hafa í huga að flestir ef ekki allir snúa þeir til þjóðfélagsins á ný að afplánun lokinni. Því ber að hafa í huga þau áhrif sem eldri fangar kunna að hafa á unga fanga sem ekki hafa áður komist í kast við lögin. Sérstaklega þyrfti að hvetja unga fanga til náms eða starfsþjálfunar meðan á afplánun stendur og aðstoða þá til þess, t.d. m.t.t. námsörðugleika eða fötlunar, og stuðla þannig að því að fangelsisvistin geti orðið þeim uppbyggileg að því marki sem unnt er.

14. gr. 2.mgr. – 4.mgr.
Þar sem fjallað er um flutning fanga frá einu fangelsi til annars meðan á afplánun stendur væri æskilegt að taka fram að hann skuli vera sem minnst áberandi og fara fram af eins mikilli tillitssemi og nærgætni við fangann og unnt er, til að vernda hann gegn hugsanlegu aðkasti almennings og kastljósi samfélagsins, sbr. Evrópureglurnar frá 1987 50. gr.[4] Eðlilegt væri og sanngjarnt að gefa fanga kost á að tjá sig áður en ákveðið er að

[3] Þrátt fyrir fyrirvara Íslands við þetta ákvæði þegar samningurinn var staðfestur.

[4] 50. gr. 50.
1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

flytja hann milli fangelsa og jafnvel klefa, ef flutningurinn raskar hagsmunum hans til hins verra. Þyrftu fangar jafnframt að geta vísað ákvörðunum þar um til ráðuneytisins, hvort sem þær eru í valdi forstöðumanna fangelsanna eða Fangelsismálastofnunar.

15. – 16. gr.
Engar athugasemdir.

B. Fullnusta í fangelsi (gr. 17. – 24.)

17. gr., 3. mgr.
Að mati MRSÍ er þessi málsgrein mjög varhugaverð og felur í sér allt of víðtækar heimildir til að hindra að fangi geti tilkynnt aðstandendum sínum og lögmanni um að afplánun sé hafin eða um flutning milli fangelsa, þannig að í raun væri hægt að halda fanga innan fangelsismúra með leynd. Þessi málsgrein er þannig orðuð að um sérstaka ívilnun til handa fanga sé að ræða, en í raun eiga það að vera sjálfsögð réttindi fanga að geta tilkynnt aðstandendum og lögmanni sínum um upphaf afplánunar eða flutning milli fangelsa.

18. gr.
Í þessari grein þyrfti að taka fram, að reglur fangelsisins skuli kynntar fyrir föngum þannig að þeir geti skilið hvað í þeim felst, t.d. þegar um er að ræða erlenda menn, sem ekki skilja málið, heyrnardaufa og ólæsa fanga, sem og þá sem eiga við að etja fötlun af einhverju tagi og kunna því að hafa sérþarfir af þeim sökum.

19. gr., 1. mgr.
Að mati MRSÍ þyrfti að taka fram að störf, sem fanga séu falin, megi hvorki vera andstæð lögum eða góðu siðferði né til þess fallin að skerða réttindi annarra fanga.

19.gr. 3 mgr.
Varhugavert er að mati MRSÍ að gera upp á milli fanga þannig að sumir greiði fyrir uppihald sitt og aðrir ekki. Hinsvegar mætti e.t.v. heimila forstöðumanni fangelsis að hafa forgöngu um að hluti launa fangans falli til maka hans eða barna séu þau fyrir hendi ellegar að sjá til þess að hluti launanna sé lagður á bankareikning sem fanganum verði afhentur við lok fullnustu. Ennfremur mætti íhuga, að forstöðumaður gæti heimilað fanganum að nýta aflafé sitt í þágu menntunar sinnar.

20. gr.
Hér eru athugasemdir við 14. gr. frumvarpsins áréttaðar hvað varðar námsaðstoð við þá fanga sem þurfa þess með en hafa þó vilja til þess að leggja stund á nám meðan á afplánun stendur. Hér má nefna bæði þá sem kunna að eiga við námsörðugleika að etja, vantar grunnkunnáttu eða stríða við fötlun af einhverju tagi.

---

2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship or indignity shall be prohibited.

3. The transport of prisoners shall be carried out at the expense of the administration and in accordance with duly authorised regulations.

21. – 22. gr.
Engar athugasemdir.

23. gr.
MRSÍ telur brýnt að fangi undirgangist ætíð læknisskoðun þegar hann hefur afplánun refsingar til þess að engin þau slys verði í meðferð fangans sem rekja mætti til heilsufarsástæðna, sbr. og Evrópureglurnar frá 1987, 26. gr.[5]. Þá er vakin athygli á heilsugæslukafla Evrópureglnanna í heild, 26. – 32. gr., sem fylgir með þessari umsögn sem fylgiskjal nr. II.

24. gr.
Það væri til bóta ef aðstaða þeirra kvenfanga sem hafa börn sín hjá sér í fangelsum væri nánar skilgreind. Þá er m.a. átt við aðstöðu móður og barns í fangaklefa og gæslu eða umönnun barns á meðan móðir þess er fjarverandi, t.d. vegna vinnu, náms eða tómstunda í afplánunni.

