

## EXECUTIVE SUMMARY

In the course of the 2018 periodic visit, the CPT's delegation reviewed the treatment of and legal safeguards offered to persons deprived of their liberty by the police and examined the treatment of inmates at České Budějovice Remand Prison and Mírov Prison. It also carried out a targeted visit to Prague-Ruzyně Remand Prison to interview newly admitted remand prisoners and a targeted follow-up visit to the juvenile unit at Všehrady Prison to assess the treatment of juveniles by staff. In addition, the delegation visited Jihlava Psychiatric Hospital and Vejprty Social Care Establishment.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent.

### *Police*

The vast majority of persons interviewed by the delegation made no allegations of ill-treatment by the police. However, the delegation received a few allegations of excessive use of force (e.g. kicks, baton blows and unduly tight handcuffing) in the context of apprehension, as well as of verbal abuse (including of a racist/xenophobic nature) by police officers. The CPT recommends that police officers throughout the Czech Republic be reminded that any form of ill-treatment of detained persons is unprofessional and illegal and will be punished accordingly.

As regards the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), the right of access to a lawyer appeared to be generally respected.

Although the right of access to a doctor did not pose major difficulties, the CPT once again stresses that the systematic presence of police officers during medical examinations of detained persons could discourage detainees from disclosing ill-treatment. The Committee calls upon the Czech authorities to ensure that all medical examinations of persons in police custody take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers.

The delegation also heard a number of allegations that requests by detained persons to notify a third person had not been granted by police officers. The CPT reiterates its recommendation that the Czech authorities ensure that all detained persons (including foreign nationals) effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty. It also recommends once again that a fully-fledged and properly funded system of free legal aid be put in place for all detained criminal suspects who are not in a position to pay for a lawyer.

Material conditions in the police custody cells seen by the delegation were on the whole satisfactory. However, recommendations are made concerning access to natural light, ventilation and state of cleanliness, as well as the provision of hygiene items and access to open air in certain police establishments.

The CPT notes that the relevant legislation continues to allow detained persons to be handcuffed to fixed objects in certain circumstances. To this end, stools in virtually all police custody cells visited by its delegation were equipped with metal loops which were used in practice, albeit very rarely and for short periods of time. The CPT once again calls upon the authorities to stamp out completely the practice of persons held by the police being attached to fixed objects.

Promising developments were observed by the delegation regarding resort to strip-searches in the context of police custody. Several detained persons confirmed that they were not strip-searched by the police or that they were allowed to keep on their underwear throughout the search. However, the majority of those interviewed still stated that they were required to strip fully naked and to perform squats. The CPT recommends that a strip-search should always be based on an individual risk assessment.

### *Prisons*

At České Budějovice Remand Prison and Mírov Prison, the vast majority of prisoners made no allegations of ill-treatment by staff. It is noteworthy that no allegations of physical ill-treatment of juveniles by staff were heard in the juvenile unit at Všehrady Prison, which is a positive development in comparison with the findings of the previous visit. However, at Mírov, the delegation received a few isolated allegations of prisoners being slapped and punched by prison officers. Further, as regards České Budějovice, the report describes one particular case of alleged ill-treatment by staff and the action subsequently taken by the authorities. The CPT recommends that custodial staff at České Budějovice Remand Prison and Mírov Prison receive the clear message that physical ill-treatment of inmates is not acceptable and that no more force than strictly necessary and proportionate should be used to bring an agitated and/or violent prisoner under control.

Inter-prisoner violence did not seem to pose a major problem in any of the prisons visited.

In several respects, material conditions were satisfactory at České Budějovice Remand Prison and Mírov Prison. However, in both establishments, conditions were crowded in a number of cells, and the CPT recommends that the authorities ensure that all prisoners are afforded at least 4m<sup>2</sup> of living space per person in a multiple-occupancy cell and 6m<sup>2</sup> of living space in a single-occupancy cell (not counting the areas taken up by in-cell sanitary annexes).

As regards the regime, it is positive that a number of sentenced prisoners at České Budějovice and Mírov Prisons had paid work. At Mírov Prison, the delegation gained a generally positive impression of the structured programme of activities offered to sentenced prisoners accommodated in the unit for inmates with mental and behavioural issues. The CPT also welcomes the fact that, at Mírov, life-sentenced prisoners were integrated in the general prison population.

