

## **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 9 to 17 May 2023**

The Government of Cyprus has requested the publication of this response. The CPT's report on the 2023 visit to Cyprus is set out in document CPT/Inf (2024) 18.

Strasbourg, 17 May 2024

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**Response by the Government of Cyprus to the report on the visit of the European  
Committee for the Prevention of Torture and Inhuman or Degrading Treatment or  
Punishment (CPT) to Cyprus  
9-17 May 2023**

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) performed its eighth visit to Cyprus from 9 to 17 May 2023, pursuant to Article 7 of the European Convention, which established the CPT. The details of the visit, including the composition of the delegation, places visited and the Committee's recommendations, comments and requests for information are contained in its Report to the Cypriot Government, which was adopted by the CPT on 10<sup>th</sup> November 2023 and transmitted to the authorities of Cyprus on 18<sup>th</sup> December 2023.

The response of the Cypriot Government to the recommendations, comments and requests for information contained in the Report of the CPT on its visit to Cyprus from 9 to 17 May 2023 is set out in this document. For ease of reference and reading, the response follows the format of the CPT's Report of 18<sup>th</sup> December 2023 on the visit.

The Republic of Cyprus welcomes the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and reiterates its strong commitment to improve, where necessary, the protection of all persons deprived of their liberty.

## **FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Prison Establishment-Nicosia Central Prisons**

#### **1. Preliminary remarks**

**Par. 16: The CPT would appreciate being sent the report of the Ad-Hoc Committee and the concrete proposals and deadlines established to resolve the issue of overcrowding**

**Reply:** Please see **Annex 1**.

**Par. 20: The CPT reiterates that the Cypriot authorities should pursue their efforts to combat prison overcrowding taking into account the relevant recommendations of the Committee of Ministers of the Council of Europe. Further, it again calls upon the Cypriot authorities to address the urgent need to further develop a coherent prison policy to reduce the prison population.**

**Reply:**

Overcrowding is acknowledged and considered as the most serious problem affecting the Cyprus Prisons Department. Towards this end, continuous efforts to remedy the problem of overcrowding in prisons, are being carried out and several measures have been taken since the CPT's last periodic visit in 2019:

More precisely:

The Prisons Law and Regulations were amended in 2020:

- Regulation 127 of “the Prisons (General) Regulations of 1997”, (I.P 121/1997), was amended so that more prisoners are entitled to be included in the Open Prison and the Centre for Guidance and Extra-Institutional Employment of Convicts.
- Regulation 137 of the Prisons (General) Regulations was amended, so that the possible period of inclusion of prisoners in the Center for Guidance and Extra-Institutional Employment of Convicts is extended from 12 months to 18 months
- Section 21 B of the Prisons Law, was amended so that more prisoners are entitled to serve part of the sentence imposed on them by the measure of house detention (electronic monitoring),
- A new subsection was added, so that the Classification Committee may allow prisoners who were sentenced to imprisonment for less than 12 months and have served at least 1/3 of his sentence for some offences, to serve part of the sentence imposed by the measure of house detention (electronic monitoring).
- Section 21 B was also amended, so that the Classification Committee may allow prisoners who were sentenced to imprisonment for more than 12 months and less than 5 years (prior to the amendment the prison sentence requirement had been for less than 4 years) and have served at least half of his sentence, for some offences and who have been previously included in the Centre for Guidance and Extra-institutional Employment of Convicts for at least 1 month, to serve part of the sentence imposed by the measure of house detention (electronic monitoring) for a period not exceeding 12 months.

In addition, there is an ongoing plan for repairing, reconstructing and expanding the prison facilities:

- Amendment of the building of the open prison, so that prisoners of the closed prison can be detained in this place. The building of the open prison will be converted into a building of closed prison, with all relevant amendments in line with the human rights standards. This phase will be completed by September 2024 with the capacity to hold 240 prisoners.
- Amendment of the building of the Center for Guidance and Extra-Institutional Employment of Convicts so that the detainees of the Open Prison can be detained there. This phase has already been completed and the capacity was increased with 50 prisoners
- The creation of a new infrastructure to house the Centre for Guidance and Extra-Institutional Employment of Convicts. This phase will be completed by June 2024 and the capacity will be increased with 40 prisoners.
- The conduct of a study by the competent department and services of the government concerning the construction of a new wing, with a potential capacity of 300-400 detainees.

By implementing the above measures, the total capacity of the central prisons is estimated to increase to approximately 1200 detainees and therefore, it is expected that the problem of overcrowding will be significantly reduced.

Another significant measure for the tackling of overcrowding is the treatment of accused persons who are also drug users. The Prisons Department in cooperation with the Cyprus National Addictions Authority, activate procedures so the pre-trial detainees enter in therapeutic drug addiction programmes. In the context of this procedure, a total of a total of 27 prisoners have benefited in 2023.

## 2. Ill-Treatment

**Par. 22 (a):** The CPT recommends that the management of NCP deliver to custodial staff the clear message that physical ill-treatment, excessive use of force and verbal abuse, as well as other forms of disrespectful or provocative behaviour towards prisoners, are not acceptable and will be dealt with accordingly. The CPT recommends that prison staff be reminded that insults and racist words directed at prisoners are reprehensible (just as such conduct by prisoners would be reprehensible) and must be sanctioned.

### Reply:

The Directorate of the Department has repeatedly made clear to the prison staff that zero tolerance will be exhibited towards any physical ill-treatment, use of force and verbal abuse as well as other forms of disrespectful, racist or provocative behavior towards prisoners. It has also alerted the staff to be aware of any incidents of violence and inform immediately the Directorate.

To this end, policies and procedures are imposed to prevent ill-treatment, abuse of power and reprisals. Prison Orders are being issued on a regular basis which reiterate that all forms of ill treatment are unacceptable as they do not reflect the culture promoted in the Department and remind the staff that any type of inappropriate behavior will be sanctioned accordingly. Furthermore, prison staff is trained regularly at the Prisons Academy on the respectful treatment of prisoners based on the principle of non-discrimination.

When a complaint/allegation of ill treatment/abuse of power comes into the attention of the Prison's Directorate, either in a formal manner or even in the absence of a formal complaint, this is immediately investigated by the Cyprus Police as well as internally by the Prisons' Department.

**Par. 22 (b):** Management should demonstrate increased vigilance in this area by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training.

### Reply:

As a result of recent staff promotions which have taken place in the prison staff, there has been a significant increase in the number of sergeants/chief warden. More specifically in 2023, 37 members of the staff were promoted to sergeants and 4 sergeants were promoted to inspectors. Therefore, in every Block there is prison manager during almost every shift, who has regular and close direct contact with prisoners, receives their applications, and investigates their complaints.

With regards to improved prison staff training, as already mentioned, both newly recruited and existing staff, are trained during their time at the Prisons' Academy, on the Prisons Law and Regulations which regulate the treatment of prisoners. The treatment is based on international prison professional standards and promotes respect for human dignity without any form of discrimination.

**Par. 30 (a): The CPT reiterates its recommendation that management urgently reviews its violence prevention policy to establish measures to more adequately and accurately record, respond to, investigate, and prevent inter-prisoner violence. These should include the adoption of a comprehensive anti-bullying policy and systematic and regular risk-assessments regarding allocation and placement of prisoners, as well as training of staff to take proactive measures to identify any risk of inter-prisoner violence and report it to management, as well as the regular monitoring of CCTV cameras and ensuring their good operational maintenance.**

**Reply:**

Policies and procedures have been put in place to prevent inter-prisoner violence and bullying, including regular risk assessments and specialised training of prison officers to identifying vulnerable prisoners.

Effective risk assessment and risk management take place up on admission and during imprisonment. Upon their arrival, prisoners are interviewed by the prison officers as well as by general practitioners, and mental health professionals in order to make an initial screening of their medical and mental health history, identify and assess their needs. Therefore, all prisoners are placed in an environment as familiar as possible to them, so they can adapt more easily. The Prison Department takes into consideration the particular features of each person such as language, religion, culture, nationality, and then proceeds to the allocation of prisoners in cells. During the imprisonment, the allocation and placement of prisoners is continuously under review by the Directorate, that assesses all information collected either by prisoners, prison staff, or health professionals with regards to conflicts, hostility, tensions or violent incidents between prisoners.

The Prison staff is trained at the Prison Academy in order to carry out their duties with professionalism, obtain interpersonal communication skills, identify hostile behaviours or tensions between prisoners, refer and deal effectively with any signs of hostility from other prisoners and be alert to signs of trouble and intervene when necessary.

As regards the CCTV cameras, according to a recent decision taken on Ministerial level, the old CCTV system will be replaced with a new and more specialized system until 2025.

Moreover, there is 24hour monitoring of the prison facilities from specialized staff which allows for immediate intervention any incident which may occur.

**Par. 30 (b): The CPT recommends that immediate action be taken to swiftly recruit and train more front-line prison staff to help address these issues and to put in place a dynamic security approach in line with the above precepts. In parallel, the CPT recommends that prison staff be clearly and regularly instructed that any staff tolerating, encouraging, or colluding in punitive action taken against prisoners by other prisoners will be the subject of criminal or disciplinary proceedings.**

**Reply:**

The efforts of recruiting and training new staff are continuous. To this end, the Council of Ministers has already approved the recruitment of 87 new prison officers until July 2024. Furthermore, 61 prisons officers will be recruited by the end of 2024.

The procedures for upgrading the Prison Academy have already been initiated. The Academy will be recognized as a Public School of High Education providing dedicated and specialized training to prison staff, who will receive annual certificates.

### **3. Conditions of detention**

**Par. 36: The CPT reiterates its recommendation that measures be taken swiftly to reduce the occupancy levels in all blocks, most urgently in Blocks 1A and B, 2A and B, 4A, 5, 8, and 10A. To this end, it should be ensured that, at the very minimum, cells measuring 6 m<sup>2</sup> are only used to accommodate one prisoner and that the living space in multiple-occupancy cells is at least 4 m<sup>2</sup> per prisoner.**

#### **Reply:**

The overpopulation of Prison Department has inevitably affected the conditions of detention and the occupancy levels in the Prison blocks. Therefore, great emphasis and priority is given in the completion of the new infrastructure, as described in reply no. 20. Upon the completion of the expansion project, it is expected that the new cells will follow the Committee's standards.

**Par. 37: The CPT once again calls upon the Cypriot authorities to guarantee that all prisoners have access to the toilet promptly when required.**

#### **Reply:**

Prisoners in Block 4A have direct access to the toilet. In all other blocks mentioned in par. 36, the prison officers make every attempt possible to respond promptly to the bells for the toilet, when required.

**Par. 38: The CPT recommends that the Cypriot authorities take urgent and swift action to address the issues listed in Blocks 1A and B, 4 and Block 10A.**

#### **Reply:**

Out of the 33 cells in Block 1A, only 3 of them do not have a window. All of them have call bells.

Out of the 35 cells in Block 1B, only 3 of them do not have a window. All of them have call bells.

Out of the 11 cells in Block 4, all of them have both windows and call bells

Out of the 38 cells in Block 10A, all of them have both windows and call bells.

Furthermore, all Blocks have central heating which usually works from 05:00 to 07:00 and 18:00-00:00 in winter time as well as air conditioning which works from 11:00-20:00 in summer time. The time schedule may change according to the prisoners' needs and requests.

Block 3 and Block 9 have 24hour floor heating and Air Conditioning as well.

The prisoners are allowed to be out of their cells and out of their Blocks for the most part of the day, which provides full access to fresh air and natural light.

**Par. 39: The CPT recommends that the Cypriot authorities put in place measures to ensure, at the very least, protection from the harms of passive smoking, such as designating smoke-free accommodation and a policy on the prohibition or restriction of smoking in areas of common use.**

**Reply:**

As per the Republic's legislation on the matter, it is strictly prohibited to smoke inside all public spaces such as the kitchen, the school, the gym and generally at all places of general use. The rules on smoking are posted in all Blocks and are visible by both prisoners and staff.

In addition, during the admission stage, prisoners are asked and placed in cells with other prisoners that have similar smoking habits.

**Par. 41: The CPT calls upon the Cypriot authorities to increase the availability of purposeful activities for all inmates including work, vocational training, sports, educational and other activities, with a view to ensuring that all prisoners may be purposefully engaged for most of the day.**

**Reply:**

The education and entertainment of prisoners are considered as priorities for the Prison Department and thus efforts are being made so as all prisoners are given the possibility to attend to as many purposeful activities as possible. Apart from work duties, the Department offers daily educational programmes as well as theoretical and vocational training from 08:00 am to 03:00 pm. The educational programmes are offered throughout the year, even during summertime.

The Prison Department acknowledges the need for enhancing the field of activities for prisoners. To this end, within 2024, a study will be completed, which will lead to the upgrade of the Prison system regarding training, education and work. More precisely, the Prison's education will be combined with the in-service/job training in an effort to assist the prisoners to continue the occupational activities to the greatest extent possible, after their release from the Prison. In this way, new job positions will be created which will include sectors and vocational education in accordance with the needs of the job market. The overall goal of this reshaping is to change the vocational roles inside the prison and offer the prisoners who are capable of working, a job.

#### **4. Women Prisoners**

**Par. 43 (a): The CPT recommends that the management of NCP deliver to custodial staff the clear message that ill-treatment, including verbal abuse of prisoners as well as other forms of disrespectful or provocative behaviour towards prisoners, is not acceptable and will be dealt with accordingly. The CPT recommends that prison staff be instructed that insults and racist words directed at prisoners are reprehensible and must be sanctioned.**



**Reply:**

Please see reply no. 22 (a). Measures are applied to all prisoners, based on the principle of non-discrimination.

**Par. 43 (b): The establishment's management should demonstrate increased vigilance in Block 3 by ensuring the regular presence of prison managers, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training**

**Reply:**

Please see reply no. 22 (b). Measures are applied to all prisoners, based on the principle of non-discrimination.

**Par. 45: In light of the above, the CPT recommends that management urgently review its violence prevention policy to establish measures to more adequately and accurately record, respond to, investigate and establish measures to prevent inter-prisoner violence in the women's block of the prison. This should include the adoption of a comprehensive policy and systematic, regular risk-assessments regarding allocation and placement of female detained persons, as well as training of staff to take proactive measures to identify any risk of inter-prisoner violence and report it to management. The CPT further recommends that the CCTV systems in the prison be rendered fully operational by ensuring that all common areas in Block 3 are covered by CCTV, as a safeguard against ill-treatment, taking into account the requirements set out in the previous paragraph.**

**Reply:**

Please see reply no. 30(a). Measures are applied to all prisoners, based on the principle of non-discrimination.

**Par. 46. The CPT recommends that management makes clear to all custodial staff that prisoners must not be treated in a demeaning manner due to their nationality and/or origins. Proactive measures need to be taken by management to ensure that foreign prisoners do not suffer from discriminatory practices. Further, reference is hereby made to the recommendation contained in paragraph 62 of this report (see section 5. Foreign national prisoners below).**

**Reply:**

The Prison Department is clearly against every type of racism, and discriminative behavior or treatment.

Any discrimination against any detainee due to his racial or ethnic origin, colour, language, religion, political or other beliefs, ethnic or social status, place of birth or for any other reason, is strictly prohibited. The prison officers receive training at the Prisons Academy on the treatment of prisoners based on the principle of non-discrimination.

**Par 47: Given the overcrowded situation at NCP, the CPT urges the Cypriot authorities to review the policy, legislation, and practice of imprisoning this category of foreign nationals in NCP. The CPT also recalls the recommendations contained in paragraphs 20 and 63 of this report**

**Reply:**

Regarding foreign nationals, suspension of sentence is granted for those persons convicted for short sentences and for migration related offences, such as illegal entrance and stay, approximately up to 2 months before their release.

**Par. 48: The CPT recommends that the Cypriot authorities take immediate steps to ensure that women in need can access the toilet rapidly after lock-up by ensuring, inter-alia that the call bell system is responded to effectively.**

**Reply:**

Women's block, is consisted of 26 cells. Out of the 26 cells, 23 have an in-cell sanitary facilities. The women imprisoned at the remaining 3 cells, have prompt access to the toilet through the toilet bell.

**Par. 49. The Committee recommends that the NCP management takes the necessary measures to ensure that cells have access to sufficient natural light and that the broken locks be replaced with new ones.**

**Reply:**

In Block 3, all cells have windows.

The female prisoners in Block 3 enjoy increased time out of their cells as these are open from 07:00 am to 09:00 pm on weekdays and until 10:00 pm before the weekends and before every public holiday. Therefore, all prisoners have access to natural light.

For every Prison block, an appointed staff member is responsible for the reporting of all damage. As a result, all damage (including broken lockers) are repaired immediately.

**Par. 50. The CPT considers that all persons in prison ought to be provided with drinking water by the authorities and if the tap water is not considered drinkable, the authorities should provide them with alternative sources of drinking water.**

**Reply:**

The Prison Department offers fresh and drinkable water, hot and cold, for free to all prisoners. The prisoners may also buy other kinds of water for example bottled from the Prison's Grocery Store.

**Par. 51. The CPT therefore recommends that immediate steps be taken to ensure that all prisoners have adequate quantities of essential personal hygiene products free of charge, including sanitary towels.**

**Reply:**

Upon their admission, all prisoners are provided with essential personal hygiene products free of charge, including shampoo and shower gel, toothbrush and toothpaste and sanitary towels for the women. The sanitary towels are provided free of charge throughout their imprisonment.

Also, when asked, prisoners are provided with soap, toilet paper, clothes and shoes, as well as financial help.

**Par. 54. The CPT recommends that the Cypriot authorities develop prison admission procedures to take account of the gender-specific needs of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison, and ensuring that such information is considered in the drawing up of a care plan for the woman in question. Further, steps should be taken to ensure that the admission procedure is always comprehensively carried out.**

**Reply:**

Upon admission, an assessment is made in order to identify the prisoners' needs including meta-trauma disorders and suicide risk or self-injury. Except from their examination by a General Doctor/Physician upon admission, they are also examined by the Mental Health Services of the Prisons Department and are assessed by Mental Health professionals. The assessment continues on a regular basis during the imprisonment. Depending on the outcome of the initial assessment, the prisoners are provided with the possibility to visit doctors of all specialties and if necessary, medication is administered.

