

EXECUTIVE SUMMARY

In the course of the 2019 visit, the CPT's delegation reviewed the treatment and safeguards afforded to persons deprived of their liberty by the police in both Entities of Bosnia and Herzegovina, and it examined the situation of remand and sentenced prisoners at *Sarajevo*, *Mostar* and *Banja Luka* Prisons. Further, the visit was an opportunity to assess the treatment of patients at the two psychiatric establishments in Sokolac as well as of residents at the Stolac Social Care Home.

The CPT's delegation received generally good cooperation during the visit in terms of access to establishments and documentation related to persons deprived of their liberty. That said, the delegation experienced extensive delays in accessing detention areas and documentation at some police stations, notably in *Sarajevo* and *Herzegovina-Neretva* Cantons. Clearly, not all police agencies in the country had been adequately informed of the CPT's visit in advance nor, more importantly, of its mandate. The CPT trusts that appropriate action will be taken to rectify this problem.

Law enforcement

The CPT's delegation received numerous allegations of physical and psychological ill-treatment – including of a severity which, in the CPT's view, amount to torture (e.g., *falaka*, rape with a baton, mock execution with a gun) – of detained persons by law enforcement officials within the *Federation of Bosnia and Herzegovina* (FBiH). Allegations were also received of police officers having inflicted kicks, punches, slaps and blows with batons (as well as with non-standard objects such as baseball bats, wooden tiles and electrical cables) on detainees. The ill-treatment was apparently inflicted by crime inspectors with the intention of coercing suspects to confess, as well as by members of special intervention units at the time of the apprehension of criminal suspects. A number of cases of alleged ill-treatment are described in detail in the report. The situation in the *Republika Srpska* (RS) was found to have improved considerably since the previous visits in 2012 and 2015. That said, the delegation did receive a few allegations of physical and psychological ill-treatment of criminal suspects by police officers, notably in rural areas of this Entity.

The high number of credible allegations of police ill-treatment received by the CPT's delegation, in particular in relation to members of the *Sarajevo Cantonal Police*, is a source of deep concern for the Committee. The seriousness of the findings of the 2019 periodic visit require the competent authorities to take vigorous action to promote a radical change of culture within the police; physical ill-treatment of detainees must be rejected as unprofessional and unacceptable by the police themselves. Further, strict selection criteria must be adopted for the competitive recruitment of police officers, and modern methods of crime investigation, such as investigative interviewing techniques, must be introduced. Senior officers must be held accountable for the effective discharge of their line management responsibilities and a system of audio and video recording of police interviews should be introduced, as required by the domestic legislation. Further, medical examinations of criminal suspects need to be improved, both upon their admission to prison and when escorted by police officers to a civil hospital in order to obtain a medical certificate. Currently, injuries observed on detained persons are not accurately described, nor are the origins of those injuries explored. In addition, in order to guarantee medical confidentiality, all such medical examinations must be performed out of the hearing and preferably of the sight of police and prison officers. To this end, the CPT recommends that a system of visiting doctors be established to visit judicial police premises.

As regards the system of accountability, the findings of the visit demonstrate that investigations into alleged police ill-treatment cannot be considered effective, as they are not carried out promptly or thoroughly and neither can they be considered to be impartial and independent. The report is critical of the internal control unit of the *Sarajevo Cantonal Police* and of the role of prosecutors who, in a number of cases examined, had delegated all investigative acts to police inspectors from the same unit as the alleged perpetrators of the ill-treatment. Several recommendations are put forward to render the system of police complaints truly independent and to offer guidance to prosecutors tasked with carrying out effective investigations.

The report also assesses the effectiveness of the safeguards against police ill-treatment advocated by the CPT (i.e. the right of access to a lawyer and to a doctor and to have the fact of one's detention notified to a relative or a third person) in respect of persons deprived of their liberty by the police. In particular, the findings of the visit demonstrate that the right of access to a lawyer remains openly disregarded by police officials and that the right of access to a doctor remains ineffective outside of emergency care at a hospital emergency unit. Action should be taken to remedy this situation and to ensure that custody records in police establishments are accurate and fully updated. In addition, a code of conduct on police interviews should be introduced and an independent system of inspections of police establishments established.

The material conditions of detention in the police establishments visited varied. They were acceptable for short stays in the *Banja Luka* and *Sarajevo* establishments but remained totally unsuitable in other areas such as *Mostar* (poor access to natural light and ventilation, inadequate means of rest and too small for overnight stays). The CPT is once again critical of the practice of holding detained persons overnight in the offices of police crime inspectors in the RS, notably in *Banja Luka*.

