

EXECUTIVE SUMMARY

During the 2015 visit, which was carried out on the basis of an agreement signed in 2004 between the Council of Europe and the United Nations Interim Administration Mission in Kosovo, the CPT's delegation reviewed the measures taken by the relevant authorities following the recommendations made by the Committee after its previous visits (in 2007 and 2010). In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody and the situation in penitentiary establishments as well as to the Forensic Psychiatric Institute at Pristina University Hospital.

Throughout the visit, the delegation received very good co-operation at all levels. It enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

Police establishments

The delegation gained the impression that, as compared to 2010, the overall situation had somewhat improved in terms of both the number and severity of allegations of police ill-treatment. That said, the delegation received a significant number of allegations from detained persons of physical ill-treatment by police officers. Most of the allegations concerned slaps, punches and kicks, in the context of police questioning, with a view to extracting confessions, or at the time of apprehension after the person concerned had been brought under control. The Committee stresses the need for the relevant authorities to take additional vigorous action, including during in-service training, to combat the phenomenon of police ill-treatment and recommends that all police officers once again be reminded that all forms of ill-treatment of detained persons are unacceptable and will be the subject of severe sanctions.

As regards the implementation in practice of the fundamental safeguards against ill-treatment (the right to have the fact of one's detention notified to a relative or another third party and the rights of access to a lawyer and a doctor), the situation seems to have improved since the last visit. However, a number of detained persons claimed that they had been prevented from consulting a lawyer or that they met an *ex officio* lawyer for the first time only after having been questioned by a police officer.

In various police stations visited, the delegation observed further improvements regarding conditions of detention. In particular, at Gračanica/Graçanicë, Leposavić/Leposaviq, Mitrovicë/Mitrovica South and Obiliq/Obilić, police custody cells have been newly constructed or renovated, and most of the deficiencies observed during previous visits to other police stations have been remedied. That said, at Pejë/Peć Police Station, artificial lighting in the custody cells was very poor and, in several of the police stations visited, cells were not equipped with a call system.

Prison establishments

As compared to the findings of the 2010 visit, the situation seemed to have improved significantly in most of the KCS establishments as regards the manner in which prisoners were treated by staff. In particular, at Dubrava Prison, the delegation received no allegations of recent physical ill-treatment or excessive use of force by members of the establishment's special intervention group or by custodial staff. Further, no allegations were heard at Lipjan/Lipljan Correctional Centre and the detention centres in Mitrovica/Mitrovicë, Pejë/Peć and Prishtinë/Priština. However, a number of allegations of physical ill-treatment as well as threats of being beaten by prison officers were received at Gjilan/Gnjilane Detention Centre and at the High Security Prison.

Compared to the situation found in 2010, inter-prisoner violence did not appear to be a major problem at Dubrava Prison, nor in any of the other KCS establishments visited.

That said, the CPT expresses its dismay about the apparent lack of progress in addressing the phenomena of corruption and favouritism at Dubrava Prison, despite the specific recommendations made by the Committee after its previous two visits. Indeed, the situation at this establishment, far from improving, seemed even to have deteriorated further, and the delegation received numerous allegations of corruption involving not only custodial, but also health-care staff. It would seem that, on payment of sufficient money, prisoners could obtain contraband (e.g. a mobile phone or drugs) or preferential treatment regarding work opportunities, family visits, temporary leave outside the establishment, medical treatment, security classification, etc. Further, some prisoners reportedly received preferential treatment because of their family or political connections. It is also a matter of concern that a number of complaints of corrupt practices were once again received at the detention centres in Pejë/Peć and Prishtinë/Priština.

Material conditions varied widely amongst the different KCS establishments. At Lipjan/Lipljan Correctional Centre, conditions for all inmates remained on the whole adequate, and improvements were observed at Dubrava Prison and Mitrovica/Mitrovicë Detention Centre. The CPT welcomes the existing plans to close down the detention centres in Gjilan/Gnjilane, Pejë/Peć and Prishtinë/Priština where material conditions are generally poor. Conditions at the High Security Prison were generally good, the establishment being virtually brand new. However, the prison suffered from a major structural flaw which severely affected the overall detention conditions. In fact, most of the exercise yards which were attached to the detention blocks were constructed of a white concrete terrain surrounded by a high wall of the same material. The delegation was inundated with complaints from prisoners that the blinding reflection of the sun off the concrete ground and walls in the summer months made outdoor exercise difficult – even with sunglasses – and that the hard surface made any physical activity besides walking hazardous.

