

EXECUTIVE SUMMARY

The main objective of the visit was to review the treatment of persons held in penitentiary institutions, in particular at two correctional colonies in the Kharkiv area, namely Colonies Nos. 25 and 100. In addition, the CPT's delegation visited, for the first time, Colony No. 77 in Berdyansk. The visit to Colony No. 100 also provided an opportunity to review the situation of prisoners sentenced to life imprisonment. Another objective of the visit was to examine the action taken by the investigative authorities in relation to complaints of ill-treatment of inmates by prison staff.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was generally very good. In particular, it enjoyed rapid access to all the establishments visited, was provided with the information necessary for carrying out its task and was able to speak in private with detained persons. However, at Colonies Nos. 77 and 100, many inmates interviewed by the delegation expressed fear of possible reprisals (including physical ill-treatment) by staff or inmates assisting staff, once the delegation had left. The CPT recommends that the Ukrainian authorities take appropriate measures in the establishments visited to ensure that no prisoner is subjected to retaliatory action by staff or fellow inmates for having spoken with the delegation and that any complaints of such action be effectively investigated and those responsible be punished accordingly.

At *Colony No. 25*, the delegation received a number of credible allegations of physical ill-treatment by prison officers in the course of 2019, consisting of punches, kicks and blows with rubber truncheons, mainly in relation to inmates who had refused to clean the premises (or accept other tasks imposed by the administration) or following instances of disobedient behaviour. The alleged ill-treatment mainly took place in the offices of operational officers, occasionally with the help of inmates (so-called "duty prisoners") who had a designated role to assist staff and were assigned supervisory tasks over other prisoners. In a few cases, the alleged ill-treatment was of such severity that it could be considered to amount to torture (e.g. extensive beating, infliction of burns to the buttocks, asphyxiation using a plastic bag, etc.). In addition, the delegation received allegations of threats of physical ill-treatment made by staff (including threats of rape with a truncheon).

In stark contrast to the above, as regards the year 2020, the delegation received hardly any allegations of physical ill-treatment by staff of Colony No. 25. It appeared that, with the change of the prison management as from early 2020, there had been a marked improvement in the treatment of prisoners. While welcoming this development, the CPT draws the attention of the authorities to the need to exercise increased vigilance in this area, by instructing staff that any form of physical ill-treatment or psychological pressure will not be tolerated. The Committee also makes observations to improve the oversight of interventions to quell disturbances in prisons.

As regards *Colony No. 100*, the delegation received several credible allegations of recent physical ill-treatment by staff from prisoners who were or had been held at this establishment. The alleged ill-treatment mainly consisted of punches, kicks, truncheon blows, twisting of the arms and/or legs, being kept in stress positions, being forced to exercise physically beyond the point of exhaustion, and squeezing of the testicles. Moreover, allegations were also heard of threats of a sexual nature, including rape. It appeared that in some cases the alleged ill-treatment had also involved "duty prisoners".

The impression gained by the delegation in the course of the visit to Colony No. 100 was that prisoners who did not always comply with staff orders ran a significant risk of being ill-treated, and that on occasion resort might be had to severe ill-treatment. Furthermore, a number of prisoners indicated that they were afraid to complain about ill-treatment to outside bodies because prison staff threatened them that this would lead to negative consequences for them. The CPT recommends that a firm message be delivered at regular intervals to the management and staff of this colony that any form of ill-treatment of prisoners, including threats, is unacceptable and will be punished accordingly. It also recommends that staff receive a clear message that any kind of threats or intimidating action to prevent prisoners from lodging complaints will not be tolerated.

The report highlights that *Colony No. 77* stood out among the establishments visited, due to the pervasive climate of fear among inmates. Prisoners were very reluctant to speak with the delegation, apparently fearing for their own safety, and many of them declined to be interviewed in private, calling out loudly that everything was normal and that there was nothing to talk about. The CPT points out that, during its many visits to the 47 Council of Europe member States over the last 30 years, it has hardly ever visited a prison with such large-scale refusals of prisoners to be interviewed.

