



A decency threshold for prisons – criteria for assessing conditions of detention

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Introduction

63. 2020 will forever be remembered as the year the Covid-19 pandemic wrought havoc across the globe, including in the lives of persons deprived of their liberty and their families. Elsewhere in this General Report, the CPT sets out the basic principles that must be respected in order to protect the human rights of all persons living in places of detention during the ongoing pandemic.¹ The undeniable need to take firm action to combat Covid-19 must never result in inhuman or degrading treatment of persons deprived of their liberty.

The CPT also perceives the pandemic as playing out within a pre-existing longer-term budgetary crisis in the prison systems of several Council of Europe member States. During its prison visits in recent years, the Committee has increasingly found that significant cuts have been made in the basic essentials needed for prisoners to maintain a dignified life. Lowering prison food or heating budgets inevitably impacts negatively on prisoners' quality of life. If reductions of this nature occur at the same time as developments such as increasing prisoner admissions (most notably of those with long sentences), as well as a reduction of visits and activities and a lack of work opportunities, the cumulative effect is to impinge significantly on the basic right of prisoners to live a safe, humane, healthy and dignified life while deprived of their liberty.

64. Having regard to the likely longer-term economic impact of the Covid-19 pandemic, the CPT is concerned that the negative effects upon prisoners of pre-existing austerity measures may become exacerbated by even deeper budgetary restrictions. If this happens, it will be experienced most acutely by very poor and vulnerable prisoners, who constitute a significant proportion of the prison population throughout the Council of Europe region.

The CPT has seen that poverty among prisoners can be heightened by austerity policies; the scarcer or more expensive items become in a prison, the greater the likelihood that this will create or exacerbate inequalities among the inmate population and potentially impair their future welfare. Those without an income from families or outside sources are completely dependent on prison incomes, often at very low wages. Income disparities can foster bullying, as can debt, as well as other situations conducive to inter-prisoner intimidation or violence. Equally, very low incomes for

¹ See the CPT's Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (Covid-19) pandemic of 20 March 2020 (set out in Appendix 8) and the Follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing Covid-19 pandemic of 9 July 2020 (set out in Appendix 9).

prisoners may mean that they simply cannot afford the bare essentials such as keeping in contact with their families by telephone, the ability to make small purchases, such as additional food, from the prison shop or even to buy stamps, letter writing materials or reading materials. Depriving prisoners of this small degree of personal autonomy can have adverse psychological and physical consequences and impair their prospects of reintegrating into society. This is particularly the case when families also suffer from poverty and are not in a position to be able to help their imprisoned family-members.

In several Council of Europe member States, the CPT has seen the results of prison austerity policies affecting prison budgets and numbers and availability of staff. This, in turn, has a direct impact on the reduction of prisoners' regimes of activities, access to work and time outside of their cells and outdoors. Fewer staff to accompany and supervise prisoner movements around the prison has led to rotational lock-downs and prisoners spending more time locked in cells and missing activity slots or work, as well as having their time outdoors reduced (see paragraph 80). The CPT has seen examples where this has led to prisoners being left for over 21 hours per day with very little to structure their day, which in turn has fostered boredom, frustration and even violence, as well as having an adverse impact on their mental health.

65. Consequently, the Committee has decided to devote the substantive chapter of this year's General Report to setting out what it regards as the basic requirements to enable prisoners to live decently in a prison, and to describing some of the benchmarks that it uses to monitor whether or not those requirements are being met. In so doing, the CPT recognises that certain of the fundamental social and economic rights of detained persons are indivisible from their right to be treated humanely, as is required by Article 3 of the European Convention on Human Rights.

The CPT hopes that, by setting out these criteria for a decency threshold that should be respected in all prisons at all times, it may assist member States to develop policies to mitigate the worst effects of austerity measures on prisoners.

66. The criteria in the following section have been developed in relation to prison settings, but could be considered of relevance *mutatis mutandis* in a variety of other places of detention. This is a subject to which the CPT intends to return in greater detail during the years to come.

The essential components of a decency threshold in prison settings

67. During its prison monitoring work over the last three decades, the CPT has identified the essential elements that are necessary to maintain humane living conditions for prisoners.

In many of its visit reports, the Committee has highlighted the failure to meet the basic needs of prisoners in individual establishments. However, it wishes here to emphasise that, in the CPT's view, the following elements constitute a decency threshold that must be maintained in every prison in every Council of Europe member State.

The failure to reach a minimum decency threshold can lead to situations in which prisoners are exposed to inhuman and degrading treatment.

68. The Committee considers that all persons deprived of their liberty in prisons should be provided, at minimum, with:

- ready access to sufficient clean drinking water;
- adequate food: both in quantity and nutritional value;
- decent sleeping and living conditions and the means to keep clean: proper sanitation, including toilet and shower facilities, washing water, cleaning products, laundry, personal hygiene products;
- effective access to, and fair remuneration for, work; ready access to other activities; and
- regular possibilities to remain in contact with the outside world.