As during the previous visits, the delegation gained a generally favourable impression of the regime offered to female and juvenile prisoners (both sentenced and on remand) at Lipjan/Lipljan Correctional Centre. At Dubrava Prison, sentenced prisoners could move around freely within their detention area during the day and were granted two to three hours of outdoor exercise. Around 350 sentenced prisoners were involved in work and other activities. In addition, there were now well-equipped workshops, which, however, were accessible only to a limited number of prisoners. As regards the detention centres visited, the CPT is pleased to note that, at Mitrovicë/Mitrovica, the number of sentenced prisoners involved in work had increased since the last visit and two new workshops have been established. The Committee also acknowledges the efforts of the management at Gjilan/Gnjilane and Pejë/Peć Detention Centres to provide some sports activities for sentenced prisoners, despite infrastructural and other constraints. As regards the High Security Prison, it is positive that most sentenced prisoners were able to spend six to nine hours per day outside their cell. However, it is a matter of serious concern that the overwhelming majority of prisoners were not being offered any purposeful activities (such as work, education, vocational training or sport).

Further, at Dubrava Prison and the High Security Prison, as well as in the other detention centres visited, the regime for remand prisoners remained generally poor. As in 2010, apart from outdoor exercise (for two to three hours per day), most remand prisoners still remained locked in their cells for most of the day, with very little to do besides watching TV, reading and playing board games.

The CPT notes that the responsibility for prison health care was transferred from the Ministry of Justice to the Ministry of Health in July 2013. Overall, the delegation observed a number of improvements regarding the health care provided to prisoners since the 2010 visit. Further, the budget for prison health care has been significantly increased in recent years.

Notwithstanding that, Dubrava Prison and Pejë/Peć Detention Centre were apparently frequently faced with disruptions to the supply of medication, including essential medicines like insulin, which the patients were sometimes obliged to purchase themselves. Further, the CPT expresses its serious concern about the inadequate psychiatric care provided to patients suffering from severe mental disorders in the hospital unit at Dubrava Prison. Whilst acknowledging that, in all the establishments visited, newly-arrived prisoners were usually seen by a doctor or nurse within 24 hours of admission, the CPT deplors the almost total lack of implementation of specific recommendations made after the previous two visits. In particular, with the exception of Dubrava Prison and the High Security Prison, there was still no systematic physical examination on admission in any of the establishments visited. In addition, medical examinations/consultations were still often carried out in the presence of prison officers.

Further, the CPT formulates a number of specific recommendations regarding various other prison-related issues, such as prisoners' contacts with the outside world, discipline and security.

Forensic Psychiatric Institute at Pristina University Hospital (“Forensic Institute”)

The delegation received no allegations – and did not find any other indications – of ill-treatment of patients by staff. On the contrary, the general atmosphere appeared relaxed, and relations between staff and patients positive.

Material conditions in the Forensic Institute, which was opened in August 2014, were very good in all respects, and staffing levels were adequate.

The Forensic Institute provided both pharmacological and psychosocial treatment. As regards consent to treatment, the Committee emphasises that the admission of a person to a psychiatric establishment on an involuntary basis should not preclude seeking informed consent to treatment. Every patient should be informed about the intended treatment and should be given the opportunity to refuse or withdraw his/her consent to treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

Resort to means of restraint (seclusion and mechanical restraint) was very rare. That said, there were only very basic written guidelines on seclusion and no guidelines at all on the use of other means of restraint; in addition, there was no comprehensive restraint register. The CPT recommends that detailed guidelines be drawn up on the basis of detailed criteria set out in the report.

Further, the Committee expresses its misgivings about the fact that nursing staff on Ward B regularly performed security-related tasks such as body searches and cell searches and that private security staff (on Ward B) and KCS officers (on Ward C) were on occasion called upon by nursing staff to assist in dealing with patients although they had received no training for such activities.

Psychiatric Clinic at Pristina University Hospital (“Psychiatric Clinic”)

The delegation carried out a brief visit to the Admission Ward of the Psychiatric Clinic in order to review the legal safeguards surrounding involuntary placement of a civil nature in a psychiatric establishment. In this regard, the CPT notes that the Law on Non-Contentious Procedures contains a number of important safeguards. However, the visit brought to light that the relevant legal provisions had never been implemented in practice in the Psychiatric Clinic. In particular, courts had never been informed of involuntary admissions. In other terms, since the first visit of the CPT in 2007, the applicable legislation remained a dead letter. The Committee calls upon the relevant authorities to put an immediate end to this unacceptable state of affairs.