

EXECUTIVE SUMMARY

During the 2022 periodic visit to Portugal, the CPT's delegation examined the treatment and safeguards afforded to persons detained by law enforcement agencies and again looked into the effectiveness of investigations into allegations of ill-treatment by law enforcement officials. It also paid particular attention to the situation of women held in prisons and re-visited Lisbon Central Prison. The CPT's delegation further examined the situation of patients held at the Psychiatric Clinic of Santa Cruz do Bispo Prison and visited the Forensic Unit of Magalhães Lemos Hospital, Porto.

The CPT received excellent cooperation during the visit by the Portuguese authorities at all levels. However, the principle of co-operation set out in Article 3 of the Convention also requires that decisive steps be taken to improve the situation in the light of the Committee's key recommendations. In this context, the CPT trusts that the Portuguese authorities will take concrete measures in particular to address the persisting problem of ill-treatment by law enforcement officials and to ensure that allegations of ill-treatment are investigated effectively.

Law enforcement agencies

As was the case during previous visits, the majority of persons met by the CPT's delegation stated that they had been treated correctly whilst in police custody. However, the findings of the delegation indicate that the infliction of ill-treatment is still not infrequent. A number of persons interviewed alleged that they had been subjected to ill-treatment by officers of the Public Security Police (PSP) and/or the National Republican Guard (GNR) at the time of apprehension, after they had been brought under control. The alleged ill-treatment consisted primarily of slaps, punches, strikes with a baton and kicks to the body. The delegation also noted a number of cases of excessively tight handcuffing, and that the practice of handcuffing persons to furniture in police premises persists. The CPT calls upon the Portuguese authorities to reinforce their efforts to eradicate police ill-treatment.

The Committee once again reiterates the need for effective investigations into allegations of ill-treatment as an important dissuasive factor against police ill-treatment. One of the major shortcomings identified in this connection is the significant delay in transmitting potential evidence of police ill-treatment from prisons to the Inspectorate-General of Internal Administration (IGAI), rendering it difficult if not impossible for that inspection body to carry out effective investigations. Moreover, several cases had apparently not been transmitted to the Public Prosecutor's Office at all, thus preventing potential criminal investigations from being initiated. This situation can only serve to embed the perception that police officers minded to engage in ill-treatment enjoy *de facto* impunity.

At the end of the visit in June 2022, the Director General for Social Reintegration and Prisons (DGRSP) informed the Committee about measures to accelerate the transmission of potential evidence of police ill-treatment to the IGAI. This is to be welcomed. The CPT nevertheless considers it necessary that the Portuguese authorities commission a fully independent review of their current system for the investigation of allegations of ill-treatment by police officers. It also reiterates that whenever a case of potential ill-treatment is forwarded to an investigatory body, the person concerned must be interviewed within 48 hours, with a view to determining whether a forensic medical examination is necessary and what further investigative steps are required. The CPT also requests information on the status of the criminal and disciplinary investigations into a number of concrete cases of alleged police ill-treatment.

The report further comments on fundamental safeguards against ill-treatment, i.e. the right of notification of custody to a trusted person and the rights of access to a lawyer and doctor. In this context, the CPT is particularly concerned that once again the majority of persons interviewed stated that they only met an *ex officio* lawyer at the court hearing before a judge. The CPT therefore reiterates that all persons detained by the police should have the right of access to a lawyer as from

the very outset of the deprivation of liberty. Further, there is a need to enhance detainees' possibilities for access to a doctor, and to translation and interpretation services in case they do not have a good command of Portuguese.

Prisons

Regrettably, the overall material conditions at Lisbon Central Prison, already described in previous CPT reports as being in a "state of advanced dilapidation", had further deteriorated. In most areas of the establishment, prisoners could be said to be living in degrading circumstances in cells with dirty and dilapidated walls, broken windows, unpartitioned toilets in double-occupancy cells and malfunctioning electrical installations. The CPT thus welcomes the Government's plans to progressively close down the prison and asks to receive regular updates as to the progress made in this respect. While the majority of interviewed persons held at Lisbon Central Prison stated that they were treated correctly by prison officers, the CPT once again received a number of credible allegations of physical ill-treatment by prison staff (slaps, punches, kicks) and the delegation saw medical reports by prison healthcare staff detailing injuries corroborating such allegations.

The report further examines the treatment of women at the country's two prisons exclusively for women, namely Tires Prison and Santa Cruz do Bispo Feminino Prison.

The majority of women interviewed said that prison officers were professional, or even supportive and helpful. However, the delegation also received some allegations of ill-treatment, mainly consisting of verbal abuse and threats, and more rarely, of acts of physical violence.

As regards material conditions, the report is critical of the situation found at Tires Prison, where many cells were in a poor state of repair and a number of them did not provide for the minimum standard of 4 m² of living space per prisoner. At Santa Cruz do Bispo Feminino Prison, sanitary annexes lacked privacy as they were not fully partitioned in the double occupancy cells. Positively, the vast majority of the women at Santa Cruz do Bispo Feminino Prison were engaged in some sort of out-of-cell organised activity. However, this was not the case at Tires Prison and the regime needs to be significantly developed. At both prisons, the availability of work and vocational activities, particularly those which can lead to formal qualifications, should be improved.

