

EXECUTIVE SUMMARY

In the course of the 2016 periodic visit, the CPT's delegation reviewed the treatment of persons detained by law enforcement agencies and examined the system of investigating allegations of ill-treatment by law enforcement officials. The delegation also visited a number of prisons, focusing on the conditions of detention and the treatment of various categories of prisoners notably those held on remand and in disciplinary segregation as well as juveniles and vulnerable prisoners. The situation of patients held in two forensic psychiatric units was also examined.

The co-operation received by the delegation throughout the visit was, on the whole, excellent. However, the principle of co-operation set out in Article 3 of the Convention also requires that decisive steps be taken to improve the situation in the light of the Committee's key recommendations. In this context, the CPT trusts that the Portuguese authorities will take concrete measures to address long-standing recommendations such as those concerning the regime for prisoners at Monsanto High Security Prison and the conditions of detention for inmates in certain areas of Lisbon Central Prison. Further, the Psychiatric Hospital of Santo Cruz do Bispo Prison remains unsuitable for the care and treatment of forensic psychiatric patients.

Law enforcement agencies

The majority of persons met by the CPT's delegation during the visit stated that they had been treated correctly whilst in police custody. However, a considerable number of allegations were received from detained persons of ill-treatment at the time of apprehension, after the persons concerned had been brought under control, and prior to arrival at police detention facilities as well as during the time spent in police stations. The alleged ill-treatment consisted primarily of slaps, punches and kicks to the body and/or head as well as, on occasion, the use of batons or sticks.

From the evidence gathered by the CPT's delegation through interviews with detained persons in different police and prison establishments, it appears that resort to the infliction of ill-treatment particularly against foreign nationals, including for the purpose of obtaining confessions, is not infrequent. Increased efforts and determined action are needed to combat police ill-treatment.

In the course of the visit, the CPT's delegation examined a number of cases of ill-treatment investigated by the Inspectorate General of Home Affairs (IGAI), the GNR and the Judicial Police. In respect of the IGAI, the report makes some positive comments but also raises concerns in relation to the promptness with which investigations are carried out and its inability to order forensic medical examinations; securing reliable medical evidence was a problem which affected the investigation of most cases of alleged ill-treatment. Further, in the CPT's view, steps should be taken to speed up the criminal investigation and court procedures and the disciplinary process should be allowed to run in parallel with the criminal investigation. More fundamentally, the CPT recommends that the Portuguese authorities consider the possibility of transforming the IGAI into a completely independent body charged with undertaking criminal investigations into all complaints of ill-treatment by law enforcement officials, with a view to providing the outcome of these investigations to the public prosecutor.

As regards safeguards against ill-treatment, the rights of detained persons to notify a family member or a person of confidence about their situation and to have access to a doctor generally operated satisfactorily. However, the majority of persons interviewed stated that they only met an *ex officio* lawyer at the court hearing before a judge, which could take place up to 48 hours after the moment of apprehension by the police. The CPT reiterates that persons detained by the police should have the right of access to a lawyer as from the very outset of the deprivation of liberty.

Prisons

Many prisoners met by the delegation in the establishments visited stated that they were treated correctly by prison officers. Nevertheless, a number of allegations of ill-treatment of inmates by prison officers were received at Caxias, Lisbon Central and Montijo Prisons, as well as a few at Leiria Juvenile Prison. The ill-treatment was said to consist of slaps, punches, kicks and blows with truncheons to the body and/or head.

The high level of overcrowding within the Portuguese prison system remains a serious problem. The extreme overcrowding in certain establishments (operating at 140% or more of their official capacity) undermined the way in which the prisons operated, affecting not only the material conditions, but also the regime, staff-inmate relations and good order in the establishments. The proposed 10-year plan to upgrade conditions in existing establishments and to build several new prisons should be accompanied by measures to limit the number of persons being sent to prison.

The CPT further found that the living conditions within parts of the establishments visited notably at Caxias, Lisbon Central and Setúbal Prisons, were totally unsuitable to hold prisoners and may amount to inhuman and degrading treatment. For instance, in the basement areas of Lisbon Central Prison, the cells were cold, dark and damp with crumbling plaster and rats were entering the cells via the floor-level toilets. Other parts of the prison remained in a state of advanced dilapidation. The conditions for certain vulnerable prisoners at both Caxias and Setúbal Prisons were particular poor, with less than 3m² of living space per prisoner and inmates confined to their cells for up to 23 hours per day. The authorities are urged to provide all prisoners with a minimum of 4m² of living space in multiple-occupancy cells and urgently to renovate the above-mentioned deficiencies. At Lisbon Central Prison, prisoners should be transferred out of the basement areas of B, C, D and E Wings until such time as they have been properly renovated.

The regime offered to inmates at most of the prisons visited was impoverished, with insufficient opportunities to work or to engage in education or other purposeful activities. The overall aim should be to offer all prisoners (including those on remand) a normal regime of at least eight hours out of cell engaged in purposeful activities.

