

EXECUTIVE SUMMARY

This was the first visit to Ukraine by the CPT since the beginning of the full-scale military aggression by the Russian Federation in February 2022 and, from the outset, the Committee wishes to place on record the considerable efforts of the Ukrainian authorities to provide adequate conditions to persons deprived of their liberty in these extremely difficult times.

Police custody

The great majority of the interviewed persons who were, or had recently been, in police custody indicated that the police had treated them in a correct manner. The Committee takes note of this positive finding, illustrating the results of efforts deployed by the Ukrainian authorities in recent years to improve the treatment of persons detained by the police.

That said, the delegation did receive allegations of physical ill-treatment (shortly after apprehension, in the police vehicle or at the police establishment, prior to questioning) and excessive use of force upon apprehension as well as of psychological pressure and threats. The CPT reiterates its recommendations on this subject, in particular on the need for the Ukrainian authorities to pursue their policy of “zero tolerance” of police ill-treatment.

Regarding the fundamental legal safeguards against ill-treatment (notification of custody, access to a lawyer and to a doctor), the delegation’s findings suggested that the situation had generally improved as compared to the 2017 periodic visit. In particular, it was positive that, as a rule, the police swiftly informed the relevant Centre for Free Legal Aid (CFLA) and persons in police custody were quasi systematically questioned in the presence of (usually *ex officio*) lawyers. The main remaining shortcoming was the non-observance of confidentiality of medical screening performed (systematically) in polyclinics prior to the placement in temporary holding facilities (ITT). Other than this, the CPT notes with interest the ongoing progress in introducing a nation-wide comprehensive electronic custody record (ARMOR) and the development of the institutions of Human Rights Inspectors (working in ITTs) and of the State Bureau of Investigation (tasked *inter alia* with the carrying out of criminal investigations into possible cases of ill-treatment by law enforcement officials).

As for the material conditions, they were found to be generally satisfactory for detention periods of up to 72 hours. However, administrative detainees were still relatively frequently held in ITTs for periods of up to 15 days; further, persons remanded in custody could also occasionally remain in ITTs for several days, although this happened more rarely than in the past. In this context, the CPT stresses that conditions of detention in ITTs were far from optimal for such stays, mainly because of the scarcity of available activities.

As regards administrative detainees, the Committee invites the Ukrainian authorities to give serious consideration to setting up establishments specifically designed for this category of persons deprived of their liberty, especially for stays exceeding 72 hours. The CPT also invites the Ukrainian authorities to enlarge the range and frequency of activities available to administrative detainees, as long as they continue to be held in ITTs. As regards remand prisoners brought back to ITTs, the CPT reiterates its recommendation that the Ukrainian authorities take steps – including at the legislative level – to ensure that the return of remand prisoners to detention facilities of law enforcement agencies is sought and authorised only exceptionally and when there is no other alternative. Such returns should be authorised exclusively by a judge or a prosecutor, for specific reasons and for the shortest possible time. Further, such returns should never take place exclusively in order to interview the person, especially given the fact that all penitentiary establishments possess dedicated interview rooms.

Prison establishments

The CPT welcomes the continued efforts made by the Ukrainian authorities over the past 25 years to reduce the country's prison population. However, the Committee noted that the proportion of remand prisoners had remained high at the time of the 2023 visit and that many remand prisoners continued to be held in overcrowded conditions for prolonged periods of time. The CPT recommends that the Ukrainian authorities pursue their efforts to reduce the prison population and thereby combat overcrowding in penitentiary establishments, in particular by ensuring a more restrictive approach to the use of remand in custody by setting strict limits on its use and encouraging a greater use of alternative non-custodial measures.

The delegation received no allegations of recent ill-treatment by staff in any of the prisons visited. The vast majority of the prisoners interviewed stated that staff members treated them correctly. Further, physical violence between prisoners did not seem to be a major problem in most of the establishments visited.

However, the visit revealed that the long-standing phenomenon of informal prisoner hierarchy was still prevalent throughout the Ukrainian prison system. In this context, the situation of persons considered to be “humiliated”, that is, those who find themselves at the bottom of this hierarchy, remains a matter of serious concern to the CPT. These prisoners continued to be rejected by the mainstream prison population and were required by the hierarchy's “code of conduct” to comply with a range of restrictions (for example, to avoid any physical contact with other prisoners, not to use communal facilities, etc.). Moreover, such prisoners were frequently compelled to perform “dirty” work (such as cleaning toilets and collecting rubbish) for which they were not paid.

In some of the prisons visited, the general policy was to separate this category of prisoners from the general inmate population for protection reasons, grouping them together in dedicated cells. In some other establishments, however, no such policy was in place; as a result, the “low caste” prisoners were often exposed to a risk of violence, intimidation and exploitation by their cellmates. In particular, at Vinnytsia Penitentiary Institution No. 1, the delegation received a few allegations of beatings (punches, kicks and blows with a stick) and several accounts of intimidation and verbal abuse of a sexual nature, all from prisoners accused of sex offences. Some of these prisoners felt that they were constantly under the threat of violence by fellow prisoners. The CPT calls upon the Ukrainian authorities to develop and implement a comprehensive strategy for combating inter-prisoner violence and intimidation and tackling the phenomenon of informal prisoner hierarchy with all its negative consequences.

