

## EXECUTIVE SUMMARY

The CPT's seventh periodic visit to Ireland provided an opportunity to assess the treatment of persons deprived of their liberty since its previous visit in 2014, notably in relation to prison matters regarding the treatment of prisoners on restricted regimes, the use of special observation cells and older persons in prison as well as the provision of health care. Particular attention was also paid to the treatment and conditions of detention of persons deprived of their liberty by the police. Further, the CPT's delegation examined the treatment of patients in three psychiatric facilities and, for the first time in Ireland, residents with intellectual disabilities in social care establishments.

### Law enforcement agencies

The CPT noted that the Garda Síochána is the midst of a comprehensive reconfiguration following the publication of the Commission on the Future of Policing in Ireland report on 18 September 2018. The CPT intends to follow the reform process closely, including as regards the establishment of the new Independent Office of the Police Ombudsman.

As regards *ill-treatment*, the great majority of detained persons interviewed by the CPT's delegation stated that they had been treated correctly by the Gardaí. However, several allegations of physical ill-treatment and verbal disrespect were received from remand prisoners who had recently been apprehended by the Gardaí. The allegations of ill-treatment mostly involved slaps, kicks and punches to various parts of the body and a few cases are illustrated in the report by way of example.

The main *safeguards against ill-treatment* advocated by the CPT - namely the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor - continue to operate in a satisfactory manner as from the very outset of custody. Nevertheless, certain improvements should be made. The current practice of the right of access to a lawyer should be placed on a statutory basis and the way in which the provision of health care is organised in Garda stations should be reviewed. Further, steps should be taken to ensure that custody registers in all Garda stations are accurately and comprehensively filled out, and that whenever a detained person is denied contact with a third person the reasons are recorded in the custody register and the person concerned informed accordingly. Steps should also be taken now to put in place an independent system of monitoring Garda Síochána stations.

As regards *immigration* detention, the CPT's delegation found once again that immigration detainees continued to be held at Cloverhill Prison, and other prisons, together with remand and convicted prisoners and, in some cases, subjected to abuse and bullying. The CPT calls upon the authorities to put in place a specifically designed centre for immigration detainees with specific immigration rules in accordance with the Committee's requirements. Further, it wishes to receive information on the conditions and regime afforded to immigration detainees pending the opening of such a unit.

### Prison establishments

The CPT acknowledges the steps taken since 2014 by the Irish authorities to reform the prison system, notably as regards the significant reduction in the number of committals to prisons, an overall reduction in violent incidents in prisons and a marked improvement in the provision of health care services. Further, the CPT welcomes the fact that children are no longer held in prison. Nevertheless, considerable challenges remain. In particular, the CPT recommends that action should be taken to address local overcrowding in prisons and to ensure that prisoners do not have to sleep on mattresses on the floor, and that all multiple occupancy cells are equipped with fully partitioned toilet facilities. The reduction in the number of prisoners who have to "slop out" is positive and the CPT trusts that this practice will be eradicated completely from Irish prisons.

Prisoners met by the delegation stated that the vast majority of prison officers treated them correctly; however, a small number of prison officers are inclined to use more physical force than is necessary and to verbally abuse prisoners. The authorities should reiterate to prison officers that no more force than is strictly necessary should be used in bringing an agitated/aggressive prisoner under control. Further, from an examination of a number of cases, the CPT considers that the current complaints system cannot be considered fit for purpose. It trusts that, in designing a new system of complaints, the basic principles surrounding complaints mechanisms as laid out in the 27<sup>th</sup> General Report of the CPT have been taken into account. Further, both the necessary resources and training are required to ensure that the new complaints system is fair, efficient and effective.

In respect of *inter-prisoner violence*, the Committee recognises the continued progress made to reduce the level of violence in prisons. Nevertheless, further action is required. In particular, all incidents of inter-prisoner violence need to be diligently and systematically recorded, and a standardised approach to the recording of all incidents should be introduced across the prison estate.

A focus of the visit was to examine the situation of prisoners on a *restricted regime* whether as a security measure or for reasons of protection. In this regard, the CPT considers that the Irish Prison Service policy on the abolition of solitary confinement (i.e. that every prisoner is offered a minimum of two hours out of cell daily with meaningful human contact) is laudable. Nevertheless, to ensure that cases of *de facto* solitary confinement are addressed it is essential that prison officers accurately record out-of-cell time for persons on restricted regimes. More specifically, further efforts are required to provide those prisoners on protection for more than a short period with a range of purposeful activities and one hour a week of visits. For persons segregated for good order, the regime on offer to these prisoners should be improved and an effective review process put in place for all placement and extension decisions. As regards the recently opened *National Violence Reduction Unit* (NVRU), the CPT considers that the intended purpose of the unit with its dual security and therapeutic approach is positive, providing that greater emphasis is placed upon delivering a purposeful regime with meaningful engagement. Further, steps should be taken to break the cycle of violence, to ensure that an overbearing security regime does not predominate and to develop interventions which are not purely carrot and stick. To this end, the Incentives and Earned Privileges system and the disciplinary rules operating throughout all Irish prisons should not apply in the NVRU. In addition, NVRU prisoners should not be handcuffed during medical consultations nor examined through metal bars.