Prison establishments

The CPT notes positively the efforts invested by the BIH authorities in maintaining the prison population under control both at the State and Entity levels and it requests information on the advancement of various prison building projects and regarding the appointment of senior management for the new State Prison.

As regards the two establishments visited by the delegation in the FBiH (i.e. *Sarajevo* and *Mostar* Prisons), a few credible allegations of physical ill-treatment of inmates by staff were received, which consisted notably of slaps to various parts of the body. Further, resort was being made to informal use of means of restraint and segregation measures. The CPT is again critical of the anachronistic regime imposed on remand prisoners which, at *Sarajevo Prison*, was particularly restrictive (i.e. inmates offered only 20 to 60 minutes of outdoor exercise per day in small, poorly-equipped courtyards). The situation of the six female remand prisoners was even worse; they had even less access to outdoor exercise and only irregular access to showers. The Committee calls upon the authorities to improve radically the regime on offer to remand prisoners. Further, the lack of a professional management approach in the FBiH prison system negatively impacted upon the operation of the prisons. At *Mostar Prison*, this effect was compounded by a chronic shortage of custodial officers.

In terms of prison health care, the CPT's delegation found that health-care staff still displayed a disregard for important principles of medical ethics, such as confidentiality of medical examinations. Further, the problem of abrupt discontinuation of opioid agonist treatment for drug using inmates upon their incarceration remained a cause of concern for the CPT, in particular at *Mostar Prison*. The lack of a coherent policy on the detection, prevention and treatment of transmissible and infectious diseases must also be addressed. The CPT remains critical of the ongoing control exercised by courts over the disciplinary proceedings of remand prisoners, and of the resort to informal use of restraint and punishment of prisoners displaying challenging behaviour. Recommendations are also addressed to the FBiH authorities to increase visiting and telephone entitlements of both sentenced and remand prisoners.

As regards *Banja Luka Prison* (the only prison establishment visited in the RS), the CPT notes positively that the martial approach found in the past had been replaced by a dynamic security concept, resulting in a far more positive atmosphere between staff and inmates. The conditions of detention in the establishment remained satisfactory and some minor improvements had been introduced to provide remand prisoners with additional recreational activities. In this regard, the CPT is encouraged by the commitment of the RS Minister of Justice to amend the Code of Criminal Procedure to introduce a purposeful regime for remand prisoners and to limit the far-reaching restrictions systematically imposed by courts on this category of prisoner. As for sentenced prisoners, the treatment and purposeful activities on offer to them are positively assessed in the report. In terms of the provision of health care, further efforts need to be invested in ensuring the systematic confidentiality of medical examinations of inmates and opioid agonist treatment of drug-using prisoners should not be abruptly terminated upon incarceration. The report also notes ameliorations in the recruitment and training of prison staff, a decrease in the resort to disciplinary sanctions and the reinforcement of legal safeguards for inmates placed under enhanced supervision measures.

Psychiatric institutions

The CPT's delegation visited the Special Hospital for Forensic Psychiatry in Sokolac ("forensic psychiatric hospital") and carried out a follow up visit to the Special Hospital for Psychiatry in Sokolac ("civil psychiatric hospital"). The CPT welcomes the opening of the *forensic psychiatric hospital* but seeks clarification as regards the placement of forensic psychiatric patients from various parts of the country in this facility and expresses profound reservations about the current mixing of forensic and civil psychiatric patients in this establishment. As regards the *civil psychiatric hospital*, the Committee recommends that urgent steps be taken to stabilise its financial situation.

The delegation received no credible allegations, and found no other indications, of ill-treatment of patients by staff in either of the psychiatric establishments visited. Instances of inter-patient violence were not frequent and staff intervened appropriately.

The *forensic psychiatric hospital* was located in newly-refurbished premises and the material conditions offered to patients were overall of a very good standard. However, the CPT recommends that the occupancy levels in the patients' rooms be decreased so that no room accommodates more than four patients.

In the *civil psychiatric hospital*, most of the patients' rooms on all wards were fairly cramped and the vast majority of patients were accommodated in rooms which contained between six and 15 beds. The CPT recommends that the number of patients in the rooms be decreased. In several other respects, the material conditions on the two male wards were adequate. Efforts were being made to keep the premises of the two female wards in a satisfactory state of repair and cleanliness. However, the CPT recommends that the patients' rooms be suitably decorated and equipped with bedside tables and that the shortcomings in the toilets and shower rooms be remedied.

Patients from the rehabilitation wards had free access to the park surrounding the hospital. However, it is a matter of serious concern that both male and female acute patients were still offered their daily outdoor exercise in small cage-like areas. The CPT once again calls upon the authorities to review these arrangements.

