

INDEPENDENT AUDIT OF THE DETENTION UNIT AT THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

4 MAY 2006

1 INTRODUCTION

1.1 MISSION

In a letter dated 20 March 2006, the Registrar of the International Criminal Tribunal for the former Yugoslavia, Mr Hans Holthuis, requested the Government of Sweden to appoint a group to perform an independent audit of the Tribunal's Detention Unit. The scope of the independent audit should cover all areas concerning the governance of the running and administration of the Detention Unit. On 30 March the Government of Sweden decided to grant the request and appointed a group of independent experts to carry out the audit. The group visited The Hague between 2 and 5 April.

The group consisted of Ms Lena Häll Eriksson, Head of Delegation, Director-General at the Ministry of Justice, Mr Per Colliander, International Penal Expert and former Director of the Prison and Probation Service, and Ms Gunhild Fridh, International Advisor in the Director-General's Office at the Prison and Probation Service. The secretary of the group was Mr Jamal Alassaad, Desk Officer at the Ministry for Foreign Affairs.

The views and recommendations contained in the present report are solely those of the group and are not in any way attributable to the Government of Sweden.

1.2 WORKING METHODS

The group has used a variety of methods: a review of the regulations, observations, talks and interviews. Interviews were conducted with all staff categories and the majority of the detainees at the Detention Unit, with staff at other relevant parts of the Tribunal, especially within the Registry, and at the Dutch host prison. Relevant rules, regulations, orders and other documents were reviewed.

Both staff and detainees were prepared for the group's visit and had been informed that the group was prepared to engage in dialogue. It is worth emphasising that the group met great openness and willingness to assist it in its work, on the part of both the Tribunal and the detainees.

1.3 LIMITATIONS

In view of the limited time available for carrying out the audit and writing a report, the group has been obliged to limit its work to on-site impressions and a review of relevant documentation. Consequently, the analysis inevitably provides a relatively superficial examination of conditions. A more in-depth analysis would have required staying in The Hague for weeks and having a greater investigative capacity. With regard to medical issues in particular, we have limited our audit in view of other ongoing and completed examinations of this subject.

2 THE DETENTION UNIT

2.1 INTRODUCTION

The International Criminal Tribunal for the former Yugoslavia (the Tribunal) was established by United Nations Security Council Resolution 827 (1993). The Tribunal is located in The Hague, the Netherlands. The Registry is responsible for the administration and judicial support services of the Tribunal. The Registry's judicial responsibilities include the management of the Detention Unit (DU).

The Detention Unit is an autonomous remand facility located within a Dutch penitentiary complex, Scheveningen (the host prison). In December 2005 the DU was relocated within the host prison to its present premises. The premises consist of 84 cells spread over 5 wings: 3 wings of 20 cells and 2 wings of

12 cells. At the time of the audit, the DU held a total of 49 detainees: 23 in pre-trial phase, 7 in trial phase, 11 on appeal, 7 convicted and 1 detained witness. The staff consisted of 11 UN staff (1 Commanding Officer (CO), 2 Deputy Commanding Officers, 3 Administration Officers and 5 Language Assistants) and 81 staff loaned by governments for exclusive use by the DU (5 Principal Officers and 76 Detention Officers). Of the latter category, 80 were Dutch and 1 was Austrian.

2.2 REGULATIONS

We have reviewed the regulations that govern the Detention Unit. The review covers:

- Rules of detention
- Regulations to govern the supervision of visits to and communications with detainees
- Application for permission to visit a detainee
- House rules for detainees
- Regulations for the establishment of a complaint procedure for detainees
- Regulations for the establishment of a disciplinary procedure for detainees
- Appointment of inspecting authority for the Detention Unit
- Agreement on security and order
- Post orders and procedures (Detention Unit version)

We have found the regulations to be complete and comprehensive. We have not found any indications that the management and staff fail to follow applicable rules. It is possible that minor incidents occasionally go unreported, but in the main the management and staff appear anxious to conduct their duties in a self-critical and transparent manner. In the interviews we have conducted, moreover, the detainees have not made any remarks or complaints either about the regulations or about the way they are followed. On the contrary, all the detainees say that they are very satisfied with their treatment by the staff.