C. Fullnusta utan fangelsis (gr. 25. – 26.)

25. gr.
Engar athugasemdir.

26. gr.
Varðandi 1. mgr. greinarinnar vísast til athugasemda við 6. kafla frumvarpsins.
Þá er gerð athugasemd við 2. mgr., um að fanga skuli ekki gefinn kostur á að tjá sig áður en ákveðið er að flytja hann í fangelsi á ný, af þeim ástæðum að forsendur vistunar fangans utan fangelsis séu taldar brostnar. Sýnist eðlilegt að útskýringar fangans liggi fyrir áður en slík ákvörðun er tekin til að fyrirbyggja misskilning eða atvik sem fanginn hefur hugsanlega ekki átt sök á. Að öðrum kosti væri rétt að fangi undirritaði fyrirfram viljayfirlýsingu þess efnis að hann sé reiðubúinn að gangast undir þau skilyrði sem greinin setur.

D. Samfélagsþjónusta (gr. 27. – 31.)

27. – 31. gr.
Engar athugasemdir.

---

[5] 26.1 At every institution there shall be available the services of at least one qualified general practitioner. The medical services should be organised in close relation with the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

2. Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be suitable for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

3. The services of a qualified dental officer shall be available to every prisoner.

III. kafli. Réttindi og skyldur fanga.

32. gr.
Engar athugasemdir.

33. gr.
Hér er vakin athygli á þeirri ríku áherslu sem Evrópuráðið leggur á mikilvægi þess að fangar geti haft samskipti við fjölskyldu og vini, og samfélagið í heild eftir því sem unnt er, sbr. Evrópureglurnar frá 1987, 43. gr.[6] sbr. og IV kafla þeirra, sem fylgir með umsögn þessari sem fylgiskjal nr. I. Með hliðsjón af mikilvægi samskipta fanga við fólk utan fangelsismúranna, sem þátt í uppbyggilegri meðferð fanga, þykir orðalag 1. mgr. nokkuð þröngt. Lagt er til að orðalagið verði rýmkað eða bætt verði við greinina að leitast skuli við að leyfa heimsóknir til fanga, eftir því sem unnt er.

Gerð er athugasemd við 5. mgr., sem gerir ráð fyrir að heimilað verði að leita á þeim sem heimsækja fanga og láta þá gangast undir líkamsrannsókn. Fráleitt þykir að þetta verði gert án samþykkis viðkomandi gesta. Hér er reyndar um að ræða afar íþyngjandi aðgerð, sem gæti fælt gesti frá heimsóknum til fanga – auk þess sem um er að ræða skerðingu á persónurétti gestanna. Á hinn bóginn geta þær aðstæður verið fyrir hendi að brýnt sé að fylgjast með því sem föngum er fært utan að. Til að fyrirbyggja handahófskenndar ákvarðanir af þessu tagi ætti því aðeins að heimila, að farið væri fram á slíka leit, að fyrir lægi rökstuddur grunur um að gesturinn hafi eitthvað það meðferðis sem ekki má berast fanganum. Ætti því að kynna bæði gesti og fanga ástæður leitar/líkamsrannsóknar. Á hinn bóginn ætti að vera heimilt að vísa gestinum frá neiti hann að gangast undir leitina – eða sjá til þess að hann hitti fangann í sérstöku herbergi þar sem unnt er að leita á fanganum að heimsókninni lokinni til að kanna hvort honum hefur verið fært einhverskonar bannvara. Æskilegt væri að taka fram í ákvæðinu að ákvarðanir um líkamsleit á gestum væru kæranlegar til ráðuneytis.

34. gr. – 35.gr.
Engar athugasemdir.

36. gr.
At mati MRSÍ ætti að tilkynna fanga fyrirfram um ákvörðun um hlustun á símtöl eða upptöku þeirra. Markmiði þessara ákvæða svo sem þeim er lýst í greinargerð með frumvarpinu ætti eins að vera unnt að ná – og jafnvel betur - með því að fanginn viti fyrirfram að hann muni ekki komast upp með þá ósvinnu sem þar er lýst.

---

[6] 1. Prisoners shall be allowed to communicate with their families and, subject to the needs of treatment, security and good order, persons or representatives of outside organisations and to receive visits from these persons as often as possible.

2. To encourage contact with the outside world there shall be a system of prison leave consistent with the treatment objectives in Part IV of these rules.

37. gr. – 39. gr.
Engar athugasemdir.

40. gr.
MRSÍ teldi það til bóta, að ákvæði frumvarpsins varðandi erlenda fanga yrðu útfærð nánar, með hliðsjón af tilmælum Evrópuráðsins frá 21. júní 1984, en þar segir m.a. að leita eigi leiða til að vinna gegn fordómum sem erlendir fangar kunna að verða fyrir og sporna gegn félagslegri einangrun þeirra eftir því sem frekast er unnt.[7] Tilmælin fylgja með umsögn þessari. Hér þarf jafnframt að taka tillit til þeirra sjónarmiða sem fram koma í 44. gr. – 45. gr. Evrópureglnanna.[8]

41. gr. – 42. gr.
Engar athugasemdir.