Regarding the possibility of gender based violence, upon admission the Istanbul protocol is applied and in case a woman is recognized as the victim, all designated procedures are being followed

In 2023, a new office called "Office of Psycho-social support" was established within the Prison Department. The office plays an important role in the needs of the prisoners as emphasis is given on their psycho-social status, their living in the Prisons and also to their smooth reintegration in the society through the effort to solve the social issues they may face. Furthermore, primary counseling on individual level is offered from specialized members of the staff, as well as groups of experiential workshops are being organized depending on the psycho-social needs of the prisoners.

**Par. 56. The Committee invites the Cypriot authorities to make the necessary efforts to ensure that a procedure is in place in the prison for antenatal and post-natal care of all female prisoners.**

**Reply:**

Upon admission, a pregnancy test is carried out to all female prisoners. In case a female prisoner is found to be pregnant, all the necessary pre-natal care as well as medical

treatment and medication are offered. The prison staff transfers the pregnant prisoners to health facilities, where they are provided with specialized care. Post-natal care is also given both to mother and the baby, including all the necessary equipment such as cot/crib, baby carriage etc.

In addition, all efforts are being made for early release in such circumstances, if possible.

**Par. 57: The CPT recommends that the Cypriot authorities develop clear policies and regulations on the management of female prisoners, that are gender-sensitive and trauma-informed, which are aimed at providing protection against any form of sexual or gender-based violence and (re)traumatisation and at fostering a prison environment of safety and stability.**

**Reply:**

Mental health professionals assess the female prisoners' mental health situation during admission in order to identify their needs, covering also the possibility of gender-based violence. Apart from the initial screening, targeted interventions are carried out on an individual as well as on group level.

**Par. 58: The CPT would like clarification from the Cypriot authorities that a careful risk assessment is undertaken in such situations and that the transferred person is guaranteed a proper bed in a cell**

**Reply:**

In general, efforts are made so as confined prisoners have a separate cell.

## **5. Foreign nationals/prisoners**

**Par. 62: The CPT recommends that the Cypriot authorities should ensure that foreign nationals are able to progress throughout the serving of their sentence, and are able to progress to open prison and to be considered for early release, to afford them equal rights and treatment as those afforded to Cypriot prisoners. In this respect, the principle of non-discrimination should be respected, in line with international norms prohibiting discrimination. It also recommends that the Cypriot authorities should increase the support provided to foreign nationals in NCP through, inter alia: - appointing a dedicated foreign national liaison officer; - ensuring written information on prisoner rights, obligations, and house rules is provided upon admission, in a range of the most commonly spoken languages and in an accessible format, including information on immigration procedures to be systematically given to foreign nationals; and - ensuring foreign national prisoners have recourse to interpretation services when required.**

**Reply:**

All newly admitted prisoners receive a booklet with their rights, obligation and prison rules which is handed to them and explained by the staff during the interview stage in the 3-step admission process. The booklet is translated in 5 languages (Greek, English, Turkish, Arabic and Georgian) and is posted inside all Blocks, so as to become visible and

accessible for all prisoners. Also, all prisoners are allowed to keep this booklet throughout their imprisonment.

At the same time, they are allocated a cell, which the responsible Inspector visits daily, in order to assist the prisoners in their daily enquiries. When needed, an interpreter is called in order to facilitate the process.

## **6. Healthcare Services**

**Par. 66: The CPT reiterates its recommendation to the Cypriot authorities to progressively replace all prison officer medical orderlies with qualified nursing staff**

### **Reply:**

The Prison Department Directorate acknowledges this problem. To this end, several requests have been submitted to the Ministry of Health outlining their concerns and requesting nursing staff. More specifically, the Department has requested 4 additional nursing staff members, especially for the administration of medicine to prisoners. However, the issue is still pending.

**Par. 71 (a): The CPT again calls upon the Cypriot authorities to take the necessary steps to ensure that the record drawn up after the medical examination of prisoners – whether newly arrived or following a violent incident in the prison– contains:**

- **i) an account of statements made by the persons which are relevant to the medical examination (including their description of their 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 healthcare professional's observations in light of**
- **i) and**
- **ii), indicating the consistency between any allegations made and the objective medical findings.**
- **The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations, and a description of treatment given for injuries and any further procedures performed. Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner.**

### **Reply:**

The report drawn up after the medical examination of prisoners – whether newly arrived or following a violent incident in the prison, contains all the above details.

**Par. 71 (b): Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded. In addition, the CPT recommends that the prison management ensure that the NCP's doctors receive accurate information regarding their obligations to record and report injuries to the competent prosecutorial bodies, in line with the above norms.**

**Reply:**

A full time forensic physician is appointed at the Prison Department. The doctor, who is expert in examinations of traumas and injuries, writes and submits reports and takes photographs in such cases. Both The report and the photographs are placed in the prisoners' medical files.

**Par. 72: The CPT reiterates its recommendation that the confidentiality of medical data within the prison be guaranteed. Healthcare staff may inform prison officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents to additional information being given.**

**Reply:**

The issue of confidentiality of medical data concerns the Prisons Department since due to the lack of nursing staff, prison officers perform nursing duties. As already mentioned, in reply no. 66, the Prison Department acknowledges the problem and is trying to resolve it in cooperation with the Ministry of Health.

**Par. 73: The CPT recommends establishing a resident full-time psychiatrist presence as a matter of priority to ensure continuity of treatment for prisoner patients.**

**Reply:**

Since December 19th 2023, the Prison Department is staffed by a full-time Psychiatrist on a permanent basis, while the process of recruiting a second Psychiatrist especially for the needs of the Department is also under way.

**Par. 75: The CPT reiterates its recommendation that patients in Block 10 are afforded: - adequate access to natural light and sufficient artificial lighting in each cell; - access to varied and purposeful, rehabilitative or therapy-based programmes and activities; and - more time outside. Further, steps should be taken to mitigate the austere material conditions and prisoner patients should be transferred to a designated mental-healthcare facility.**

**Reply:**

Prisoners with the most severe mental health problems are accommodated in Block 10 in the Prison's premises.

Regarding access to treatment and rehabilitation programs and activities, it is reported that at the present stage, 1 Occupational Therapist and 2/5 are employed in the area, while a request has been forwarded for a new additional position of Occupational Therapist exclusively for the Department of Central Prisons.

When the prisoners, based on their mental state, require mandatory hospitalization in a secure psychiatric centre, then the relevant transfer process is activated.

**Par. 76: Concerning treatment for drug use, suboxone, the opiate agonist therapy, is prescribed by the Lemvos Project, and at the time of the visit, there were 25 persons receiving suboxone in doses varying from 1-32 mgs. Suboxone was administered by the mental health nurses six days a week with a double dose on a Saturday.**

**Reply:**

The double buprenorphine dose practice is usually well tolerated by our patients in the community, as long as there is no parallel opiate use. In the Prison Department, double dose practice has been used during COVID-19 pandemic and at present time it is taking place on Saturdays and/or when the transfer of the detainee is practically difficult. Indeed, there is a small percentage of patients who feel sedated the first day and/or feel mild withdrawal symptoms the second day (especially during night hours). For these reasons, we are currently planning the separation of the Lemvos Project from the Prison's Mental Health Services and the reinforcement with additional staff in order to achieve a 7/7 buprenorphine distribution. The introduction of buprenorphine injection, estimated to begin within 2024, will contribute further to achieving greater medication adherence.

Overprescription/off-label use of antipsychotics and benzodiazepines may be taking place in the prison settings but not for the relief of opiate withdrawal. Actually:

- a. detox from benzodiazepines is difficult, especially for polydrug users with a history of severe BDZ consumption before incarceration and
- b. antipsychotics are popular within the prison population due to their sedative / somnolent effect.

Introduction of methadone within 2024 as a treatment alternative for opioid dependent is expected to diminish off-label antipsychotic use and to lower BDZ consumption in the prison settings.

**Par. 77: The CPT recommends the establishment of a formal written procedure on managing hunger strikes by prisoners.**

**Reply:**

Regarding food refusals/hunger strikes, it is noted that this action does not imply the existence of mental illness. However, the Directorate of Mental Health Services is willing to contribute and assist the Prison Department in establishing a formal written procedure for the management of prisoner hunger strikes for the management of prisoners who are refused food or fluids.

**Par. 79: Prison management informed the delegation that they were concerned about the lack of permanent psychiatrists in the prison (see above) and had written over 20 letters to the Ministry of Health outlining their concerns. The CPT supports the prison management in their positive efforts in this regard.**

**Reply:**

Given the understaffing of the Mental Health Services Directorate in Psychiatrists, as well as the resignation of the Psychiatrist who covered the Prison Department, MHS used to cover the needs of the Prisons for Psychiatrists on a rotation basis. The problem has been resolved, since from December 19, 2023, the Prison Department is covered by a Psychiatrist on a full-time basis, while the process of recruiting a second Psychiatrist for the Central Prison Department is already under way.

**Par. 80: The CPT reiterates its recommendation that a central register be kept recording all incidents of self-harm and suicide attempts to enable management and external monitors to have a clear picture of the situation at NCP. Moreover, the NCP should, as a matter of urgency, establish a comprehensive and robust suicide prevention policy and ongoing prevention programme**

**Reply:**

A central register is kept recording all incidents of self-harm and suicide attempts.

All prisoners into the prison system are put through a risk-based intake assessment, which turns into an ongoing risk management system. Risk of committing suicide is one of the factors assessed. In the Prison Department, risk assessment and risk management take place upon admission and also during imprisonment. In the risk assessment and the follow-up processes many actors are involved, such as the Mental Health Services, Social Welfare Services, Educational Services, the Prisons and NGOs in a multi-agency approach. The involvement with all the Services and actors is essential to prevent them from harming themselves as a consequence of detention.

The prison staff receives training in order to carry out their duties with professionalism and to be alert to signs of inmates who are prone to commit suicide and intervene when necessary. If they notice an unusual or dangerous behavior from a prisoner, they immediately refer the case to the Mental Health Services and the Prison Directorate to deal with them effectively. The prisoners, when necessary, get counselling and support from the Mental Health Services or if it is a more serious case where hospitalization is needed, all the necessary steps for such a procedure/transfer are being taken.

#### **g. deaths in prison**

**Par. 84: The CPT would like clarification from the Cypriot authorities that investigation procedures and its applicable safeguards is in place and is systematically undertaken as regards every death in prison**

**Reply:**

In all cases of deaths in the Prison Department, a prompt and thorough investigation is carried out by Cyprus Police



## 7. Other issues

**Par. 91:** The CPT calls upon the Cypriot authorities to take steps without further delay to review staffing levels at NCP, with a view to increasing the number of custodial staff present in the detention areas according to the official complement. In this connection, a recruitment strategy based on proper funding and enhanced conditions of service should be developed, together with a policy of reduction of overcrowding (see section II. A. I.).

### Reply:

The efforts for recruiting new staff are continuous. To this end, the Council of Ministers has already approved the recruitment of 87 new prison officers until July 2024. Furthermore, 61 prison officers will be recruited by the end of 2024.

**Par. 92 (a):** In addition, the Committee reiterates its view that retention problems reflect and compound the problem of staff shortages. The staff attendance pattern does not help either. More efficient use of shift patterns would result in greater productivity. More introductory and in-service training would improve staff professionalism. Further, overtime work – on the rare occasions when it should be required, if there is a proper staffing complement – should be properly rewarded and monitored to ensure that staff do not suffer from burnout. In light of the above remarks, the CPT reiterates its recommendation that the Cypriot authorities take the necessary measures to:

- develop the capacity and role of prison officers;
- adopt more introductory and in-service training;
- properly reward any overtime working;
- develop initiatives to tackle absenteeism, including rewarding good attendance and applying effective sanctions for persistent absenteeism; and
- establish ongoing psychological support where appropriate.

### Reply:

The overtime work of prison staff is being properly rewarded. Since January 2023, the prison officers are also given a danger/risk benefit of an additional amount per month.

To tackle absenteeism, the working hours-shifts are flexible. The members of the staff can work a 12hour shift instead of a 6hour and given an extra day off for it. The Security and Personnel Office of the Prison Department puts great effort in assisting staff members with their shifts. Prison officers may request to change their shifts according to availability or exchange their shifts, in case they are not able to work their shift. There is also rotation of duties for example prison officers do not always work inside the Blocks and instead they take duties in other posts, such as the Prison gate, transfers of prisoners to healthcare facilities etc.

**Par. 92 (b):** The CPT would like to be informed of how many of the 60 prison officer vacancies have now been filled, and the staffing levels of management, chief wardens and prison wardens, within three months of receiving this report.

### Reply:

The following recruitments have taken place since the Committee's periodic visit:

June 2023: 7 permanent prison officers

August 2023: 6 prison officers on a temporary basis

February 2024: 2 permanent prison officers

As a result of recent staff promotions, there has been a significant increase in the number of sergeants/chief wardens. More specifically in 2023, 37 members of the staff were promoted to sergeants and 4 sergeants were promoted to inspectors.

**Par. 93: In 2017, the Committee took note of the plans for reform of the prison legislation of the Republic of Cyprus, concerning the procedural guarantees and safeguards required for prisoners placed in solitary confinement. The authorities subsequently informed the Committee that amendments to the Prison Regulations were underway and that these would reflect in law the current practice, by which a total prohibition in contact with the outside world in cases of disciplinary punishment is no longer imposed. They would also set maximum periods of solitary confinement in cases of disciplinary punishment, and establish procedural guarantees and safeguards for decisions of solitary confinement. At the time of the visit, these amendments had not yet been adopted by the Parliament.**

**The CPT would like to be informed of the current status of these amendments, whether they are now in force and, if so, to be sent a copy.**

**Reply:**

There were no amendments to the Prisons Regulations on disciplinary punishment and solitary confinement.

However, according to the Prisons (General) Regulations no. 151(1)(i)(ii)(iii) (**Please see Annex 2**) the inmates have the following rights of calls and visits during solitary confinement:

- Telephone calls and visits from their lawyers
- Telephone calls with members of their families, partners and friends once a week
- Visits from members of their families, partners and friends once a week.

**Par. 95. The CPT reiterates its recommendation that the Cypriot authorities ensure that placement in provisional or precautionary disciplinary isolation (investigative lock-up) is in line with the above standards, including providing that it is not used routinely, complies with due process safeguards and generally does not last longer than a few hours.**

**Reply:**

First, it must be clarified that prisoners are not locked up nor being isolated. In fact, they are confined in their own cell or in another solitary cell, and this confinement is applied until the completion of the disciplinary investigation, which is carried out as soon as possible. The recommendation for confinement of the prisoner for a few hours, is included in the Regulation 151 1(α), 1(β), 1(γ) of the Prisons' (General) Regulations (**Annex3**) according to which the prisoner can be placed in solitary confinement for a short period of time in extreme cases, where this is regarded not as a disciplinary punishment, but instead takes place in order to protect the interests of the prisoner or the interests of the other prisoners

and to restrict violent or disobedient prisoners who cause violent incidents with other prisoners. It is noted that in all cases of disciplinary investigations, proceedings/minutes are kept according to the reports which are issued immediately upon the completion.

According to the Regulation 160A (**Annex 4**), the confinement in a solitary cell is imposed with the Director's decision after the prisoner has been offered the opportunity to be heard.

**Par. 98: The CPT reiterates its recommendation that the prison management fundamentally reviews the operation of the disciplinary procedures to ensure that any offence is investigated, adjudicated and executed promptly, and, in the case of criminal offences, that reports are immediately forwarded to the public prosecutor for appropriate criminal action**

**Reply:**

The Prison Directorate places great emphasis on the completion of all disciplinary procedures within two months, following the Regulation no. 156 (**Please see Annex 5**). In all cases of disciplinary procedures, the investigation is carried out with transparency. The prisoners are always informed on the reasons of their confinement. Further, after the completion of the investigation, the indictment is given to the prisoner, who is asked to be presented in a testimony during which proceedings/minutes are kept and decisions are duly justified. In each case, the views of the prisoner are heard and taken into consideration before any punishment is imposed.

In the case of criminal offences, the Police is immediately informed in order to conduct an investigation of the incident.

**Par. 103. The Committee flags that a system in which prisoners filter and monitor who has telephone access and its duration risks facilitating the development of inter-prisoner intimidation and violence (see section 2. III-treatment above). The Committee recommends that the prison management swiftly take measures to stop this situation at once (see also the recommendation contained in section 2. III-treatment).**

**Reply:**

As a result of recent promotions, there has been a significant increase in the number of sergeants/chief wardens and more specifically in 2023, 37 members of the staff were promoted to sergeants and 4 sergeants were promoted to inspectors. As a result, every Block has a prison manager during almost every shift, who does not allow any prisoner to control the telephone calls of other prisoners or their duration. The recruitment of additional prison staff will further assist this issue.

**Par. 108. The CPT reiterates its recommendation that all complaints be registered centrally within the prison before being allocated to a particular service for investigation or follow-up. In all cases, the investigation should be carried out expeditiously (with any delays justified), and prisoners should be informed within clearly defined periods of the action taken to address their concern, or of the reasons for considering the complaint unjustified. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison. Further, any oral complaints should be addressed and**

**systematically recorded and registered, in adherence to principles of confidentiality. Equally, all staff should be trained on the importance of the complaints' system and their role within this system. In addition, prisoners should be fully informed about their right to complain and the method by which to complain.**

**Reply:**

The Commissioner for Administration and the Protection of Human Rights (Ombudsman) deals with the promotion and protection of the rights of prisoners. The Commissioner's firm position is that anyone who is deprived of his personal liberty in any form of detention or imprisonment is entitled to respect and dignity. The prisoners may, by letter, at any time of their imprisonment, contact the Commissioner in order to complain of any violation of their rights or any problems they may face in Prison. A complaint can be submitted to the Commissioner, by letter, which can be placed in the special box in every Block, clearly labelled «Commissioner for Administration and the Protection of Human Rights "OMBUDSMAN" These letters, are not subject to the control or inspection of the Director of the Prison Department. Every week, an Officer of the Commissioner's Office inspects these boxes, in all blocks and collects the content. At the same time, a complaint may be lodged with the Commissioner by the prisoner's relatives or his lawyer on his behalf.

Regarding the submission of the prisoners' complaints within the Prison, there are letter boxes in all Prison areas, accessible to prisoners. There, the prisoners can submit a complaint to The Director of the Prison. The appointed prison officer opens the box on a regular basis, collects the letters without opening them and then forwards them to the Director, who gives instructions on how to deal with the complaint, according to the case. The Director usually gives instructions to prisons managers to investigate the complaints and immediate interventions are made when necessary.