Most of the prisons visited by the delegation were located in old buildings which had not undergone any major refurbishment for years, if not decades. As a result, the bulk of the prisoner accommodation in these establishments was in a poor state of repair (damp-ridden and crumbling walls, damaged floors, rusty sanitary installations, bug-infested bedding, limited access to natural light and ventilation, etc.). The situation was particularly precarious at Odesa Pre-Trial Detention Facility (SIZO) where the conditions of detention of the great majority of prisoners could, in the CPT's view, easily be considered as inhuman and degrading.

The CPT stresses that it fully recognises the growing challenges for the authorities posed by the ongoing war in Ukraine. Nevertheless, the Committee recalls that, even during armed conflicts, the fundamental rights of detained persons must be guaranteed; this certainly includes a right for prisoners to be held in decent conditions. The Ukrainian authorities are therefore called upon to take the necessary measures to improve material conditions of detention in the prisons visited, and in particular to ensure that: occupancy levels are reduced (so as to offer at least 4 m² of living space per prisoner in multiple-occupancy cells); all prisoner accommodation areas are kept in an adequate state of repair and hygiene; and cells have sufficient access to natural light and ventilation.

The CPT also notes with concern that the situation in respect of out-of-cell activities for remand prisoners had not improved since its previous visits. As in the past, with the exception of a small number of working prisoners, adult remand prisoners (including women) held in the prisons visited were confined to their cells for up to 23 hours a day, with hardly any out-of-cell activities available to them, apart from daily outdoor exercise and – in some prisons – occasional access to a gym.

Further, access to outdoor exercise was offered only for one hour per day (usually slightly longer for women), in yards which were small and of an oppressive design (high walls with sky view only). It is of all the more concern that many prisoners had been held under these conditions for months or even years. On a more positive note, efforts were being made by the management of the establishments visited to involve juvenile remand prisoners in organised out-of-cell activities.

Regarding life-sentenced prisoners, the CPT expresses concern about the impoverished regime which was being applied to them (23-hour lock-up in a cell and no possibilities to associate with prisoners from other cells). The Ukrainian authorities are called upon to devise and implement a regime of out-of-cell activities (including group association activities) for life-sentenced prisoners. More generally, the Committee stresses once again that it can see no justification for the systematic segregation of life-sentenced prisoners.

As concerns the provision of healthcare to prisoners, recommendations are made, *inter alia* to increase the complement of general practitioners and the nursing staff resources in the establishments visited. Further, the Ukrainian authorities are called upon to improve the existing procedures for the recording of injuries observed on prisoners and to ensure that medical confidentiality is fully respected. The CPT also recommends that the Ukrainian authorities develop the admission procedures at all prisons accommodating female prisoners to take into account the gender-specific needs of women (e.g. screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison). In addition, remarks and recommendations are made regarding prisoners' access to psychiatric and psychological care and the provision of assistance to prisoners using drugs.

In the report, the Committee formulates a number of specific recommendations regarding various other prison-related issues, such as prison staff, prisoners' contact with the outside world, and discipline. In particular, the Ukrainian authorities are called upon to significantly increase staffing levels in the prisons visited, with a view to reinforcing the presence of custodial staff in the detention areas. The authorities are also called upon to ensure that remand prisoners are entitled to receive visits and to make phone calls as a matter of principle and that all prisoners – whether sentenced or on remand – are entitled to receive one visit of at least one hour every week. As regards discipline, the CPT recommends that the disciplinary sanction of solitary confinement be abolished in respect of juveniles, in accordance with the European Prison Rules.

Military detention facilities

The delegation visited military detention facilities (“hauptvakhtas”) in Kyiv, Odesa and Zhytomyr. It should be stressed that the delegation received no allegations of any forms of ill-treatment of detained military servicemen by staff working at these establishments; further, there were no indications of any inter-detainee violence.

Material conditions were on the whole acceptable, problematic aspects including the too high intended occupancy (calculated on the basis of the norm of 2.5 m² per detainee instead of 4 m²), limited access to natural light in some of the cells in Odesa and Zhytomyr “hauptvakhtas” and the fact that in-cell sanitary annexes were only partially partitioned.

As regards the regime, all detained servicemen had access to daily outdoor exercise. Further, administrative detainees and sentenced servicemen spent a major part of the day outside their cells. By contrast, there were no organised activities for servicemen on remand, which was of particular concern given that many had stayed in the “hauptvakhtas” for long periods (months and even years). The CPT recommends that steps be taken to ensure that servicemen remanded in custody benefit from the same offer of activities as those serving sentences of imprisonment or administrative arrest.

On a positive note, the delegation observed that detained servicemen had adequate access to healthcare. However, at Kyiv “Hauptvakhta” medical screening on arrival was not confidential, with custodial staff being present in the examination room. The Committee recommends that steps be taken at Kyiv “Hauptvakhta” (as well as in other such establishments throughout Ukraine, as applicable) to ensure that medical confidentiality is always respected, including during the initial medical screening.