

EXECUTIVE SUMMARY

The main objective of the visit was to review progress made as regards the implementation of recommendations made by the CPT after previous visits. Particular attention was paid to the treatment and conditions of detention of persons in police custody and of inmates in several prison establishments, as well as to the situation of forensic psychiatric patients and mentally-ill prisoners. In addition, the CPT's delegation carried out visits to civil psychiatric establishments and, for the first time in Albania, to an immigration detention facility.

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

Police custody

In the course of the visit, the delegation interviewed a large number of persons who were or had recently been in police custody. The majority of them indicated that they had been treated correctly by the police. However, the delegation received a significant number of allegations of recent physical ill-treatment of criminal suspects by police officers. Most of these allegations concerned use of excessive force at the time of or immediately following apprehension. A number of such allegations also related to ill-treatment inflicted during transportation and/or at the time of initial questioning on police premises, apparently with a view to extracting a confession or obtaining information or as a punishment. The alleged ill-treatment consisted essentially of slaps, punches, kicks, blows with a hard object (e.g. a chair leg) and excessively tight handcuffing.

Whilst acknowledging the progress made by the Albanian authorities in recent years in combating torture and other forms of ill-treatment by the police, the CPT recommends that the authorities redouble their efforts to this end. It also recommends that the necessary steps be taken to ensure that complaints and other information indicative of police ill-treatment are effectively investigated.

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), most detained persons interviewed by the delegation indicated that a relative was informed of their situation shortly after apprehension and that they had access to a lawyer whilst in police custody. However, similar to the situation observed during previous visits, a number of detained persons claimed that, despite having requested an *ex officio* lawyer immediately after apprehension, the police had ignored their request (or granted it only after a considerable delay) in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). Further, the information gathered during the visit suggests that, despite the legal requirement, detained persons were not systematically subjected to a medical check-up at the outset of police custody and that such checks were usually limited to a few general questions by health-care staff in the presence of a police officer and did not entail a physical examination.

While noting that material conditions of detention were generally of a good standard in some of the police establishments visited, the CPT calls upon the Albanian authorities to ensure that cells at Burrel and Elbasan Police Stations are kept in a satisfactory state of repair and have adequate lighting and ventilation. Further, bearing in mind the very poor material conditions and the structural deficiencies in the detention facilities of Police Stations Nos. 1, 2, 3 and 5 in Tirana, the Committee recommends that a high priority be given to the implementation of the plan to construct a centralised police detention facility in Tirana. It also trusts that the Albanian authorities will pursue their efforts to put a definitive end to the practice of holding remand and sentenced prisoners in police detention facilities.

Karreç Detention Centre for Foreigners

The CPT welcomes the fact that unaccompanied minors may not be held at Karreç Detention Centre (but only in a social welfare institution for juveniles) and that, in recent years, families with children have not been detained in the Centre.

The delegation received a few isolated allegations of deliberate physical ill-treatment (such as slaps or punches) of foreign nationals by custodial police officers. Inter-detainee violence did not appear to pose a major problem, and no complaints were received in this regard from detainees.

As regards material conditions, the CPT notes positively that communal spaces and detention rooms were spacious and well lit, and it acknowledges that furnishings and equipment have recently been damaged to some extent by detainees during a violent protest. Further, many of the sanitary facilities were dilapidated and in appalling hygienic conditions. Moreover, many complaints were received from detainees about insufficient heating and the shortage of personal hygiene products. The CPT recommends that these shortcomings be remedied without delay.

Whilst acknowledging that foreign nationals benefited from an open-door regime within their detention unit throughout the day and that the Centre had a small library, the CPT is concerned that hardly any recreational activities were offered to foreign nationals. It is of all the more concern that allegations were received from detainees that access to the open air was limited to only a number of days per month. After the visit, the Albanian authorities confirmed that foreign nationals would henceforth be offered outdoor exercise every day. The CPT recommends that steps be taken as a matter of priority to ensure that every detention unit is equipped with a television set and that all foreign nationals are provided with a range of recreational activities (including sports).