The prisoners can also submit complaints or requests on a daily basis by handing them to the Inspector of their Block who investigates the issue immediately.

Prisoners are aware of their rights to submit their complaints as they are informed of their rights and responsibilities, upon arriving at the establishment.

The staff is also fully aware and is trained on the importance of the complaints' system and their role within this system mainly through their training at the prison Academy.

**Par. 109. Further, the CPT urges the Cypriot authorities to ensure that the Prison Board is nominated and rendered effective as soon as possible. Prisoners should be made aware of its composition and mandate, and both the prisoners and Prison Board members should have direct and confidential access to complaint boxes in all blocks.**

**Reply:**

The Ministry of Justice intends to appoint a new Prison Board within the next few months.

## **B. Law Enforcement establishments**

### **1. Preliminary remarks**

**Par. 113: The CPT would like to request clarification from the Cypriot authorities as to where children suspected of having committed a criminal offence are, or can be, held. The Committee would also like to receive details concerning the proposed layout, staffing, requirements and timelines for the proposed child detention facilities.**

According to the Children in Conflict with the Law Law of 2021 (L. 55(I)/2021), any form of deprivation of liberty of children should be a measure of last resort and be for the shortest appropriate period of time. Criminal prosecution and detention of children in conflict with the law are the ultimate measures and are only enforced if any other measures provided in the Law have been tried and failed.

According to the Law, instead of being prosecuted, children in conflict with the law are referred by the Attorney General to a diversion programme, where they are monitored by a Committee consisting of Officers of the Competent Authorities, such as Police, Social Welfare Services, Mental Health Services, as well as the child involved and his/her parents or guardians. The Committee prepares an action plan and monitors its implementation by the child. In case the child does not conform to the Action Plan or if the crime committed is serious, the General Attorney may decide his/ her prosecution.

One of the most important reforms provided by the Law is the establishment and operation of a special detention area for children, outside of prisons, for the reformation and reintegration of children sentenced to detention, which must have a reformatory, educational, therapeutic and welfare character, according to the international and European standards for such areas. Persons aged 16 to 21, who have committed or are suspected to have committed an offence before the age of 18, can be detained in this centre, following a Court Order.

After receiving approval by the Council of Ministers, the Ministry of Justice and Public Order is promoting the process of establishing a detention center for children, which will meet the standards set by the Law, International and European Organizations and Conventions, through a public tender.

A Technocratic Committee, in which representatives from all the involved Services participated, has prepared the specifications for the detention centre.

At the same time, in collaboration with the Department of Law of the University of Cyprus, within the framework of a Memorandum of Understanding, a complete Regulatory Framework was prepared for the operation of the Children's Detention Center, which is fully compatible with the International and European Conventions, the Convention on the Rights of the Child and Guidelines for the handling of minors with delinquent behavior. After consultation with all the involved Services, Authorities and Agencies, the Draft Regulations were forwarded to the Law Service at the beginning of October 2023, for legal vetting.

As soon as the Regulations are passed by the House of Representatives, the Ministry of Justice and Public Order will procure a public tender for the establishment and the operation

of the Childrens' Detention Centre. The aim is to proceed to the procurement within this year.

Meanwhile, in the exceptional cases where children are deprived of their liberty, they can be detained in a special ward in prisons, specially designed for the detention of children, separately from adults.

## **2. Ill-treatment**

**Par. 115. The CPT would like to be informed about the outcome of the investigation into this case and whether any disciplinary or criminal procedures were subsequently initiated.**

### **Reply:**

The investigation of the case (no. 97/23) is still ongoing.

**Par. 117: The CPT recommends that the Cypriot authorities ensure that police officers throughout Cyprus are instructed, at regular intervals, that all forms of ill-treatment of persons deprived of their liberty – including verbal abuse, racist behaviour and threats – constitute disciplinary offences and, where appropriate, criminal offences and will be sanctioned accordingly**

### **Reply:**

The issue of zero tolerance for ill-treatment, verbal abuse and racist behavior is addressed through circulars letters at frequent intervals. Specifically, from 2021 until today, five (5) circulars were sent regarding the zero tolerance for torture and racist behavior, dated 13/07/2021, 09/02/2023, 20/03/2023, 13/09/2023 and 29 /02/2024.

The latest circular letter dated 29/02/2024, noted, among other things, the demonstration of zero tolerance for incidents of ill-treatment, use of excessive force, torture, inhuman and degrading treatment or punishment and racist behaviour. It was also emphasized that the violation of the aforementioned principles constitutes a disciplinary / criminal offense, depending on its severity.

In addition to the above, the Police Standing Order 5/3 "Rights of Detained Persons", which is part of the Cyprus Police Academy curriculum, both during basic training and in specialized programmes, includes special provisions regarding the treatment of detainees. Specifically, it provides that every detainee is entitled not to be subjected to torture or to inhuman or degrading punishment or treatment or to any physical, psychological or mental violence. In addition, the same Police Standing Order strictly prohibits:

- Torture,
- Threats of torture or assault,
- Threats of future retaliation against him/her or anyone related to him/her,
- Promises of favor, or
- Any pressure intended to elicit a confession.

Moreover, a Police Standing Order 1/106 was enacted in 2022, that includes the procedures followed for complaints regarding ill-treatment, submitted by citizens against the Police and

the instructions of the Attorney General. According to these instructions, the Police is not authorized to proceed with the investigation of the complaint. Therefore, the Independent Authority, in consultation with the Attorney General, appoints an independent criminal investigator to investigate the complaint. The result of the investigation is submitted to the Attorney General for instructions. This procedure, ensures an effective and impartial investigation with regards to investigation of such complaints.

Additional actions of the Police to prevent torture are attached as **Annex 6**.

**Par. 118.: The Committee would appreciate being informed whether the Cypriot authorities have considered issuing such devices or, alternatively, if they have planned to do so, and how their use would be implemented**

**Reply:**

The Bill is pending before the Parliament and includes provisions that gives the possibility to the Police to install portable cameras on police uniforms, on clothes of members of the Police who serve in plain clothes and on Police vehicles, with or without insignia, for use in specific cases and under certain conditions and restrictions.

**Par. 119: The CPT recommends that the Cypriot authorities introduce a proper risk and needs assessment for new arrivals at the police detention centres, to identify vulnerabilities and ensure the safe and secure allocation of persons to the cells available**

**Reply:**

Police Standing Order 5/3, includes specific procedures for interviewing a detainee immediately prior his/her placement in the cell, as well as observing his/her behavior during detention. These procedures are attached as **Annex 7**

In addition, as soon as a person is arrested and before he/she is taken into police custody, he/she is searched to remove anything with which he/she may cause harm to himself/herself, other persons or property. He/she is also checked for visible marks or wounds. If any marks or wounds are observed, a registration is made in the Personal File of the Detainee and he/she is taken for medical examination, if necessary.

When a detainee is transferred to the detention area, the following basic security measures are additionally taken to avoid the risk of escape, attack, causing damage, etc.:

(a) Before the handcuffs are removed, the detainee is placed in a special room, or if no such room is available, in his/her individual cell.

(b) Any doors where detainees are not allowed to enter/exit are always closed and locked for security reasons, especially in cases of movement within the detention centers, even if they are accompanied by a member of the Police (e.g. for visiting purposes).

(c) For security reasons, his/her body search in the detention center is always carried out in the presence of an additional member of the Police, or more, if the detainee is considered dangerous / violent. A body search before placing him/her in the cell is necessary, even if the member who arrested him/her had already searched him/her before.

(d) The Officer in Charge of the Detention Center checks the detainees every half hour, unless otherwise instructed for a more frequent inspections and makes a relevant registration in the Electronic Police Diary.

(e) After the end of a visit and/or after the detainee's return to the detention center (e.g. due to transfer to the doctor, Court, interrogation) he/she is searched again before being placed in his/her cell, in the same way as described above.

In addition to the above, the investigator when transferring the detainee to the Detention Center, he/she informs the Officer in Charge of the Detention Center about the seriousness of the case, the character and temperament of the detainee and warns him/her if there is a risk of escape or violent reaction. A relevant registration is made in the Electronic Police Diary.

Taking into consideration, the seriousness of the offense and the character of the detainee, the appropriate measures are taken for his/her detention. It is the responsibility of the Officer in Charge of the Detention Center to identify and have suitable and sufficient staff for the supervision of the detainee. Where necessary, the detainee is monitored 24 hours a day.

The Police, with the aim of protecting detainees who have suicidal tendencies or are dangerous/violent, created specially designed rooms in Lakatamia and Menoyia Detention Center. These rooms have a special sponge and are used temporarily, until the necessary actions are taken by the Police (e.g. issuance of a compulsory hospitalization order, transport to the Hospital, etc.). The rooms were created according to the specifications of similar places (Athalassa Hospital and Ward 10 of the Prison Department). In addition, in order to ensure the rights of the persons placed in the rooms, in cooperation with the Ministry of Health and the Ombudsperson, guiding principles / procedures, were prepared and disseminated to members of the Police. These procedures are intended to regulate the actions of the Police members, who place a detainee in the room and to ensure that the room is not used for punitive purposes or when it is not absolutely necessary or when it does not serve the purpose for which it was created. The members of the Police, working in this two Detention Centers, received training from the Mental Health Services. Similar rooms will be created in other Detention Centers. The room at Larnaca District, is expected to operate in April 2024.

### **3. Safeguards against ill-treatment**

#### a. introduction

**Par. 122: The CPT recommends that any non-standard issue objects be immediately removed from all police premises where persons may be held or questioned**

#### **Reply:**

Instructions were given to all Police Stations and Criminal Investigation Departments to remove such items from the detention and interrogation areas. All relevant Departments assured in writing that there are no non-standard objects in the detention / interrogation areas.



b. notification of custody

**Par. 123: *The CPT recommends that the Cypriot authorities ensure that all persons detained by the police are systematically offered the possibility to notify a person of their own choice of their detention from the very outset of their deprivation of liberty***

**Reply:**

Police Order 5/3, which is part of the Cyprus Police Academy curriculum, both during basic training and in specialized programs, provides that a person who is arrested has the right, immediately after his/her arrest, to be informed in a language that he/she understands, by a member of the Police who arrested him/her, that he/she has the right to communicate in person by telephone and without undue delay, subject to the cases of temporary derogation, in the presence of a member of the Police, with any relative or with his/her employer, or with another person of his/her choice. Members of the Police are often reminded, through circular letters about the rights of detainees. In particular, a circular letter was sent on 29/02/2024, emphasizing on this right. It is also worth noting that the above right is included in the document "Rights of Detained Persons", which is given to detainees upon admission to the Detention Center.

**Par. 126: *The CPT recommends again that the Cypriot authorities ensure that any persons held in police custody (including foreign nationals) are able to notify (namely by making a free-of-charge phone call) the fact of their detention to their family or a third person of their choice as from the outset of their detention, including abroad***

**Reply:**

As regards foreign nationals, the Police Standing Order 5/3 provides that immediately after the arrest of a foreign national, in addition to the rights mentioned above and subject to any temporary derogation, he/she has the rights to be informed in an understandable language about the following:

(a) as soon as practically possible and without undue delay, to be informed by the member who arrested him/her, in a language that he/she understands, that he/she has the right to personally contact by telephone, in the presence of a member of the Police, with the consular or diplomatic mission in the Republic of the state of which he/she is a national, to inform it of the arrest or detention and of the police station or detention facility where he/she are being or will be held.

(b) If there is no consular or diplomatic mission in the Republic, he/she can contact the Office of the Commissioner for Administration and Human Rights of the Republic.

(c) If the arrested person is a national of two (2) or more States, he/she may choose the consular or diplomatic missions that he/she wishes to inform of his/her deprivation of liberty and which he/she wishes to contact. In addition, he/she has the right, if he/she so wishes, to communicate, receive visits from, talk to and correspond with these authorities and to have his/her legal representation arranged by them, provided that these authorities have no objection.

The above right is also included in the document "Rights of Detained Persons", which is given to detainees upon admission to the Detention Center.

Administrative detainees have their mobile phones in their possession 24 hours a day and can make calls whenever they wish. Additionally, they can make a phone call using police telephones. Criminal detainees can only use police telephones. All calls abroad are made from the Police line, free of charge.

**Par. 127: The CPT recommends again that this shortcoming be remedied**

**Reply:**

The Police will proceed with the amendment of the relevant form.

c. access to lawyer

***Par. 130, 131: The CPT again calls upon the Cypriot authorities to take the necessary measures to ensure that all persons detained by the police understand and can effectively benefit, if they so wish, from access to a lawyer from the very outset of their deprivation of liberty as provided by law, including during any police questioning. The legal provisions regarding the rights of detained persons to access a lawyer should be reiterated to all police officers.***

***The CPT recommends that Cypriot authorities ensure that State appointed lawyers can be contacted and can meet their clients at the very outset of the deprivation of liberty, including during police questioning. The legal aid system should be applicable as from the very outset of police custody. Practical arrangements should be put in place to ensure that ex officio lawyers are contacted and meet their clients while they are in police custody.***

***In this regard, the CPT also recommends that, in association with the Bar Association, a list of ex officio lawyers which detained persons can consult be compiled for each police***

***The CPT recommends that the Cypriot authorities take appropriate steps to ensure that lawyers are able to meet confidentially with their clients***

**Reply:**

Immediately after the arrest of any person and without undue delay, he/she is entitled to personally contact a lawyer of his/her choice by telephone, without any other person being present. The above rights are included in the document "Rights of Arrested/Detained Persons" and the Police Standing Order 5/3.

- Access to a lawyer is granted:

- (a) before interrogation by the Police or other competent authority;
- (b) promptly before the person is brought before the Court;
- (c) during an investigation or gathering of evidence by the Police or other competent authority.
- (d) upon deprivation of the person's liberty, without undue delay.

- Access to a lawyer includes the right to:

- (a) have a private meeting and contact with the lawyer who is representing the detained persons at any time whatsoever;

(b) request the presence and the participation of their lawyer during the interrogation, in order to provide them with clarifications with regard to the procedure which is being followed and to advise them on the procedural rights related to the interrogation.

(c) Request the presence of their lawyer during the investigation or gathering of evidence in the event that, according to the legislation, the detained person is entitled to attend to the specific interrogation procedure.

Further to the above, the Police maintain the confidentiality of communications between the detained person and his/her lawyer during meetings, correspondence, telephone conversations and other permitted forms of communication he//she has with him/her. In any event, a list shall be made available to him/her, immediately after his/her arrest or, if his/her arrest is made outside a police station, immediately after his/her admission to the station, with the names and telephone numbers of all lawyers registered in the "Register of practising lawyers". If he/she is detained, he/she is entitled to have confidential interviews for his/her defence with his/her lawyer at any day and time in the detention facility where he/she is detained, in a private room out of the sight and hearing of any member of the Police, and to have him/her give he/she and to receive from him/her confidential instructions, written or oral, during the interview. For this purpose, visits with lawyers take place in specially designed areas / visiting rooms, in which no cameras are installed, in order to ensure the confidentiality of the meetings.

If he/she does not have sufficient financial resources to exercise his/her right of access to a lawyer during the interrogation stage, he/she can report this to the member of the Police in charge of the interrogation, after signing a relevant form. He/she will then be given a list of the names and telephone numbers of the lawyers interested in offering their services and he/she will acknowledge its receipt. The lawyer of his/her choice will be informed of this by the Police member.

All detained persons are entitled to send and receive letters to and from their lawyer without the letters being opened or read by any Police member except in exceptional cases in which the officer in charge of the detention place has reason to believe that an illegal object is enclosed in the envelope and in such case the letter is opened and checked by a Police member in the presence of the detained person, without reading the letter.

In addition, a circular letter was sent on 29/02/2024, to the members of the Police emphasizing that a person arrested by a member of the Police should be allowed immediately after his/her arrest and without undue delay to communicate in person by telephone with a lawyer of his/her choice, without any other person being present. Furthermore, it was stressed out that every detainee is entitled to have, for his/her defense, confidential interviews with his/her lawyer in the detention center where he/she is detained, in a private area out of the sight and hearing of any member of the Police, at any time and day, without limitations.

Further to the above, the Police sent a letter to the Bar Association for the provision of the two (2) updated lists, with the details of the lawyers (name, telephone, etc.), who are registered in the "Register of practicing lawyers" and those who provide free legal aid. These lists will be forwarded to all places of detention, for informing the suspects/arrested/detainees of their right of access to a lawyer, in accordance with the provisions of the Legislation.

d. access to doctor

**Par. 133: The CPT recommends that the Cypriot authorities comply with the principle that all medical examinations of detained persons carried out at a police establishment or a civil hospital should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police staff**

**Reply:**

All medical examination, care and monitoring are carried out in a private room, without being seen or heard by any member of the Police. However, it may be carried out within the visual, but not the hearing, field of a member of the Police who is of the same sex as he/she, if the detention officer has reasonable grounds to believe that the physical integrity of the examining doctor would otherwise be at risk.

A circular letter was sent on 29/02/2024, reminding members of the police about the following: “every detainee is entitled at any time to receive medical care by a doctor of his/her own choice and to communicate for this purpose in person by telephone in the presence of a member of the Police or, in case he/she does not wish to exercise the right of his/her own of the doctor's choice, to receive a medical care by a government doctor arranged by the person in charge of the detention centre. Every medical examination/ treatment is carried out in a private area, out of the sight and hearing of any member of the Police. However, it may be carried out within the visual, but not the hearing, field of a member of the Police who is of the same sex as the detainee, if the detention officer has reasonable grounds to believe that the physical integrity of the examining doctor would otherwise be at risk.

**Par. 135: *The CPT recommends that the Cypriot authorities put in place a system of visiting doctors at police stations and detention centers. Further, the practice of police officers carrying out healthcare duties should be ended and the current system of storage and management of medication at police detention centres should be reviewed.***

**Reply:**

The Police sent a letter to State Health Services Organization, asking their opinion both on the issue of doctors' visits to detention centers and the presence of nurses. In addition, efforts will be made to include in the 2025 budget, a fund for the purchase of nursing services at least in large-capacity detention centers.

e. information on rights

**Par. 137: The CPT recommends that the Cypriot authorities increase their efforts to ensure that persons deprived of their liberty by the police are notified of their rights in a language they understand and in an accessible form**

**Reply:**

Members of the Police inform detainees about their rights both orally and in writing. It should be noted that, when needed, an interpreter is called in order to facilitate the detainee to

understand his/her rights. The document “**Rights of Detained Persons**”, which was revised in 2021, includes, among others, the following rights:

- The reasons of his/her arrest or detention and the offence that he/she is accused of having committed,
- The right of access to a lawyer,
- The right of free legal aid/assistance and the conditions required for such assistance,
- The right of interpretation and translation,
- The right to remain silent and the right against self-incrimination,
- The rights of communicating with a lawyer and / or any other persons in order to inform them about the arrest and/or detention,
- The place of detention,
- The right of access to the material of the case,
- The right to inform the consular authorities or any other person,
- The right of access to urgent medical care,
- The maximum time of detention, and
- The right to challenge the lawfulness of the arrest and detention.