As regards health care in prisons, there is a need to put in place robust oversight of private contractors and to ensure greater continuity of health care staff. The report further emphasises the importance of ensuring that a thorough medical examination following a violent incident or use of force within a prison as well as of newly arrived prisoners is carried out and any injuries properly recorded. The findings showed that this was not always the case at the time of the visit. Doctors working in prisons should be provided with the necessary training.

Disciplinary procedures were generally satisfactory, although the safeguards could be strengthened. As regards solitary confinement as a disciplinary punishment, pending the amendment of Law 115/2009 on the Execution of Criminal Sanctions, the CPT considers that the Portuguese Prison Administration should refrain from imposing disciplinary punishments of solitary confinement of more than 14 days on adults and should not impose such sanctions on juveniles at all. Contacts with the outside world are generally positive, whereas there is a need to introduce a uniform internal complaints system in which prisoners have confidence.

The situation at Monsanto High Security Prison has not changed since the CPT's 2013 visit. The vast majority of prisoners are confined alone in their cells for 21 to 22 hours per day, which in the CPT's view is akin to solitary confinement. Urgent steps should be taken to provide inmates with more time out of their cells, engaged in purposeful activities and meaningful human contact. In particular, a programme of purposeful activities should be put in place for each inmate, elaborated upon arrival at the establishment by a multi-disciplinary team and allowing progressively more out-of-cell time in the event of the inmate engaging in a positive manner with the regime. The CPT also recommends that all prisoners be able to receive visits from their family members without physical separation once a week, except in individual cases where there may be a clear security concern, as such contacts are likely to facilitate their reintegration into an ordinary regime.

An examination of the use of the padded safe cell at Monsanto Prison in which agitated prisoners could be held for up to 10 days revealed a number of abuses. More robust procedures to regulate the use of this cell should be introduced. The safe cell should only be used when all alternative interventions to manage a prisoner's unsafe behaviour would fail to satisfactorily prevent harm, and never for disciplinary or good order reasons. The authority to place a prisoner in the safe cell should be irrevocably delegated to health care staff and there should be constant supervision of the measure by health-care staff, as well as additional safeguards to ensure that the need for continued placement in the safe cell is regularly reviewed.

The CPT is also critical of the use of *pro re nata* medication in prisons (i.e. medication prescribed in advance that is administered as the circumstances require), notably at Lisbon Central and Monsanto Prisons, and recommends that its use should be exceptional and surrounded by the proper safeguards set out in the report.

Forensic psychiatric institutions under the Ministry of Justice

At the Psychiatric Hospital of Santa Cruz do Bispo Prison, the CPT's delegation was appalled by the conditions in which patients were held and the prison-like atmosphere that prevailed. The establishment cannot provide a therapeutic environment for the care and treatment of psychiatric patients and the CPT recommends that it be closed down and the patients relocated to an appropriate hospital facility.

The Committee is further concerned about the allegations of ill-treatment by prison officers received from patients at the Psychiatric Hospital of Santa Cruz do Bispo Prison (slaps and truncheon blows).

As regards the regime, a large number of patients at both hospitals visited were not engaged in any meaningful activity for most of the time. At the psychiatric unit of Caxias Prison Hospital, the situation for male patients was exacerbated by their very restricted access to the outdoor yard.

At both establishments there was an evident lack of structured therapeutic and rehabilitative activities for patients and the treatment consisted essentially of pharmacotherapy. Moreover, many patients at both establishments showed clear signs of overmedication such as blurred speech, psychomotor retardation and drowsiness during daytime. The range and number of therapeutic and psycho-social rehabilitative activities available to patients should be developed and clear procedures put in place to ensure that there is no overuse of medication.

At both hospitals, the CPT's delegation met competent health-care staff. However, at the Psychiatric Hospital of Santa Cruz do Bispo Prison, it remained the case that health-care staff usually did not visit the accommodation wards and only saw the patients when they came to the medical unit to take their medication. Uniformed prison officers were still responsible for the management of patients on the accommodation wards. Such a state of affairs is unacceptable for a hospital facility. The CPT reiterates that prison officers assigned to the Psychiatric Hospital of Santa Cruz do Bispo Prison should be replaced with trained nursing staff. Prison officers called upon to intervene in security related incidents should be specifically selected and trained and always work under the supervision of the health care staff.

The CPT has repeatedly recommended that guidelines on restraint in psychiatric institutions under the Ministry of Justice be adopted, which should, inter alia, define which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. At neither of the two institutions visited did such guidelines exist. As regards resort to means of restraint, the CPT is particularly worried about the use of seclusion at the Psychiatric Hospital of Santa Cruz do Bispo Prison. Patients could be kept in seclusion for prolonged periods and allegedly the practice of keeping a patient naked in a seclusion cell had not been abandoned. Such a degrading practice should be abolished immediately. Further, the four seclusion cells should be taken out of service until properly refurbished.

More generally, the CPT recommends that steps be taken to ensure that every patient capable of discernment is given the opportunity to refuse treatment or any other medical intervention, which also means that medication should not be hidden in the patient's food without his/her knowledge, as was the case at the Psychiatric Hospital of Santa Cruz do Bispo Prison. As part of the safeguards surrounding forced treatment, an external psychiatric opinion should be sought and the possibility to appeal to an independent authority introduced.