However, the regime for the rest of the sentenced prisoners and remand prisoners was rather impoverished. The regime applied to juvenile remand prisoners held at České Budějovice was only slightly more developed than that applied to adults. Reference is also made in the report to the situation of the prisoners held in the high-security unit at Mírov who spent up to 23 hours a day locked up in their cells. The CPT recommends that the Czech authorities improve the regime of activities for prisoners at České Budějovice Remand Prison and Mírov Prison, and, where appropriate, in other prisons in the country, in the light of several precepts set out in the report.

Concerning the provision of health care, the CPT expresses its misgivings about the fact that, at České Budějovice and Mírov, health-care staff devote a considerable amount of their working time looking after the health-care needs of prison staff. Such a dual responsibility significantly decreases their capacity to treat prisoners and may also lead to a conflict of interests. Further, the Committee recommends that the psychiatric and psychological care needs of prisoners be reviewed in both prisons and that the attendance of a psychiatrist and a clinical psychologist be arranged accordingly. Recommendations are also made regarding the recording of injuries and reporting of injuries indicative of ill-treatment to the relevant authorities, as well as the confidentiality of medical examinations.

In the report, remarks and recommendations are also made regarding various other issues, including staff, security-related issues, discipline and contact with the outside world. In particular, the CPT expresses serious concern about the fact that, at České Budějovice, agitated and/or violent prisoners were on occasion placed in a padded “crisis cell” naked. After the visit, the Czech authorities informed the Committee that the procedures for placement in the crisis cell had been reviewed and that in the event of a risk of self-harm or suicide, the prisoner concerned would henceforth be provided with a single-use hygienic suit and a single-use blanket/pillow.

Further, the CPT has serious misgivings about the frequent practice of applying hand- and ankle-cuffs to prisoners during medical consultations in outside health-care facilities, and it recommends that this practice be stopped immediately throughout the prison system. Moreover, given the potentially very damaging effects of solitary confinement, the CPT recommends that this type of measure be abolished in respect of juvenile prisoners and that the maximum period of solitary confinement as a punishment for adult prisoners be limited to 14 days and preferably less.

### *Psychiatric establishments*

During its visit to Jihlava Psychiatric Hospital, the delegation received no allegations of physical ill-treatment of patients by staff.

Living conditions at the hospital were generally very good. That said, the Committee is critical of the fact that many patients were still accommodated in dormitories with up to ten beds. It therefore welcomes the management’s plans to gradually reduce the number of patients per room in the very near future. Further, the Committee trusts that, in the context of the planned reform of psychiatric care, the use of dormitory-type accommodation for psychiatric patients will be abolished.

Patients were free to move about their wards and had access to communal areas. However, a number of patients did not have the possibility for daily outdoor access at all, *inter alia* at the beginning of their hospitalisation and when they were considered at risk of absconding. Some patients had not been outside for several weeks. The CPT therefore welcomes the information received from the Czech authorities after the visit, that the internal regulations of the hospital had been amended in order for the patients to have daily access to the open air (unless there were medical contraindications) and that a control mechanism had been established with the aim of ensuring that walks in the open air were indeed offered to the patients.

Health-care staffing levels at the hospital appeared to be generally sufficient, but the Committee recommends that at least one psychiatrist be present in the hospital at all times, and preferably another medical doctor as well.

Whilst acknowledging the range of treatment activities on offer for patients, the CPT expresses its concern that for many patients no individual treatment plans had been prepared. It is further critical of the frequent prescriptions of psychopharmacological treatment as PRN medication (*pro re nata* – “as needed”), including for the administration of pharmacological medication by intramuscular injection and against the patient’s will, for up to several months. It also recommends that a doctor always be informed without delay whenever psychotropic medication is administered on the basis of a PRN prescription.

As regards means of restraint, the CPT reiterates its view that the use of net-beds is not acceptable and urges the Czech authorities to implement without further delay the Committee's long-standing recommendation to withdraw from service all net-beds in psychiatric hospitals in the Czech Republic. In respect of mechanical restraint and seclusion, it recommends amongst other things that the duration of the use of mechanical restraint and seclusion be for the shortest possible time (usually minutes rather than hours) and that every patient who is subjected to mechanical restraint or seclusion benefit from continuous supervision by a qualified member of the health-care staff.