When the document is not available in a language that the person understands, the person is informed about his/her rights orally, in a language he/she understands. The document is provided to the person subsequently with undue delay in the language he/she understands and he/she is asked to sign a statement attesting that he/she received a copy of the document.

It is also worth noting that according to the Law, the arrested person has the opportunity to read the document and has the right to keep it in his/her possession throughout his/her detention. The Cyprus Police has translated this document in 20 languages (Greek, English, Turkish, Arabic, Bulgarian, French, Georgian, Persian, Ukrainian, Polish, Russian, Rumanian, Serbian, German, Spanish, Hungarian, Bengali, Sri-Lankan, Philippine and Vietnamese).

In addition, a circular letter was sent on 29/02/2024, reminding members of the Police that all detainees, without exception, must be informed both orally and in writing of their rights. To this end, they must be provided with the document stating their rights, in a language they understand, enabling them to read it and keep it in their possession throughout their detention.

f. custody records

**Par. 138: The CPT recommends that the Cypriot authorities take steps to ensure that police custody records are accurately maintained**

**Reply:**

Circular letters are often sent, concerning custody records. In the last letter, dated 29/02/2024, it was stressed that all required data must be registered correctly and systematically, both in the Detainees' Electronic System and in the Detainees' Individual File. The person in charge of the Detention Center must carry out frequent checks of the registrations, in order to verify their correct compliance (properly and effectively completed, updated information). In addition, instructions were given to the Professional Standards, Audit and Inspection Directorate, to carry out checks on the custody records kept at all Detention Centers.

g. conduct of interviews

**Par. 140: The CPT encourages the Cypriot authorities to extend the application of audio-visual recording of police interviews to the questioning of all detained persons. In the interim, consideration should be given to also using, to the extent possible, the existing juvenile interview rooms for police questioning of adults**

**Reply:**

A Law proposal regulating this matter is pending before the House of Representatives.

**Par. 141: The Committee would like to receive clarification as to how long the recordings of the CCTV cameras are kept and who has access to such recordings**

**Reply:**

The systems have the ability to store data for approximately 12-15 days. The stored data can only be retrieved by technicians of the Technological Development Department as it is protected by a security code.

h. complaints procedures

**Par. 143: The CPT recommends that the Cypriot authorities put in place a robust complaints system for persons detained by the police which should include the provision of information about the complaints procedures and mechanisms available in the initial written information given to detained persons on arrival, and the installation of locked complaints boxes with relevant confidential complaints forms in all police stations and detention centres, which are emptied regularly by an independent police body**

**Reply:**

The Police sent a letter to the Independent Authority for the Investigation of Allegations and Complaints Against the Police, in order to submit their opinion both on the installation of complaints boxes and on the preparation of a relevant complaint form. Subsequently and depending on the Independent Authority's response, the Police will proceed to amend the document "Rights of Detained Persons", to include provision for the complaint's procedure.

In addition, it is worth noting that, based on Article 15(1)(b) of Law 163(I)/2005, detainees are entitled to send and receive letters to and from the European Court of Human Rights, the Attorney General of the Republic, the Commissioner for Administration and Protection of Human Rights, the Independent Authority for the Investigation of Allegations and Complaints against the Police and any international or national human rights commission, organization or authority that examines and decides on complaints concerning human rights violations or examines complaints concerning the detention of persons. The letters shall not be opened or read by any member of the Police. This provision is included in the document "Rights of Detained Persons".

**Par. 144:** The CPT would like to be informed of the number of cases which have led to disciplinary proceedings out of these 219 allegations of police ill-treatment investigated by the IAICAP between 1 April 2020 and 30 April 2023 and also of the number and type of disciplinary sanctions imposed. The Committee would also like to receive information for this same period on the outcome of the criminal proceedings in the pending cases, in which the Attorney General decided to prosecute the police officers concerned for alleged ill treatment.

**Reply:**

CRIMINAL CASES REGARDING ALLEGATIONS OF ILLTREATMENT (APRIL 2020 – APRIL 2023)		
	Case no.	OUTCOME
1	[...]	1 police officer was prosecuted for Common assault (art. 242, CAP. 154) and Assault causing actual bodily harm (art.243, CAP. 154). <b>The case is before court.</b>
2	[...]	1 police officer was prosecuted for Abuse of power (art. 105, CAP. 154) and Assault causing actual bodily harm (art.243, CAP. 154). <b>The case is before court.</b>
3	[...]	1 police officer was prosecuted for Assault causing actual bodily harm (art.243, CAP. 154). <b>The case is before court.</b>
4	[...]	2 police officers were prosecuted for Cruel, Inhuman or Degrading Treatment or Punishment (ART.5, LAW 235/1990). <b>The case is before court</b>

DISCIPLINARY CASES REGARDING ALLEGATIONS OF ILL-TREATMENT (APRIL 2020 – APRIL 2023)		
	Case no.	OUTCOME
1	[...]	1 police officer was prosecuted for the offence of Unlawful Exercise of Power {par.10(c), Disciplinary Code}.
2	[...]	2 police officers were prosecuted for the offence of Unlawful Exercise of Power {par.10(c), Disciplinary Code}.

**Par. 145:** The CPT would like to receive an update on the work of the Police Disciplinary Committee

**Reply:**

The Police Disciplinary Committee dealing with disciplinary proceedings does not only deal with ill-treatment offences but also with other serious offenses committed by members of the Police. Currently, no cases of ill-treatment have been brought to trial.

**Par. 146: The CPT reiterates its recommendation that the Cypriot authorities provide the Authority with the requisite means to recruit and train its own team of internal and independent investigators.**

**Reply:**

A bill is currently being drafted by the IAIACAP so that the Authority will be able to employ permanent investigators. This new procedure will be combined with the existing one, by which the investigators are selected from a pool of experts, prepared by the Attorney General and are recruited exclusively for the purposes of each case. At the same time, the IAIACAP is empowered to engage the services of experts/specialists such as photographers, interpreters, forensic doctors and others that may be necessary for an investigation. The new procedure will contribute to the increased speed of the investigations and the improved management of the budget of the IAIACAP.

#### **4. Conditions of detention**

**Par. 151: The CPT once again calls upon the Cypriot authorities to end the current practice of detaining persons in police custody for prolonged periods (more than three days). The Committee recommends that national legislation be amended to guarantee a limitation of time of any placement in police custody. The Cypriot authorities must also take urgent action to remove sentenced prisoners from police custody and transfer them to NCP or another suitable facility**

**Reply:**

As regards the **period in police custody** please be informed of the following:

(A) Article 24 of Criminal Procedure Law (Capital 155), provides the following: *“Where it shall be made to appear to a Judge that the investigation into the commission of an offence for which a person has been arrested has not been completed, it shall be lawful for the Judge, whether or not he/she has jurisdiction to deal with the offence for which the investigation is made, on application made by a police officer, not below the rank of an inspector, to remand, from time to time, such arrested person in the custody of the police for such time not exceeding eight days at any one time as the Court shall think fit, the day following the remand being counted as the first day.”*

According to the jurisprudence of the Supreme Court, when a member of the Police submits an application for police custody, he/she must satisfy the Court that the following conditions exist:

- (a) A specific offense has been committed for which the suspect has been arrested.
- (b) There is evidence/testimony that reasonably links the suspect to the commission of the crime/s under consideration.
- (c) The interrogations have not yet been completed and briefly describe what must be performed.
- (d) The detention of the suspect is considered necessary to avoid the possible influence of the investigations (influence of witnesses, destruction of evidence, escape, etc.).



(3) Based on the above conditions, the member who presents the suspect before the Court for the issuance of a detention order, must prepare properly and submit before the Court, all the necessary evidence/witnesses required, to satisfy the request of the Police.

With regard to the condition referred to in sub-paragraph (a) above, in the event that after the issuance of the arrest warrant, testimony is obtained that establishes other criminal offenses, which must be reported to the Court for the issuance of a detention order, to request in advance the securing of a second warrant of arrest, which should include the offenses that came to light afterwards. All offenses should be included in the detention application.

At the stage of detaining a suspect for committing an offense for the purpose of conducting police investigations, the testimony and probative value of the evidence available to the police or the effectiveness of this witness material are not evaluated. The critical questions focus on the genuineness of the police's suspicions and their reasonableness in light of the evidence they have collected. Suspicion is reasonable, as long as the testimony available to the police tends, by logical extension, to link the suspect to the commission of the crime.

(B) Article 48 (adjournment and remand in custody) of Criminal Procedure Law (Capital 155), provides the following: *“Every Court may, if it thinks fit, adjourn any case before it and upon such adjournment may, subject to the provisions of subsection (2) of section 157 of this Law, either release the accused on such terms as it may consider reasonable or remand him in custody.”*

The Supreme Court in Criminal Appeal Cases no. 195 and 196/2010, established guidelines on the application of article 48. Specifically, the detention of the accused until the day of trial of his case is decided by the Court taking into account the following reasons:

(a) The risk of the defendant not appearing in Court on the day of the trial. This risk is weighted according to:

- (i) The seriousness of the offence
- (ii) The likelihood of conviction and
- (iii) The penalty that may be imposed

(b) The possibility of committing other offences.

(c) The possibility of witness influence.

The above reasons do not need to be concurrent. It is sufficient to establish one of these grounds to order the detention of an accused.

As mentioned in the Court Decision, the principles of our jurisprudence, in relation to when the detention of an accused person is ordered, are fully harmonized with the principles of the European Court of Human Rights - (see *Konstantinidis v. Republic* (1997) 2 A.A.D. 109).

As regards **persons placed in the Witness Protection Program**, please be informed that the 2024 budget includes an amount of €500,000 for the purpose of starting to construct the new facility for the Witness Protection Program. The total cost of the project was estimated at €11,900,000. The construction works are expected to last for about three years. The exact schedule of the project is not known at the time.

**Par. 152: The CPT recommends that the Cypriot authorities ensure that all police custody cells: - are maintained in a good state of repair and hygiene; - are equipped with a functioning call bell; and - have adequate and functioning artificial lighting**

**Reply:**

As regards **good state of repair and hygiene** please be informed that:

According to the Police Standing Order 5/3, every detainee has the right to live in a reasonably sized cell, in which he/she will be provided with basic amenities and sanitary conditions, adequate lighting and ventilation and suitable equipment for resting.

In this regard, constant efforts are made by the relevant Departments of the Police to further improve the conditions of detention, to all police detention centers and at Menoyia Detention Center for Irregular Migrants, to meet the recommendations of the Committee for the Prevention of Torture (CPT) and the Ombudsman. A Committee, appointed by the Chief of Police, inspects all Police Detention Centers in Cyprus and submits Reports with recommendations to improve detention conditions. The findings of the Committee are forwarded to all the relevant Departments, in order to be implemented. It should be noted that, when considered necessary, the Human Rights and Combating Discrimination Office of Cyprus Police, the Office for Preventing Crime, as well as the competent Office of the Police for building infrastructure, carry out visits to detention centers and submit reports with recommendations for the improvement of detention and safety conditions.

The detention centers must be kept clean at all times. Officers in charge must visit and inspect detention centers frequently to ensure that they are kept clean at all times and that the conditions of detention are generally healthy. Complaints from detainees are accepted, investigated in detail and where necessary action are taken. For this purpose, the Police has a contract with a private company for the cleaning and disinfection of the detention centers.

In addition, circulars letters are sent on this matter. In last sent on 29/02/2024, it was emphasized that the detention centers must always be kept clean and for this reason the cleaning services must be used to the maximum, in cooperation with the private company, with the aim of improving the detention conditions, as well as protecting the health of detainees and police members. Moreover, the services of cleaners should also be used. Officers in charge must frequently visit and inspect detention facilities to ensure that they are kept clean and that the conditions of detention are generally healthy.

Regarding **call bells and artificial lighting**, all Detention Centers are equipped with communication bells and artificial lighting, which are functioning. In the event of a problem, the competent Service is notified for repair.

**Par. 153: The CPT welcomes this action and would like to be informed of the steps taken to resolve this matter**

**Reply:**

The Committee appointed by the Chief of Police visited the Police Detention Centers that have an outdoor training area and recommended corrective measures, especially in Aradippou, Paphos and Limassol Detention Centers. The recommendations were adopted and relevant letters were sent to the Government Departments, in order to begin the improvement works. In addition, it should be noted that the creation of an outdoor training area at the Detention Center of the Ayia Napa Police Station begun, which is expected to be completed around the end of May 2024.

**Par. 154: The Committee recommends that anyone detained in police stations for 24 hours or more be offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment. Should a person be detained for longer than a few days at a police station, they should be provided with activities and increased access to outdoor exercise**

**Reply:**

The Police Standing Order 5/3 provides for the following:

- The person in charge of the Detention Center implements a program, according to which the detainees can use the outdoor exercise area for a satisfactory period of time (at least twice a day for at least one hour every time).
- Regarding the Police Detention Centers that do not have an outdoor exercise area, they should only be used to detain persons for up to 24 hours.

It should be noted that, in cases where a person is going to be detained for longer than 24 hours, efforts are made to transfer him/her to facilities with an outdoor exercise area, in order to secure his/her right for at least one hour of outdoor exercise daily.

In addition, a circular letter was sent on 29/02/2024, stressing that persons who will be detained for more than 24 hours must be transferred to Police Detention Centers, which have an outdoor exercise area, so that they can exercise the right of access to an outdoor area, for at least one hour a day.

As regards activities, the Police in collaboration with the Deputy Ministry of Culture and Embassies, proceeded with the equipment of the detention centers with additional books in various languages (Greek, English, French, Russian, Serbian, Turkish, Italian, etc.). In addition, more board games, puzzles, balls and craft items are going to be purchased, in order to be placed in the Detention Centers for the creative occupation of the detainees.

The Police, in cooperation with the relevant departments of the State, also installed televisions in 10 detention centers that are used to detain a large number of persons (Pera Chorio Nisou, Kofinou, Aradippou, Peristerona, Evrichou, Paphos, Polis Chrysochous, Ayia Napa, Lakatamia and Limassol Detention Centers).

**Par. 156: The CPT recommends that the Cypriot authorities ensure that all police custody cells are maintained in a good state of repair and hygiene. Further, the CPT would like to receive detailed information as regards the planned works and the timeline for the refurbishment of the abovementioned police stations, including their respective detention areas**

**Reply:**

During the years 2022-2023, the following detention centers have been renovated:

- Nicosia Central Station
- Agios Dometios Police Station
- Omorfita Police Station
- Palechori Police Station
- Kokkinotrimithia Police Station
- Oriklini Police Station
- Athienou Police Station
- Aradippou Police Station
- Germasogeia Police Station
- Xylofago Police Station

In 2024, improvement works are planned in the following detention centers:

- Kofinou Police Station – Renovation.
- Limassol Central Police Station - Separation of Wings and creation of sanitary facilities.
- Ayia Napa Police Station - Creation of an outdoor exercise area.
- Xylytypou Police Station – Renovation and creation of a visitor's office.
- Aradippou Police Station – Renovation.

**Par. 157: The CPT again calls upon the Cypriot authorities to end the current practice of detaining persons in police custody for periods of more than 24 hours in short-term facilities**

**Reply:**

It should be noted that efforts are made in order to detain persons that are held for more than 24 hours in detention facilities that fall under the category for the detention of persons for periods exceeding 24 hours. These efforts are made so that all detainees held longer than 24 hours have access to outdoor exercise for at least one hour per day.

For this purpose, circular letter was sent on 29/02/2024, stressing that persons who will be detained for more than 24 hours must be transferred to Police Detention Centers, which have an outdoor exercise area, so that they can exercise the right of access to an outdoor area. The rest of the detention facilities must be used only for the detention of persons for periods up to 24 hours.

**Par. 158: The CPT recommends that the Cypriot authorities take the requisite measures to ensure that police stations and detention centres ensure regular and adequate supplies of personal hygiene products, and that the quality and quantity of the food provided be reviewed. The Committee further recommends that all detained persons held overnight in police custody be provided with a clean mattress, pillow and clean bedding**

**Reply:**

Each detainee is provided with clean sheets, blankets, pillow, pillowcases and towels, which are cleaned by a private company. Facilities for the physical cleanliness of detainees are always available and upon admission to the detention center, each detainee is provided with toilet paper, soap, shampoo, toothbrush and toothpaste, as well as personal hygiene items for women.

As regards food, the nutrition of persons in detention is vital to maintaining their health in good condition. For this purpose, the Police provides them with properly prepared food at regular intervals. The food must correspond in terms of quantity and quality to the rules of healthy nutrition, which is proportional to the daily balanced nutritional needs and in accordance with the religious beliefs of the detainee. Food is checked before it is given to detainees. The food provided to the detainees is bought from private companies.

**Par. 159: The CPT recommends that more efforts be made to increase the presence of police custodial staff in police stations and detention centres**

**Reply:**

From May 2023, when the Commission visited Cyprus until today, the number of staff in most of the Detention Centers has increased. A relevant list with staff numbers is attached as **Annex 8** [for confidentiality reasons, annex 8 has not been included therein]

**Par. 160: The delegation raised this issue at the time of the visit and would like to receive confirmation from the Cypriot authorities that all police officers and detained persons had been made fully aware of the most up-to-date regulations in place in respect of visits. In this regard, the CPT would like to be informed whether any Covid-19 restrictions persist.**

**Reply:**

All restrictions on visits to places of detention due to COVID-19 have been lifted on 17/05/2023. For this purpose, all the involved Police Departments were informed in writing. At this stage, there are no restrictions on visits. However, all new detainees undergo a rapid test to protect their health as well as that of other detainees and staff.