The CPT's delegation found that there was a lot of confusion among prison staff and management about the specific purpose for the placement of prisoners in *Close Supervision Cells (CSC)* and *Safety Observation Cells (SOC)*. As a result, the CPT recommends that the Irish authorities review the use of CSCs and SOCs with a view to clarifying the procedures and management of prisoners placed in such cells and of doing away with the artificial distinction between the two types of cells. Further, the CPT reiterates that there should be no routine removal of a prisoner's clothing upon placement in a CSC and that all prisoners placed in a CSC for longer than 24 hours should be offered a shower and access to outdoor exercise. As regards the treatment of mentally ill prisoners who are placed in a SOC, the CPT recommends that a care and treatment plan be drawn up for them pending transfer to a mental health care facility.

The *cellular accommodation* in the prisons visited can generally be considered of a good standard for prisoners held in a single occupancy cell. It is less good in multiple-occupancy cells and, at Cloverhill Prison, a programme of ongoing maintenance and refurbishment should be undertaken, and efforts made to ensure cells of 11m<sup>2</sup> only accommodate two persons. As regards the *regime*, efforts were being made in the prisons visited to offer prisoners a wide range of activities. More, however, needs to be done to draw up a sentence plan for all prisoners. To this end, the number of Integrated Sentence Management co-ordinators allocated to each prison should be increased.

As regards the provision of *health care*, the findings of the 2019 visit illustrate that there has been considerable progress. The CPT's delegation found very good access to health care in prisons and a vastly improved approach to the treatment of substance use. The mental health nurses and visiting psychiatrists were also doing a good job in difficult circumstances. Further, the carers employed at Midlands Prison to assist the older population of prisoners were very good, displaying genuine warmth and affection towards their charges. Nevertheless, there remain certain areas where improvement is required, such as the poor screening of injuries upon arrival in prison and the lack of provision of interpretation services which clearly hinders communication between health care staff and the rising number of prisoners who do not have a good understanding of the English language.

The CPT's delegation again observed that Irish prisons continue to hold severely *mentally ill persons*. If the high support units at Cloverhill, Cork and Mountjoy Prisons are to provide a stepping stone towards admission to a psychiatric hospital or a step-down unit for managing persons returned to prison from a psychiatric facility, it is essential that they be provided with the appropriate resources. This is not the case currently. A programme of structured activities, including occupational therapy sessions, should be developed for prisoners held on these units. Further, steps should be taken to ensure that all prisoners kept on these units are held in clean cells, are provided with their own bed and get the necessary support to maintain their hygiene. As regards more particularly Wing D2 at Cloverhill Prison, the largest unit in the country holding prisoners who are mentally ill, there is a need to substantially reinforce the mental health team working on the unit.

Another major concern is the rising number of homeless persons with severe mental health problems who are ending up in prison. The example cited in the report demonstrates that urgent steps should be taken, including of a legislative nature, to ensure that mentally ill homeless persons in prison, who the courts are willing to bail, can be transferred rapidly to a psychiatric facility in the community to receive appropriate treatment. To this end, the CPT supports a multi-pronged approach which should also include the development of additional psychiatric beds in the community and it wishes to be updated on the development of such as well as on the new Central Mental Hospital in Portrane.

The report also looks at *staffing* issues and notably the challenge that Irish prisons often have to operate without a full complement of prison officers, due in particular to the exponential increase in prison escorts. Measures are required to ensure that prisons operate full regimes with activities and services not being hampered by staff shortages. As regards *discipline*, the procedure itself appeared to be fair and the punishments proportionate. Finally, the Committee comments on the importance of ensuring that the *Inspector of Prisons* can fulfil her mandate effectively.

## Psychiatric establishments

The CPT's 2019 visit to Ireland occurred at a time when the Assisted Decision-Making (Capacity) Act 2015 (ADMCA) had been enacted but was not yet fully in force, and several amendments to the Mental Health Act 2001 were still pending. Consequently, many patients who neither objected nor consented to inpatient care continued to be admitted as voluntary patients and did not benefit from the safeguards afforded to involuntary patients. Yet, the movement of these voluntary patients could be subject to restrictions, including being physically restrained, or placed in seclusion. The new definition of "voluntary patient" laid down in the Mental Health (Amendment) Act 2018 and the deprivation of liberty safeguards to be incorporated into the ADMCA<sup>1</sup> should address these concerns. The CPT recommends that the new legislation be brought into force without delay.