As regards health care, the CPT welcomes the fact that a full-time assistant doctor was present in the Centre on working days and that medical treatment was provided without delay. That said, it is a matter of concern that newly-arrived foreign nationals were not systematically subjected to a comprehensive medical examination upon admission and that no individual medical files had been opened for detainees. The CPT emphasises that systematic and prompt screening is essential for the detection of transmissible diseases, as well as for the prevention of police ill-treatment by recording injuries and reporting allegations of ill-treatment to the relevant prosecutor. Further, the Committee stresses the need to provide professional interpretation whenever health-care staff are unable to make a proper diagnostic evaluation due to language problems.

The presence of custodial staff appeared to be adequate. That said, due to language barriers, officers were usually unable to communicate with foreign nationals, and they had received hardly any specific training for working with immigration detainees. The CPT recommends that custodial officers be provided with appropriate training (including in de-escalation techniques and interpersonal communication). It would also be desirable for some officers to have relevant language skills.

Karreç Detention Centre had several security (isolation) cells which were found to be in a very poor state of repair and in an appalling state of hygiene. The CPT expresses particular concern that foreign nationals were on occasion handcuffed to the bed inside a security cell. In at least one case, a foreign national had allegedly been hand- and ankle-cuffed to the bed in a stress position (spread-eagled) for 24 hours. In the CPT's view, this practice could easily be considered to amount to inhuman and degrading treatment and should be stopped immediately.

All foreign nationals interviewed by the delegation complained vigorously about the almost total lack of information about their rights and the legal procedures applied to them. The CPT recommends that the Albanian authorities ensure that all foreign nationals are expressly informed, without delay and in a language they understand, of their rights and the procedure applicable to them (including any legal remedies).

Prisons

The CPT notes that efforts continue to be made by the Albanian authorities to expand and modernise the prison estate. Reference is made to the newly-constructed accommodation blocks at Prison No. 313 in Tirana as well as to a new prison near Shkodra which has contributed significantly to addressing the problem of overcrowding throughout the prison system. The Committee encourages the Albanian authorities to pursue vigorously their efforts in this regard, by making increased use of alternatives to imprisonment (in particular to remand detention) and measures facilitating the reintegration of prisoners into society.

The CPT notes with concern that the Criminal Code was amended in 2017 to introduce whole life imprisonment for certain types of offences; it recalls the relevant case-law of the European Court of Human Rights and recommends that the criminal legislation be amended in order to make conditional release available to all life-sentenced prisoners (subject to a risk assessment).

The delegation received no allegations of recent physical ill-treatment of inmates by staff in any of the prisons visited. On the contrary, most of the inmates interviewed spoke positively about the manner in which they were treated by staff.

Material conditions of detention were generally satisfactory at Fier Prison where prisoner accommodation was provided in cells designed to hold a maximum of two persons. They were also generally adequate at Durres Prison.

However, at Prison No. 302, despite some improvements, most of the deficiencies observed in the past persisted, such as pervasive dampness in the cells, minimal ventilation and inadequate natural light. Further, at both Durres Prison and Prison No. 302, conditions remained cramped in many cells, although to a lesser extent than in the past.

At Burrel Prison, many of the multiple-occupancy cells accommodating sentenced prisoners were once again found to be in a poor state of repair. Clearly, the old and defective physical structure of the buildings and the penetrating dampness did not help matters. In addition, problems with heating persisted: the central heating was usually only turned on for a few hours per day.

On a more general note, it is a matter of concern that, in all the prisons visited, artificial lighting inside the cells had to remain switched on around the clock and could not be dimmed at night. Numerous complaints were received from inmates that this caused sleeping difficulties. The Committee emphasises that exposure to artificial light at night may affect the natural sleep patterns and cause negative health effects on psychological, cardiovascular and/or metabolic functions in individuals. Consequently, it recommends that this rule be abolished without delay.

As was the case during previous CPT visits, the great majority of the inmates in the prisons visited were not being offered any purposeful activities. The regime at Prison No. 302 and Burrel Prison was particularly underdeveloped, due to the lack of an appropriate infrastructure. The Committee stresses once again that such a state of affairs is all the more detrimental for long-term prisoners (including life-sentenced prisoners) and calls upon the Albanian authorities to improve substantially the regime of activities for all inmates in the prisons visited as well as in all other prisons in Albania where a similar situation prevails.

