

EXECUTIVE SUMMARY

In the course of its fifth periodic visit to Serbia, the CPT's delegation examined the treatment and safeguards afforded to persons detained by law enforcement agencies. It also looked into the treatment and conditions of detention of persons held in three prison establishments, both on remand and sentenced. A further focus of the visit was the treatment of and living conditions for psychiatric patients under civil and forensic measures and residents of social care homes. Further, the delegation assessed the impact of the measures taken to prevent the spread of Covid-19 in these establishments.

The co-operation received during the visit by the CPT's delegation was very good. However, more effective action should be taken by the Serbian authorities to implement the Committee's recommendations as regards combatting ill-treatment by police officers. There is also the need to accelerate the implementation of the nascent reforms regarding the treatment of persons held in remand detention. The Committee's recommendations in relation to the legal safeguards of patients hospitalised or treated against their will in psychiatric hospitals and in social care homes, should also be addressed.

Police

The CPT's delegation once again received a significant number of credible and consistent allegations of torture and other forms of ill-treatment of detained persons by police officers. The alleged ill-treatment consisted of slaps, punches, kicks and truncheon blows as well as the application of electroshocks by hand-held devices and electric cables connected to a car battery and placing persons in stress positions during interrogations. The allegations were supported, in particular, by documentation examined at police establishments and of detailed injury reports recorded by prison health care staff.

While recognising the efforts of the Serbian authorities to tackle police ill-treatment, the CPT recommends that a series of more resolute measures be adopted including: a formal statement at the highest political level on zero tolerance towards police misconduct; targeted training activities on issues such as the practical aspects of the prevention of ill-treatment; and the introduction of an investigative interviewing approach of criminal suspects. Further, a more stringent oversight of the *modus operandi* of police inspectors of the Belgrade anti-narcotic police department is imperative. The mandatory audio and video recording of all police interviews should also be introduced.

The effectiveness of investigations carried out into allegations of police ill-treatment was examined to ascertain the progress made since the CPT's 2017 visit. An analysis of numerous investigative files revealed that in too many instances, prosecutorial investigations into possible violations of Articles 136 and 137 of the Criminal Code failed to comply with the criteria of effectiveness as set out in the Methodology on the Investigation of Cases of Ill-Treatment adopted by the Serbian authorities in 2018. The CPT considers that Articles 136 and 137 of the Criminal Code should be amended in line with Article 1 of the United Nations Convention against Torture. Further, the CPT recommends that prosecutors and police oversight mechanisms, when carrying out investigations into cases of alleged ill-treatment be more thorough, comprehensive, and expeditious. All prosecutors and investigators should be trained on the Methodology on the Investigation of Cases of Ill-Treatment. The CPT also raises concerns over the leniency of sentences imposed by courts on police officers convicted of ill-treatment.

As regards safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and a doctor), most detained persons interviewed by the delegation indicated that a relative or another trusted person was notified shortly after their apprehension. However, action is required to guarantee the right of access to a lawyer as from the very outset of detention and for detained persons to speak in private with their lawyer. Steps should also be taken to ensure that medical examinations are always conducted out of the hearing of police officers, visible injuries observed on detained persons accurately recorded in the relevant minutes on detention and that all persons are fully informed of their rights as from the very outset of their deprivation of liberty. Further, custody records should be diligently filled out and a code of conduct on interviews by the police adopted, together with stricter reporting requirements on the use of means of coercion by police officers.

The CPT notes positively the improvements in the conditions of the detention facilities, notably in the Belgrade area, and the rolling plan for refurbishment of all police custody areas.

Prisons

The CPT welcomes the measures taken by the Serbian authorities to reduce prison overcrowding and to upgrade the prison estate, including through the construction of new prisons or new pavilions within existing establishments. The new Pančevo Correctional Institution stands out as a model prison in terms of design and material conditions. That said, local overcrowding and poor conditions of detention consisting of cramped, dilapidated and unhygienic cells while sanitary facilities remained visible in certain parts of Belgrade District Prison and Požarevac Correctional Institution. The Serbian authorities should remedy these deficiencies and accelerate their refurbishment programme.

As regards the recent legislation introducing the sentence of life imprisonment without parole, the CPT recommends that it be amended to permit all persons sentenced to life imprisonment to be offered the hope of being granted conditional release, in line with the case-law of the European Court of Human Rights and the Committee's long-held views on this matter.

Most prisoners stated that they were treated correctly by prison officers. However, a few allegations of physical ill-treatment and excessive use of force by staff against prisoners were received at Pančevo and Požarevac Correctional Institutions. The authorities should ensure that prison staff strictly comply with the basic principles on the use of means of restraint and that all use of force is fully documented and subject to rigorous oversight.

Inter-prisoner violence and intimidation remains widespread, and the Serbian authorities should elaborate an effective national strategy to tackle this phenomenon, which should include addressing the impoverished regime on offer to prisoners and understaffing as well as the growing trade in psychoactive substances.

The CPT is once again critical of the impoverished regime on offer to remand prisoners. Recent steps taken at Pančevo Correctional Institution to involve remand prisoners in a remunerated activity and to offer them sport in the gym on a regular basis should be expanded and extended to all prisons. As regards sentenced prisoners, the report notes the efforts invested to enlarge the offer of purposeful activities and to develop an individualised approach towards their treatment as well as a more equitable system of prisoner classification. That said, action should be taken to remedy the absence of rehabilitation activities for prisoners serving long-sentences, notably those accommodated at Pavilion VII of Požarevac Correctional Institution where a lack of activities results in them being unable to progress in their regime classification.