2.3 UNIQUE STATUS OF THE DETENTION UNIT

Owing to a number of circumstances, the operations of the DU cannot be compared with traditional detention operations. Given the special conditions, the DU must be put in a position to develop so as to satisfy the special demands that are made on it. Naturally operations must be guided by what is internationally regarded as ‘good prison practice’, but the circumstances sometimes call for unique solutions.

The factors that particularly influence operations include:

- The extremely long periods of detention. At the time of our visit half the inmates had been in custody for at least three years. The detainee of longest standing had been there for 8½ years.
- The unusual make-up of the group of inmates. These are characterised by a lack of a sense of criminal identity, relatively high average age, substantial resources and the trauma associated with the situation in which they find themselves.
- The cultural differences that exist between the staff, which is essentially completely Dutch, and the detainees as a group, as well as to some extent between groups of detainees.
- The difficulties in transferring detainees who have already been convicted to other countries. This results in convicted detainees remaining uncertain about their future for an unreasonable length of time.
- The quite unique position of the Detention Unit. This leads to the operations and any disturbances in them receiving great international attention, which the management and staff feel imposes a great strain.

2.4 RELATIONS BETWEEN THE DU AND THE REST OF THE TRIBUNAL

As mentioned above, the DU is an autonomous unit within the Dutch host prison. Management of the DU is conducted wholly within the Tribunal; certain duties that are normally incumbent upon a head of

institution have instead been assigned to the Office of Legal Aid and Detention Matters (OLAD) at the Registry, or the Deputy Registrar.

The management function this has created is at times lacking in clarity, a problem that we consider should be addressed in the organisational review we propose below.

Our attention has been drawn to the fact that administrative court orders issued by the Trial Chambers in individual cases can have noteworthy consequences for DU operations. The Chambers can give the Registrar instructions for individual detainees, in the form of court orders, without consulting the Registrar or the management of the DU in order to investigate the potential implications of the instructions or whether it is possible to implement them while continuing to meet safety and security requirements. Sometimes, the Chambers' court orders have adverse consequences for good prison practice. In one noted case, a detainee was permitted to conduct his own defence, which involved extensive external contacts and a large number of visits. Additional complications arose when another detainee at the DU was to participate as a witness. The consequences of this special arrangement were that it became difficult to maintain sufficient control over visits and telephone conversations. It should also be pointed out that privileges the Chambers give to individual detainees risk becoming standard practice in that other detainees demand the same rights.

Another example of a court order that complicated operations arose when a Chamber ordered the Registrar to ensure that a certain detainee saw a medical specialist within 24 hours. The Chamber had not made sure in advance that it was practically possible to carry out this order, which incidentally was wholly dependent on prioritisation by medical expertise outside the institution, in the Dutch health care system.

The management of the DU and the Registrar have pointed to the difficulties involved in implementing certain administrative court orders. The issue has been discussed at the Tribunal, not least between the DU and the management of the Registry. At the request of the Registrar, in autumn 2004 OLAD investigated the consequences of the special privileges that were given to one detainee and proposed modifications in the arrangements. As we understand it, this has not led to any changes in routines concerning the formulation of court orders.

In our view, it is admittedly obviously the case that the Chambers must be able to issue administrative orders to the Registrar. However, it would be appropriate for such court orders to be issued after consultation with the Registrar, so as to ensure that they are possible to implement in a manner that does not jeopardise the operations and security of the DU.

We propose a review of arrangements for administrative court orders.

2.5 RELATIONS WITH THE HOST PRISON

Apart from the contractual undertakings between the host prison and the DU, there is very limited interaction. There are no regular talks between the respective managements, nor are any joint exercises undertaken, for example, with respect to fire and security. This is in spite of the fact that the Agreement on security and order explicitly prescribes that direct cooperation is required between the management of the DU and the host prison in the event of disturbances, fire and escape at the DU.

