

EXECUTIVE SUMMARY

In the course of the 2018 visit, the CPT's delegation reviewed the treatment of persons deprived of their liberty by the police and the conditions of detention of remand prisoners in ten arrest detention centres throughout the country. Further, the delegation visited five prison establishments, focusing on the treatment of prisoners held in the maximum-security and closed regimes and on remand, and on the provision of health care.

On the whole, the CPT's delegation received excellent co-operation during the visit from the Romanian authorities. However, the principle of cooperation also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. In this respect, the CPT noted the lack of action taken in respect of certain recommendations made in previous reports, in particular as regards the situation of maximum security regime prisoners, the operation of the prison intervention teams and the provision of health care in prisons and arrest detention centres.

Law enforcement

The report notes that the majority of persons interviewed by the CPT's delegation stated that they had been treated correctly by police officers. Nevertheless, a large number of allegations of physical ill-treatment (many of which corroborated by medical evidence) by police officers were received from detained persons. The allegations consisted primarily of slaps, punches, kicks and baton blows inflicted by police officers against criminal suspects either at the time of the arrest or during questioning at a police station, apparently for the primary purpose of coercing a confession.

The report recommends that the Minister of the Interior and the General Inspectorate of the Romanian Police deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. Further, police investigation methods need to shift away from a confession-based approach towards obtaining accurate and reliable evidence from the professional questioning of criminal suspects. It is also essential that injuries observed by medical staff on detained persons upon their admission to an arrest detention centre are accurately recorded and that any allegations of police ill-treatment are transmitted promptly to the prosecutorial authorities. The CPT also comments on the investigation into allegations of police ill-treatment and recommends that prosecutors strictly apply the criteria of effectiveness.

In respect of safeguards against ill-treatment of persons deprived of their liberty by the police, a number of shortcomings were observed, notably in respect of access to a lawyer, including the possibility of having a confidential conversation with a lawyer, and the right of access to a doctor. Steps must also be taken to guarantee all juveniles the right of access to a lawyer and to a trusted adult as provided for in the Code of Criminal Procedure.

The report takes due note of the Romanian authorities intention to retain arrest detention centres for holding criminal suspects and remand prisoners and their plans to refurbish and to construct new establishments of this type. Nevertheless, the CPT continues to believe that detained persons are exposed to a greater risk of intimidation, pressure and even ill-treatment in police detention facilities. These concerns are accentuated by the poor material conditions, inadequate health care and impoverished regime for persons held in the arrest detention centres visited. Therefore, the CPT recommends, once again, that persons on remand should not be held in police detention facilities. Instead, the Romanian authorities should seriously consider converting arrest detention centres into proper pre-trial detention facilities and placing them under the authority of the Ministry of Justice and the National Prison Administration.

As regards the regime in these centres, the aim should be to ensure that remand prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature. To this end, each facility should be equipped with communal rooms. Further, all detained persons, without exception, must be offered at least one hour of outdoor exercise a day in suitably equipped facilities of an adequate size. The CPT also recommends that open visits for all persons detained on remand become the rule, with closed visits the exception.

Conditions of detention in the arrest detention centres visited, notably the un-renovated centres, remained unacceptable for stays of two months or more. Cells were generally dilapidated and in a state of disrepair, poorly ventilated, malodorous, with high levels of humidity and inadequate access to natural light. The sanitary annexes also remained in a poor state of hygiene and in most cases un-partitioned from the rest of the cell. In respect of juveniles, specific emphasis is placed on the need to provide them with decent conditions of detention and a purposeful regime. Further, every effort should be made to keep them in arrest detention centres for the shortest possible period.

The CPT notes the re-organisation of the Medical Directorate of the Ministry of Interior and the issuance of a specific Instruction in April 2016 on the provision of health care in arrest detention centres. In the light of the Committee's findings, it recommends to improve the quality of health care through *inter alia*: relieving doctors of additional duties within the Ministry of Interior; ensuring respect for confidentiality of medical examinations of detained persons; supplying all centres with basic life-saving equipment; introducing Opioid Substitution Treatment (OST) programmes for all opiate dependent inmates; and providing a comprehensive screening for transmissible diseases.