IV. kafli. Leyfi úr fangelsi.

<u>Almennar athugasemdir við kaflann.</u>
Í almennun athugasemdum við þennan kafla frumvarpsins þykir rétt að vekja athygli á tilmælum Evrópuráðsins frá 24. september 1982, um leyfi fanga til dvalar utan fangelsis, en þar segir m.a. að leyfi úr fangelsi geri fangelsin mannúðlegri og stuðli að betri aðlögun fanga að samfélaginu á nýjan leik. Tilmælin fylgja með umsögn þessari, fylgiskjal nr. III. Hvetur Evrópuráðið til rýmkunar á leyfi úr fangelsi, og að það verði veitt m.a. af menntunarlegum og félagslegum ástæðum, eftir því sem unnt er og kringumstæður gefa tilefni til, sbr. 1. gr. – 3. gr. tilmælanna. Með hliðsjón af því eru ástæður leyfis úr fangelsi of þröngt afmarkaðar í þessum kafla. Jafnframt leggur Evrópuráðið áherslu á að föngum sé skilmerkilega greint frá ástæðum þess að beiðni þeirra um leyfi sé hafnað. Fangar ættu einnig að hafa möguleika á að fá ákvörðunina endurskoðaða og ekki ætti að beita fanga

---

[7] The principles should be applied so as to ensure that the treatment of foreign prisoners is conducive to their social resettlement. This might require adopting particular measures in relation to particular categories of foreign prisoners, taking into account such factors as nationality, language, religious precepts and customs, cultural background, length of sentence, and liability to expulsion. Every reasonable effort should be made to ensure that the treatment of foreign prisoners does not lead to their being disadvantaged.

[8] 44. 1. Prisoners who are foreign nationals should be informed, without delay, of their right to request contact and be allowed reasonable facilities to communicate with the diplomatic or consular representative of the state to which they belong. The prison administration should co-operate fully with such representatives in the interests of foreign nationals in prison who may have special needs.

2. Prisoners who are nationals of states without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of their interests or national or international authority whose task it is to serve the interests of such persons.

45. Prisoners shall be allowed to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, by radio or television transmissions, by lectures or by any similar means as authorised or controlled by the administration. Special arrangements should be made to meet the needs of foreign nationals with linguistic difficulties.

agaviðurlögum að þessu leyti, þ.e. neita föngum um leyfi sem agaviðurlög, nema þeir hafi orðið uppvísir að því að misnota með einhverjum hætti þennan möguleika á veittu leyfi úr fangelsi.

43. gr.
Hér er heimild til handa fanga að heimsækja fjölskyldu sína og vini, *"ef slíkt telst heppilegt sem þáttur í refsifullnustu eða til að búa fanga undir að ljúka afplánun"* Hér telur MRSÍ rétt að vísa til Evrópureglnanna frá 1987 en þar segir í 70. gr. að byrja skuli svo fljótt sem auðið er eftir upphaf afplánunar á refsivist að búa fanga undir lok afplánunar, sbr. IV kafla reglnanna, sbr.fylgiskjal I. Ákvæði 43. gr. vekur upp ýmsar spurningar, sem e.t.v. er ekki hægt að svara í lögum. Ætla mætti að heimsóknir fanga til vina og vandamanna væru alltaf heppilegur þáttur til að búa hann undir að ljúka afplánun. Þó fer það e.t.v. eftir því hverjir og hvernig vinirnir og vandamennirnir eru. Að mati MRSÍ þyrfti þriðji aðili að geta komið að þessu mati, annaðhvort ráðuneytið eða skilorðsfulltrúar Fangelsismálastofnunar. Brýnt er að vel sé hugað að öllu því sem verða mætti til að auðvelda föngum og búa þá undir að fara út í þjóðfélagið á ný.

44. gr.
Tímamörkin 8 klst. hámark í 1. mgr. þessarar greinar – í tilvikum 1 – 4, eru að mati MRSÍ of þröng. Hér ræðir um mikilvæga tilfinningaþrungna atburði og ætti því að gefa föngum rýmri tíma með ástvinum sínum við þessar kringumstæður, að minnsta kosti að taka fram að þessar 8 klst séu fyrir utan ferðir fram og tilbaka, því misjafnlega langan tíma kann að taka fyrir fangann að komast í og úr áfangastað.

45. gr.
Engar athugasemdir.

46. gr.
MRSÍ hefur miklar efasemdir um réttmæti þeirra skilyrða sem kveðið er á um í 1. mgr. Talið er að fyrsta ár afplánunar sé föngum hvað erfiðast og því mikilvægt fyrir andlega heilsu þeirra að þeir geti fengið fyrr að komast út fyrir veggi fangelsisins til að hitta vini og vandamenn. MRSÍ telur að ætíð verði að hafa í huga að fangarnir eiga eftir að fara út í þjóðfélagið á ný og því beri að gera allt sem unnt er til að skila þeim þangað aftur sem heilustum á líkama og sál – ella eins víst að fleiri fari fljótt aftur bak við lás og slá eða lífi við andleg örkuml það sem eftir er, sjálfum sér og þjóðfélaginu til byrði.

