

CPT/Inf (2023) 19

Response

of the Government of Cyprus to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Cyprus

from 7 to 9 November 2022

The Government of Cyprus has requested the publication of this response.
The CPT's report on the 2022 visit to Cyprus is set out in document
CPT/Inf (2023) 18.

Strasbourg, 13 July 2023

1) The CPT would like to receive up to date information as to the state of affairs of the investigations into the allegation of ill-treatment under i and ii above and any subsequent steps taken. Further, as to case i, the Committee would like to receive a copy of the examination report of the forensic doctors related to the examination performed on 27 July 2022 at Larnaca Hospital, as well as the photographs taken during this forensic medical examination.

Answer:

The two cases mentioned on pages 6-7 of the report, refer to cases no 171/22 and 230/22, with regards to the events of 26.07.2022 and 28.09.2022, respectively.

The investigation files of both cases have been returned to the criminal investigators, to whom, specific instructions have been given to complete the investigations.

With the completion of the investigations, the files will be submitted to the Independent Authority for the Investigation of Allegations and Complaints against the Police, along with the findings and suggestions of the investigators, for its decision, which will be taken in the light of all the evidence acquired.

Then the files with all the acquired evidential material, including the findings and suggestions of both, the investigators and the IAICAP, will be submitted to the Attorney General for final decision on both cases.

For the present, a copy of the examination report of the forensic doctor is forwarded (APPENDIX A) as well as photographs taken during the forensic examination (APPENDIX B), regarding the case no 171/22, as requested.

It is also noted that instructions were given to the investigators to give the cases, the highest, under the circumstances, priority.

The conclusion of the examinations and the submission of the investigation files is expected to take place by the end of June 2023.

2) The CPT recommends that the Cypriot Authorities take proactive approach as to the detection and prevention of ill-treatment, including by:

- **reminding staff at Menoyia Detention Center to maintain registers meticulously, including the Station Diary and the medical files, as well as the introduction of both a trauma register and an incident register.**
- **introducing a complete examination of the body surface upon admission to the Menoyia Detention Center**
- **the record drawn up after the medical screening containing:**
 - i. any account of statements made by the foreign national which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment)**

- ii. a full account of objective medical findings based on a thorough examination, and*
 - iii. the health care professional' s observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.*
- *Introducing systematic medical examinations on departure from, and on return to Menoyia premises for foreign nationals to be deported.*

Further, the CPT recommends that the Cypriot Authorities respect the principles of medical confidentiality when collecting, processing and accessing health care related information from foreign nationals detained at the Menoyia Detention Center.

Answer:

Cyprus Police already maintains an Electronic Station Diary and a personal file for each detainee, where all incidents concerning the detainees are registered. The Police Standing Order 5/3 "Handling of Detained Persons", includes provisions for registrations (electronic and printed form), made concerning the detainee (e.g. visits from lawyers / family / friends, phone calls, rights provided, checks, medical treatment, etc.). Police members are often reminded about the importance of accurate and systematic registration of incidents / data concerning detained persons, based on the relevant Police Standing Order.

In order to meet the recommendation of CPT, a circular letter, dated 16/05/2023, was sent by the Human Rights Office of Cyprus Police to members of Menoyia Detention Center, reminding and stressing the importance of correct and immediate registration of actions in the Station Diary and in all files kept at the Detention Center, with particular attention given to the personal file of each detainee. The circular letter, also gave instructions to police members to register deportations not completed and traumas/ injuries both in the personal file of each detainee and in the Station Diary.

Additionally, a letter, dated 16/05/2023, was sent by the Police to the Medical and Public Health Services, of the Republic giving explicit instructions to the doctor of the Detention Center to maintain updated and correct medical files with all the necessary registrations for medical examinations and traumas.

Towards this end, Cyprus Police will proceed with the amendment of the Operation Manual of Menoyia Detention Center, which will include more details on the medical examinations needed to be carried out for all detainees and on registration of incidents in all relevant registers maintained at the Centre.

With regards to the introduction of complete and systematic medical examinations upon admission Menoyia premises for foreign nationals to be deported, a request was sent from the Police to the Medical and Public Health Services of the Republic in order for the doctor to conduct a complete examination of the body surface and to draw up records in the medical files with all details and information, as the recommendation of CPT. Cyprus Police also asked the Medical and Public Health Services to designate medical staff to collect, process and

access health care related information so as to meet the principle of medical confidentiality in accordance with human rights and the relevant personal data protection legislation.