## **C. Immigration establishments where persons where deprived of their liberty**

### **(i) Preliminary remarks**

Legislative safeguards are being implemented in order to ensure that the detention of third country nationals (TCN) takes place only as a last resort and only after the possibility of enforcing Alternative to Detention measures has been examined and excluded. For a detention decision to be taken, specific factors are considered such as the risk of absconding, the TCN's willingness to cooperate for their repatriation, their family status, the existence of underage children, health and other vulnerabilities. It should also be mentioned that in compliance to the Aliens and Immigration Law (Cap. 105) and the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008, the Civil Registry and Migration Department (CRMD) reassesses the detention orders for irregular migrants bi-monthly and reviews the overall reasons for detention after six months of detention. This procedure has also been extended to cover the detention of asylum seekers who are detained based on specific criteria mentioned in Article 8 of the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 and the Refugee Law (2000). It is also worth mentioning that detention does not exceed the time frame of 18 months and during that time regular visits in Menoyia Detention Center and other police detention premises take place by CRMD in order to ensure direct communication with detainees regarding their cases, their detention conditions or any other problems that might occur.

### **(ii) immigration detention in police stations**

**Par. 168: The CPT reiterates its recommendation that the Cypriot authorities make every effort to ensure that the period of time spent by persons detained under immigration legislation in police establishments be the absolute minimum (that is, less than 24 hours)**

#### **Reply:**

Migrants detained on deportation orders as a rule, are transferred to Menoyia Detention Center, the only current specialized facility for irregular migrants. Nevertheless, in cases where they cannot be detained at Menoyia Detention Center, due to the lack of detention space or for any other reason (e.g. on a weekend or Public Holiday, a medical examination cannot be performed there), they are held to Police Stations.

It should be noted that, in cases where a migrant with detention and deportation order is placed in a Police Detention Center, efforts are made to transfer him/her to facilities with an outdoor exercise area, in order to secure his/her right for at least one hour of outdoor exercise daily. Additionally, they are detained separately from criminal detainees. For this purpose, six Police Detention Centers (Lakatamia, Paphos, Polis Crysochous, Paralimni, Evrichou and Limassol), which have outdoor exercise area and separate wings were designated for detaining administrative detainees, until their transfer to Menoyia Detention Center.

The Republic of Cyprus is in the process to construct a new Detention Centre for administrative detainees, with a capacity of 800 persons, at the area "Limnes" in Larnaca. It is expected to be ready at the end of 2025.

**Par. 169: The CPT calls upon the Cypriot authorities to ensure that all persons held under immigration legislation:**

- **are fully informed of their situation, their rights, their obligations and responsibilities and the procedure applicable to them. This should be ensured by the provision of clear information at the very outset of deprivation of liberty and by a document setting out all this information so that the persons concerned can attest that they have been informed of their rights, in a language and manner that they can understand and in an accessible format;**
- **have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings. To this end a fully-fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer – including persons detained under the alien’s legislation – must be implemented so that this right may be effectively enjoyed; and**
- **receive, when necessary, the assistance of a qualified interpreter**

**Reply:**

All administrative detainees are informed of their rights both orally and in writing by the provision of a document titled “Rights of Detained Persons”, in a language they understand. The document is translated in 20 languages (Greek, English, Turkish, Arabic, Bulgarian, French, Georgian, Persian, Ukrainian, Polish, Russian, Rumanian, Serbian, German, Spanish, Hungarian, Bengali, Sri-Lankan, Philippine and Vietnamese). In case the language is not available, an interpreter is called. The detainee signs and acknowledges the receipt of the form, which is placed in the Detainees's Personal File. This form includes, among other things, the right of access to a lawyer.

Regarding free legal aid of administrative detainees, it is noted that, as soon as they make a request to apply for legal aid, the Court Registrar is informed, who sets an appointment / date. The Police transfers the applicant before the Court on the specified date for the examination of his/her request.

### **(iii) Menoyia Immigration Detention Centre**

#### **1. Preliminary remarks**

**Par. 171: The CPT reiterates its recommendation that the Cypriot authorities take steps to promote a less restrictive environment at the Menoyia Detention Centre**

**Reply:**

The Police intends to proceed with painting of the entire building, in more friendly colours. Also, in collaboration with the Cyprus Red Cross, the Police proceeded with an artistic intervention in a Wing, while a similar action is planned for 2024. Also, in collaboration with the painting teacher of the educational courses, murals were made inside the Wings by the detainees, in order to create a friendlier environment. Furthermore, efforts will be made to decorate the common areas of the detention centers.

### 3. Living conditions and regime

**Par. 178: The CPT reiterates its recommendation that the Cypriot authorities should further develop the range of, and increase access to, more structured, organized, purposeful activities for persons held at the Menoyia Detention Centre. It also recommends that detained persons be restricted in their freedom of movement as little as possible and that they have free access to outdoor exercise throughout the day**

#### **Reply:**

The following **activities** are offered:

- Leisure activities: the Ministry of Education and Sports, provides to detainees at the Menoyia Detention Center, painting and dancing classes. The main objective of these courses is to provide purposeful activities and cultural development to the detainees. The activities mentioned above have been selected by the detainees, after filling a questionnaire prepared by the Police in order to identify their needs.
- Gym teacher provided by the Cyprus Sports Organization, who visits the Detention Center twice a week.
- Exercise equipment was also installed at the outdoor area in 2018.
- Books, puzzles, balls, handcrafts, games
- TV: every wing is equipped with a TV.
- Access to electronic communication: The use of mobile phones is allowed on a 24/7 basis. The Police have procured 16 computers with internet access which have been installed in the common use areas. Additionally, they can use their personal computers, in order to ensure the right of detainees to maintain contact and communication with the outside world, especially in cases where these persons have no relatives or friends in Cyprus.
- Detainees have access to internet / Wi-Fi 24 hours a day.
- A library has been created and detainees can ask for books in different languages.
- The Cyprus Red Cross visits the detention centers twice a week offering psychosocial support to detainees and other services (e.g. clothing, shoes, etc.)
- Games are organized in collaboration with Cyprus Red Cross.

It is also worth noting that, from time to time, religious representatives visit the Center, to exercise the religious duties of the detainees. However, in collaboration with the Cyprus Red Cross, an effort will be made to find religious representatives, who will visit the Center on a more regular basis.

It is noted that, despite the reduced interest of the detainees in participating in the aforementioned activities, due to other preferences, surfing the internet amongst other, the Police continues to offer them, as we recognize that they contribute to maintaining the good mental and physical health of the detainees.

As regards **outdoor exercise**, detainees can use the outdoor exercise area for 3 hours daily, where they can play basketball, volleyball, football, etc. Regarding the recommendation for free access to the outdoor exercise area, it cannot be implemented for security reasons. In this regard, it should be noted that the detainees do not make full use of the outdoor activities already provided for, in the daily program, for the reasons mentioned above.



#### 4. Staff

**Par. 182(a): The CPT reiterates its recommendation that staff be encouraged to interact more with persons in immigration detention, to prevent and proactively resolve potential problems. To this end, officers should be present more regularly inside the accommodation areas**

##### **Reply:**

According to the relevant Police Standing Order, staff members enter the Wings every thirty minutes and if needed, more often, in order to ensure the safety and welfare of the detainees.

The personnel are encouraged to interact more closely with the detainees, play a more active role in problem solving situations and to be inside the wings several times a day and for as long as necessary. The members of the staff immediately respond to the calls of the detainees and they are in continuous contact with them and try to solve any problems and fulfill their requests related to their accommodation, nutrition, etc.

**Par. 182(b): Further, the CPT recommends that the Cypriot authorities review the current training and staffing deployment arrangements for the Menoyia Centre to ensure that staff are carefully selected and trained. Staff should have well-developed qualities in the fields of interpersonal communication and cultural sensitivity, given the diverse backgrounds of persons in Menoyia Centre. At least some of them should have relevant language skills, and all staff should be generally suited to work with foreign nationals in an immigration detention context at the establishment**

##### **Reply:**

Seminars for the personnel that are employed at Menoyia Detention Center are organized twice a year (within six months), both at the Cyprus Police Academy and at the Emergency Response Unit.

These seminars include subjects such as:

- Combating Xenophobia and Racism,
- Communicating in a Multicultural Society,
- Respecting Human Rights and Police Code of Ethics,
- Development of communication skills,
- Handling Detainees

Further to the above and following the enactment of Law L. 185(I)/ 2014 (amending Law L. 163(I)/2005), Cyprus Police Academy, launched a training programme addressed to a specific group of Police officers, who are responsible for the treatment of detainees. The programme included topics relating to human rights of detainees and the legal and moral obligations of the Police pursuant to the relevant legislation and Police Standing Orders. The programme included lectures offered by a representative of the Office of the Ombudsman, on issues related to the human rights of detained persons.

Also, on an annual basis police member of Aliens and Immigration Service attend the Programme on Border Control, which includes among others the following thematic:

- The asylum System in Cyprus
- Racial Discrimination / Racism
- International Protection of Refugees
- Human Trafficking and Protection of Victims
- Identification and Protection of Vulnerable Asylum Seekers (Unaccompanied Minors, Disabled)
- Handling of Juvenile Immigrants
- Asylum process
- The rights of detainees and Prohibition of Tortures

**Par. 183: The CPT recommends that the number of Immigration Officers be increased to respond adequately to the population's needs at Menoyia**

**Reply:**

There are three full-time Immigration Officers at the Detention Center (07:00-19:00, Monday to Sunday), as well as at least one FRONTEx Return Counselor, from Monday to Friday. Therefore, daily there are at least two Officers, dealing with the cases of the detainees.

## **5. Healthcare Services**

**Par. 187: In this respect, the CPT recommends that all instances of self-harm be recorded in a dedicated register**

**Reply:**

Any self-harm incidents are registered in the Detainee's Personal File and in the Electronic Station Diary, from which all the information/data needed can be extracted. However, to further ensure the correct registrations and the export of the relevant data, the competent Police Department was requested to add, in the Electronic Station Diary, in the field "Type of Complaint / Incident", new options with the following titles:

- Death of detainees,
- Self-harm of detainees.

**Par. 188: The CPT requests confirmation that Ms A has been seen regularly by psychiatric and psychologist specialists and that she be given the requisite follow-up care. More generally, as a measure of Menoyia's suicide and self-harm prevention policy, more thorough and effective trauma screening should be implemented upon entry to Menoyia for vulnerable categories of detained persons, with subsequent detailed and regular support and follow-up care provided.**

**Reply:**

Regarding Ms. A, please be informed of the following:

- [...]

Regarding the suicide prevention policy, it is noted that in addition to the initial medical examination, the detainees are interviewed by members of the Policy, by filling in a special questionnaire, which was prepared in collaboration with the Mental Health Services.

In addition, all detainees can meet with the psychologist, who visits the center three times a week. The psychologist evaluates all new detainees and if he identifies anything, he refers the detainees to a psychiatrist.

Furthermore, the staff has been trained to identify symptoms and immediately inform the doctor and the mental health nurse, who is employed at the Center every day (Monday - Friday from 07:00 - 15:00). To this end, a new training is planned by the psychologist to further upgrade the psychological services offered at the Center.

The Police, with the aim of protecting detainees who have suicidal tendencies or are dangerous/violent, created a specially designed room in Menoyia Detention Center. The room has a special sponge and is used temporarily, until the necessary actions are taken by the Police (e.g. issuance of a compulsory hospitalization order, transport to the Hospital, etc.). The room was created according to the specifications of similar places (Athlassa Hospital and Ward 10 of the Prison Department). In addition, in order to ensure the rights of the persons placed in the rooms, in cooperation with the Ministry of Health and the Ombudsperson, guiding principles/procedures, were prepared and disseminated to members of the Police. These procedures are intended to regulate the actions of the Police members, who place a detainee in the room and to ensure that the room is not used for punitive purposes or when it is not absolutely necessary or when it does not serve the purpose for which it was created. All members of the Center, received training from the Mental Health Services. Similar rooms will be created in other Detention Centers.

## **6. Other issues**

### *a. discipline and good order*

**Par. 190: The CPT reiterates its recommendation that if any form of disciplinary sanction is imposed, the person concerned should be provided with a copy of the relevant decision and information on the possibilities of appealing the measure to an outside authority. If separation is used, it should be time-limited, and a separate register should be established with time of arrival and exit. The decision to separate should also systematically trigger a visit by a medical professional to the separated person to assess whether they have urgent medical needs and to take any necessary action. Further, the CPT recommends that the frequency, duration and use of any isolation or room for separation (such as the waiting room), or any other measures such as the use of means of restraints, use of force, or other extraordinary incidents, should be systematically recorded in a central register**

### **Reply:**

Incidents of violation of the internal regulations of the Center are rare and until today no disciplinary sanctions have been imposed to the detainees. The procedure followed for imposing sanctions is provided in Article 11 of the Regulation of the Center.

*b. complaints*

**Par. 192: The CPT reiterates its recommendation that the management of Menoyia introduces a central register of complaints to ensure that management retains an accurate oversight of critical issues. It also recommends that detainees due to be escorted for deportation or returned from failed deportations to the establishment are made fully aware of the complaints processes in place**

**Reply:**

The Minister of Justice and Public Order, according to article 28 (1) of the Regulations 161/2011 appointed a three-member Complaint Committee. The Complaints Committee is competent, either ex officio or at the request of the detainee:

(a) to review a decision made by the person responsible for the detention center, which is made under the authority received under Regulation 11 or Regulation 13, and

(b) to hear and investigate the complaints of the detainees for any matter related to the detention or their treatment.

In each wing of the detention centre, the Complaints Committee maintains a complaint box to which every detainee has free access.

The right to file a complaint is also included in the Document "Rights of Detainees, Rules of the Detention Area and Obligations of Detainees".

In addition, detainees can fill out the request form, which is available to everyone, where they can record any request or complaint and submit it to the Administration of the Center for consideration. All these forms are placed in the Personal File of each detainee.

However, to further ensure the correct registry and the export of the data, the competent Police Department was requested to add, in the Electronic Station Diary, in the field "Type of Complaint / Incident", a new option titled "Submission of a serious complaint by a detainee".

**Par. 194: The CPT also recommends that the Cypriot authorities undertake more awareness-raising among detained persons regarding the existence of civil society bodies, which could provide free legal advice to persons in immigration detention, and facilitate access so that such bodies can visit and advise detained persons on their rights**

**Reply:**

The Police in collaboration with the Cyprus Red Cross prepared a document, translated in various languages, with useful information for the detainees of the Center. Among this information the document includes the details of Non-Governmental Organizations that deal with issues that concern them. The document will be printed soon. Once received, it will be given to all detainees upon their admission to the facility.

In addition, NGO representatives have the right to visit the Center after obtaining a relevant approval, by the Police. It is noted that, in 2023 until today, 10 visits were made by representatives of NGOs, in addition to the weekly visits made by the Cyprus Red Cross.

#### **(iv) First Reception Centre Pournara**

Firstly, it should be clarified that the Centre is not a detention Centre but a First Reception Centre and for this purpose, it is funded by the European Commission (EC). All migrants who enter the Republic of Cyprus irregularly, are referred to the First Reception Center for the implementation of all procedures as described in the relevant Standard Operating Procedures (SOPs) agreed by all competent departments under the coordination of the Commission. At the moment, the average length of stay decreased to 15-20 days and the goal is to achieve maximum length of 5 days as it is stated in SOP's.

##### **1. Preliminary Remarks**

The flows have decreased significantly, which helped the Cypriot authorities to relieve the congestion of the Center. As of 09/02/2024 at Pournara Reception Centre, there were 488 (374 male, 114 female) residents from which 336 (254 male, 82 female) were adults and 152 (120 boys, 32 female) were minors. From the 152 minors, 96 (120 boys, 32 girls) were unaccompanied minors and 56 with their parent(s) (93 boys, 3 girls).

Living conditions for the residents of the Centre improved with the decongestion of the Centre and the expected goal will be achieved with the full implementation of the reconstruction of the Center by International Organization for Migration by the end of 2024 (until then, parts of the Centre will be delivered partially, e.g. the Buffer Zone).

Also, in paragraph 196, it must be noted that the Centre was composed of a main camp, five quarantine zones (no longer used for quarantine purposes), four "safe zones" for vulnerable persons **INCLUDING UNACCOMPANIED MINORS**, and a buffer zone located on the perimeter.

##### **2. Ill-treatment and inter-detainee violence**

**Par. 202: The CPT would appreciate an update on the outcome of this investigation by the Cypriot authorities**

##### **Reply:**

For the Nigerian woman, accommodation was arranged at the "Woman's Home". An investigation took place by the Cypriot Police and a forensic examination was carried out from which the DNA results showed that the findings were her partner's. Furthermore, the Nigerian woman requested to be included in the Relocation Programme and she was successfully transferred to Romania.

**Par. 205: The CPT recommends that:**

- **increased attention be paid to conducting thorough risk assessments and allocation procedures for newly arrived foreign nationals**
- **security and custodial staffing numbers be increased and ongoing training established to ensure the frequency of patrols/rounds is strictly adhered to and**
- **a comprehensive prevention of inter-detainee violence strategy be put in place, with appropriate resources allocated in order to be fully implemented, including additional personnel such as psychologists, counsellors and social workers**

**Reply:**

The Cypriot authorities took into consideration the Committee's recommendations and proceeded to necessary actions to increase security guards and special staff and provide education to them through relevant partners and the European Union Agency for Asylum Training Team.

### **3. Living Conditions and regime**

**Reply:**

The mentioned Centre is a First Reception Centre and due to the short stay of the residents, schooling education cannot be offered. However, there are several NGO's that started to offer a variety of activities to children and adults.

Moreover, measures have been taken to improve reception /material /accommodation /living conditions in the Center through the implementation of the Masterplan by the International Organization for Migration under direct instructions of the EC. It is expected that accommodation units will be fully equipped and common outdoor and indoor areas will be developed for activities.

It is further stated that, at the present stage, with the number of flows being manageable, a regular and intensive cleaning and maintenance for the whole Center can be implemented. It is expected that in March 2024 there will be no residents in the so-called quarantine areas because the Buffer Zone will be delivered and all residents in tents will be moved there. So, there will be no need for rented chemical toilets.

### **4. Staff**

The Asylum Service of the Ministry of Interior which is the competent authority to manage the Centre, took all necessary actions to increase the staff numbers and to provide them specific and targeted trainings through partners and the European Union Agency for Asylum training team.