Prison establishments

The CPT notes positively the efforts invested in reform of the prison system since 2014, in particular in relation to the development of a probation service, the reduction in the prison population by some 30 percent as well as the introduction of compensatory remedies for inmates held in overcrowded conditions. Prison overcrowding was not evenly spread among or within prisons, and the most serious levels were observed in closed regime, pre-trial and admission (quarantine) cells. The cramped and poor living conditions in these cells combined with little out-of-cell time and lack of activities might amount to inhuman and degrading treatment. Such conditions are also not conducive to assisting prisoners to prepare for reintegration into the community. Further, as the CPT's delegation observed, it has negative repercussions on health care provision and on levels of tension and violence within prisons. The reform agenda of the Romanian authorities should aim to ensure that all prisoners are held in decent conditions and provided with a minimum of 4m² of living space each in multiple-occupancy cells (excluding the sanitary annex).

The majority of persons met by the CPT's delegation indicated that they had been treated correctly by staff. Nevertheless, a considerable number of allegations of physical ill-treatment of prisoners by prison staff were received, notably by members of the masked intervention groups, in the prisons of Aiud, Gherla, Iași and Galați. The situation was particularly alarming at Galați Prison where a climate of fear was evident. The report details several allegations of physical ill-treatment including sexual abuse by staff, and raises serious concerns over the lack of recording of injuries by the health care service and failures to investigate allegations effectively. The CPT is equally unconvinced by the effectiveness of the post-visit inspection undertaken by the Ministry of Justice at Galați Prison. Consequently, it recommends that the Romanian authorities initiate an independent prosecutorial inquiry into allegations of ill-treatment by staff at Galați Prison.

More generally, the report stresses the need for prison staff to be held accountable for the performance of their duties, including safeguarding the physical and mental integrity of prisoners. Particular emphasis is placed on the supervisory responsibilities of senior and middle managers paying special attention to the actions of staff under their responsibility and on prison officers being trained in control and restraint techniques. Further, the management in every prison should reiterate to all prison staff that verbal abuse, notably of a racist nature, and goading of prisoners is unprofessional and not acceptable. Moreover, all prison officers, as part of their basic education, must be trained in how to interact with and offer support to prisoners with disabilities.

The CPT has long questioned the *raison d'être* and *modus operandi* of the masked intervention groups that operate in those establishments which accommodate inmates under the maximum security regime. In the light of the delegation's findings during the 2018 visit of repeated and numerous detailed allegations of ill-treatment by members of the intervention groups, the CPT believes that the time has come for the national authorities to reconsider their continued existence. Instead, a system of first-responders could be established, combined with an increase in the staffing complement on the maximum-security regime wings and the adoption of a dynamic security approach. At the same time, the CPT recognises that there may be a need for specialised intervention groups to be established at the national or regional level to manage serious prison disturbances and it outlines a number of basic precepts that should govern their functioning. In this context, the report comments on the July 2016 riots and the investigations into allegations of ill-treatment by various intervention units during these riots.

Several episodes of inter-prisoner violence are documented, notably in relation to young adult prisoners who have been severely ill-treated and sexually abused in their cells by other prisoners. The situation was particularly worrying at Bacău Prison, where the CPT's delegation had to intervene to have three vulnerable prisoners taken out of a cell where they were being severely abused. The authorities' duty of care for prisoners requires that each prison establish a clear anti-bullying strategy. To begin with, a cell-share risk assessment process must be put in place in every penitentiary establishment for each person entering prison before they are placed in an admission cell, followed by drawing up and implementing an individualised risk and needs assessment. Part of the strategy to combat inter-prisoner violence must include investing far more resources in recruiting additional staff and developing their professionalism and training, as well as offering prisoners a purposeful regime and decent conditions.

Further, the report analyses several deaths in prisons and recommends that a thorough investigation be systematically carried out into every death in prison by an authority independent of the prison system. Such investigations must ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors and whether the death might have been prevented.