According to the CO a fire drill was held about six years ago. However, it caused great alarm among the detainees and for this reason it has not been repeated. A new joint fire drill is now being planned.

The organisation includes a liaison officer for contacts between the host prison and the DU. However, this officer's duties are limited to monitoring time claims for the Dutch staff, i.e. drawing up pay data.

The staff at the DU state that they have no contact with their colleagues at the host prison, either in professional or in civilian, informal connections (sports, etc.). Relations between the staffs are marked by distance and mutual speculation.

According to what emerged from our conversations with key staff members at different levels of the organisation there is no dynamic cooperation between the host prison and the DU. This may be an obstacle to smooth functioning, mutual understanding and an overall perspective where security issues are concerned.

We consider that continuous cooperation between the management of the DU and the host prison is absolutely essential for security reasons. A special forum should be established for joint issues. This can be taken into account in a future organisational review. In our experience, there should be set times for meetings and a standardised agenda.

2.6 MANAGEMENT AND STAFF ISSUES

2.6.1 Management structure

In organisational terms, the DU has four levels of management: Commanding Officer, Deputy COs, Principal Officers and Supervisors. In addition, it should be noted that certain decisions concerning the operations of the DU are taken by the Registrar and OLAD. Over and above this there are administrative court orders issued by the Chambers in individual cases that affect the operations of the DU. The combined effect is to produce long decision-making chains, which contribute to the risk of a lack of clarity in management. There are relatively clear arrangements for delegation, but given the long decision-making chains information and communications channels are at great risk, making it difficult to ensure that tasks are carried out in accordance with applicable regulations and values, even though both the CO and the Deputy COs circulate in the cell wings almost daily. This concern is confirmed by the fact that staff at all levels think that information and communications in the organisation could be improved. However, we would like to emphasise that everyone we talked with stated that they have complete confidence in the management.

The duties incumbent on the two Deputy COs are largely managerial: scheduling, systems development, updating of regulations, etc. The Deputy COs divide the work between them on the basis of each officer's individual strengths, but there is a risk of it being unclear to the staff who does what. In addition, we believe that the two Deputy COs have unclear management roles with regard to the support staff issues they are actually dealing with.

The Principal Officer is the immediate superior officer for the basic staff, but several of the people we talked to were Supervisors themselves and expressed the view that it was they who provided most immediate support in the day-to-day work in a cell wing.

We consider that the arrangements for management, governance and supervision of the operations could be made clearer.

2.6.2 Recruitment and training

The staff are mainly recruited from the host prison. Apart from the Dutch staff, there is one person from Austria at levels below the CO and Deputy COs. (Four persons from the Czech Republic will soon be joining the staff.) The members of staff we talked with had up to 20 years of experience of the Dutch prison system and had been posted in the DU for the last 6–9 years of this period. Some indicated that they "had stayed on" when the unit was transferred to UN management, while others stated that they had been selected in a recruitment process. Statements about the form the introductory process had taken varied from no introduction at all to a three-week introduction. According to their own statements, none of them had undergone any subsequent training during their years at the DU. We find this remarkable, since the special nature of the operations requires an unusual degree of subsequent training, which should be continuous.

There is no gender balance at the DU, a mere 10 of the staff being women. The women are almost exclusively engaged in support roles. We believe that operations could benefit from a more even gender distribution among the staff. The DU is a very male world; at present, all detainees are men. The

management has noted that more female staff are needed and intends to influence this in future recruitment.