47. – 48. gr.
Engar athugasemdir.

49. gr.
MRSÍ þykir rétt að taka það fram að þá leyfi til dvalar utan fangelsis er veitt í fylgd með fangavörðum þá skuli fangaverðirnir ávallt vera óeinkennisklæddir og gæta skuli þess eins og kostur er að engar vísbendingar séu um að þar sé fangi á ferð. Það er nauðsynlegt til að fanginn upplifi ekki þá niðurlægingu að vera merktur sem afplánunarfangi gagnvart samfélaginu. Við þessar kringumstæður þarf að sjálfsögðu einnig að taka tillit til fjölskyldu viðkomandi fanga.

50. gr. – 51. gr.
Engar athugasemdir.
52. gr.
Varðandi síðasta málslið 2. mgr., sjá athugasemdir MRSÍ við 6. kafla frumvarpsins.

V. kafli. Leit, líkamsleit og líkamsrannsókn.

53. gr.
Engar athugasemdir.

54. gr.
Gerð er athugasemd við, að ekki sé áskilið að rökstuddur grunur leiði til þess að leitað sé á fanga. Þykir eðlilegt að gera slíka kröfu þar sem um íþyngjandi aðgerð er að ræða, til að koma í veg fyrir að ákvörðun um líkamsleit á fanga verði handahófskennd, auk þess sem samræmis væri þá gætt við aðrar greinar þessa kafla, þar sem ákvörðun um leit í klefa og líkamsrannsókn skuli teknar með rökstuddri bókun. Ef aðstæður þykja mjög brýnar kæmi til greina að gefa viðkomandi fanga rökstuddar skýringar á líkamsleitinni eftir að hún hefur farið fram.

55. gr. – 57. gr.
Engar athugasemdir.

VI. kafli. Agaviðurlög og fl.

58. gr.
Hér verður að árétta hversu þungbær einangrun er fyrir þann sem henni sætir. Því er nauðsynlegt að taka fram að því úrræði megi aðeins beita þegar brýna nauðsyn ber til og þá í eins skamman tíma og unnt er vegna þeirra alvarlegu afleiðinga sem það getur haft í för með sér fyrir heilsu fanga, ekki síst andlegra afleiðinga einangrunar fyrir heilsu viðkomandi fanga. Ber því að beita þessu alvarlega úrræði með mikilli varkárni. Einangrun getur brotið mjög niður andlegt þrek og lífsþrótt þess sem henni sætir og setur MRSÍ því spurningamerki við ákvæði 3. tl. 1. mgr. greinarinnar um einangrun í allt að 30 daga. Ákvörðun um svo langa einangrun ætti ekki að taka nema með leyfi frá ráðuneytinu eða jafnvel dómara.

59. gr . – 61. gr.
Í 59. gr. og 60. gr. þykir rétt að setja skilyrði um brýna nauðsyn. Taka þyrfti skýrt fram að ástæður einangrunar væru hér tæmandi taldar. Að öðru leyti vísast til athugasemda við 58. gr.

62. gr.
Engar athugasemdir.

63. gr.

Hér eru athugasemdir við 58. gr. áréttaðar; eðlilegt er að setja skilyrði um að heimild skv. þessu ákvæði sé aðeins notuð ef brýna nauðsyn bæri til. Þá ætti fangi að geta skotið slíkri ákvörðun til æðra stjórnvalds til endurskoðunar.

64. gr. Engar athugasemdir.

VII. kafli. Reynslulausn. (gr. 65. – 67.)

65. – 67. gr.
Engar athugasemdir.

VIII. kafli. Skilorðsbundnar refsingar. (gr. 68. – 71.)

68. – 71. gr.
Engar athugasemdir.

IX. kafli. Fullnusta fésekta, innheimta sakarkostnaðar og framkvæmd upptöku.

72. – 77. gr.
Engar athugasemdir.

X. kafli. Málsmeðferð og kæruheimildir.

78. gr.
Ákvæði um kæranlegar ákvarðanir til ráðuneytis eru nokkuð óljós í þessu frumvarpi að mati MRSÍ. Óljóst er hvaða ákvarðanir falla undir 1. mgr. 78. gr., þ.e. þær sem forstöðumaður tekur að höfðu samráði við fangelsismálastofnun. Ýmist er talað um að forstöðumaður fangelsis eða fangelsismálastofnun taki ákvarðanir. Ákvæði um kæruheimild þyrfti að vera alveg skýr í lögunum.

XI. kafli. Ýmis ákvæði.

79. gr.
Hér eru áréttaðar athugasemdir MRSÍ við 10. gr. frumvarpsins, sem og þá kafla sem greinin vísar til.

80. gr. – 84. gr.
Engar athugasemdir.

Reykjavík 9. febrúar 2004.

F.h. Mannréttindaskrifstofu Íslands.