## 5. Healthcare

**Par. 217: The Ministry of Health provides healthcare services at Pournara Reception Centre. There are four GPs, however, at the time of the visit, only two doctors were on duty, with full time working hours during weekdays. There was a pool of 12 nurses employed by the Ministry of Health, with two nurses on duty in the morning during weekdays and one nurse on duty at all other times, including at weekends. Regarding access to specialist treatment, a health visitor visits the centre daily and undertakes childhood immunizations. A full-time dentist and dental nurse were employed at the centre and there was a generally well-equipped dental surgery.**

### Reply:

Since the implementation of National Healthcare System (GeSY) and the establishment of State Health Services Organization, back in 2019, the Ministry of Health does not provide healthcare services. Those responsibilities have been transferred to the State Health Services Organization (SHSO) by virtue of the Article 16(1)(a), Law 73(I)/2017 and respective Council of Minister's Decision.

The Ministry of Health, retains only some of its former responsibilities such as public health protection and promotion and vaccinations. Under this capacity, the Department of Medical, Public, Health Services of Ministry of Health performs medical examinations for each newly arrived detained person, in order to assess any risks related to public health and for the timely provision for any immediate health care needed. Asylum Services of Ministry of Interior is the competent authority for the administration of the Pournara First Reception Camp and therefore for any infrastructure and services needed for its residents including health care. Currently, the Ministry of Interior, Ministry of Health, State Health Services Organization are proceeding with the preparation of a respective Memorandum of Understanding, covering the Organisation and provision of healthcare services at Pournara Reception Centre.

As regards to the presence of the GPs at the Centre during the visit, it is stated that, according to the authorized by the Asylum Service doctor's timesheets, no doctor was absent at that time.

**Par. 218: No mental healthcare services were available at the centre, and thus there was no psychologist or psychiatrist input into initial medical screenings or ongoing necessary treatment. Those patients needing to be seen at the hospital are referred and generally seen within a week, including referrals to an external psychologist or psychiatrist. The CPT considers that adequate access to psychological assistance and psychiatric care should be provided to persons deprived of their liberty in immigration centres and recommends that access to mental healthcare services, including regular visits by specialists such as psychologists and psychiatrists, be established at the Pournara Reception Centre.**

### Reply:

At this stage, due to understaffing of Mental Health Services resulting from the increased incidents, regular visits by a Psychologist and Psychiatrist cannot be scheduled. Instead, the residents of the area have access to Psychiatric and Psychological services through the outpatient clinics operating at the local Health Centers.

**Par. 219:** There was no routine comprehensive medical screening for all newly arrived migrants and asylum seekers...Moreover, at the time of the visit, no comprehensive medical record was established for every new entrant, although the delegation was informed that one was planned in the future. Instead, medical interventions were annotated individually by the doctor or nurse in their notes, making it impossible to consult the annotations of medical colleagues in respect of their previous consultations.

**Reply:**

Screening is performed according to the Standard Operating Procedures for the Medical Services at Pournara (in Greek). It is a prerequisite for the migrants release (2nd Attachment on Medical SOPs) from the Pournara, to complete the Health Questionnaire (1st Attachment on Medical SOPs). The establishment and control of medical record resides on the responsibilities of Asylum Service of the Ministry of Interior, being the Competent Authority for the administration of Pournara. This matter has been repeatedly communicated to Asylum Service in order to update their current IT system so as to cover the transfer of any medical data created, laboratory examination, X-rays, reports et al. As for that, there are steps forward in regards to the matter. It is clarified though that this matter is rather of secretariat/administrative nature and the doctor's responsibilities are confined to informing the medical records

**Par. 220:** The CPT has long considered that routine medical screening of all newly arrived detainees is in the interests of both detained persons and staff, and is particularly beneficial for identifying those at risk of self-harm, screening for transmissible diseases, and the timely recording of any injuries.

**It recommends that:**

- all newly arrived detained persons should benefit from comprehensive medical screening (including screening for transmissible diseases) by a doctor, or a fully-qualified nurse reporting to a doctor, as soon as possible after their admission; and  
- the record drawn up after a medical examination of a detainee, whether newly arrived or not, should contain:

- i. a complete account of objective medical findings based on a thorough examination;
- ii. an account of statements made by the persons concerned which are relevant to the medical examination, including any allegations of ill-treatment made by them;
- iii. the doctor's observations in light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

In addition, the results of every examination, including the statements mentioned above and the doctor's observations should be made available to the detained persons and their lawyer

**Reply:**

Routine medical screening is performed to the detained persons according to the Medical SOPs of Pournara. CPT is kindly requested to clarify on any further medical examination might be required. Also every detainee at Pournara Reception Centre has access to



emergency medical care at the State Hospitals given that Asylum Service procedures are followed. All detainees are examined following the Medical SOPs. Any relevant medical info is recorded to the medical database developed by the Asylum Service.

**Par. 222: One notable concern was the backlog and delays regarding the Mantoux tests. Many detained persons at Pournara Centre were not allowed to leave until the results of obligatory Mantoux tests, which were sent to local health centres for analysis, were returned... it recommends that the Cypriot authorities review the current test dispatch system and ensure that measures are taken to render it quicker and more effective. This will also mean that detained persons are not required to stay as long at Pournara Centre.**

**Reply:**

Medical and Public Health Services have visited in late October 2023 the Pournara Camp to investigate alleged backlocks and delays. According to the findings of the investigation, approximately 50 people remained for a period of less than 2 months in the camp, due to the medical process followed in the framework of their assessment for tuberculosis. This process deems necessary that a period of 42 days or less is needed for a negative result. There were not any backlocks or delays related to the medical procedures.

All medical procedures are reviewed on a regular basis, in order to improve the delivery of necessary medical services to the detainees of Pournara aiming at the provision of any immediate services for acute medical problems, as well the assessment of any risks for public health.

#### **(v) Airport short-term point of entry facilities**

**Par. 236: The CPT reiterates its recommendation that the Cypriot authorities take steps to ensure that foreign nationals deprived of their liberty at Larnaca and Paphos Airport holding facilities in excess of 24 hours be transferred to another suitable holding facility. Further, the Committee recommends that all legal safeguards offered to persons deprived of liberty should also be made available, in a language they understand and in an accessible format, to persons placed in the short-term points of entry facilities in Cyprus**

**Reply:**

For the transfer of refused landings to another suitable place outside the Airport, a legal advice was requested by the Attorney General of the Republic and an answer is awaited.

Regarding legal guarantees, there is a special document which has been translated in 10 languages and is given to all persons who are not allowed entry in the Republic. The document lists the reasons for refusal of entry and the right to appeal against the decision. In addition, these persons have the right to contact and meet with a lawyer if they wish.

## **ANNEXES 1 to 7**

## **ΕΝΔΙΑΜΕΣΟ ΠΟΡΙΣΜΑ ΤΗΣ Ad-Hoc ΕΠΙΤΡΟΠΗΣ**

**Για τη διερεύνηση του προβλήματος του υπερπληθυσμού σε σχέση με την ομάδα αλλοδαπών κρατουμένων και ειδικότερα των αλλοδαπών κρατουμένων για το αδίκημα της παράνομης μετανάστευση και άλλων συναφών αδικημάτων**

### **ΕΙΣΑΓΩΓΗ**

Το Υπουργικό Συμβούλιο με την απόφαση του, ημερομηνίας 7.10.20 διόρισε Ad Hoc Επιτροπή αποτελούμενη από την κα Άννα Αριστοτέλους, Διευθύντρια Φυλακών ως Πρόεδρο, και ως μέλη: την κα Αθηνά Δημητρίου, Ανώτερη Λειτουργό Φυλακών, την κα Λεμονιά Καουτζάνη, Πρόεδρο του Συμβουλίου Αποφυλάκισης Κρατουμένων Επ' Αδεία, τον κ. Άριστο Τσιάρτα Προϊστάμενο του Τομέα Ανθρωπίνων Δικαιωμάτων, Αντεγκληματικής και Σωφρονιστικής Πολιτικής του ΥΔΔΤ και τον κ. Κώστα Παρασκευά, Επίκουρο Καθηγητή, Τμήμα Νομικής Πανεπιστημίου Κύπρου. Όροι εντολής της Επιτροπής είναι η μελέτη του προβλήματος του υπερπληθυσμού στις Φυλακές και η ετοιμασία ολοκληρωμένης πρότασης για επίλυση του προβλήματος αυτού. Μια συνολική και εις βάθος ανάλυση του προβλήματος του υπερπληθυσμού των Φυλακών για τον εντοπισμό και την επιστημονική μελέτη των λόγων και των συνεπειών της αύξησης του σωφρονιστικού πληθυσμού της και την υποβολή πρότασης συγκεκριμένων μέτρων και τρόπων επίλυσης του υπό το φως της υφιστάμενης υλικοτεχνικής υποδομής του Τμήματος Φυλακών.

Η Ad Hoc Επιτροπή ετοίμασε και υποβάλλει Ενδιάμεσο Πόρισμα με συγκεκριμένα μέτρα και τρόπους επίλυσης καθότι λόγω της ιδιαίτερα σοβαρής κατάστασης που δημιουργείται με την συνεχή αύξηση του αριθμού των αλλοδαπών κρατουμένων, είμαστε υποχρεωμένοι να ασχοληθούμε κατά προτεραιότητα με τη συγκεκριμένη κατηγορία αλλοδαπών κρατουμένων, κυρίως από την Αφρικανική Ήπειρο, λόγω καταδίκης για παράνομη είσοδο, παράνομη παραμονή και παράνομη εργοδότηση, καθότι είναι αναγκαία η λήψη άμεσων μέτρων για μερική απάμβλυνση του προβλήματος, το οποίο έχει λάβει ανεξέλεγκτες διαστάσεις.

## ΕΝ ΣΥΝΤΟΜΙΑ ΤΟ ΠΡΟΒΛΗΜΑ ΤΟΥ ΥΠΕΡΠΛΗΘΥΣΜΟΥ

Έχοντας αναλύσει το πρόβλημα του υπερπληθυσμού καταλήγουμε ως οι συστάσεις της Επιτροπής Πρόληψης των Βασανιστηρίων του Συμβουλίου της Ευρώπης από το 2004<sup>1</sup>, όταν ο πληθυσμός των Φυλακών ξεπερνούσε κατά πολύ τη χωρητικότητα της, και συγκεκριμένα ότι μόνο με ολιστική προσέγγιση και εμπλοκή όλων των υπηρεσιών μπορεί να γίνει σχεδιασμός μιας στρατηγικής μείωσης του πληθυσμού των Φυλακών, η οποία να μπορεί να δώσει θεραπεία στο πρόβλημα του υπερπληθυσμού, όπως επισημαίνεται και από την Επίτροπο Διοικήσεως και Ανθρωπίνων Δικαιωμάτων το 2004/2005<sup>2</sup>.

Σήμερα στις Φυλακές μας υπάρχουν περίπου 800 κρατούμενοι εκ των οποίων οι 773 βρίσκονται εντός της κλειστής Φυλακής της οποίας η χωρητικότητα αριθμεί σε 424 θέσεις, δημιουργώντας σοβαρά προβλήματα με συνθήκες υπερπληθυσμού, αφού ο πληθυσμός ξεπέρασε το 182%. Σημειώνεται ότι, το ποσοστό πληθυσμού σε ένα υγιές σωφρονιστικό σύστημα, αντιστοιχεί γύρω στους 60 -70 κρατούμενους για κάθε 100,000 κάτοικους<sup>3</sup>. Μάλιστα η Επιτροπή, στην Έκθεση της για την Κύπρο μετά την επίσκεψή της στις Φυλακές το 2013, επαναλαμβάνει ότι η λύση στο πρόβλημα του υπερπληθυσμού δεν είναι η επέκταση των Φυλακών και η αύξηση των κλινών αναφέροντας χαρακτηριστικά:

*"[...] the increase in additional accommodation, such as the return of Block 10 from the police to the prison, might relieve some of the overcrowding, it will not constitute an effective and lasting solution to the problem. In this context, the Committee reiterates that a strategy for the sustainable reduction of the prison population should be put in place, which ensures that imprisonment is in practice the measure of last resort at all stages of the criminal justice system, from pre-trial to the execution of sentences."<sup>4</sup>*

Κατά τον ίδιο ακριβώς τρόπο, τοποθετείται και η Επίτροπος Διοικήσεως στην Έκθεση της από το 2003, επισημαίνοντας χαρακτηριστικά ότι:

*«[...] δεν μπορεί να θεωρηθεί ότι λύση του προβλήματος συνιστά η ανέγερση νέων φυλακών. Είναι βέβαιο ότι νέες, μεγαλύτερες φυλακές θα δημιουργήσουν*

<sup>1</sup> Council of Europe (2008). CPT/Inf (2008). *Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 8 to 17 December 2004*. Strasbourg.

<sup>2</sup> Επίτροπος Διοικήσεως και Ανθρωπίνων Δικαιωμάτων (2005). *Έκθεση για υπερπληθυσμό*. Λευκωσία

<sup>3</sup> Tapio Lappi-Seppala (2007). *Penal Policy in Scandinavia. Crime and Justice*. Vol. 36(1), pp. 217-295

<sup>4</sup> Council of Europe (2014). CPT/Inf (2014)6. *Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 1 October 2013*. Strasbourg, p.27.

περισσότερους κρατούμενους και θα εμπέδωναν την ιδέα ότι η επιβολή της φυλάκισης είναι η μόνη απάντηση στο έγκλημα.»<sup>5</sup>

## ΑΛΛΟΔΑΠΟΙ ΚΡΑΤΟΥΜΕΝΟΙ

Επισημαίνεται ότι στις Φυλακές μας πέραν του 50% του γενικού πληθυσμού των Φυλακών είναι αλλοδαποί κρατούμενοι από 68 διαφορετικές χώρες, με πολύ διαφορετικά χαρακτηριστικά είτε αυτά αφορούν κοινωνικά και πολιτισμικά ζητήματα, φυσικά ή άλλα χαρακτηριστικά, και πολύ περισσότερο με διαφορετικά προβλήματα και ιδιαιτερότητες, που αφορούν την φυσική και ψυχική τους υγεία και είναι διεθνώς αποδεκτό ότι εντάσσονται στις ευάλωτες ομάδες.

Απερίφραστα συμπεραίνεται από την ανάλυση του προβλήματος ότι το παθογόνο πρόβλημα του υπερπληθυσμού είναι άρρηκτα συνδεδεμένο με τις διάφορες πολιτικές και τάσεις των υπηρεσιών της ποινικής δικαιοσύνης, και απόλυτα συνδεδεμένο με τις μεταναστευτικές πολιτικές και ειδικότερα με την ομάδα των αλλοδαπών κρατουμένων που καταδικάστηκαν ή κατηγορούνται για παράνομη μετανάστευση και οι οποίοι αποτελούν πέραν του 1/3 του 50% των αλλοδαπών συμπεριλαμβανομένων των υποδίκων και καταδίκων.

Η κράτηση υποδίκων σύμφωνα με τη σχετική εθνική νομολογία αλλά και ευρύτερα τη νομολογία του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων, όλων των σχετικών εγγράφων και Συστάσεων των Υπουργών του Συμβουλίου της Ευρώπης, και ειδικότερα των Ευρωπαϊκών Σωφρονιστικών Κανόνων του ΣΤΕ, των Κανόνων Μαντέλα των Ηνωμένων Εθνών, και στην ειδική Λευκή Βίβλο του ΣΤΕ για τον υπερπληθυσμό στις Φυλακές είναι τα ακόλουθα:

*"[...] the risks of committing a new crime, of absconding, of tampering with evidence or witnesses and of interfering with the course of justice."<sup>6</sup>*

Περαιτέρω, επισημαίνονται πρόσφατα και από τον Πρόεδρο της Επιτροπή Πρόληψης των Βασανιστηρίων του Συμβουλίου της Ευρώπης Mykola Gnatovskyy, καλώντας τα κράτη στις περιπτώσεις που εφαρμόζουν την κράτηση υποδίκων, αυτή να γίνεται για

<sup>5</sup> Γραφείο Επιτρόπου Διοικήσεως (2004). *Ετήσια Έκθεση 2003*. Λευκωσία, σ.65.

<sup>6</sup> Council of Europe (2016). EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC). *White paper on prison overcrowding*. Strasbourg. para.45, p. 13

το συντομότερο χρονικό διάστημα και η αξιολόγηση της κράτησης να πραγματοποιείται στη βάση των κριτηρίων, ο οποίος αναφέρει χαρακτηριστικά:

*"[...] Remand detention should be imposed for the shortest time possible. It should be based on a case-by-case evaluation of the risks of committing a new crime, of absconding, of tampering with evidence or witnesses or of interfering with the course of justice [...]"<sup>7</sup>.*

Δυστυχώς από τους αριθμούς των υποδίκων παρατηρείται ότι τα κριτήρια για κράτηση υποδίκων δεν εφαρμόζονται με τρόπο που η κράτηση υποδίκων να αποτελεί εξαίρεση ή το έσχατο μέτρο, με αποτέλεσμα να υπερ-εκπροσωπούνται οι υπόδικοι και ειδικότερα οι αλλοδαποί υπόδικοι στις Φυλακές Κύπρου διογκώνοντας το πρόβλημα του υπερπληθυσμού. Η πρακτική ρουτίνας σχετικά με αυτή την ομάδα κρατουμένων και ειδικότερα των αλλοδαπών υποδίκων είναι η προφυλάκιση (κράτηση) παρά η εφαρμογή άλλων εναλλακτικών μέτρων στη βάση των κριτηρίων και σύμφωνα με τις συστάσεις των αρμόδιων διεθνών και ευρωπαϊκών επιτροπών και συμβουλίων<sup>8</sup>.

Περαιτέρω, ο Πρόεδρος της Επιτροπής Πρόληψης των Βασανιστηρίων του Συμβουλίου της Ευρώπης επισημαίνει και σειρά άλλων προβλημάτων σχετικά με την κράτηση των υποδίκων τα οποία επιφορτίζουν τον ίδιο τον υπόδικο, την οικογένεια του, τη Φυλακή και ευρύτερα την κοινωνία, αναφέροντας χαρακτηριστικά τα ακόλουθα:

*"Detention on remand can have severe psychological effects – suicide rates among remand prisoners can be several times higher than among sentenced prisoners – and other serious consequences, such as the breaking up of family ties or the loss of employment or accommodation [...]"<sup>9</sup>.*

Η Επιτροπή Πρόληψης των Βασανιστηρίων του Συμβουλίου της Ευρώπης στην Έκθεση της για την Κύπρο κατά την τελευταία επίσκεψή της το 2017<sup>10</sup>, όσον αφορά την κράτηση των υποδίκων συστήνει επείγοντως άμεσα εναλλακτικά μέτρα αντί της προφυλάκισης και αυτή να χρησιμοποιείται στη βάση της εξαίρεσης, αναφέροντας χαρακτηριστικά:

*"Urgent action is now required, in the Committee's view, to adequately implement sustainable alternatives to custody and to reduce the high percentage of remand prisoners. [...] it reiterates its recommendation that*

<sup>7</sup> Anti-Torture Committee Asks for Changes to Remand Processes. Available at: [Anti-Torture Committee Asks for Changes to Remand Processes - Georgia Today on the Web](#) [accessed 27.1.21]

<sup>8</sup> Scharff Peter Smith (2017). *Punishment Without Conviction? Scandinavian Pre-trial Practices and the Power of the "Benevolent" State*. London: Palgrave.