Moreover, it is axiomatic that all prisoners must have ready access to adequate health-care services free-of-charge, without discrimination on the grounds of their legal status, and on an equivalent basis to those available in the outside community.²

In the following section, the CPT sets out the manner in which it monitors compliance with this minimum decency threshold and provides more detailed guidance on the benchmarks that indicate whether or not that threshold has been reached and is being maintained.

Monitoring compliance with a decency threshold

Ready access to sufficient clean drinking water

69. In a number of countries, the CPT has found prisoners being held without ready access to sufficient quantities of clean drinking water.

For example, the Committee has encountered prisoners, including those serving life sentences, held in cells in which the water supply is only turned on for a few hours every day. In other establishments, some cells have been found to have no water supply or the tap water available has been unfit for human consumption.

In certain establishments without proper drinking water supplies, CPT delegations have encountered the practice of obliging prisoners to pay for bottled water from their own meagre funds, obliging them to choose between obtaining water and securing other basic essentials not provided in prison.

It is regrettable that it remains necessary for the CPT to emphasise that all prisoners should have continuous access, in their cells, to sufficient quantities of free and clean drinking water.

² See the CPT's longstanding standards on "Health care services in prisons", document CPT/Inf(93)12-part, available in 25 languages at: <https://www.coe.int/en/web/cpt/prison-health-care>. During the current pandemic, it is also essential that there be adequate measures to protect and prevent the spread of Covid-19; see the CPT's Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (Covid-19) pandemic of 20 March 2020 and Follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing Covid-19 pandemic of 9 July 2020.

Adequate food: both in quantity and nutritional value

70. The CPT monitors whether all prisoners are provided, without cost, with three adequately nutritious and sufficiently calorific meals a day, at least one of which is hot.

This is still not always the case in every Council of Europe member State. Examples of prisoners being provided with insufficient quantities of food and/or with food of inadequate nutritional value can be found in a number of the CPT's visit reports. It also remains the case that, in certain Council of Europe member States, the religious and/or medically required dietary needs of prisoners are not properly taken into account. In extreme cases, this can result in prisoners being presented with the choice of eating food that is forbidden by their religion, or going hungry. Moreover, the health of those with pre-existing medical conditions (e.g., diabetics, those suffering from food allergies, etc.) may be compromised if their dietary needs are not met.

Equally, the CPT examines the manner and circumstances in which food is served to prisoners. Even when food is sufficient in quantity and of adequate quality, the Committee has encountered it being served in a manner that is unsanitary and undignified (for example, from a bucket on the floor), leading some prisoners to refuse to eat it. The CPT has also seen instances where prisoners are obliged to eat their meals on their beds in multi-occupancy rooms beside open, unscreened, often filthy toilets and in severely cramped conditions. Aside from being unsanitary, such situations also facilitate vermin infestations (see paragraph 75). All prisoners should be able to eat in hygienic conditions.

71. The CPT considers that a wide variety of foods should be made available in the right proportions to enable prisoners to maintain an adequately nutritious, sufficiently calorific and well-balanced diet, as well as access to plenty of fluids.³

Prison menus should also include options for religious, cultural or medically required dietary needs. Specially adapted food should be available for elderly prisoners who may have difficulty chewing and digesting. Detained minors, young adults and pregnant and breast-feeding women prisoners should be provided with additional food to meet their particular nutritional needs.

Decent conditions and cleanliness

72. The CPT has developed long-standing and detailed standards on decent sleeping and living conditions,⁴ which it is unnecessary to repeat here. Suffice it to say that all prisoners must have their own bed, personal locker, a living space with appropriate furniture, and benefit from heating, artificial and natural light, ventilation and access to fresh air, as well as from sufficient personal living space.

³ See also Rule 22. 2 of the European Prison Rules, Recommendation Rec (2006)2-rev of the Committee of Ministers to member States on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006, and revised by the Committee of Ministers on 1 July 2020), “the requirements of a nutritious diet, including its minimum energy and protein content, shall be prescribed in national law”.

⁴ For full details, see: <https://www.coe.int/en/web/cpt/standards#prisons>.

73. To reach a decency threshold, all prisoners must also be provided with the means to keep themselves clean, including ready access to a clean fully-functioning toilet, proper sanitation, warm washing water, shower (if possible on a daily basis, but at least twice a week),⁵ cleaning products, laundry facilities and personal hygiene products.

However, it remains the case that CPT delegations encounter examples of prisoners being deprived of toilet paper if they cannot pay for it, and women prisoners not being issued with sanitary pads and tampons.

Prisoners should be systematically provided with sufficient supplies of basic personal hygiene products free of charge upon admission and on a regular basis thereafter. Particular attention must be paid to the specific sanitary needs of women and girls.

74. Not only should each prisoner have a bed, clean pillow, blanket and mattress, but they should also be provided with a clean mattress of reasonable quality and durability; mattresses should be changed if irreparably damaged and at least every few years. All too often, the CPT still finds old, bed-bug-ridden, thin, torn, stained foam mattresses in places of detention. The bedsheets and pillowcases of prisoners should also be changed for clean bedclothes at sufficiently frequent intervals (at least twice a month). Every newly-arrived prisoner should receive a complete set of clean bedclothes.