In all the prisons visited, the CPT's delegation noted that efforts were being made to expand the range of activities on offer to prisoners. However, it is evident that much more needs to be done to provide prisoners with purposeful activities with a view to preparing them for reintegrating into the community. It is also important that inmates are more involved in the development of their sentence plans. The CPT is particularly critical of the regime for remand prisoners, who were confined to their cells for 21 hours or more a day; it recommends that a comprehensive regime of out-of-cell activities be put in place, including at least two hours of outdoor exercise a day in reasonably sized yards.

The CPT retains serious misgivings about the organisation and review of the maximum-security regime. It is critical of the systematic allocation of prisoners to a high-security regime based only on their sentence. Instead, the CPT advocates that placement be based on an individual risk assessment of the prisoner's behaviour and the threat posed to the safety and security of staff and other prisoners. Maximum security regime prisoners spend up to 22 hours a day locked in their cells, with little access to any purposeful activities. This poor regime, exacerbated by the lack of positive relations with staff and the presence of members of the intervention team, meant that these units often operated as a punishment additional to the sentence handed down by the courts. The authorities should review the manner in which the maximum security regime is applied.

Material conditions in all the prisons visited were generally poor (e.g. flaking walls, humid, poor access to natural light and inadequate ventilation; sanitary annexes often had mould on the ceilings and walls, rusting pipes and broken fixtures). For example, at Bacău Prison, 18 young adults in pre-trial detention were held in a single dilapidated and overcrowded cell measuring a mere 26 m². The young men were confined to their cell for 21 to 22 hours a day for months on end. Their situation was akin to that of caged animals. A series of recommendations are made urging the authorities to provide decent living conditions for all prisoners.

As was the case during previous visits, meager and inadequate portions of food were provided to inmates at the prison establishments visited; the absence of fruit and vegetables was striking. The quality and quantity of food provided should be improved.

The report also examines the situation of women inmates held at Bacău Prison. In the light of the lack of purposeful activities on offer, the poor material conditions and overcrowding, and given that the prison was a long distance from the homes of the women, the authorities should reconsider whether this prison is able to cater effectively to the needs of women prisoners. The CPT also recommends that the situation of female prisoners accommodated temporarily in the other prison establishments visited be improved. In particular, all staff working with women prisoners should receive training to enable them to understand and attend to their biology and gender specific needs.

The findings of the 2018 visit showed that the health care services in the prisons visited were in many instances not providing an adequate standard of care. Conflicts of interest of health care staff represented a major underlying problem which eroded the patients' trust in their clinicians. The authorities should act to ensure that clinical staff are truly independent of prison staff. To this end, serious consideration should be given to the transfer of responsibility for clinical staff to the Ministry of Health. The report also makes a series of recommendations to improve the quality of care for prisoners, including: increasing staffing levels; furnishing all prisons with basic and emergency medical equipment; guaranteeing medical confidentiality; improving the recording of injuries; ensuring comprehensive medical screening upon admission to prison; and the adoption of a comprehensive strategy to assist prisoners with drug-related problems. The lack of psychiatric input was evident in all the prisons visited and inmates suffering from a mental health illness had to cope with conditions of detention which impaired their mental and physical health. All prisons must have appropriate psychiatric input from both a psychiatrist and nurses dedicated to mental health, and the authorities should carry out a comprehensive review of the way in which psychiatric care is provided to prisoners.

Finally, the report comments on the importance of establishing proper reception procedures for newly admitted prisoners, and it recommends reinforcing custodial staffing levels and initial and in-service training for staff. As regards discipline, the CPT is critical of the fact that self-harm and attempted suicide incidents are treated as disciplinary offences; it also recommends that restrictions on visits should not be imposed as a disciplinary punishment. Further, any segregation of prisoners for security or administrative reasons should be surrounded by proper guarantees, including a review procedure. As regards contacts with the outside world, open visits for all prisoners should be the rule, with closed visits as the exception, and further efforts should be made to promote contacts between prisoners and their families.