Further, the Portuguese authorities should review the policy and conditions under which mothers and their children are kept at both prisons and ensure that they be provided, *inter alia*, with access to cooking and washing facilities. The CPT is critical of the practice of prison officers remaining present during all obstetric (and other medical) examinations outside of the prison and underlines that the presence of an officer during childbirth is totally unacceptable. Furthermore, prisoners under a strict security regime at Santa Cruz do Bispo Feminino Prison were held under a poor regime, being confined to their cells for 21 to 22 hours per day. The situation of two women with mental disorders who were held for prolonged periods under such regime is highlighted and the Portuguese authorities should find appropriate alternative accommodation for them.

The report welcomes the recommendations issued by the DGRSP in March 2022 regarding the follow up of transgender persons and the CPT proposes a few additional measures in this regard. Concerning healthcare, the Portuguese authorities should reinforce somatic healthcare staffing at both women's prisons and address the shortcomings regarding the treatment of substance use disorders. The CPT further emphasises that resort to handcuffs when transporting a patient to a hospital or during a medical examination should be exceptional and always be based on an individual assessment. At Santa Cruz do Bispo Feminino Prison, access to mental healthcare appeared overall satisfactory; however, at Tires Prison, structured rehabilitation programmes and group interventions were not offered and there was also no policy on suicide prevention.

As regards the presence and treatment of four forensic patients in the in-patient unit of the prison of Santa Cruz do Bispo Feminino Prison, who had no access to the open air at all and were offered only one hour of out-of-room activity per day, the CPT's delegation had requested at the end of the visit that immediate action be taken to offer these patients at least one hour of access to fresh air

daily and additional activities. In reply, the Portuguese authorities conveyed that access to fresh air had been increased to two hours per day and that meanwhile only two of the patients remained at the prison. However, other out-of-room activities apparently remained very limited.

The CPT is critical of the practice of nurses at Santa Cruz do Bispo Feminino Prison injecting acutely agitated prisoners with rapid tranquillisers ("chemical restraint"), based on prior *pro re nata* prescriptions. The Portuguese authorities should draw up a new protocol to regulate this matter in line with CPT standards. The CPT also reiterates that disciplinary solitary confinement be - in practice and by law – limited to a maximum of 14 consecutive days and that the measure of provisional isolation (*medida cautelar*) should usually not last longer than a few hours without formal charges being brought.

The report also addresses other issues, such as strip and body searches, gender-specific management of women's prisons, prisoners' possibilities to make complaints and to contact their families and other persons outside the prison as well as information provided to prisoners on internal prison rules and daily routines.

Psychiatric institutions

The CPT's delegation examined the situation of forensic patients held at the Psychiatric Clinic of Santa Cruz do Bispo Prison and at the Forensic Unit of Magalhães Lemos Hospital, Porto.

At the Forensic Unit of Magalhães Lemos Hospital, the CPT's delegation received no allegations of ill-treatment and many patients spoke positively about the staff. However, at the Psychiatric Clinic of Santa Cruz do Bispo Prison the delegation noted a few allegations of physical ill-treatment by custodial staff (beatings) and several reports of insults and threats.

The CPT was pleased to find that Magalhães Lemos Psychiatric Hospital provided good living conditions and an appropriate therapeutic environment for forensic patients. As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the report acknowledges recent improvements made since the CPT's 2019 visit, such as the reduction of overcrowding and the increase in healthcare personnel accompanied by a corresponding decrease in prison officers. Nevertheless, the Clinic remains largely prison-like and unable to provide a suitable environment for the care and treatment of psychiatric patients. An alternative facility must be found or built as a matter of priority. Pending the closure of the establishment, the Portuguese authorities should significantly increase the number of healthcare and specialist staff as well as the offer of structured therapeutic, rehabilitative and recreational activities for patients. More qualified staff to provide therapeutic and rehabilitative activities is also needed at the Forensic Unit of Magalhães Lemos Hospital. Further, the material conditions provided for patients in most parts of the Psychiatric Clinic of Santa Cruz do Bispo Prison (units 1 and 3) must urgently be improved. The CPT is also critical of the systematic CCTV supervision in patient's accommodation rooms at the Forensic Unit of Magalhães Lemos Hospital.

As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the CPT once again recommends that specific written guidelines on the use of means of restraint be drawn up in line with the Committee's requirements. Concerning the measure of seclusion of patients, steps should be taken to ensure that it lasts for the shortest time possible and that seclusion at both establishments be subject to additional specific safeguards, such as continuous personal supervision.

Further, it is positive that at the Forensic Unit of Magalhães Lemos Hospital, no disciplinary sanctions were applied to patients. As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the Portuguese authorities should take action to abolish the application of disciplinary punishments for mentally ill patients. The report also addresses various other issues, notably patients' individual treatment plans, the medical admission examination, injection of rapid acting tranquillisers ("chemical restraint"), regular reviews of patients' forensic placement, their consent to treatment, information provided to them as well as the release of long-term patients who no longer require hospitalisation.