

EXECUTIVE SUMMARY

At the time of the visit, no one was being held in **custody** at any of San-Marino's three law enforcement agencies (Gendarmeria, Civil Police and Rock Guard). In any case, as with during previous visits, the delegation was not made aware of any allegations of ill-treatment by members of law enforcement or of any other indication of such acts, a fact welcomed by the CPT.

The delegation also noted with satisfaction that persons placed in custody by the law enforcement agencies were granted swift and effective access to a lawyer and were able to notify a third party of their choosing of their situation. Moreover, persons deprived of their liberty were systematically informed of these rights, as well as the right to be seen by a doctor and the right to remain silent.

Neither the premises of the Civil Police nor those of the Rock Guard had cells or other detention areas. Only the Gendarmeria Central command station was equipped with a "security" cell, which could be used by all three agencies, in theory for a maximum of 24 hours. The detention conditions in the cell were fully satisfactory.

The delegation made a follow-up visit to **San Marino prison**. No one was being held in the prison at the time of the 2022 visit; it should nevertheless be pointed out that none of the individuals spoken to by the delegation raised any problems of ill-treatment of detainees (or of inter-prisoner violence).

The delegation found the material conditions in San Marino prison to be generally satisfactory. As regards activities, detainees had access to two exercise yards for up to seven hours a day, which was highly commendable. Besides open-air exercise (and certain sports), detainees had access to a well-stocked library and could watch television or listen to the radio in the communal room and play board games.

The delegation noted that San Marino prison now had a care team. An ambulance would be called in an emergency, and consultations with specialists could be organised if necessary. The Committee wished to emphasise the positive changes made since the CPT's previous visit. However, the Committee did recommend that urgent steps be taken to operationalise the electronic medical record system and ensure that electronic and hard copy files are duly conserved, including documents relating to the medical examination upon admission.

As was noted during the CPT's previous visits to San Marino, all prison surveillance staff were provided by the Gendarmeria. The Committee recommended once again that the San Marino authorities ensure that the gendarmes assigned to prison duties never participate in criminal investigations. Furthermore, the CPT called on the authorities to offer specific, regular training to all staff performing custodial duties in San Marino prison.

The CPT also called on the San Marino authorities to amend the law on prisons and the prison regulations in order to ensure that persons in preventive detention and sentenced prisoners are authorised, as a matter of principle, to receive visits, make telephone calls and to send and receive letters.

The delegation did not receive any allegations or observe any indications of ill-treatment of persons subject to **involuntary psychiatric hospitalisation and treatment** or "compulsory health treatment" (*trattamento sanitario obbligatorio* - TSO).

The patients concerned were kept (apparently for up to three days) in two rooms in the San Marino hospital emergency department pending their transfer to Italy. While the material conditions in these rooms could be considered satisfactory on the whole, the Committee stressed once again that they were not suitable for persons presenting mental disorders who were suffering a crisis.

No progress has been made since the 2013 visit as regards the creation of a hospitalisation facility for patients subject to a TSO or suffering an acute crisis, despite the CPT's previous recommendations and the fact that the law on mental health provides for the creation of a temporary hospitalisation facility with at least two beds. The delegation was able to view architectural plans for three secure rooms (to be built in the emergency department) which would be used to accommodate persons under a TSO as well as, if required, detainees in an agitated state. The Committee asked to be informed of the progress of these projects.

The CPT had no particular comment to make regarding the treatment provided to individuals placed in San Marino hospital following TSO measures. Regarding the care staff, the Committee recommended that efforts be made to ensure that at least one psychiatric nurse is present in San Marino hospital when a patient under a TSO is accommodated there. Furthermore, it would be strongly recommended to envisage training in psychiatry for all of the nurses employed in this establishment.

On the subject of means of restraint, the Committee recommended that care staff be given specific training and that instances of the use of chemical restraint be entered in the register provided for that purpose.

Where legal safeguards are concerned, the delegation did not find anything of concern in respect of TSO patients' access to legal aid (including assistance from *ex officio* lawyers), possibilities of contact with and support from family members and other trusted individuals, and informing patients of their rights. However, the CPT's longstanding recommendation that the current procedure be changed to ensure that the judge authorising a TSO systematically sees the person concerned before taking any decision has not yet been followed up.

The delegation visited **La Fiorina home for the elderly**. While, in theory, admission to the home is solely on a voluntary basis, it transpired from reading the relevant documentation, as well as from interviews with residents and staff members, that some residents had been brought to La Fiorina by their family and placed in the establishment without consideration of their decision-making capacity and their wish to live there.

The delegation did not receive any allegations of physical ill-treatment of residents by staff. On the contrary, it observed that the overall atmosphere in the establishment was relaxed and staff were kind to the residents, some of whom had high praise for the nurses and carers. The occasional violent clashes which occurred between residents were, according to the information received by the delegation, well managed by the staff.

Most of the residents were accommodated in spacious double bedrooms, which were well lit and ventilated and suitably furnished. The communal areas of the residential units were also well equipped, clean and well maintained.

The staffing of La Fiorina appeared perfectly satisfactory in the eyes of the delegation. The delegation was also favourably impressed on the whole by the range of treatment and therapeutic activities on offer to residents on an individual basis. At the same, the delegation felt that it would be a good idea to grant residents greater access to the extensive and pleasant landscaped outdoor garden.

Residents were not placed in isolation at La Fiorina. On the other hand, mechanical restraint was practised on a regular basis, both to prevent residents from falling and injuring themselves, or to correct their posture (measures to restrict their movement) and to control episodes of agitation. While the Committee has no reason to suspect any excessive and/or abusive use of means of restraint, it has made a number of detailed and specific recommendations regarding the use of restraint in these two cases. More generally, the CPT emphasised that the procedure for using means of restraint in La Fiorina home for the elderly should be regulated by law.

Concerning legal safeguards for the home's residents, the Committee made several recommendations, the most important of these being that a full and clear legal framework should be introduced for the involuntary placement of people in homes for the elderly, including in cases where restrictions placed on their movement are akin to *de facto* deprivation of liberty. The CPT also recommended that measures, including those of a legislative nature, be taken where applicable to ensure that the residents of La Fiorina home for the elderly can lodge confidential complaints with an independent external authority (such as a judge).