2.6.3 Monitoring of staff

With regard to the attitude of the staff in their work with the detainees, we understood it to be based on respect for the detainees' rights combined with a certain distance. This is described as 'mutual respectfulness', which in concrete terms means that staff and detainees largely leave one another in peace. As previously mentioned, in many respects the detainees, as a group, have ample resources, high social competence and (formerly) high social status. It probably requires great personal confidence and strength of character, as well as patience, to approach the type of people detained at the DU. Nonetheless, the daily intercourse between staff and detainees is an important factor in the Detention Unit's dynamic security and, not least, for observing nuances in the psychological state of the detainees. To be sure, it is important that the staff are able to maintain balance in their contact with the detainees and, despite many years of daily intercourse in a closed environment, create and keep alive relations with one another, without crossing the bounds of professional behaviour. The fact that the staff move on from one wing to another every third month is a good method of minimising the risk of dependency and corruption, which de facto exists in this type of operation, but it is also important to constantly keep discussion of these issues alive.

It is to be noted that these conditions are not met concerning Language Assistants. In light of their vulnerable role and sensitive position, special considerations should be taken. In their professional role they are 'in between' other parties, which means involvement both on a superficial level as support staff and in deeply intimate matters concerning the private life of the detainees.

Leadership at basic operational level is extremely important to assist the staff in their efforts to maintain professional behaviour towards the detainees. In order to manage this, those who lead the day-to-day work must in turn receive strong support from their superiors. This requires clear management and short decision-making chains. It may also be of value to have recourse to external mentors as a support to both managers and staff in joint and individual discussions about how to manage relations with the detainees.

2.6.4 Crisis management

Only a few of the staff at the DU say they have been offered debriefing or other crisis support over the years. At the wing where the two latest fatalities occurred, most of the staff were urged to meet a psychologist at least once and then decide whether they wanted continued support. The category of employees that occupies a position between staff and detainees and that has really close contact with the detainees are the Language Assistants and none of them were offered any crisis management at all.

We consider it very important that in a facility of this kind the staff have access to professional mentors, for help in dealing with acute crises, for guidance in the day-to-day work and to maintain their professionalism at a high level.

We propose that an organisational review be set up with a view, on the basis of the need for leadership, governance, control and dialogue, to:

- Promote clearer management by means of shorter decision-making chains
- Clarify the difference between operational responsibility and managerial duties
- Ensure that staff at basic level receive the support from management that they need in their day-to-day work
- Improve the information and communications systems.

2.7 SECURITY AND SAFETY

2.7.1 External security

Under an agreement with the Dutch government, the host prison is responsible for external security. The head of the host prison describes it as belonging to the 'maximum security' category. This means, in brief, that the perimeter consists of both electronic and structural obstacles to escape and freeing of detainees. Since the staff are unarmed, the protection is based on existing obstacles delaying an escape long enough to allow armed police to reach the prison. It is assumed that camera systems and other alarms will make it possible to summon the police at an early stage. In addition to this, the area outside the institution is reportedly patrolled by the police approximately three times per hour. The head of the host institution assesses the security arrangements described here as satisfactory – no incidents have occurred.

There have been no fire drills or security exercises for several years either at the DU or jointly with the host prison. Nor have any plans been drawn up to meet different scenarios that could arise owing to the special nature of the DU. More consideration should perhaps be given to the fact that many of the detainees at the DU have both money and trained personnel at their disposal for bids to free detainees. We consider that the external security arrangements should be reviewed.

In addition to the security arrangements described, the audit group was able to observe that the entry arrangements meet demanding standards for both checking of persons entering and introduction of metallic objects into the unit.

2.7.2 Internal security

As at all custodial institutions, the internal security at the DU is based on the relationship between basic level staff and detainees. In this case, the picture is complicated by language problems. All the staff speak English, as do some of the detainees. The organisation employs a number of language assistants, partly for the purposes of day-to-day intercourse between staff and detainees. Unfortunately, during its visit the team was able to observe that the basic level staff were not particularly active in their contacts with the detainees and that too little use was made of the resource that the language assistants represent. One result of what we have said here is that the basic level staff have limited knowledge about the detainees and what they talk about, which is to the detriment of security.