As regards the provision of health-care services to prisoners, recommendations are made regarding medical staffing levels at Durres and Fier Prisons and the nursing staff resources at Prison No. 313. Further, the CPT recommends that steps be taken to ensure that, throughout the prison system, prisoners are provided free of charge with the medication which their state of health requires and that every prison health-care service in the country is supplied with basic life-saving equipment (such as a defibrillator, oxygen and an ECG machine).

At Durres, Fier and Lezha Prisons, the delegation visited the special care units (so-called “SKV”) which are intended primarily to accommodate prisoners suffering from mental disorders. Whilst supporting the concept of SKV in prisons, the CPT stresses that, in order to make such units fully functional and to ensure that prisoners placed therein receive appropriate treatment, SKVs must be provided with qualified staff (e.g. psychiatrists, nurses, clinical psychologists, etc.) who should be present in sufficient numbers.

The delegation once again observed major shortcomings regarding the medical examination of newly-arrived prisoners and the recording and reporting of injuries and the continued lack of respect for medical confidentiality, despite the specific recommendations repeatedly made by the Committee in previous visit reports.

In the report, remarks and recommendations are also made concerning various other issues, notably prisoners’ contact with the outside world and discipline. In particular, the CPT recommends that the disciplinary sanction of solitary confinement be abolished in respect of juveniles and that prisoners are offered visits, as a rule, under open conditions (i.e. around a table).

Forensic psychiatry

The situation of forensic psychiatric patients has been the subject of a long-standing dialogue between the CPT and the Albanian authorities, given that the patients concerned have been held for many years under unacceptable conditions and with insufficient psychiatric care in the Prison Hospital in Tirana and Zaharia Special Facility in Kruja. During the 2018 visit, the delegation carried out a follow-up visit to the Prison Hospital, and it visited the premises within Lezha Prison where it was planned that forensic psychiatric patients would be temporarily accommodated, pending the creation of a proper forensic psychiatric facility in the country.

Whilst acknowledging the efforts made by the Albanian authorities to create a temporary forensic facility at Lezha, the CPT expresses concern that the opening of the latter facility has been significantly delayed and that there was still a striking lack of clarity regarding the precise role of the Ministry of Health and Social Protection, the future management and the deployment of staff. After the visit, the Albanian authorities informed the CPT that the temporary facility would be opened in 2019 and that treatment would then be provided to forensic patients by multi-disciplinary staff under the authority of the Ministry of Health and Social Protection. Notwithstanding that, the CPT underlines that the premises of the temporary facility are designed as a prison and that the refurbishment will not alter the carceral character and other structural deficiencies which render these premises unsuitable on a longer-term basis as a mental health-care facility.

As regards the Prison Hospital, the delegation was informed that most forensic patients had been temporarily transferred to other prisons. Thus, by contrast with the situation seen during the 2017 visit, no overcrowding was observed. The CPT expresses serious concern about the situation of one 15-year-old juvenile patient and several female psychiatric patients who were *de facto* held in solitary confinement and in material conditions (totally dilapidated, dark, damp and poorly ventilated cells) which, in the CPT’s view, could easily be considered to be inhuman and degrading. After the visit,

the Albanian authorities informed the CPT that the entire Prison Hospital had been refurbished and that all female psychiatric patients and the only juvenile patient would be transferred to separate units at the 'Special Institution of Lezha' as soon as the latter facility was operational. The CPT requests detailed information on the care provided to the above-mentioned juvenile.

Involuntary hospitalisation of a civil nature

The delegation carried out a full visit to Elbasan Psychiatric Hospital. In addition, it paid a brief targeted visit to the Psychiatric Clinic of Tirana University Hospital (hereinafter: "Tirana Psychiatric Clinic"), in order to examine the procedures and safeguards related to the use of means of restraint.

At Elbasan Psychiatric Hospital, the delegation received no allegations of ill-treatment by staff. Some instances of violence between patients did occur in the hospital, but the delegation gained the impression that staff generally reacted in an appropriate manner.

At the time of the visit, the entire premises of Elbasan Psychiatric Hospital were impeccably clean and well-heated. That said, material conditions were generally rather poor. In particular, the sanitary facilities in several wards were dilapidated, and they were not adapted to the needs of patients with physical impairments. It is also a matter of concern that patients were usually offered only one shower per week. Further, in most wards, patients were accommodated in austere and depersonalised dormitories (with no furniture except for beds) and up to 50 patients were being held in an open space without being offered any privacy.