Margrét Heinreksdóttir, frkv.stj. **Sigurbjörg Sigurjónsdóttir, lögfr.**

I. FYLGISKJAL.

4. kafli Evrópsku fangelsisreglnanna

Part IV

Treatment objectives and regimes

64. Imprisonment is by the deprivation of liberty a punishment in itself. The conditions of imprisonment and the prison regimes shall not, therefore, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in this.

65. Every effort shall be made to ensure that the regimes of the institutions are designed and managed so as:

a. to ensure that the conditions of life are compatible with human dignity and acceptable standards in the community;

b. to minimise the detrimental effects of imprisonment and the differences between prison life and life at liberty which tend to diminish the self-respect or sense of personal responsibility of prisoners;

c. to sustain and strengthen those links with relatives and the outside community that will promote the best interests of prisoners and their families;

d. to provide opportunities for prisoners to develop skills and aptitudes that will improve their prospects of successful resettlement after release.

66. To these ends all the remedial, educational, moral, spiritual and other resources that are appropriate should he made available and utilised in accordance with the individual treatment needs of prisoners. Thus the regimes should include:

a. spiritual support and guidance and opportunities for relevant work, vocational guidance and training, education, physical education, the development of social skills, counselling, group and recreational activities;

b. arrangements to ensure that these activities are organised, so far as possible, to increase contacts with and opportunities within the outside community so as to enhance the prospects for social resettlement after release;

c. procedures for establishing and reviewing individual treatment and training programmes for prisoners after full consultations among the relevant staff and with individual prisoners who should be involved in these as far as is practicable;

d. communications systems and a management style that will encourage appropriate and positive relationships between staff and prisoners that will improve the prospects for effective and supportive regimes and treatment programmes.

67. 1. Since the fulfilment of these objectives requires individualisation of treatment and, for this purpose, a flexible system of allocation, prisoners should be placed in separate institutions or units where each can receive the appropriate treatment and training.

2. The type, size, organisation and capacity of these institutions or units should be determined essentially by the nature of the treatment to be provided.

3. It is necessary to ensure that prisoners are located with due regard to security and control but such measures should be the minimum compatible with safety and comprehend the special needs of the prisoner. Every effort should be made to place prisoners in institutions that are open in character or provide ample

opportunities for contacts with the outside community. In the case of foreign nationals, links with people of their own nationality in the outside community are to be regarded as especially important.

68. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of a suitable length, a programme of treatment in a suitable institution shall be prepared in the light of the knowledge obtained about individual needs, capacities and dispositions, especially proximity to relatives.

69. 1. Within the regimes, prisoners shall be given the opportunity to participate in activities of the institution likelyto develop their sense of responsibility, self-reliance and to stimulate interest in their own treatment.

2. Efforts should be made to develop methods of encouraging co-operation with and the participation of the prisoners in their treatment. To this end prisoners shall be encouraged to assume, within the limits specified in Rule 34, responsibilities in certain sectors of the institution's activity.

70. 1. The preparation of prisoners for release should begin as soon as possible after reception in a penal institution. Thus, the treatment of prisoners should emphasise not their exclusion from the community but their continuing part in it. Community agencies and social workers should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners particularly maintaining and improving the relationships with their families, with other persons and with the social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

2. Treatment programmes should include provision for prison leave which should also be granted to the greatest extent possible on medical, educational, occupational, family and other social grounds.

3. Foreign nationals should not be excluded from arrangements for prison leave solely on account of their nationality. Furthermore, every effort should be made to enable them to participate in regime activities together so as to alleviate their feelings of isolation.

71. 1 . Prison work should be seen as a positive element in treatment, training and institutional management.

2. Prisoners under sentence may be required to work, subject to their physical and mental fitness as determined by the medical officer.

3. Sufficient work of a useful nature, or if appropriate other purposeful activities shall be provided to keep prisoners actively employed for a normal working day.

4. So far as possible the work provided shall be such as will maintain or increase the prisoner's ability to earn a normal living after release.

5. Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

6. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of employment in which they wish to participate.

72. 1. The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community so as to prepare prisoners for the conditions of normal occupational life. It should thus be relevant to contemporary working standards and techniques and organised to function within modern management systems and production processes.

2. Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners and of their treatment must not be subordinated to that purpose.

73. 1. Work for prisoners shall be assured by the prison administration:

a. either on its own premises, workshops and farms; or

b. in co-operation with private contractors inside or outside the institution in which case the full normal wages for such shall be paid by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

74. 1. Safety and health precautions for prisoners shall be similar to those that apply to workers outside.

2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to workers outside.

75. 1. The maximum daily and weekly working hours of the prisoners shall be fixed in conformity with local rules or custom in regard to the employment of free workmen.

2. Prisoners should have at least one rest-day a week and sufficient time for education and other activities required as part of their treatment and training for social resettlement.

76. 1. There shall be a system of equitable remuneration of the work of prisoners.

2. Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their family or for other approved purposes.

3. The system may also provide that a part of the earnings be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on release.

Education

77. A comprehensive education programme shall be arranged in every institution to provide opportunities for all prisoners to pursue at least some of their individual needs and aspirations. Such programmes should have as their objectives the improvement of the prospects for successful social resettlement, the morale and attitudes of prisoners and their self-respect.