3) The CPT recommends that the Cypriot Authorities take the necessary measures to ensure that all foreign nationals who are held in detention pending removal are officially informed at least several days before the flight both verbally and in writing, in a language they understand, of their scheduled removal, including its modalities, if necessary, with the assistance of an interpreter.

Answer:

Foreign nationals are informed about their forthcoming deportation through the official detention and deportation order given to them before the removal and not later than 24 hours after their arrest. More specifically, the deportation order is read to the person concerned and a copy is given to the detainee. The detention and deportation order is written in English language, but if considered necessary, it is translated in a language that the person understands. In addition, the detainee to be deported is informed about the scheduled removal by the Aliens and Immigration Service members, in the context of the interviews carried out before the deportation. Sufficient time is also given to them to retrieve his/her personal belongings and inform the people they need to let know. With regards to interpretation, please be informed that, where deemed necessary, an interpreter is called, for a more efficient communication,

Notwithstanding the above, a reminder letter, dated 16/05/2023, was sent by the Human Rights Office of Cyprus Police to members of the Aliens and Immigration Service, so as to inform the foreign national on their forthcoming removal before their deportation and to use the assistance of an interpreter, where this is deemed necessary.

4) The CPT would like to receive more details about the accessibility of the legal aid scheme for migrants in an irregular situation, including its eligibility criteria. Further the CPT would like to receive data about the number of migrants that have benefit from the legal aid scheme in 2022, in the context of proceedings related to an asylum application, detention and/or removal as well as the average time between request and the granting of legal aid.

Answer:

For the moment, no such data is available concerning the immigration detainees. To meet the recommendations of CPT, Cyprus Police will commence collecting data about the number of migrants applying for legal aid. However, a close cooperation with the Registry of the Supreme Court is needed for the collection of data regarding the number of migrants benefited from the legal aid scheme as well as the time needed to grant the legal aid. Towards this end, an official letter will be sent from the Ministry of Justice to the Registry of Supreme Court in order to begin maintaining these data.

5) The CPT recommends that foreign nationals subject to a removal operation should undergo a medical examination shortly before the decision to remove them is implemented, both for Joint Return Operations coordinated by Frontex and for removal operations organized by the Cypriot authorities. The medical forms to be completed following such examinations should record the doctors' conclusions notably regarding relevant IATA inadmissibility criteria. Further, appropriate medical information, including fit-to-fly certificates, should be communicated to on-board healthcare staff in advance of the return flight.

Answer:

According to the "Twenty Guidelines for Forced Returns" of the Council of Europe, the Guidelines of the Frontex Agency for Joint Operations by Air and the Code of Conduct for Return Operations and Return Interventions, the medical examination of all foreign nationals to be returned is not mandatory, except in cases of known medical condition or pre-existing

Regarding the "fit-to-fly" medical certificate, medical examinations are carried out prior to return, if there is a known medical problem and therefore medical treatment is required or if foreign nationals ask for such examination. In the case where these conditions apply, the Aliens and Immigration officers, have an obligation to obtain in advance and before the date of deportation the "fit-to-fly" medical certificate. A circular letter, dated 16/05/2023, was sent to the Aliens and Immigration Service, reminding them about the above provisions.

Regarding the criteria of the International Air Transport Association, a letter, dated 16/05/2023, was sent by the Police to the Medical Services and Public Health Services to examine and incorporate the IATA criteria into their examinations.

6) The CPT invites the Cypriot authorities to reconsider the suspension of family visits in the light of the strongly reduced societal impact of the COVID-19 pandemic.

Answer:

The recommendation has already been implemented and family visits at Menoyia Detention Centre have re-commenced. The detainees have been informed both in verbal (loudspeakers) and written form (announcements placed inside the wings of the Detention Centre).

7) In view of the delegation's findings reported in paragraphs 29 and 30 above, on the comprehensiveness of the medical files held at the Menoyia Detention Centre, the Cypriot authorities may wish to reflect on the existence of a risk of any future violation of the principles of non refoulement. The CPT would like to receive the comments of the Cypriot authorities on this matter.

Answer:

As a matter of public policy, no vulnerable persons are detained, including unaccompanied minors or families with children. The Cyprus Police informs the relevant Authorities in case of minors, pregnant women, victims of trafficking and persons with serious medical problems.