After the visit, the Albanian authorities informed the CPT that the Ministry of Health and Social Protection had recently allocated a total of some 2.2 million Euros in order to improve the living conditions for patients and to remedy various other shortcomings in the hospital. The CPT welcomes this decision and requests more detailed information on the implementation of the renovation plans. Further, the Committee emphasises that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric patients, and it encourages the Albanian authorities to ensure that existing dormitories are transformed into accommodation structures based on smaller groups (i.e. no more than four beds in one room).

The CPT is particularly concerned that many patients did not benefit from outdoor exercise on a daily basis and that a number of them (in particular those suffering from physical impairments) had not been outside for months and in some cases even for years on end. The Committee recommends that steps be taken as a matter of priority to ensure that all patients at Elbasan Psychiatric Hospital are offered daily outdoor exercise.

The CPT appreciates the commitment and caring attitude of staff who were working under very difficult conditions, especially due to dramatic shortages in the number of health-care staff. In the CPT's view, the number of clinical staff (on average, one psychiatrist and one nurse per 60 patients) is clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients and staff. The CPT recommends that the Albanian authorities re-double their efforts to significantly increase the number of psychiatrists and nurses at Elbasan Psychiatric Hospital and, where appropriate, in other psychiatric hospitals.

The CPT acknowledges the efforts made by the hospital management to provide patients with psychosocial treatment and activities in two day-centres (painting, handicrafts, etc.). However, the provision of psychological services and occupational therapy remained limited, and, for most of the patients, treatment consisted solely of pharmacotherapy. Further, no individual treatment plans existed beyond the lists of prescribed medication. The CPT recommends that steps be taken to ensure that an individual treatment plan is drawn up for every patient and that patients benefit from a range of psychosocial rehabilitative activities. To this end, the staffing levels of psychologists, occupational therapists and other professionals should be increased accordingly.

At Elbasan Psychiatric Hospital and Tirana Psychiatric Clinic, means of restraint were generally applied in accordance with the legal requirements set out in the relevant legislation. That said, a number of shortcomings were observed by the delegation, and the CPT has formulated specific recommendations in this regard. In particular, patients subjected to means of mechanical restraint or seclusion should be continuously supervised by a member of the health-care staff, and all instances of restraint (including chemical restraint and seclusion) should be recorded in a dedicated restraint register (in addition to the patient's medical file). Further, the presence of ward-based staff should be increased at Elbasan Psychiatric Hospital and staff be provided with training on de-escalation and restraint techniques in order to avoid interventions by police officers in the hospital.

At the time of the visit, only two (out of 318) patients at Elbasan Psychiatric Hospital had undergone an involuntary placement procedure. Notwithstanding that, all the patients' wards were closed, and most patients who were formally classified as 'voluntary' were not allowed to leave the hospital on their own. Particular mention should also be made to the situation of legally incapacitated patients. When such patients were hospitalised with the consent of their court-appointed guardian, they were considered 'voluntary'. However, if they expressed a wish to leave the hospital they were usually not allowed to do so. Thus, many patients were *de facto* deprived of their liberty without benefiting from appropriate safeguards. The CPT has formulated specific recommendations to remedy this deficiency.

As regards the procedures for civil involuntary placement, the legal requirements set out in the Law on Mental Health (LMH) were usually implemented in practice at Elbasan Psychiatric Hospital. However, it is regrettable that judges usually took decisions on the placement without ever having seen the patient concerned. Further, the CPT expresses concern that, despite various specific recommendations made by the Committee in previous visit reports, the relevant mental health legislation still suffers from fundamental flaws which severely undermine the legal protection of psychiatric patients. In particular, judicial placement orders, which are usually indefinite, are not subjected to a regular *ex officio* review, and the patients concerned are still not entitled to challenge their placement before a court themselves. Further, the LMH still does not make a clear distinction between consent to placement and consent to treatment and, in practice, a court decision on involuntary placement in a psychiatric establishment is considered to be a sufficient basis for any subsequent involuntary treatment. Moreover, the LMH does not provide for any procedure on involuntary treatment of psychiatric patients. The CPT recommends once again that the Albanian authorities take appropriate steps, including at the legislative level, to ensure that various precepts set out in the report are effectively implemented at Elbasan Psychiatric Hospital, as well as in all other psychiatric establishments in Albania.