At the Special Regime Detention Unit of Požarevac Correctional Institution, the CPT noted improvements as regards the professional attitude of staff, a more relaxed atmosphere and better equipped communal facilities. However, a wider range of purposeful activities of a rehabilitative nature should be offered. Further, visiting and telephone entitlements for prisoners should be increased. The CPT also considers that the renewal of the placement in the special regime should be better reasoned and contain additional safeguards.

The CPT noted an improvement in the provision of health care in prisons, notably as regards adequate conditions in the infirmaries, satisfactory staffing levels and better recording of injuries upon admission to prison. Nevertheless, certain longstanding shortcomings require attention such as the lack of a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (easier initiation of substitution therapy, access to psycho-social rehabilitation activities and harm reduction programmes) and difficulties in accessing specialised treatment for prisoners with transmissible diseases. Health care staff should also stop collecting urine samples for drug screening from prisoners at the request of custodial officers.

The report also addresses the professionalisation of prison management. Further, recommendations are made to improve the regime and the review process for the placement of prisoners under an enhanced supervision measure, to reduce the maximum duration of solitary confinement for disciplinary offences to no more than 14 days and to increase both the visit entitlements for sentenced prisoners and the legal provision for access to the telephone for remand prisoners. Finally, the CPT notes the new competences of the supervisory judge to visit prison establishments and to speak with prisoners in private and it reiterates the importance of supervisory judges being an impartial and independent oversight of prison practices.

As regards the Special Prison Hospital Belgrade, the CPT noted that while most patients spoke positively of the staff, some allegations of excessive use of force were received in the context of the use of mechanical restraints. Further, while inter-patient violence had decreased since 2015, the continuing lack of privacy and overcrowding led to tensions and occasionally to some violence. Indeed, urgent measures should be taken to reduce the number of patients at the hospital, to decongest the crammed dormitories and to improve the material conditions, notably the dilapidated and filthy communal bathrooms.

Access to fresh air is essential for the well-being and mental health of patients and yet it was not even being offered daily to patients. The CPT considers that all patients should benefit from unrestricted access during the day to outdoor exercise.

As regards treatment, the CPT again urges that an individual treatment plan be drafted for each patient, with their involvement, which should be reviewed and updated on a regular basis. There is also a need to make further efforts to develop the range of psycho-social activities for psychiatric patients, including occupational therapy. While efforts had been made to reduce the use of seclusion and fixation, there is still a need for the Prison Hospital to revise the written guidelines and practice on the application of mechanical restraint in line with CPT criteria.

The CPT found that three minors (two boys and a girl) were being held with unrelated adults in large dormitories and provided with no specific support or attention by staff. Measures should be taken to ensure that minors are no longer held with adults and that they are provided with a regime and treatment in line with their age and needs.

Psychiatric establishments

Most patients met spoke positively about the staff. Nevertheless, a few allegations of physical ill-treatment and verbal insults by staff were received at both the Laza Lazarević Psychiatric Clinic and the Bakalović Special Psychiatric Hospital.

Living conditions were generally decent at Laza Lazarević whereas at Bakalović they were more variable with certain wards requiring urgent measures to upgrade the sanitary facilities. Efforts also need to be made to enable patients to personalise their environment and to provide them with a modicum of privacy. At the Laza Lazarević Belgrade site, patients should be allowed to wear their own clothes and be provided with daily access to an outdoor area.

As regards treatment, pharmacotherapy was of good a standard but, following the restrictions of the Covid-19 pandemic, there is a need to develop a range of therapeutic options and involve long-term patients in rehabilitative psycho-social activities, in order to prepare them for independent life or a return to their families. Patients should have unlimited access to fresh air at both hospitals. In respect of staff, the number of nurses and auxiliaries should be increased at Bakalović Hospital to ensure a greater presence on the wards during the day, and more resources should be invested into the provision of initial and ongoing training for staff.

With regard to means of restraint, there is a need to review the written guidelines and practices regarding the use of mechanical restraint in accordance with the criteria set out by the CPT to ensure that patients are not fixated in front of other patients and that the measure is appropriately recorded, limited in time, properly supervised and applied by trained staff.

The CPT puts forward a series of measures that the Serbian authorities should take to reinforce the safeguards surrounding the placement and consent to treatment of involuntary psychiatric patients. It also considers that effective measures should be taken to set up appropriate structures in the outside community for patients who no longer require hospitalisation.

Social care institutions

At the outset, the CPT stresses that a large-capacity establishment isolated from the local community, such as the Home for mentally impaired adults in Kulina, should be taken out of service as soon as smaller facilities can be made available for the residents. More generally, resolute steps to reorganise the social care system and to develop appropriate solutions in the community must be taken.

On a positive note, residents at both Kulina and the Home for Children and Youth “Duško Radović” in Niš, spoke positively of staff and staff displayed a caring attitude.

Living conditions at Radović Home were of a decent standard and pleasant. The two renovated wards at Kulina Home were similarly good whereas the standard of hygiene, state of repair and furnishings in the other wards, notably the Women 2 and Men 1 Wards, were appalling and in need of urgent refurbishment. Activities at both Homes should be enhanced, and residents should have an individualised programme of rehabilitative activities. Access to fresh air for all residents should be improved, including for those residents with physical impairments.

The safeguards surrounding the placement of residents and the operation of the guardianship system remain deficient. Action is required to ensure that placement decisions in care homes are subject to regular court reviews and deprivation of legal capacity procedures should be strengthened in favour of the person concerned.