

EXECUTIVE SUMMARY

During the 2021 periodic visit to Austria, the CPT's delegation examined the treatment and conditions of detention of persons held in several police establishments and prisons, as well as of persons in detention pending deportation (*Schubhaft*). It also paid particular attention to the situation of persons subjected to the court-ordered measure of involuntary forensic placement (*Massnahmenvollzug*). The cooperation received by the delegation during the visit was very good. The CPT welcomes the fact that the issue of access for its delegation to medical files in prisons, which was initially conditioned by the express consent of the prisoners concerned, was resolved during the visit.

Police custody

While the vast majority of persons interviewed by the delegation during the visit made no allegations of ill-treatment by police officers, the delegation did receive a few complaints of excessively tight handcuffing and of verbal abuse by police officers. Further, the Committee once again expresses doubts as to whether investigations into allegations of police ill-treatment carried out by officers of the regional office of criminal investigation can be seen to be fully independent and impartial and it requests information on the setting up of an independent complaints authority.

The delegation gained a generally positive impression of the practical implementation of the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), and notes the improvements achieved since the last visit. However, a few allegations were heard that the provision of written information to detained persons on their rights had been delayed by police officers for several hours or that they had been informed of their rights only verbally. Further, while detained persons continued to be systematically informed of the possibility of having a telephone conversation with a lawyer free of charge, the presence of a lawyer during police questioning free of charge is still not available to all adult detained persons who cannot afford to pay for a lawyer themselves. Some deficiencies were also observed during the visit with respect to custody registers.

Conditions of detention in the police establishments visited generally remained adequate but the CPT recommends that all persons held in police custody for 24 hours or more are, as far as possible, offered outdoor exercise on a daily basis.

Detention pending deportation (Schubhaft)

The delegation carried out a follow-up visit to the police detention centre (*Polizeianhaltezentrum* - PAZ) at Vienna-Hernalser Gürtel. With one exception, it received no allegations of ill-treatment by staff at the PAZ Vienna-Hernalser Gürtel.

That said, the CPT expresses its concern that, compared to 2014, the overall material conditions at the PAZ have significantly deteriorated. Whilst acknowledging that the communal showers had been refurbished and were thus in an acceptable state of repair and cleanliness, most parts of the accommodation and communal areas were in an appalling state of repair with corridors, cells and their sanitary annexes dilapidated and dirty. More generally, the material environment at the PAZ was very carceral and oppressive, with heavy iron doors, barred windows and barred gate partitions between the units. In the CPT's view, such conditions are not suitable for holding foreign nationals in *Schubhaft* for prolonged periods.

The CPT welcomes the fact that, according to a new Ministry of the Interior Instruction (*Erlass*), the open regime (*offene Station*) shall be the default regime for immigration detention, with cell doors being unlocked during the day. However, following the emergence of a number of Covid-19 cases at the PAZ Hernalser Gürtel, the open regime had been temporarily suspended shortly before the visit. Thus, cell doors were usually opened only for a maximum of one hour and 45 minutes per day. For the rest of the time, detainees were locked in their cells, in groups of up to eight persons, their only occupation being to watch television or reading. Many foreign nationals interviewed by the delegation were clearly very distressed by this situation. The CPT recommends that the Austrian authorities fully implement as soon as possible the open regime at the PAZ Hernalser Gürtel.

As regards health care, it remained the case that several uniformed police officers with basic first-aid training were assigned to the medical unit as orderlies (*Sanitätsbeamte*) to carry out the work which would normally be performed by a nurse. The CPT recommends once again that this practice be discontinued and that regular visits by a qualified nurse be arranged.

Further, the CPT expresses concern about the fact that the PAZ Hernalser Gürtel was chronically understaffed and that police officers assigned to the PAZ had not benefited from specific training for working with immigration detainees. As a result, communication between staff and detainees was generally reduced to the absolute minimum and the overall atmosphere was characterised by a high level of mutual distrust.

Detailed remarks and recommendations are also made in the report regarding the use of security cells (including padded cells), contact with the outside world and the provision of information provided to foreign nationals. In particular, the CPT recommends that, whenever foreign nationals are held in a security cell, they be regularly provided with meaningful human contact and offered daily access to an outdoor area for at least one hour.

Prisons

The delegation visited for the first time Leoben Prison and carried out a follow-up visit to Innsbruck Prison. It also carried out a targeted visit to Vienna-Josefstadt Prison, where it focused on the situation of remand prisoners (including juveniles).

Although the delegation received no allegations of physical ill-treatment of prisoners by staff, a few allegations of verbal abuse, including of a racist and/or xenophobic nature, were heard at Innsbruck and Vienna-Josefstadt Prisons. Inter-prisoner violence did not appear to be a major problem in the three establishments visited.

The CPT is positive about material conditions at Innsbruck and Leoben Prisons. At Vienna-Josefstadt Prison, efforts were being made to keep the premises clean and in a good state of repair and cells were in principle sufficient in size for their occupancy. However, signs of wear and tear were visible in virtually all cells seen by the delegation and the CPT requests up-to-date information on the implementation of the plans to refurbish the establishment.