<sup>9</sup> Anti-Torture Committee Asks for Changes to Remand Processes. Available at: [Anti-Torture Committee Asks for Changes to Remand Processes - Georgia Today on the Web](#) [accessed 27.1.21]

<sup>10</sup> Council of Europe (2017). *Report to the Cypriot Government on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017*. CPT (2017) 34

*pre-trial detention should only be used on an exceptional basis and that alternatives to detention should be concretely applied to a far greater extent.”<sup>11</sup>*

Περαιτέρω, είναι σημαντική η επισήμανση της Επιτροπής Πρόληψης των Βασανιστηρίων από την Επίσκεψη της στην Κύπρο το 2013 όπου αναφέρει μεταξύ άλλων ότι για τη μείωση του πληθυσμού στις Φυλακές, η κράτηση θα πρέπει να είναι η εξαίρεση σε όλα τα στάδια της ποινικής δικαιοσύνης εμπλέκοντας όλες τις υπηρεσίες της ποινικής δικαιοσύνης, από το στάδιο της προφυλάκισης μέχρι την επιβολή ποινής, αναφέροντας χαρακτηριστικά:

*“Committee reiterates that a strategy for the sustainable reduction of the prison population should be put in place, which ensures that imprisonment is in practice the measure of last resort at all stages of the criminal justice system, from pre-trial to the execution of sentences.”<sup>12</sup>*

Στο ίδιο πνεύμα η Επιτροπή Πρόληψης των Βασανιστηρίων του ΣΤΕ αναφέρει και τα ακόλουθα σε σχέση με τις προβληματικές διαδικασίες στις υπηρεσίες της ποινικής δικαιοσύνης που προκαλούν την κράτηση υποδίκων για μεγάλα χρονικά διαστήματα που αυτό θα μπορούσε να ήταν το μέγιστο χρονικό διάστημα της ποινής των υποδίκων, με κατάχρηση της αρχής της αναλογικότητας:

*“As highlighted in discussions with the Attorney General, the high numbers of remand prisoners and the lengthy remand periods, which could be the maximum sentence permitted for the offence, is indicative of deficiencies in the court processes and of a prima facie abuse of the principle of proportionality in remand detention.”<sup>13</sup>*

Τα στατιστικά στοιχεία τα τελευταία επτά χρόνια, καταδεικνύουν ότι η κράτηση υποδίκων και ειδικότερα των αλλοδαπών υποδίκων, δεν εφαρμόζεται ως το έσχατο μέτρο, αλλά εφαρμόζεται ως πρακτική ρουτίνας και για το λόγο αυτό υπερ-εκπροσωπούνται (overrepresented) σε όλα τα στάδια της ποινικής δικαιοσύνης επιβαρύνοντας τον πληθυσμό των Φυλακών. Τα στατιστικά που αφορούν τους υπόδικους για το έτος 2018 φθάνουν το 30.5% του πληθυσμού των Φυλακών<sup>14</sup> ενώ κατά το έτος 2019, οι υπόδικοι έφθασαν τους 1178, δηλαδή ποσοστό 30.49%, και το

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<sup>11</sup> Council of Europe (2017). *Report to the Cypriot Government,...* op. cit. CPT (2017) 34, paragr. 75, p. 40.

<sup>12</sup> Council of Europe (2014). CPT/Inf (2014)6. *Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 1 October 2013*. Strasbourg, p.27.

<sup>13</sup> Council of Europe (2017). *Report to the Cypriot Government,...* op. cit. CPT (2017) 34, p. 40.

<sup>14</sup> Σύμφωνα με το Αρχείο του Γραφείου Παραλαβών και Απολύσεων το ποσοστό των υποδίκων φθάνει το 30.5% ενώ σύμφωνα με τη βάση δεδομένων του Πανεπιστημίου Birkbeck το ποσοστό των υποδίκων έχει μία ασήμαντη απόκλιση κατά 0.10, δηλαδή καταγράφουν 30.4% Cyprus (Republic of) | World Prison Brief (prisonstudies.org) [accessed 21.1.21]

2020 παρά τους περιορισμούς στα δικαστήρια είχαν φθάσει τους 897 δηλαδή ποσοστό 33.53%. Οι αριθμοί και το ποσοστό των υποδίκων στο σύνολο του πληθυσμού των φυλακών παραμένει να είναι ιδιαίτερα ψηλό, αφού πέραν του 1/3 του πληθυσμού είναι υπόδικοι, και έχει δημιουργήσει ανησυχητικές καταστάσεις λαμβανομένου υπόψη ότι τα δικαστήρια δεν λειτουργούσαν με τους ρυθμούς των προηγούμενων χρόνων.

Όπως έχουμε αναφέρει οι αλλοδαποί κρατούμενοι είναι μία ιδιαίτερη ομάδα, αφού εμπερικλείει πέραν του ενός χαρακτηριστικού που την καθιστούν ειδική-ευάλωτη ομάδα, δεδομένου ότι σε όλα τα στάδια της ποινικής δικαιοσύνης τυγχάνει διάκρισης έναντι άλλων κατηγοριών υπόπτων ή αδικοπραγούντων.

Τα Ηνωμένα Έθνη αναφέρουν χαρακτηριστικά για τους αλλοδαπούς κρατούμενους:

*“Foreign nationals are a particularly vulnerable group that may be especially disadvantaged with respect to navigating the criminal justice system in a country [...]”<sup>15</sup>*

Στο στάδιο της κράτησης και της φυλάκισης τους στο Τμήμα Φυλακών, όσον αφορά τις συνθήκες διαβίωσης τους τυγχάνουν μεταχείρισης ως η σχετική Σύσταση των Υπουργών του ΣτΕ (CM/Rec(2012)12)<sup>16</sup>, παρόλα αυτά υπάρχει διάκριση όσον αφορά το χρόνο κράτησης τους ως υπόδικους, την ένταξη τους στην ανοικτή φυλακή και άλλα<sup>17</sup>, για τα οποία αποφασίζουν άλλοι τομείς της ποινικής δικαιοσύνης και υπηρεσίες του κράτους όπως είναι η Υπηρεσία Μετανάστευσης και Ασύλου του Υπουργείου Εσωτερικών.

Συγκεκριμένα, η σχετική Σύσταση του ΣτΕ όσον αφορά τη μεταχείριση των υπόδικων αλλοδαπών αναφέρει χαρακτηριστικά τα ακόλουθα:

***“III. Use of remand in custody***

*13.1. In order to ensure that remand in custody is used for foreign suspects, as for other suspects, only when strictly necessary and as a measure of last resort, it shall be governed by Recommendation Rec(2006)13 on the use of*

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<sup>15</sup> United Nations office on Drugs and Crime (2020). *Handbook on The Classification of Prisoners*. Criminal Justice Handbook Series. Vienna

<sup>16</sup> Council of Europe (2012). *Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners* (Adopted by the Committee of Ministers on 10 October 2012 at the 1152nd meeting of the Ministers' Deputies), R. 15.1 – 34.3.

<sup>17</sup> Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1985). *Report prepared by the Secretariat*. Milan. Chapter I, Section D.1.



*remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.*

13.2. *In particular:*

a. *alternatives to remand in custody shall always be considered for a foreign suspect; and*

b. *the fact that such a suspect is neither a national nor a resident of the State or has no other links with that State shall not, in itself, be sufficient to conclude that there is a risk of flight.*"<sup>18</sup>

Όσον αφορά την επιβολή ποινής της φυλάκισης σχετικά με τους αλλοδαπούς, η εν λόγω Σύσταση του ΣΤΕ, ενάργεια ξεκαθαρίζει ότι δεν πρέπει να τυγχάνουν διαφορετικής μεταχείρισης από τους υπόλοιπους αδικοπράγουντες της χώρας:

#### ***"IV. Sentencing***

14.1. *In order to ensure that custodial sanctions are imposed on foreign offenders, as for other offenders, only when strictly necessary and as a measure of last resort, sentencing shall take into consideration Recommendation Rec(92)17 concerning consistency in sentencing. In particular, foreign offenders shall be considered for the same range of non-custodial sanctions or measures as national offenders.*

14.2. *The judicial authorities shall be provided, where possible and appropriate, with pre-sentence reports about the personal circumstances of foreign offenders and their families, the likely impact of various sanctions on them and the possibility and desirability of their being transferred after sentencing.*

14.3. *To avoid disproportionate hardship and obstacles to social reintegration, account shall be taken when considering sentences of the possible impact that such sentences may have on individual offenders and their dependants, without prejudice to the independence of the judiciary.*"<sup>19</sup>

Περαιτέρω, όσον αφορά την μεταχείριση των αλλοδαπών κρατουμένων κατά την φυλάκιση τους, όπως έχουμε αναφέρει, δεν τίθεται οποιοδήποτε θέμα διάκρισης τους για τα όσα αναφέρονται στους κανόνες 15.1 – 34.3, της σχετικής Σύστασης, ωστόσο, ενόψει του γεγονότος ότι δεν διευκρινίζεται έγκαιρα το νομικό καθεστώς τους κατά τη διάρκεια της κράτησης/φυλάκισής τους, ως αναφέρει ο Κανόνας 35.2.a της σχετικής Σύστασης από την αρμόδια υπηρεσία του Υπουργείου Εσωτερικών, με αποτέλεσμα να υπάρχει κατάφωρη καταπάτηση των δικαιωμάτων τους όσον αφορά την ένταξη τους στην ανοικτή φυλακή και στο Κέντρο Εξωϊδρυματικής Απασχόλησης των Κρατουμένων, τις άδειες εξόδου χωρίς συνοδεία, καθώς και το σχεδιασμό επαρκούς Σχέδιου Φυλάκισής τους. Στην ίδια κατεύθυνση είναι οι συστάσεις της Επιτροπής

<sup>18</sup> Recommendation CM/Rec (2012)12 concerning foreign prisoners, Rules 13.1, 13.2.

<sup>19</sup> Recommendation CM/Rec (2012)12 concerning foreign prisoners, Rules 14.1 – 14.3.

παράνομη παραμονή καθώς και άλλα συναφή, που σε άλλες χώρες όλα αυτά θα τύγχαναν διαφορετικού χειρισμού από την ποινική δικαιοσύνη και από την αρμόδια υπηρεσία του Υπουργείου Εσωτερικών. Από αυτό συνάγεται ότι, αν η χώρα μας εφαρμόζε εναλλακτικά μέτρα και κυρώσεις αντί της κράτησης και φυλάκισης, ο πληθυσμός των φυλακών θα ήταν τουλάχιστον κατά μέσο όρο 15% μικρότερος.

Οι αλλοδαποί κρατούμενοι διαφαίνεται ξεκάθαρα μέσα από τα σχετικά έγγραφα – διεθνή και ευρωπαϊκά ότι υπερ-εκπροσωπούνται στις Φυλακές και η κράτηση τους δεν εφαρμόζεται ως έσχατο μέτρο αλλά ως πρακτική ρουτίνας. Ως εκ τούτου στη Λευκή Βίβλο του Συμβουλίου της Ευρώπης για το πρόβλημα του υπερπληθυσμού στις Φυλακές επισημαίνεται ότι αυτό δημιουργείται λόγω των υποδίκων και ειδικότερα των αλλοδαπών υποδίκων, υπογραμμίζοντας τα ακόλουθα:

*In view of the presumption of innocence remanding a person in custody should not be the first but the last resort after evaluating on a case-by-case basis (in accordance with the European Convention on Human Rights and ensuing practice of the Court) the risks of committing a new crime, of absconding, of tampering with evidence or witnesses and of interfering with the course of justice<sup>37</sup>.*

Η Επιτροπή Ανθρωπίνων Δικαιωμάτων των Ηνωμένων Εθνών σχετικά με την κράτηση υποδίκων αναφέρει τα ακόλουθα:

*"[...] detention before trial should be used only where it is lawful, reasonable and necessary.[...] detention may be necessary in the following circumstances:*

- *To prevent flight;*
- *To prevent interference with evidence;*
- *To prevent the recurrence of crime;*
- *Where the person concerned constitutes a clear and serious threat to society which cannot be contained in any other manner."<sup>38</sup>*

## **ΚΡΑΤΟΥΜΕΝΟΙ ΜΕ ΧΑΜΗΛΕΣ ΠΟΙΝΕΣ ΚΑΙ ΕΝΤΑΛΜΑΤΙΕΣ**

Οι κρατούμενοι με χαμηλές ποινές είναι μία ομάδα πληθυσμού η οποία αποτελεί σημαντικό επιβαρυντικό παράγοντα στο πρόβλημα του υπερπληθυσμού, αφού στις Φυλακές κατακρατούνται κάθε χρόνο, αρκετοί κρατούμενοι με χαμηλές ποινές, πολύ

<sup>37</sup> Council of Europe (2016). EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC). *White paper on prison overcrowding*. Strasbourg. para.62, p. 13

<sup>38</sup> United Nations (1994). Human Rights and Pre-Trial Detention. A Handbook of International Standards relating to Pre-Trial Detention. *Professional Training Series no. 3*. New York, pp. 14–15.

και άλλων συναφών αδικημάτων για τα οποία οι πλείστες χώρες επιβάλλουν μόνο διοικητικά μέτρα και σε καμία περίπτωση ποινή φυλάκισης σύμφωνα με την Ευρωπαϊκή Οδηγία 115/2008. Από αυτά τα στοιχεία, συνάγεται ότι, αρκετές θέσεις από τη χωρητικότητα των Φυλακών, καταλαμβάνονται πέραν από το 1/3 των αλλοδαπών κρατουμένων για παράνομη μετανάστευση, που σε άλλες χώρες δεν υπάρχει θέμα κράτησης και φυλάκισης τους ειδικότερα για μικρές ποινές ή/και αδικήματα σχετικά με την παράνομη είσοδο και παραμονή, καθώς και άλλα συναφή αδικήματα.

Στον Πίνακα 1 συνοψίζονται τα ποσοστά των αλλοδαπών κρατουμένων όπως αναφέρθηκαν πιο πάνω και μέσα από διάφορες πηγές για τα έτη 2013 - 2019.

**Πίνακας 1. Ποσοστό αλλοδαπών κρατουμένων στο Τμήμα Φυλακών\***

ΕΤΟΣ	ΠΟΣΟΣΤΟ ΑΛΛΟΔΑΠΩΝ	ΠΗΓΕΣ
2013	52%	2013, CPT visit, p.27 609 inmates
2014	55%	10/2014, Prison Registry
2015	45%	2015, Prison Registry
2017	40%	2/2017, 611 inmates – 244 FNPs, CPT visit to Cyprus, p.39
2018	43.5%	1.9.2018, <a href="http://www.prisonstudies.org">www.prisonstudies.org</a>
2020	49.5%	January, 2020 [Prisons Registry]
2020	49.01%	November, 2020

\* Demetriou Athena (2020). *The European Prison Rules as a Standard-Setter for European Prison Conditions - Effective management of Foreign Nationals in Cyprus Prisons*. The European Academy of Law. ERA – online seminar 30, November – 1 December, 2020.

Όπως παρατηρείται από τον Πίνακα 1, με βάση την κατάσταση των τελευταίων χρόνων, συνήθως το ποσοστό των αλλοδαπών κρατουμένων είναι πάντα πέραν του 40%, και συνήθως κοντά στο μισό του πληθυσμού, και από αυτό το 1/3 των αλλοδαπών κρατουμένων που βρίσκονται στη Φυλακή είτε λόγω μικρών ποινών για μικρο-αδικήματα είτε λόγω του ότι τα αδικήματα τους είναι σχετικά με μικροαδικήματα με χαμηλές ποινές, καθώς και αδικήματα σχετικά με την παράνομη είσοδο και

αλλοδαπών κρατουμένων στον κόσμο και στην Ευρώπη. Η Κύπρος είναι 10<sup>η</sup> σε κατάταξη, ως μία από τις χώρες με τα πιο ψηλά ποσοστά αλλοδαπών κρατουμένων ανάμεσα σε 56 χώρες της Ευρώπης<sup>32</sup>, και στη 18<sup>η</sup> θέση ανάμεσα σε 189 χώρες του κόσμου<sup>33</sup>. Ωστόσο, η πληροφόρηση αυτή για τη χώρα μας αφορά στοιχεία της εν λόγω ιστοσελίδας για το έτος 2018<sup>34</sup>, καθότι τα υπό αναφορά στοιχεία ανανεώνονται κάθε 2-3 χρόνια και αναρτώνται στην εν λόγω ιστοσελίδα. Το ποσοστό των αλλοδαπών κρατουμένων από 43.5% που ήταν το 2018<sup>35</sup>, το έτος 2019 ξεπερνούσε το 49%<sup>36</sup> και το έτος 2020 ξεπέρασε το 50%, που αυτό σημαίνει ότι η Κύπρος αναμένεται να είναι ακόμα πιο ψηλά στην κατάταξη των χωρών με τα ψηλότερα ποσοστά αλλοδαπών κρατουμένων.