78. Education should be regarded as a regime activity that attracts the same status and basic remuneration within the regime as work, provided that it takes place in normal working hours and is part of an authorised individual treatment programme.

79. Special attention should be given by prison administrations to the education of young prisoners, those of foreign origin or with particular cultural or ethnic needs.

80. Specific programmes of remedial education should be arranged for prisoners with special problems such as illiteracy or innumeracy.

81. So far as practicable, the education of prisoners shall:

a. be integrated with the educational system of the country so that after their release they may continue their education without difficulty;

b. take place in outside educational institutions.

82. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with a wide range of both recreational and instructional books, and prisoners shall be encouraged to make full use of it. Wherever possible the prison library should be organised in co-operation with community library services.

Physical education, exercise, sport and recreation

83. The prison regimes shall recognise the importance to physical and mental health of properly organised

activities to ensure physical fitness, adequate exercise and recreational opportunities.

84. Thus a properly organised programme of physical education, sport and other recreational activity should be arranged within the framework and objectives of the treatment and training regime. To this end space, installations and equipment should be provided.

85. Prison administrations should ensure that prisoners who participate in these programmes are physically fit to do so. Special arrangements should be made, under medical direction, for remedial physical education and therapy for those prisoners who need it.

86. Every prisoner who is not employed in outdoor work, or located in an open institution, shall be allowed, if the weather permits, at least one hour of walking or suitable exercise in the open air daily, as far as possible, sheltered from inclement weather.

Pre-release preparation

87. All prisoners should have the benefit of arrangements designed to assist them in returning to society, family life and employment after release. Procedures and special courses should be devised to this end.

88. In the case of those prisoners with longer sentences, steps should be taken to ensure a gradual return to life in society. This aim may be achieved, in particular, by a pre-release regime organised in the same institution or in another appropriate institution, or by conditional release under some kind of supervision combined with effective social support.

89. 1. Prison administrations should work closely with the social services and agencies that assist released prisoners to re-establish themselves in society, in particular with regard to family life and employment.

2. Steps must be taken to ensure that on release prisoners are provided, as necessary, with appropriate documents and identification papers, and assisted in finding suitable homes and work to go to. They should also be provided with immediate means of subsistence, be suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination.

3. The approved representatives of the social agencies or services should be afforded all necessary access to the institution and to prisoners with a view to making a full contribution to the preparation for release and after-care programme of the prisoner.

II. FYLGISKJAL.

26. gr. – 32. gr. Evrópsku fangelsisreglnanna.

Medical services

26. 1. At every institution there shall be available the services of at least one qualified general practitioner. The medical services should be organised in close relation with the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

2. Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be suitable for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

3. The services of a qualified dental officer shall be available to every prisoner.

27. Prisoners may not be submitted to any experiments which may result in physical or moral injury.

28. 1. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. However, unless special arrangements are made, there shall in penal institutions be the necessary staff and accommodation for the confinement and post-natal care of pregnant women. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

2. Where infants are allowed to remain in the institution with their mothers, special provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

29. The medical officer shall see and examine every prisoner as soon as possible after admission and thereafter as necessary, with a particular view to the discovery of physical or mental illness and the taking of all measures necessary for medical treatment; the segregation of prisoners suspected of infectious or contagious conditions, the noting of physical or mental defects which might impede resettlement after release; and the determination of the fitness of every prisoner to work.

30. 1. The medical officer shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with hospital standards, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.

2. The medical officer shall report to the director whenever it is considered that a prisoner's physical or mental health has been or will be adversely affected by continued imprisonment or by any condition of imprisonment.

31. 1. The medical officer or a competent authority shall regularly inspect and advise the director upon:

a. the quantity, quality, preparation and serving of food and water;

b. the hygiene and cleanliness of the institution and prisoners;

c. the sanitation, heating, lighting and ventilation of the institution;

d. the suitability and cleanliness of the prisoners' clothing and bedding.

2. The director shall consider the reports and advice that the medical officer submits according to Rules 30, paragraph 2, and 31, paragraph 1, and, when in concurrence with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within the director's competence or if the director does not concur with them, the director shall immediately submit a personal report and the advice of the medical officer to higher authority.

32. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may impede a prisoner's resettlement after release. All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner to that end.

III. FYLGISKJAL.

Tilmæli Evrópuráðsins nr. R. (82) 16, um leyfi fanga til dvalar utan fangelsis.