Prisoners should be supplied with, or allowed to retain, a sufficient amount of clothing. The prison should supply indigent prisoners with clean clothing appropriate to seasonal weather conditions. Prisoners should be provided with several sets of underwear which are personal to them; these should be washed and returned to them regularly so that they have a clean set of underwear at frequent intervals (i.e., more than once a week).

75. The CPT has encountered extremely unsanitary conditions in many prisons in Council of Europe member States, including rats, cockroaches, vermin, bedbugs, lice infestations in prisoners' cells, on their clothes, hair and beds.

The necessary cleaning products should be made available, free of charge, to allow prisoners to maintain their own cells in a clean and hygienic state.

Effective access to, and fair remuneration for, work, as well as ready access to other activities

76. A satisfactory programme of purposeful activities (work, education, sport, training, etc.) is of crucial importance for the well-being of prisoners.

Fairly remunerated work and/or paid vocational training should be available for all prisoners, to enable them to maintain some structure and meaning in their days and in order that they can afford the basics of a decent and humane existence in prison, which are not already provided by the prison. This includes, *inter alia*, telephone credit to call home at regular intervals, correspondence materials, and the ability to purchase additional food and other prison-shop products, or to save their earnings, thereby conserving some degree of personal autonomy.

⁵ See also Rule 19.4 of the European Prison Rules: "adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene".

77. All unemployed prisoners and prisoners of retirement age should also be placed in a position to meet their basic needs. Some prisoners may have adequate pensions; however, those with insufficient incomes should receive additional financial assistance in prison to enable them to purchase basic items (such as those mentioned previously, cf. paragraph 64) that are not provided free of charge by the prison authorities.

78. The CPT also takes into account whether the prices of products purchasable by prisoners exceed retail prices with the result that basic items remain unaffordable to those without private means or outside support.

79. While a minimum wage in prisons has yet to be established across the Council of Europe region, the CPT considers that prisoners should have the right to fair remuneration to encourage them to work, to help them finance their lives in prison in a decent manner, to keep them purposefully occupied and, ultimately, to prepare them for release and reduce recidivism. In the case of any mandatory financial deductions and contributions (e.g., to electricity costs, social insurance or living expenses), these should not disproportionately diminish a prisoner's net income from work, education, training or welfare benefits.

To achieve this, and as a desirable guideline, the CPT invites member States of the Council of Europe that have not yet done so to consider introducing a fair minimum prison wage. This could be inflation adjusted/index-linked and should constitute an adequate amount to allow all prisoners to afford basic items in the prison shop catalogue, which should itself reflect, at a maximum, external retail prices.

80. The CPT has repeatedly emphasised that all prisoners⁶ must benefit from a minimum of access to one hour's daily outdoor exercise and/or time in the open air, and two hours in the case of juvenile inmates. This remains a fundamental right for all prisoners, including during the Covid-19 pandemic.⁷

As regards time out of cell more generally, the CPT recalls that the goal should be to provide prisoners with at least 8 hours out of their cells engaged in purposeful activities.

Regular possibilities to remain in contact with the outside world

81. The CPT greatly welcomes the increasing availability of in-cell telephones and secure prison mobile phones, as well as internet-based solutions to enable prisoners to maintain their family relations and contact with the outside world. These innovations usefully supplement existing landline telephones located in communal areas. The CPT underlines that all prisoners should have ready and regular access to affordable means to stay in contact with the outside world.

⁶ Including prisoners held under all types of regimes (protection, removal from association, disciplinary, separation, etc.). Equally, those prisoners separated from the general prisoner population should be ensured at least 2 hours of meaningful human contact each day, irrespective of the regime under which they are held.

⁷ See Principle 7 of the CPT's Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, of 20 March 2020.

However, in a number of Council of Europe member States, it has found that the pricing of these services (usually provided by outside contractors) can render them unaffordable to prisoners without private means or outside support. For example, in one particular member State, it is currently impossible for a prisoner earning the standard prison wage to afford the deposit for a secure prison mobile phone, let alone the call charges. As a result, maintaining regular contact with the outside world has become a privilege of the better-off prisoner.

Prison administrations should ensure that all prisoners have the right to regular visits and are able to afford, on the basis of their prison wages/income, to call their family at regular intervals. Telephone call charges should not exceed those in the outside community; extra allowances or subsidies may need to be made available to those with inadequate incomes, including indigent, unemployed or retired prisoners.

Particular attention should also be paid to persons who do not receive frequent visits (including those whose families live far away and foreign nationals) for whom maintaining regular contact with the outside world by telephone or internet-based solutions has particular importance. In this regard, the CPT has been pleased to observe, in a number of Council of Europe member States, that additional financial support and/or assistance with transport is provided to families who cannot afford to travel to visit prisoners held far from their homes; this constitutes good practice.