Superficially, contacts between detainees and staff are good. The detainees have positive things to say about the staff, who also speak about the detainees in positive terms. As a group, the detainees are well-disciplined and probably not particularly inclined to have anything other than superficial contact with the staff. When the detainees spend time outside the DU the DU's own staff are only responsible for visits within the host prison, for instance, to the hospital. In the event of visits outside the host prison, for example to the court or some other activity outside the host institution, the prisoner is fetched and transported by special police. At the Tribunal building itself, where the courtrooms are located, Tribunal security staff are responsible for security. During all time spent outside the unit, the prisoner is fettered.

All detainees, except those subject to restrictions concerning contact with certain other detainees, spend time together in their wings. There is no sign of ethnic antagonism here. This somewhat remarkable situation is probably partly due to detainees understanding that conflicts between them would lead to isolation and poorer conditions for all. The relatively high social skills of most of the detainees and their strong internal discipline have made this orderly situation possible.

Many of the detainees initially have to go through a personal process. There are a number of difficult factors to come to terms with, among them unfamiliarity with loss of liberty and being far from their family. One factor that makes life particularly difficult is that, in certain cases, the actions they are now being prosecuted for were earlier regarded as heroic deeds in their own ethnic group; another is that they sometimes regard themselves as innocent. The psychological state of the detainees affects operations and hence also security.

Internal security also includes controls of communications with the outside world, i.e. visits, letters and telephone communications. As far as the management of the unit is concerned, these controls are now satisfactory from a security perspective. This is a complicated area at a detention facility where the detainee's status as presumed innocent can come into conflict with the demands of order.

The Chambers' court orders can affect the ability of the CO to maintain good prison practice. If security and good order are to be maintained, a clear and unambiguous responsibility for operations is required. This responsibility should rest primarily with the head of the Detention Unit, the Commanding Officer.

Due to the extremely long and trying periods of detention, a more general transition to isolation for the detainees because of uncontrollable external communications could cause individual detainees such harm as to threaten internal security, lead to risks for the staff, etc. Even more seriously, protracted isolation combined with uncertainty about the future could lead to such mental complications as to jeopardise the trial.

In order to enhance internal security, detainees and staff are regularly moved on after a certain time; the staff always work in pairs. These measures severely limit opportunities for well-off individual detainees to bring different types of pressure to bear on the staff.

The task of the DU is to attempt, within the framework of adequate security, to keep the detainees in a mental and physical condition that allows a trial to be carried out in conditions that can be described as a 'fair trial'.

Security must have high priority and is so complicated in this case that the establishment of a special security function at the DU should be considered in connection with the organisational review that we propose.

2.8 LIVING CONDITIONS FOR THE DETAINEES

We had several opportunities to talk with the detainees without staff being present. No complaints about the staff were voiced during our conversations. On the contrary, the detainees spoke of good relations, characterised by respect and understanding and without tensions. Broadly speaking, the detainees are satisfied with the way the Detention Unit is run. Some described concrete examples where the involvement of the staff had influenced their opportunities for more generous family visits in cases of sickness and similar cases. The detainees had essentially five areas in which they desired improvements and which we also found reason to comment upon: diet, travel expenses for visitors, visiting rooms, time spent outdoors, and differentiation between detainees depending on what stage in the legal process they were in.

2.8.1 Diet

The diet consists of meals made up of pre-prepared portions delivered by an external entrepreneur engaged by the host prison. The detainees felt that the quality had gradually deteriorated and they had therefore increasingly made their own dietary arrangements. The issue of diet is of great importance in all cases of deprivation of liberty. In the special circumstances that apply in the case of the DU the issue is likely to be particularly important.

In our review we found that there is completely unnecessary frustration surrounding the detainees' food, due partly to the central role that food plays in all closed institutions and partly to the cultural differences between Balkan food and the Dutch cuisine.

A transition to allowing the detainees to prepare their own food using produce paid for by the Detention Unit and purchased after consultation with the detainees could solve the problem, while offering a very desirable opportunity for occupation. We propose that the issue of the detainees' diet be investigated with a view to finding a solution that involves them personally taking greater responsibility.