Nevertheless, a letter dated 16/05/2023, was sent to the Medical and Public Health Services and to the Civil Registry and Migration Department, of the Republic in order to take into consideration the state of health of the foreign nationals to be deported and the principles of non-refoulement.

8) The CPT would like to receive information about the outcome of the medical examination. Further, it would like to be informed whether he has been deported after the Court hearing on 18 November 2022 and, if so, about his state of health at the moment of the removal.

Answer:

The foreigner was transferred with an ambulance to Larnaca Hospital on 08/11/2022, with police escort, in order to be examined by a doctor. The doctor that examined him, did not find any pathological medical problems, apart from Hepatitis B which had been diagnosed on 4/11/2022, and recommended to be examined by a psychiatrist. Despite the doctor's recommendation, the foreigner refused to be examined by a psychiatrist. When all the necessary medical examinations had been completed, the foreigner was safely transferred back to Menoyia Detention Center.

During, his detention no other medical problem occurred and his state of health was satisfactory. He was returned to his country on 31/03/2023.

9) *The CPT recommends that the Cypriot authorities ensure that a "last call procedure" be effectively implemented in practice during all future removal operations by air to guarantee that all relevant actors, notably the escort leader, are at all times fully informed of the state of legal proceedings with suspensive effect of the persons to be removed, up to the moment of handover.*

Answer:

During all removal operations, there is an open line of communication between the Administration of the Aliens and Immigration Service with the Civil Registry and Migration Department and the Legal Service of the Republic. This means that as soon as any court decision or measure is taken that suspends the return procedure of any foreign national, the escort leader is informed and acts accordingly. In this regard, a reminder letter, dated 16/05/2023, was sent to the Aliens and Immigration Service, to follow the above procedure.

10) The CPT recommends that a specific rule be drafted on the transportation of foreign nationals due to be deported.

Answer:

The existing Police Standing Orders 5/4 "Escort of Prisoners / Detainees" and 5/39 "Handcuffs" cover the procedures followed by Cyprus Policier during removal operations. More specifically, the Police Standing Order 5/4, provides that "when moving prisoners / detainees, handcuffs shall be used in accordance with the provisions of the Police Standing Order 5/39". Therefore, Police Standing Order 5/39 provides, among other things, for the use

of Velcro handcuffs, which are used only on persons, who are in the process of deportation and during the process of transporting them to an airport or port, for the purpose of forced return. In cases where a person in the process of deportation, is not cooperative and there is an estimated risk of escape or violent reaction, then metal handcuffs should be used. The Standing Order also states that persons transported by ship or aircraft shall not be handcuffed, unless they are dangerously violent, or their guard / escort is not sufficient.

A circular, dated 16/05/2023, reminding the provisions of the Standing Orders was sent by the Human Rights Department of Cyprus Police to members of the Aliens and Immigration Service.

11) The CPT invites the Cypriot authorities to provide an explanation as to the intervention by the nurse, taking into account the questions above. The CPT would like to receive an explanation as to the role of the Centre's doctor in overseeing the above medical intervention.

Answer:

The DRC national displayed signs of being unwell, since he was vomiting while being in the process of deportation. The police officers called the nurse to deal with the case and deliver first aids.

It is worth mentioning that the nurse has expertise in dealing with detainees, as well as access to emergency medicines in case of need.

The detainee showed signs of anxiety in the presence of CPT representatives in the medical examination room. Due to high level of anxiety, the nurse asked the CPT representatives to wait outside the room, since this would help the patient to calm down. During this time, the police officers could have visual contact with the detainee because the room is surrounded by glass partition. After the first examination, the DRC national was referred by the Doctor of Menoyia premises, with symptoms of anxiety, to the Emergency Department of Larnaca Hospital for further examination.

In the Emergency Department of the Hospital, the DRC national was examined and referred for psychiatric evaluation. The appointment was scheduled for 14/12/2022, however the detainee refused to attend the visit.

Regarding the Doctor's role in the incident, the Doctor was called and performed a medical examination on 8/11/2022, at 15:18 in the visiting room of the Center. A thorough examination of his vital signs was performed and since no pathological findings were found, the doctor judged that the patient was manipulative and with reactive moods and therefore it was deemed appropriate to be taken to the Accident and Emergency Unit of Larnaca General Hospital for further confirmatory tests and Psychiatric assessment.