All patients' rooms in the forensic psychiatric hospital and all rooms on the newly-refurbished acute male ward of the civil psychiatric hospital were equipped with CCTV cameras. The CPT points out that it is opposed to the routine and systematic installation and use of CCTV cameras in patients' rooms.

As regards the treatment of psychiatric patients, the CPT notes the efforts in both establishments to start drawing up individual treatment plans and also that the majority of patients from the rehabilitation wards in the civil psychiatric hospital were involved in an organised activity. However, it remained the case that the treatment of patients on the acute wards in that establishment was based almost exclusively on pharmacotherapy. In the *forensic psychiatric hospital*, only slightly more than half of the patients were involved in an activity. The CPT makes several recommendations on the treatment of patients, in particular that the programme of psychosocial rehabilitative activities should be further developed and that individual treatment plans should be drawn up for all patients.

As for the staffing situation, the CPT recommends that the occupational therapy unit in the *forensic psychiatric hospital* be reinforced and that the role of psychologists be reviewed. Further, the Committee considers that it would be desirable to increase the psychiatric input. In addition, it is a matter of serious concern to the Committee that judicial police officers at the entrance to the expertise ward were equipped with firearms; the Committee recommends that this practice be terminated.

Upon their admission to the forensic psychiatric hospital and then routinely two or three times per month, all patients (whether civil involuntary or forensic) were strip-searched by health-care staff. The CPT recommends that these arrangements be reviewed.

In the *civil psychiatric hospital*, staffing levels of various categories of staff were clearly insufficient and the CPT recommends that the staff resources be reviewed.

In both establishments, the use of means of restraint was ordered by a medical doctor and did not appear to be excessive. However, the use of chemical restraint was not recorded in a dedicated register. Moreover, in the civil psychiatric hospital, patients were routinely restrained in full view of other patients, were not under constant supervision by a member of the health-care staff and fellow patients were sometimes allowed to help staff restraining other patients. In the report, the CPT sets out the key principles which should be respected when resort is had to means of restraint and recommends that they be effectively implemented in practice.

As regards legal safeguards accompanying the civil involuntary placement in a psychiatric establishment, the CPT notes that patients were as a rule not heard in person by the court and were not able to consult with their lawyers about their case. Moreover, as was the case in the past, the statutory time limits were not always fully respected in practice. These shortcomings should be remedied.

Further, the Committee notes that in the *civil psychiatric hospital*, while all patients were formally regarded as voluntary, a number of them were *de facto* deprived of their liberty. The involuntary civil placement procedure should be fully applied to these patients. Recommendations are also made to reinforce the practical operation of safeguards accompanying consent to treatment requested from patients.

Social welfare establishments

During the visit to the Stolac Social Care Home, the delegation received no credible allegations of ill-treatment of residents by staff. Episodes of inter-resident violence occurred occasionally. If staff saw these conflicts, they intervened immediately and adequately. However, due to the low staffing levels in the establishment, the staff were not always aware of all the conflicts taking place.

Overall, the material conditions offered to residents were adequate. That said, the delegation noted some signs of wear and tear and damage and the premises were rather austere and impersonal. Moreover, several rooms were not adequately equipped and residents were only given a spoon with which to eat their meals. Recommendations are made to remedy these shortcomings. On a positive note, as regards access to fresh air, throughout the day residents could go freely outside to the large courtyard between the accommodation buildings.

The staffing levels in the establishment were low and the presence of staff in each shift only allowed them to take care of the basic needs of the residents. The CPT recommends that the staffing levels of the various categories of staff be reviewed and increased.

The CPT notes positively that the team responsible for the provision of psycho-social rehabilitative activities strove to draw up care plans for the residents and that approximately half of the residents participated, to a varying degree, in an organised activity. However, for at least half of the residents, there was no organised activity and for some others, the offer was rather limited. The CPT recommends that, in particular, the offer of psychosocial rehabilitative activities should be further developed.

The use of means of restraint was very rare. However, the CPT recommends that every resort to means of restraint should be recorded in a dedicated register, residents should not be restrained in view of other residents and they should be under the continuous supervision by a qualified member of staff throughout the duration of the measure.

As regards the legal safeguards accompanying the placement of residents in social care homes, the CPT notes that all residents were formally regarded as voluntary. However, some of them were *de facto* deprived of their liberty and there was still no procedure through which they could challenge the lawfulness of their placement in the establishment before a court. The CPT recommends that the authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents in social care homes, in the light of the detailed remarks set out in the report.