2.8.2 Travel expenses for visitors

The detainees regard the high costs for families to travel to and stay in the Netherlands as a major problem. Some of the detainees' countries of origin provide a small amount as a contribution towards visiting expenses.

For the UN, the location of the detention facility in the Netherlands is an advantage not least for security reasons. It should be considered whether the Tribunal, with a view to achieving fair conditions for the detainees and to keep them well-balanced, should not help towards covering reasonable travel expenses for members of the detainees' families.

2.8.3 Visiting rooms

The detainees are allowed visits from individuals approved by the Registrar and whose identity has been carefully checked. The extent of visits depends completely on the staff and premises available to the unit. When asked, the detainees said they were satisfied with existing arrangements as far as the scale of visits was concerned.

Private visits, including intimate relations, take place in a relatively small room. Other visits take place in a visiting hall furnished with groups of tables and chairs. There is a specially arranged play corner for children in one corner of the visiting hall.

On inspection of the rooms, it was noted that in terms of furnishings and condition, the room for private visits is shabby and downright unpleasant. The visiting hall is not conducive to a pleasant atmosphere for visits either. Special visiting apartments should be set up for family visits.

2.8.4 Time spent outdoors

Under international regulations, all people deprived of their liberty must be allowed to spend at least one hour per day outdoors. At the DU, with its relatively large number of staff, additional time outdoors should be possible. There are difficulties in that the DU only has one recreation yard at its disposal and must also take account of the fact that certain detainees are not allowed contact with one another. Even taking these difficulties into consideration, however, it should be possible to arrange additional time for outdoor exercise.

2.8.5 Differentiation between detainees

Several detainees thought that social conditions could be improved if detainees who have already been convicted were separated from those who are involved in intensive preparations before or during their trial. The latter group needs peace and quiet so as to be able to concentrate, while the other group needs more activity and contact while awaiting placement in another country.

We noted that the detainees who were not currently engaged in working on their trials suffered from a lack of occupation. To be sure, there were some opportunities for sport and craftwork, but most of them were strikingly idle. The detainees themselves also wanted increased opportunities for meaningful activities. We propose that the detainees be given better opportunities to occupy themselves.

All differentiation between detainees entails logistical and capacity problems. The need to separate convicted from non-convicted detainees should be met primarily by a more prompt transfer of convicted detainees to host countries. Bearing in mind the long waiting times for transfer, it should be considered whether solutions can be found that will allow the groups to be separated within the DU.

It should be observed that such an arrangement also involves giving the DU a completely new role, namely, to enforce sentences. This will probably lead to complications both in principle and in practice. Our brief visit has not allowed an analysis of this issue.

2.9 MEDICAL ISSUES

A doctor and two nurses are attached to the Detention Unit. The two nurses work full time there. The doctor works two days a week and states that otherwise he is available round the clock. The medical work is supported by the host prison's hospital. There is also close cooperation with the Dutch health service through which access is obtained to any specialists that may be needed.

There is also a psychiatrist at the DU, with the same ethnicity and the same native language as most of the detainees. As regards this type of treatment in particular it is of great importance that it can be carried out without an interpreter. Consideration should be given to making the same service available to other ethnic groups.

Each detainee is given a thorough health examination on arrival, thereafter contact with the health services is only on request. The medical personnel describe the detainees' state of health to be good, taking into account, however, the relatively high average age. Prescribed medicine is distributed by the nurses. The staff in the DU cell wings only have simple non-prescription pain killers at their disposal.

The detainees are entitled to use their own doctors outside the Detention Unit, which is done to a certain extent. The DU doctor states that he has always worked well with these colleagues. To the extent they prescribe medicine, this is done in consultation with the DU doctor and in accordance with ordinary routines for distribution of medicine.

The detainees expressed the desire for regular health examinations.