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

RECOMMENDATION No. R (82) 16

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON PRISON LEAVE

(*Adopted by the Committee of Ministers on 24 September 1982 at the 350th meeting of the Ministers' Deputies*)

The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe,

Considering that it is in the interests of member states of the Council of Europe to establish common principles on crime policy ;

Considering that prison leave contributes towards making prisons more humane and improving the conditions of detention ;

Considering that prison leave is one of the means of facilitating the social reintegration of the prisoner ;

Having regard to experience in this field,

Recommends the governments of member states :

1. to grant prison leave to the greatest extent possible on medical, educational, occupational, family and other social grounds ;

2. to take into consideration for the granting of leave :

- the nature and seriousness of the offence, the length of the sentence passed and the period of detention already completed,

- the personality and behaviour of the prisoner and the risk, if any, he may present to society,

- the prisoner's family and social situation, which may have changed during his detention,

- the purpose of leave, its duration and its terms and conditions ;

3. to grant prison leave as soon and as frequently as possible having regard to the aforementioned factors ;

4. to grant prison leave not only to prisoners in open prisons but also to prisoners in closed prisons, provided that it is not incompatible with public safety ;

5. to take all necessary measures in order that prison leave may be granted where possible, under well-defined conditions, to foreigners whose families do not live in the country ;

6. to take all necessary measures to grant prison leave where possible to homeless persons and persons with difficult family backgrounds ;

7. to consider the possibility of granting leave for offenders subject to "security measures" and detained elsewhere than in prison ;

8. to use the refusal of prison leave as a disciplinary sanction only in cases of abuse of the system ;

9. to inform the prisoner, to the greatest extent possible, of the reasons for a refusal of prison leave ;

10. to provide the means by which a refusal can be reviewed ;

11. to consult with other than prison authorities where appropriate and to seek their co-operation and that of the agencies and persons who can contribute to the better functioning of the system ;

12. to elicit the support of all prison staff ;

13. to provide the resources necessary for the system to function effectively ;

14. to supervise closely and evaluate the continuous functioning and development of any prison-leave system ;

15. to keep the public widely informed of the aims, operation and results of the system

IV. FYLGISKJAL.

Tilmæli Evrópuráðsins nr. R (84) 12, um erlenda fanga.

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

RECOMMENDATION No. R (84) 12

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING FOREIGN PRISONERS

(*Adopted by the Committee of Ministers on 21 June 1984 at the 374th meeting of the Ministers' Deputies*)

The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe,

Considering the large number of foreign prisoners detained in the penitentiary establishments of member states ;

Recognising the difficulties which these prisoners may face on account of such factors as different language, culture, customs and religion ;

Desirous of alleviating any possible isolation of foreign prisoners and of facilitating their treatment with a view to their social resettlement ;

Considering that such treatment should take into account the special needs of foreign prisoners and ensure that it provides them with opportunities equal to those accorded to other prisoners ;

Considering it desirable to establish certain standards at European level ;

Having regard to Resolution (73) 5 on standard minimum rules for the treatment of prisoners and Resolution (75) 3 on the legal and administrative aspects of criminality among migrant workers.

Recommends the governments of member states to be guided in their law and practice by the principles annexed to this recommendation.

APPENDIX

The following principles are designed to apply to foreign prisoners, that is to say to prisoners of different nationality who on account of such factors as language, customs, cultural background or religion may face specific problems. As far as prisoners awaiting trial or extradition are concerned, these principles should, however, be applied only to the extent that their implementation does not impair the purpose of the detention.

In implementing these principles, account should be taken of the requirements of the prison administration, including prison security, and the availability of resources.

The principles should be applied so as to ensure that the treatment of foreign prisoners is conducive to their social resettlement. This might require adopting particular measures in relation to particular categories of foreign prisoners, taking into account such factors as nationality, language, religious precepts and customs, cultural background, length of sentence, and liability to expulsion. Every reasonable effort should be made to ensure that the treatment of foreign prisoners does not lead to their being disadvantaged.

I. Allocation to prison establishments

1. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of his nationality alone. If his allocation to a prison establishment is likely to alleviate his situation of isolation and to facilitate his treatment it may be effected according to his specific needs, particularly with regard to his communications with persons of the same nationality, language, religion or culture. This possibility should he envisaged in particular where the national penitentiary system takes account of the wishes of prisoners when allocating them to prison establishments.

II. Treatment in prison

a. *Measures to reduce isolation and promote social resettlement*

2. To alleviate his feeling of isolation, a foreign prisoner's communications with other persons of the same nationality, language, religion or culture should be facilitated, for instance by permitting them to work, spend their leisure time or take exercise together.

3. Every effort should be made to give foreign prisoners access to reading material in their language. To that end, prisons might seek the assistance of consular services and appropriate private organisations.

4. Where a foreign prisoner is likely to be able to remain in the country of detention and wishes to be assimilated into the culture of that country, the prison authority should assist him in doing so.

5. Foreign prisoners should have the same access as national prisoners to education and vocational training.

In order that foreign prisoners may have access to courses designed to improve educational and professional qualifications, consideration should be given to the possibility of providing them with necessary special facilities.

6. Visits and other contacts with the outside world should be so arranged as to meet the foreign prisoner's special needs.

7. Ordinarily foreign prisoners should be eligible for prison leave and other authorised exits from prison according to the same principles as nationals. The assessment of the risk that a foreign prisoner may leave the country and escape punishment should always be made on the merits of the individual case.

b. *Measures to reduce language barriers*

8. Foreign prisoners should be informed promptly after reception into a prison, in a language which they understand of the main features of prison routine, of available training and study facilities, and of possibilities, if any, for requesting the assistance of an interpreter. This information should be supplied in writing or, where this is not possible, orally.