The CPT also considers that involuntary placement and involuntary treatment are two separate issues and that the involuntary administration of medicine should be subject to a separate decision with the possibility of appeal and an independent second opinion.

In the three psychiatric units visited, patients generally spoke highly of staff who displayed a caring attitude. Nevertheless, the CPT's delegation received a few allegations of rough handling of patients and of inappropriate behaviour, including a female patient's trousers being ripped off by a nurse during restraint in the Department of Psychiatry at St. Luke's Hospital. The CPT recommends that staff use no more force than is strictly necessary and proportionate to bring an agitated patient under control, and that where staff act inappropriately, management must act to sanction them accordingly.

As regards the use of *means of restraint*, the emphasis was on de-escalation and the use of lower level holds. The CPT found that there was no excessive recourse to seclusion in the three units visited. However, some of the episodes of seclusion noted were rather lengthy and the national code of practice on seclusion was not always strictly followed. The delegation observed that a patient in seclusion at the Department of Psychiatry at St Luke's Hospital was not constantly under direct observation by a nurse and did not have direct access to a toilet. Further, security guards were sometimes involved in escorting patients to the seclusion room in St Aloysius Ward, whereas the CPT considers that patients should be placed in seclusion by nursing staff only. The CPT recommends that these shortcomings be addressed.

The CPT found that *pro re nata* (PRN) medicine was not being used in an appropriate manner at the establishments visited. It recommends that the Irish authorities carry out a review of this type of prescription at all psychiatric institutions in Ireland, particularly as regards potential overmedication, chemical restraint and involuntary treatment and that, thereafter, they draw up guidelines on the use of PRN medication.

As regards *children*, the CPT recalls that, in view of their vulnerability and special needs, children should be accommodated separately from adult patients. The Irish authorities should take the necessary steps to ensure that this is the case in practice. Action should also be taken to abolish the practice of placing patients (including voluntary patients) in pyjamas, including as a measure to prevent them from absconding.

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<sup>1</sup> Editor's note: these safeguards will not become part of the ADMCA, but will form separate legislative provisions.

The material conditions in all three psychiatric units visited were clean and generally in a good state of repair. However, the lack of furniture and personalisation in patients' rooms with the general appearance of all units visited reflecting a somatic hospital environment did not contribute to a therapeutic setting. Furthermore, the four- and six-bedded rooms of the establishments visited were cramped, stuffy and, at times, noisy, providing hardly any personal space or privacy. The CPT recommends that the larger multi-occupancy rooms be divided into smaller units and that steps be taken to personalise all rooms. Further, it recommends that steps be taken to put in place a clear policy for promoting and facilitating the possibility of patients to access the outdoors every day, as this was not the case at the time of the visit.

The CPT's delegation found that nursing *staff* was suitably qualified and well supported by management in all three psychiatric units visited. However, the units were operating at minimum staffing levels at the time of the visit and recruiting staff at short notice was hampered by extremely bureaucratic procedures. Such procedures should be streamlined. *Information* brochures were available at all of the establishments visited. However, patients did not always understand their rights, the possibilities for appeal and how to make a complaint. Furthermore, an easily accessible, confidential method of complaining was not always in place and complaints were not always properly recorded. The CPT stresses the importance of an effective internal complaints mechanism and it recommends that the complaints mechanisms at all three establishments be reviewed accordingly.

### **Social Care Establishments**

The delegation was impressed by the standard of care and person-centred approach taken in the social care homes it visited in Dublin and welcomed the visible shift from congregated settings to smaller, more personalised units. The small housing units at Stewarts Care Palmerstown Campus were a positive example of accommodation for persons with disabilities, with every resident having their own room and receiving a high level of care. There were also possibilities for the residents to mix with members of the surrounding community. The CPT also considers that the level of integration into the community at both establishments can be considered as an example of good practice.

Residents at both establishments spoke well of staff and the CPT's delegation observed the dedicated and caring way in which staff interacted with the residents. That said, whenever there is an incident of bullying of a resident, the staff member should be appropriately sanctioned.

As regards *treatment* and care, residents participated in the development of their own plan, medication applied was appropriate and efforts were made to assist staff in identifying symptoms of distress in residents whose communication was severely limited. The CPT did however note that financial issues had recently affected the appropriate placement of some Stewarts Care residents. Further, while staffing was generally sufficient, difficulties arose in replacing staff on sick leave due to the complex procedures in place and a lack of funding.

*Restrictive practices* such as locked doors were in place but limited, and they were subject to individual risk assessments and regular reviews of the residents' situation and needs. However, the CPT would like to see the development of a national policy specifically for persons with disabilities similar to the one developed for nursing homes, which advocates a restraint-free environment in such establishments.

The CPT found that the complaints policy in place appeared to be satisfactory and that information on the functioning of the homes' activities, residents' rights and how to make a complaint were clearly provided.