PRN prescriptions were apparently also used for the application of chemical restraint. The CPT considers that the administration by nursing staff of rapid tranquillisers under a "conditional" PRN prescription is only justified in exceptional situations and formulates a number of specific safeguards that should apply in such cases.

Civil involuntary placement in a psychiatric establishment is surrounded by a number of safeguards provided for by the Czech legislation. That said, the delegation met several "voluntary" patients who had signed a consent form to their hospitalisation upon admission but who apparently were later prevented by staff from leaving the hospital. Further, patients without full legal capacity who were opposed to their admission to the hospital were in practice nevertheless considered "voluntary" if their guardians had agreed to the hospitalisation. When such patients expressed a wish to leave the hospital they were not allowed to do so. Thus, they were *de facto* deprived of their liberty without benefiting from appropriate legal safeguards. The CPT recommends that in both situations described above, the civil involuntary placement procedure be applied if continued hospitalisation is considered necessary.

As for consent to treatment, the Committee is concerned that, despite its previous recommendation, patients under the court-imposed measure of protective treatment were still not allowed to refuse treatment connected with this measure. In the CPT's view, any derogation from the principle of free and informed consent to treatment should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

Finally, the Committee recommends that an information brochure setting out the hospital's routine and patients' rights be drawn up and given to patients and their families at Jihlava Psychiatric Hospital and, as appropriate, in other psychiatric establishments in the Czech Republic.

### *Social care institutions*

The delegation visited, for the first time, Vejprty Social Care Home where it focused on the establishment's two closed units, the "special regime homes" *Krakonoš* and *Dukla*. None of the residents interviewed made any allegation of ill-treatment by staff. Some instances of violence between residents occurred but staff appeared to react appropriately and in a timely manner.

Material conditions at the two closed units were very good.

However, there was a permanent lack of health-care staff. The Committee recommends that steps be taken by the Ministry of Labour and Social Affairs, in co-operation with the Ministry of Health, to reinforce the presence of health-care staff at the establishment. In particular, a psychiatrist should be present in each of the "special regime homes" for several days per month, and at least one nurse should be present in each home at any time, including at night.

Concerning treatment, it is a matter of serious concern for the Committee that some of the residents received large doses of highly sedating medication entailing a high risk of severe side-effects and that resort was also made to poly-pharmacy. The CPT therefore recommends that the pharmacotherapy at both “special regime homes” be the subject of a thorough review, aimed at bringing medication in line with modern medical standards and preventing potential overmedication and poly-pharmacy.

The CPT further expresses serious misgivings that psychiatric treatment was primarily based on pharmacotherapy and that there was a clear lack of therapeutic activities at both homes. The Committee recommends developing programmes of psychosocial rehabilitative activities, based on comprehensive individual treatment/care plans, aimed at preparing residents for a more autonomous life or return to their families. To this end, the regular presence in both “special regime homes” of at least one psychologist and several occupational therapists should be ensured.

The delegation was assured by the director and staff that no means of restraint were applied at the establishment and found no evidence to the contrary.

As regards the procedure for involuntary placement in social care establishments, the CPT acknowledges that, following recent amendments, the Social Services Act now defines the exceptional conditions under which a person may be placed in a social care establishment against his/her will and stipulates that the serious opposition of a person to his/her placement in a social care establishment – irrespective of any consent given by a guardian or municipal authority – must be reported to a court within 24 hours in order to assess the admissibility of the placement. However, the CPT regrets that, once the court has approved the involuntary placement of a person in a social care establishment, no regular automatic reviews of the lawfulness of such placement are provided for by law. It recommends that the relevant legislation be amended accordingly.

#### *Surgical castration of sex offenders*

The CPT notes the significant decrease in the resort to surgical castration in the context of treatment of sex offenders. However, this in itself cannot remove its fundamental objections to the intervention which could easily be considered as amounting to degrading treatment. Consequently, the Committee once again urges the Czech authorities to put a definitive end to the use of surgical castration as a means of treatment of sex offenders and to amend the relevant legal provisions accordingly.