Nevertheless, the delegation was able to gather sufficient information, including from inmates in other establishments who had previously been held in this colony, to enable it to conclude that Colony No. 77 was managed through a system of intimidation and violence. That said, it quickly became apparent that, while the management was in control, the ill-treatment of prisoners was mainly meted out by a select group of inmates (namely “duty prisoners”) – usually with the knowledge and acquiescence of the management – and had become an accepted feature of keeping order within the establishment. It would appear that, upon arrival to the colony and placement in the admission unit, inmates were ordered by prison officers to clean the territory of the unit; any inmate who refused to comply with this order was reportedly punished by the unit’s “duty prisoners”. Such punishment was said to have taken place inside the admission unit (usually in a storage room), in a recurring pattern: namely, prisoners were apparently undressed and made to lie prone on the floor and, while being held down by several inmates, beaten on the soles of the feet and/or the buttocks with a plastic pipe.

The CPT recommends that the Ukrainian authorities carry out a prompt and comprehensive inquiry from the central level into how Colony No. 77 functions and that the management and staff of this colony receive a clear message that any prison official committing or aiding and abetting ill-treatment will be held accountable.

More generally, the Committee once again expresses serious misgivings about the practice of employing selected inmates as “duty prisoners”. It stresses that any partial relinquishment of the responsibility for order and security in prisons, which properly falls within the ambit of custodial staff, is unacceptable and calls upon the Ukrainian authorities to take all necessary steps – including of a legislative nature – to put an end to this practice.

In the course of the visit, the delegation had consultations with the State Bureau of Investigation (SBI) in order to examine the action taken in the investigation of complaints of ill-treatment of prisoners at Colonies Nos. 25 and 77. In the report, the Ukrainian authorities are requested to provide updated information on the progress and outcome of these investigations. As regards more particularly Colony No. 77, the CPT regrets the fact that, in a large-scale investigation into certain specific prisoner complaints of ill-treatment and extortion by staff and “duty prisoners”, a decision had been taken by the investigator to discontinue criminal proceedings in respect of members of staff. In this regard, the Committee asks for an account of concrete steps taken by the SBI in order to establish the possible involvement of prison staff – including through instigation, consent or acquiescence – in the alleged ill-treatment of inmates by “duty prisoners” in this colony.

At the time of the visit, some 75% of the life-sentenced prisoners held at Colony No. 100 were no longer systematically handcuffed when taken out of their cells. The CPT stresses the need to build upon this positive development, making sure that routine handcuffing of prisoners is an exceptional measure, is always based on an individual risk assessment and is reviewed on a regular and frequent basis.

That said, life-sentenced prisoners continued to be subjected to certain anachronistic and demeaning practices, such as making them to run in the corridor in a half-squatting position or to walk bent over at the waist with their hands lifted during escorts. The Committee calls upon the Ukrainian authorities to put an immediate end to such practices.

The CPT was also concerned to note that the great majority of life-sentenced prisoners at Colony No. 100 continued to be locked up in their cells for 23 hours per day, their only out-of-cell activity being one hour of outdoor exercise which was taken on a cell-by-cell basis in small cubicles. The Committee calls upon the Ukrainian authorities to develop the regime for these prisoners, in particular by providing a range of out-of-cell communal activities. It also recommends that such prisoners be as a rule allowed to have contact with inmates from other cells.

Further, while taking note of the adoption of legal provisions which, in principle, make it possible for life-sentenced prisoners to be accommodated together with other prisoners after having served ten years of their sentence, the CPT underlines that the general rule remains the segregation of life-sentenced prisoners. It therefore recommends that the Ukrainian authorities review again the legislation with a view to completely abolishing this rule.

As regards health-care services in the colonies visited, the delegation observed major shortcomings in the procedures for recording and reporting injuries. The CPT calls upon the Ukrainian authorities to ensure that inmates are effectively entitled to prompt examinations by health-care professionals (in particular after a violent episode) and that prison health-care staff receive appropriate training and clear instructions on the recording and reporting of injuries observed on prisoners. The authorities are also called upon to put an end to the practice observed in all the colonies visited of placing prisoners inside a metal cage or in barred areas during medical consultations and to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.