2.10 THE PRESUMPTION OF INNOCENCE

The presumption of innocence is fundamental to all DU operations and is regarded as characteristic of a legal system based on democratic values. This also entails that detainees and convicted detainees must not be mixed. Whether the principle is followed fully in an individual detention facility is not easy to determine. In certain cases local rules, particularly the rules referring to order and discipline, may conflict with the presumption of innocence principle. In other cases the general attitude of the staff or the behaviour of individual officers may show that the principle is not applied.

At the visit to the DU we noted that the CO and his closest staff strongly emphasised that the presumption of innocence principle is exactly what directs the operations. The review of the regulations confirmed the CO's statement. Nor did talks with the staff give any reason for believing otherwise. As far as we could see the detainees are treated with respect and addressed politely and they did not themselves state anything other than that the staff's behaviour was correct.

It should be pointed out that to be able to make a fair assessment of the attitude of the DU staff to the presumption of innocence and other fundamental values in the operations of the unit, it is not sufficient to only visit the environment for a few days. That would require being there for a considerably longer time. Our assessment is based on a relatively superficial inspection, but is strengthened by the fact that the detainees do not have any complaints about the attitude of the employees. However, as previously mentioned, we believe that the staff should spend time together with the detainees to a greater extent than we saw.

2.11 ENFORCEMENT OF SENTENCES

Ten or so states have entered into agreements with the Tribunal, which make it possible for them to receive people sentenced by the tribunal to serve prison sentences. The Tribunal has difficulties in getting countries to receive convicted prisoners in accordance with their agreements. The consequence for the Detention Unit is that an increasing number of people remain in the facility after their sentence has gained legal force, at present six people, three of whom have been there far more than a year since being convicted. On average those sentenced have had to wait over 200 days for transfer. This has several consequences.

Under international detention standards, non-convicted and convicted detainees must not be mixed, which is the consequence here. A large number of convicted detainees staying in the Detention Unit for a relatively long period creates new security problems. After the trial is over it is no longer in their interest to maintain their possible innocence and they no longer hope to be cleared by the court. Strained relations can easily arise when mixing with the other detainees.

At the same time a convicted person has the right to serve his or her sentence under completely different forms than can be offered at the Detention Unit. For reasons of mental hygiene those sentenced should be transferred as soon as possible to the country in which the sentence is to be served, where they can also plan realistically for the future.

It would mean a great deal if the countries that have entered into agreements really use them to receive convicted detainees to serve their sentences, and that more countries with the capacity sign similar agreements. It is not part of the DU's terms of reference to enforce sentences. That is why the operations are not adapted to people who have been sentenced. Individual convicts cannot reasonably be supposed to constitute a decisive burden on the prison system in receiving countries.

3 CONCLUDING OBSERVATIONS

The Detention Unit at the Tribunal, which is unique in its function and position, has gradually expanded from an extremely modest size to the present relatively extensive operation. The existing deficiencies can probably to a great extent be explained by the fact that the enlargement of the facility was not preceded by any analysis of the special circumstances and requirements. This applies particularly to the management structure and content of the operations.

The deficiencies we point out and the measures we propose can largely be said to stem from the overall structure.

We propose:

- that a review of arrangements for administrative court orders be made
- that a forum be created for regular contacts between the DU and the host prison
- that an organisational review be carried out as soon as possible
- that a joint analysis be undertaken with the host prison concerning conceivable serious incidents
- that regular fire drills and security exercises take place
- that the detainees' diet be changed and improved and that the DU's budget covers any increased costs
- that travel costs for visits be met by the Tribunal to a reasonable extent
- that the visiting rooms be modified
- that the time spent outdoors by the detainees be extended
- that the detainees be given better opportunities for occupation
- that separating those sentenced from the other detainees be tried out
- that the detainees be given equal access to psychiatric help
- that transfer of sentenced detainees for the continued enforcement of the sentence be faster.

In conclusion we propose:

- that the Tribunal's Detention Unit be subjected to an independent inspection at least once a year, in addition to the specially targeted ICRC inspections.