The ambulance arrived at 15:50 and transferred the patient at the Accidents and Emergency Unit where the doctor on duty examined him and judged that he was free of pathological problems and recommended a Psychiatric evaluation, which was rejected by the patient. Although the diagnosis of chronic Hepatitis B, the general condition of the patient was considered satisfactory to travel abroad given the absence of any other pathological findings.

12) The CPT recommends that the Cypriot authorities promote the adoption of a dynamic security approach by all police escorts.

Answer:

A Police Standing Order regulating return procedures of third country nationals, was issued on 02/05/2023. This Police Order clarifies the procedures that must be followed during forced and voluntary returns and also includes provisions for the training of leader escorts and escorts.

The escorts in charge of forced returns are composed of specially trained members of the Aliens and Immigration Service. In particular, the escorts leaders were trained by Frontex in a five-day program titled "Course for Escorts Leaders" and the escorts received five-day training program titled "Forced Return Escorts Training". Furthermore, escorts comprise at least one person of the same sex as that of the returnee so as to facilitate communication between the returnee and the escort.

Additionally, instructions were given by the Human Rights Office of Cyprus Police to the escorts so as to demonstrate impeccable behavior and avoid any act that would give any person the opportunity to make negative comments. In addition, they were instructed to talk / communicate with the foreigners, in order to reduce tensions and resolve any problems may arise.

13) The CPT would like to receive information as to the individual risk assessment, including the criteria used, and in what way it is carried out, including how a certain security level is determined. Further, it would like to be informed in what manner the outcome of the individual assessment was communicated within the team in charge of carrying out the removal of the five DRC nationals.

Answer:

An Individual Risk Assessment for each returnee is conducted before each removal operation, on the basis of criteria set out at national and international level (IATA and Frontex). As of the time of apprehension, a third country national's behavior is monitored and if necessary, detailed reports may be drafted, copies of which are kept in his/her personal file and are used as the basis for the individual risk assessment. If necessary, the contribution of the competent doctor may be requested.

On the basis of the risk assessment, important decisions are taken, amongst others, on the number of escorts and ground staff to be engaged, possible use of back-up team, coercive measures and medical support, in an effort to ensure security during all the stages of the operation (pre-departure, in-flight and arrival).

The risk assessment can be of:

- level one – cooperative returnee
- level two – cooperative returnee but with a possibility to change
- level three – non-cooperative returnee / aggressive.

As regards Joint Return Operations coordinated by Frontex, the individual risk assessment is communicated to the Organizing Member State and the Agency, as soon as possible.

The assessment is an on-going procedure and if any changes are observed, they are communicated to the escort leader, who acts accordingly and shares the information with the Organizing Member State and the Agency.

In the removal operation, monitored by the CPT, the escort leader was engaged in the drafting of the risk assessment and also had access to the personal files of all returnees. In all Joint Return Operations, a meeting between the Deputy Commander of the Aliens and Immigration Service supervising the operation, the escort leader and all the escorts, takes place 24-48 hours prior to the commencement of the operation. During the meeting, all details of the operational plan are discussed, amongst others the risks and possible special needs of each of the returnees.

14) Despite Regulation 5/39 authorising the use of leg cuffs in very exceptional cases and with the prior approval of the Police Commander, the CPT was repeatedly told that no means of constraints other than handcuffs, be they chemical or mechanical, are authorized for use in the context of a removal operation. The CPT would like to receive confirmation of the above.

Answer:

The Police confirms that no means of restraint other than handcuffs are used in the context of a removal operation.

15) A more strategic use of the services of an interpreter combined with the presence of an interpreter during the entire operation, including during the notification of removal, would have been an asset for the operation, for police officers, and foreign nationals alike. The CPT would like to receive the comments of the Cypriot authorities on the above.

Answer:

During the removal operations, Police make use of interpretation services. For this purpose, there is a list of interpreters uploaded at the internal Police portal system and when deemed necessary an interpreter is called to facilitate the process and communicate with the foreign nationals on the steps of the procedure. The handling of the detainees is regulated, among other legal tools, by a Police Standing Order, which provides for the right to interpretation and translation, immediately after arrest. Therefore, based on the principle of respect for human rights, detainees have access to language assistance / interpretation, at the stages of arrest, detention and return. These rights are included in the document "Rights of Detainees", provided to every detained person in a language he/she understands, immediately after the arrest.