At Innsbruck and Leoben Prisons, the regime activities offered to adult sentenced prisoners who worked were reasonably good in general, and the delegation also gained a very good impression of the regime activities provided to juveniles in all three establishments visited. In contrast, the regime offered to the vast majority of remand prisoners in the three establishments visited (as well as to sentenced men held

at Leoben and Innsbruck Prisons who did not work) was very poor. The inmates concerned were locked up in their cells for up to 23 hours per day, which is not acceptable.

An issue closely related to the impoverished regime for a number of inmates are staffing levels and shift patterns for prison officers – it remained the case that the “night-shift” of prison officers usually started at 3 p.m., the result being that there was a limited offer of regime activities in the afternoon and during weekends and that most prisoners were locked up in their cells until the following morning. The CPT recommends once again that the authorities improve the programme of activities offered to prisoners in the three establishments visited. Further, the Committee calls upon the Austrian authorities to carry out a complete overhaul of the staffing situation and staff shift pattern.

In many respects, the arrangements concerning the provision of health care to prisoners were satisfactory. However, the staffing levels of medical doctors and nurses were insufficient in all three establishments visited and the situation was further exacerbated by the existing vacancies. This also concerned the psychiatric input which was insufficient to adequately meet the needs of a high number of prisoners with mental health disorders. Moreover, access to hospitalisation in psychiatric settings of prisoners with severe mental health problems appeared to be very difficult.

At Leoben and Vienna Prisons, various health-related tasks which are normally reserved for qualified nurses were performed by prison officers with basic health-care training. While these practices are understandable given the low numbers of health-care staff described above, they clearly constitute a breach of medical confidentiality and compromise the perception of the professional independence of prison health-care staff; the CPT recommends that the authorities initiate a process of abolishing this practice.

In all the establishments visited, newly-arrived prisoners were systematically medically screened on admission. However, at Leoben Prison, given that no health-care staff was present between Friday afternoon and Monday morning, the medical screening of prisoners admitted to the establishment during that period was delayed until Monday. The CPT recommends that all newly-arrived prisoners systematically undergo a comprehensive medical examination by a health-care professional within 24 hours of their admission.

In the report, remarks and recommendations are also made concerning various other issues, notably admission and complaints procedures, prisoners’ contact with the outside world, security-related issues, and discipline.

Forensic and civil psychiatric establishments

The delegation visited Göllersdorf Prison and the Forensic Department of the Regional Hospital Mauer, and paid a follow-up visit to the forensic units of Stein Prison, in order to examine the situation of persons who were subjected to the court-ordered measure of forensic placement (*Maßnahmen-vollzug*). At Mauer Regional Hospital, the delegation further paid a targeted visit to the Adult Psychiatry Department and to the Department for Child and Adolescent Psychiatry and Psychotherapy, in order to review the situation of adult and minor patients subjected to means of restraint, as well as recourse to involuntary medical treatment in respect of adult patients.

The delegation heard no allegations of deliberate ill-treatment by staff in any of the three establishments visited. On the contrary, many patients spoke favourably of staff, in particular at Mauer Regional Hospital. Further, inter-patient violence did not appear to be a major problem in any of the establishments visited.

Material conditions at Mauer Forensic Hospital Department were excellent and clearly non-carceral and could serve as a model for other secure psychiatric establishments. In contrast, the overall atmosphere at Stein Prison, and (to a lesser extent) also at Göllersdorf Prison, was austere and carceral with prison-like iron cell doors in the accommodation corridors at Stein Prison and at the acute unit of Göllersdorf Prison. Such conditions are clearly not conducive to the creation of a therapeutic environment for patients with a mental disorder.

As regards staff, it is positive, that, at Göllersdorf Prison, doctors were present around the clock, but the number of psychiatrists, nurses and special educators at Göllersdorf Prison was not sufficient to meet the patients' needs. The delegation noted positively that, at the Department for *Maßnahmen-vollzug* at Stein Prison, the presence of psychologists, social workers and occupational therapists had recently improved. That said, the CPT is particularly concerned about the dramatic lack of psychiatrists and the fact that no nursing staff was working at the forensic units at Stein Prison, which were solely managed by prison officers. In this regard, the Committee recalls that in all forensic psychiatric facilities, including forensic prison establishments/units, the majority of staff working in direct contact with patients should be health-care professionals.

The CPT acknowledges the improvements at Stein Prison regarding the offer of psycho-social activities. Nevertheless, the shortcomings observed - above all the carceral material conditions, the difficulties to recruit psychiatrists in the prison system and the presence of prison officers wearing weapons in accommodation areas - demonstrate once again that 'ordinary' prisons are not appropriate for the meaningful implementation of *Maßnahmenvollzug*.

The CPT recommends that the Austrian authorities step up their efforts to overhaul the current system of *Maßnahmenvollzug* in order to ensure that patients in *Maßnahmenvollzug* are accommodated in establishments suitable for providing the treatment and care they need. In this connection, the implementation of *Maßnahmenvollzug* at Stein Prison should cease as soon as possible.

In the report, detailed remarks and recommendations are also made regarding the use of means of restraint (including seclusion and chemical restraint) as well as safeguards in the context of discharge procedures and the procedures for involuntary medical treatment.