9. A foreign prisoner who has no command of the language of the country in which he is detained should be provided with translation or interpretation concerning sentence, any right of appeal, and any judicial decision taken in the course of his detention.

10. To enable foreign prisoners to learn the language spoken in the prison, appropriate opportunities for language training should be provided for them.

c. *Measures to meet special requirements*

11. The religious precepts and customs of foreign prisoners should be respected. So far as practicable, foreign prisoners should be allowed to comply with them.

12. Account should also be taken of problems which might arise from differences in culture.

d. *Measures to ease conditions of detention*

13. Foreign prisoners, who in practice do not enjoy all the facilities accorded to nationals and whose conditions of detention are generally more difficult, should he treated in such a manner as to counterbalance, so far as may be possible, these disadvantages.

III. Assistance by consular authorities

14. Foreign prisoners should be informed without delay of their right to request contacts with their consular authorities, the possibilities of assistance which might be accorded by these authorities and any action concerning them which is to be taken by the competent authorities having regard to existing consular treaties. If a foreign prisoner wishes to receive assistance from a diplomatic or consular authority, including action for his social resettlement in case of expulsion, the latter should be informed promptly of his wish.

15. Consular authorities should, at the earliest possible stage, assist their detained nationals, particularly by regularly visiting them.

16. In the course of their duties, consular authorities should offer any assistance possible to further the social resettlement of foreign prisoners, in accordance with the relevant regulations and arrangements of the country of detention. In particular, they should offer their assistance concerning the prisoner's family relations by facilitating visits from and contacts with members of his family.

17. Consular authorities should make every effort to provide, in accordance with existing prison regulations, literature and other reading material to help foreign prisoners maintain contacts with their home countries.

18. Consular authorities should consider the production of information leaflets for their detained nationals. These leaflets should indicate the location and telephone number of the nearest consulate and inform the prisoner of the possibilities of assistance which may be granted by consulates, such as visiting the prisoner, providing information as regards his defence, supplying literature and reading material, and suggesting possibilities of repatriation, particularly as regards the prisoner's transfer in application of existing international agreements. These leaflets should be made available to the prisoner at the earliest possible stage of his detention.

IV. Assistance by community agencies

19. Prison authorities and community agencies working in the field of aid and resettlement of prisoners should, in collaboration, pay particular attention to foreign prisoners and their specific problems. Community agencies in the prisoner's home country should act in collaboration with the consular authorities of that country.

20. Community agencies should be encouraged to promote information for foreign prisoners about assistance which may be offered to them. Prison authorities should ensure that this information is easily accessible to foreign prisoners.

21. Contacts of foreign prisoners with community agencies should be facilitated.

22. With a view to according adequate assistance to foreign prisoners, prison authorities should grant community agencies all necessary opportunities for visits and correspondence, provided that the prisoner consents to these contacts. Where only a limited number of visits can be made, consideration should be given in appropriate cases to extending the visiting time and to making restrictions on sending or receiving letters more flexible.

23. With a view to facilitating contacts between community agencies and foreign prisoners, the competent authorities in each country should appoint a national contact bureau for community agencies which have responsibility for the social resettlement of prisoners and operate in its territory. The address of the national contact bureau as well as that of any diplomatic or consular authority should be communicated by the prison authority to any foreign prisoner at the moment of reception into the prison.

24. The organisation of assistance by volunteers likely to be able to assist foreign prisoners should be promoted and furthered. These volunteers should act under the responsibility of either the prison authorities or the consular authorities or the community agencies. As far as possible, these volunteers should be accorded the same opportunities as those referred to in paragraph 22.

V. Training and use of prison staff

25. Training for prison officers and other categories of staff to support their work with foreign prisoners should be encouraged and incorporated in the normal training programmes. In general, such training should seek to improve understanding of the difficulties and cultural backgrounds of foreign prisoners so as to prevent prejudiced attitudes from arising.

26. Consideration should be given to having certain staff available for more intensive work with foreign prisoners and enhancing their ability to do so through the provision of more specialised training focusing, for instance, upon the learning of a language or particular difficulties occurring in relation to particular groups of foreign prisoners.

VI. Collection of statistics

27. Consideration should be given to the collection of routine statistics which allow foreign nationals to be classified with reference to factors of importance for practical administration. In this context it should be borne in mind that it is desirable to be able to subdivide the foreign prisoner population with regard to nationality, length of sentence, main offence, residence in the country and liability to expulsion. So far as possible, the statistics should cover the numbers received during the course of a year as well as a daily average.

28. Consideration should also be given to conducting occasional surveys on matters which do not easily lend themselves to analysis by routine statistics.

VII. Expulsion and repatriation

29. In order to allow for the most adequate prison treatment, decisions concerning expulsion should be taken as soon as possible, without prejudice to the prisoner's right to appeal against the decision, taking into account the foreign prisoner's personal ties and the effects on his social resettlement.

30. In view of the advantages to the prisoner's social resettlement, the competent authorities of the country of detention should, regardless of any decision on expulsion, consider the desirability of repatriating the prisoner, in accordance with existing international arrangements.

.