Το σημαντικό όμως στοιχείο από αυτή την ομάδα είναι ότι αποτελεί μεγάλο μέρος του προβλήματος του υπερπληθυσμού των Φυλακών μας, όπως και η ομάδα των υποδίκων, η οποία συνδέεται με την ομάδα των αλλοδαπών, αφού μοιράζονται τα ίδια χαρακτηριστικά. Από μελέτη των αδικημάτων της ομάδας των αλλοδαπών κρατουμένων, πέραν του 1/3 των αλλοδαπών κρατουμένων, κατηγορείται και καταδικάζεται για αδικήματα που συνδέονται με τα αδικήματα της παράνομης εισόδου, παράνομης παραμονής και συναφή αδικήματα με αυτά, τα οποία σε άλλες χώρες αντιμετωπίζονται με διοικητικά μέτρα αντί της κράτησης και της καταδίκης με ποινή φυλάκισης, όπως συμβαίνει στη χώρα μας. Μάλιστα, για τέτοια αδικήματα στη χώρα μας η περίοδος κράτησης μπορεί να φθάνει από 2-3 μήνες και η ποινή φυλάκισης επιβάλλεται για περίοδο από 3 – 9 μήνες. Δυστυχώς όμως από τα μέσα Ιουλίου 2021 μέχρι και Σεπτέμβριο 2021 η κατάσταση στις Φυλακές ξεπέρασε κάθε προηγούμενο, αφού σε αυτό το διάστημα παραλήφθηκαν στις Φυλακές μας πέραν των 220 αλλοδαπών, και μάλιστα από συγκεκριμένη επαρχία το δικαστήριο επιβάλλει σταθερά σε όλους ποινή φυλάκισης 10 μηνών για τα αδικήματα της παράνομης μετανάστευσης

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<sup>32</sup> [Highest to Lowest - Foreign prisoners \(percentage of prison population\) | World Prison Brief \(prisonstudies.org\)](#) 10<sup>η</sup> θέση ανάμεσα σε 56 χώρες της Ευρώπης [accessed 18.11.20]

<sup>33</sup> [Highest to Lowest - Foreign prisoners \(percentage of prison population\) | World Prison Brief \(prisonstudies.org\)](#) 18<sup>η</sup> θέση ανάμεσα σε 189 χώρες του κόσμου [accessed 18.11.20]

<sup>34</sup> [Cyprus \(Republic of\) | World Prison Brief \(prisonstudies.org\)](#) [accessed 21.1.21]

<sup>35</sup> [Cyprus \(Republic of\) | World Prison Brief \(prisonstudies.org\)](#) [accessed 21.1.21]

<sup>36</sup> Demetriou Athena (2020). *Foreign National Prisoners in Cyprus Prisons*. Newsletter EuroPris (December, 2020). The Netherlands. [EuroPris: Promoting Professional Prison Practice | » ERA Online Seminar and Council of Europe's 2012\(12\) Recommendations concerning foreign prisoners \[accessed 21.1.21\]](#)

Συνοψίζοντας το θέμα με τους αλλοδαπούς κρατούμενους, παρόλο ότι δεν τυγχάνουν διακρίσεων ως προς την μεταχείριση και τα δικαιώματα κράτησης, καθώς και συνθηκών διαβίωσης τους στις Φυλακές, εν τούτοις «ταλαιπωρούνται» στους διάφορους τομείς της ποινικής δικαιοσύνης και ως κατάδικοι δεν απολαμβάνουν τα ίδια προνόμια. Στις Φυλακές υπερ-εκπροσωπούνται δεδομένου ότι de-facto αξιολογούνται από τους τομείς της ποινικής δικαιοσύνης ως υψηλού κινδύνου αδικοπράγουντες και όχι με βάση τη φύση του αδικήματος και την επικινδυνότητα επανάληψης του, με αποτέλεσμα η αξιολόγηση επιβολής περιοριστικών μέτρων για αυτούς να έχει μεγάλη απόκλιση από τις πρόνοιες της σχετικής νομοθεσίας και της Σύστασης του ΣτΕ, ειδικότερα όσον αφορά την δυνατότητα επιβολής οποιουδήποτε άλλου εναλλακτικού μέτρου αντί της κράτησης. Περαιτέρω, η παράλειψη ή καθυστέρηση καθορισμού του νομικού καθεστώτος τους, το οποίο πρέπει να καθορίζεται από την αρμόδια αρχή το συντομότερο κατά τη διάρκεια της κράτησής τους, έχει ως αποτέλεσμα να στερούνται των προνομίων που απολαμβάνουν οι υπόλοιποι κατάδικοι με κίνδυνο καταδίκης της Δημοκρατίας σε περίπτωση προσφυγής στο ΕΔΑΔ. Αξίζει να σημειωθεί ότι το 64% των αλλοδαπών υποδίκων έχουν καταδίκη κατά μέσο όρο τα έτη 2015-2019, ενώ ως κατάδικοι δεν απολαμβάνουν τα ίδια προνόμια όσον αφορά τις άδειες εξόδου χωρίς συνοδεία, τη συμμετοχή τους σε δραστηριότητες εκτός Φυλακής, την ένταξη στην Ανοικτή Φυλακή, καθώς και στο Κέντρο Εξωϊδρυματικής Απασχόλησης Κρατουμένων, αριθμοί οι οποίοι αναδεικνύουν τους αυξημένους κινδύνους καταδίκης της χώρας μας, διογκώνοντας το πρόβλημα του υπερπληθυσμού στην κλειστή Φυλακή. Περαιτέρω, αυτή η αβεβαιότητα της οριστικοποίησης του νομικού καθεστώτος παραμονής τους, ορισμένες φορές είναι πολύ στρεσογόνο παράγοντας, τόσο για τη Φυλακή όσο και για τους ίδιους τους αλλοδαπούς, σχετικά με το Σχέδιο/Πρόγραμμα ποινής, τα εκπαιδευτικά προγράμματα, καθώς και τα μελλοντικά τους σχέδια για τη ζωή τους<sup>31</sup>.

Ένδειξη ως προς τα ποσοστά καταδίκης αλλοδαπών στη χώρα μας, προκύπτει από μια περιήγηση στην ιστοσελίδα Prisonstudies του Πανεπιστημίου Birkbeck University of London, όπου διαπιστώνεται ότι είμαστε μία από τις χώρες με τα ψηλότερα ποσοστά

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<sup>31</sup> Demetriou Athena (2020). *Foreign National Prisoners in Cyprus Prisons*. Newsletter EuroPris (December, 2020). The Netherlands. [EuroPris: Promoting Professional Prison Practice | » ERA Online Seminar and Council of Europe's 2012\(12\) Recommendations concerning foreign prisoners \[accessed 21.1.21\]](#)

Εισαγγελέα της Δημοκρατίας από το Τμήμα Φυλακών, ήταν προς την ορθή κατεύθυνση αποτελώντας μέτρο αποσυμφόρησης των Φυλακών και συνάδει με την σύσταση των Υπουργών του ΣΤΕ. Αυτή η πρακτική είχε ως αποτέλεσμα και την αριθμητική μείωση των αλλοδαπών κρατουμένων οι οποίοι από το έτος 2013 όπου οι αλλοδαποί αποτελούσαν το 52%<sup>26</sup> του πληθυσμού, το 2017 το ποσοστό των αλλοδαπών κρατουμένων μειώθηκε στο 40% του πληθυσμού των Φυλακών<sup>27</sup>. Δυστυχώς σήμερα η πρακτική αυτή έχει περιοριστεί στο ελάχιστο με αποτέλεσμα το πρόβλημα του υπερπληθυσμού να διογκώνεται με τις αρνητικές του επιπτώσεις να απειλούν σοβαρά την ασφάλεια και υγεία του προσωπικού και των κρατουμένων, καθώς και την ασφάλεια, πειθαρχία και τάξη των Φυλακών.

Μάλιστα, σύμφωνα με το διεθνές δίκαιο ανθρωπίνων δικαιωμάτων, η κράτηση μεταναστών στις φυλακές, θεωρείται ακατάλληλη, και μπορεί να οδηγήσει ή να συμβάλει σε παραβιάσεις της απαγόρευσης των βασανιστηρίων ή της σκληρής, απάνθρωπης ή ταπεινωτικής μεταχείρισης<sup>28</sup>. Η Επίτροπος Διοικήσεως αναφέρει χαρακτηριστικά:

*«Αναφορικά με τους αλλοδαπούς κρατούμενους στις Κεντρικές Φυλακές, η Επίτροπος Διοικήσεως επανέλαβε τη θέση της ότι αποτελεί, πλέον, αναγκαιότητα η αποποινικοποίηση της παράνομης εισόδου και παραμονής στην Κύπρο και η αντιμετώπισή της με εξωποινικές διαδικασίες.»<sup>29</sup>*

Συνεπώς, οι αλλοδαποί, είτε θα πρέπει να μεταφέρονται στη Μενόγεια στον ειδικό χώρο κράτησης που έχει δημιουργηθεί με βάση τη νομοθεσία με σκοπό την απέλασή τους, είτε θα πρέπει να αφήνονται ελεύθεροι αφού αξιολογηθούν από το αρμόδιο Τμήμα του Υπουργείου Εσωτερικών.

Περαιτέρω, το πρόβλημα του υπερπληθυσμού και οι αλλοδαποί κρατούμενοι συνοψίζονται στις υποθέσεις *Danilczuk v. Cyprus*<sup>30</sup>, *Thuo v. Cyprus* και *Seagal v. Cyprus* του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων, που αφορούν την κράτηση αλλοδαπών στις Φυλακές, κατά την περίοδο πριν το 2013.

<sup>26</sup> Council of Europe (2014). CPT/Inf (2014)6. *Report to the Government of Cyprus on the visit to Cyprus ...op.cit. 23 September to 1 October 2013*. Strasbourg, paragr. 55, p. 27

<sup>27</sup> Council of Europe (2017). *Op. Cit.*. CPT (2017) 34, paragr. 73, p. 39.

<sup>28</sup> International Commission of Jurists – ICJ (2014). *Επαγγελματικό Εγχειρίδιο - Μετανάστευση και Διεθνές Δίκαιο Ανθρωπίνων Δικαιωμάτων*, «1. Καταλληλότητα του χώρου κράτησης», σ. 195-196.

<sup>29</sup> Νικολάου Ηλιάνα (2006). *Ετήσια Έκθεση 2005*. Γραφείο Επιτρόπου Διοικήσεως Λευκωσία, σ.5.

<sup>30</sup> *Danilczuk v. Cyprus* (21318/12), Judgement 3.4.2018, Violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

(CPT/Inf/E(2002)1-Rev.2015), για την κράτηση των αλλοδαπών σε φυλακές, κατά παράβαση του περί Αλλοδαπών Νόμου, αναφέρει χαρακτηριστικά:

*“...CPT delegations have found immigration detainees held in prisons. Even if the actual conditions of detention for these persons in the establishments concerned are adequate – which has not always been the case – the CPT considers such an approach to be fundamentally flawed. A prison is by definition not a suitable place in which to detain someone who is neither convicted nor suspected of a criminal offence”<sup>23</sup>.*

Μάλιστα, για τη λήψη μέτρων με στόχο τη μείωση του υπερπληθυσμού όσον αφορά τους αλλοδαπούς κρατούμενους, η Κυπριακή Δημοκρατία δεσμεύτηκε προς την Επιτροπή Πρόληψης των Βασανιστηρίων του ΣτΕ:

*“The Cypriot authorities, in response, outlined various nascent measures under consideration to reduce the population. These include [...] suspension of sentences including of foreign nationals serving short-term sentences [...]”<sup>24</sup>.*

Περαιτέρω, στις πρόνοιες της σχετικής Σύστασης των Υπουργών του ΣτΕ για τους αλλοδαπούς αναφέρεται ρητά σε σχέση με την έγκαιρη αποφυλάκιση τους τα ακόλουθα:

*“VI. RELEASE*

*35.2. In order to facilitate the reintegration of foreign prisoners into society:*

- a. their legal status and their situation after release shall be determined as early as possible during their sentence;*
- b. where appropriate, prison leave and other forms of temporary release shall be granted to them; and*

*[...]*

*Consideration for early release*

*36.1. Foreign prisoners, like other prisoners, shall be considered for early release as soon as they are eligible and shall not be discriminated against in this respect.*

*36.2. In particular, steps shall be taken to ensure that detention is not unduly prolonged by delays relating to the finalisation of the immigration status of the foreign prisoner.”<sup>25</sup>*

Συνεπώς, η πρακτική με την αναστολή των ποινών αμέσως μετά την επιβολή τους και απέλασή των αλλοδαπών κρατουμένων που αφορούσαν τα αδικήματα της παράνομης παραμονής και συναφή αδικήματα, καθώς και για άλλα μη σοβαρά αδικήματα με μεγαλύτερες ποινές στις περιπτώσεις που οι αλλοδαποί κρατούμενοι έχουν εκτίσει το ½ της ποινής τους, η οποία εφαρμοζόταν μέχρι πρόσφατα από το 2015, και με εισήγηση για αναστολή της ποινής τους που προωθείτο προς τον Γενικό

<sup>23</sup>Council of Europe, *CPT Standards, CPT/Inf/E(2002)1-Rev.2015*, para. 28, p.65.

<sup>24</sup> Council of Europe (2017). *Op. Cit.*. CPT (2017) 34, paragr. 75, p. 40.

<sup>25</sup> Recommendation CM/Rec (2012)12 concerning foreign prisoners, Rules 35.2, 36.1, 36.2.

Πρόληψης των Βασανιστηρίων του ΣτΕ, η οποία στην Έκθεση της μετά την επίσκεψη της στην Κύπρο το 2017 αναφέρει ευθυτενώς:

*“The CPT recommends that the Cypriot authorities should ensure that foreign nationals have the right to progress to open prison and the right for consideration for early release, to afford them equal rights and treatment as afforded to Cypriot prisoners. In this respect, the principle of non-discrimination should be respected, in line with international norms prohibiting discrimination.”<sup>20</sup>*

Η Ευρωπαϊκή Επιτροπή Πρόληψης των Βασανιστηρίων (CPT) του ΣτΕ, τονίζει ότι για τους αλλοδαπούς, ανεξάρτητα αν έχουν ή δεν έχουν δεσμούς στη χώρα, αυτό από μόνο του δεν πρέπει να αποτελεί κριτήριο, ώστε να λαμβάνονται δυσμενέστερα μέτρα για αυτούς στα διάφορα στάδια της δικαιοσύνης. Μάλιστα, αναφέρει ρητά ότι οι αλλοδαποί υπόδικοι θα πρέπει να έχουν τις ίδιες ευκαιρίες εναλλακτικών μέτρων:

*“Such a range of alternatives [...] such as the conditional suspension of pre-trial detention, bail, house arrest, electronic monitoring, the obligation to comply with certain orders, judicial supervision, the removal of passports, etc] should also be considered for foreign nationals, and the fact that such a person is neither a national nor a resident of the state, or that he/she does not have any other links with that state, should not, in itself, be sufficient to conclude that there is a risk of flight.”<sup>21</sup>*

Ειδικότερα για το καθεστώς κράτησης αλλοδαπών προσώπων με αδικήματα κατά παράβαση της περί Αλλοδαπών νομοθεσίας, η Επιτροπή CPT αναφέρει χαρακτηριστικά:

*“In the view of the CPT, in those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centers specifically designed for that purpose offering material conditions and a regime appropriate to their legal situation and staffed by suitably-qualified personnel. The committee is pleased to note that such an approach is increasingly being followed in Parties to the Convention.”<sup>22</sup>*

Περαιτέρω, για τους αλλοδαπούς κρατούμενους, η Επιτροπή CPT του ΣτΕ στην 7<sup>η</sup> Γενική της Έκθεση το 2010 (CPT/Inf(97)10), καθώς και στην Γενική Έκθεση του 2015

<sup>20</sup> Council of Europe (2017). CPT/Inf (2017)34. *Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017*. Strasbourg, p. 53.

<sup>21</sup> European Committee for the Prevention of Torture (2017). *26th GENERAL REPORT OF THE CPT, 1 January – 31st December, 2016*. Strasbourg, p. 32.

<sup>22</sup> European Committee for the Prevention of Torture (2010). CPT/Inf/E (2002) 1 - Rev. 2010. *The CPT Standards*. Strasbourg. parag. 29, p.54



περισσότεροι από αυτούς με μεγάλες ποινές. Σε άλλες χώρες, οι κρατούμενοι με χαμηλές ποινές, αντί να φυλακίζονται, εκτίουν με εναλλακτικό τρόπο την ποινή τους στην ελεύθερη κοινωνία (κοινοτική εργασία), με επιτήρηση ή ηλεκτρονική επιτήρηση.

Ειδικότερα στις περισσότερες χώρες του Συμβουλίου της Ευρώπης, όταν επιβάλλεται ποινή μέχρι 1 έτος και σε κάποιες μέχρι 2 έτη, ο παραπτώματίας εκτίει την ποινή του κατευθείαν στην κοινότητα αντί στη Φυλακή με επιτήρηση ή με ηλεκτρονική επιτήρηση (ηλεκτρονική παρακολούθηση), χωρίς να είναι στη διακριτική ευχέρεια του δικαστηρίου για να αποφασίσει την επιβολή του. Ωστόσο, σε αρκετές χώρες, για αδικήματα που επιβάλλεται ποινή από δύο μέχρι και πέντε χρόνια, η έκτισή της ποινής στην κοινότητα με επιτήρηση ή ηλεκτρονική επιτήρηση, μπορεί να επιβληθεί από το δικαστήριο ως μία από τις ποινές.

Επισημαίνεται ότι στα αδικήματα στα οποία επιβάλλεται χαμηλή ποινή μέχρι ένα έτος και μέχρι δύο έτη, περιλαμβάνονται και αδικήματα που αφορούν την κατοχή και χρήση ναρκωτικών, οδήγηση υπό την επήρεια ναρκωτικών, διαρρήξεις και κλοπές οι οποίες τις περισσότερες περιπτώσεις διαπράττονται από χρήστες ναρκωτικών λόγω εξάρτησης, αδικήματα κατά παράβαση του περί αλλοδαπών Νόμου όπως η παράνομη είσοδος και παράνομη παραμονή, καθώς και συναφή με αυτά όπως η πλαστοπροσωπία/ πλαστογραφία, η εξασφάλιση αγαθών με ψευδείς παραστάσεις, τροχαία αδικήματα (εξαιρουμένων των θανατηφόρων), αδικήματα κατά περιουσίας, αδικήματα κατά προσώπων, καθώς και άλλα.

Ωστόσο, ιδιαίτερο ενδιαφέρον παρουσιάζουν τα αδικήματα τα οποία σύμφωνα με την εθνική νομοθεσία επισύρουν ποινή μέχρι ένα, δύο και τρεις μήνες φυλάκιση, και για τα οποία επιβάλλονται ποινές συνήθως από μία μέρα μέχρι ενός μηνός φυλάκιση, όπως είναι η χρήση laughing gas, οι αλήτες και περιπλανώμενοι, ζημιά/καταστροφή σε οικοδομές, διασάλευση της ειρήνης σε δημόσιο χώρο, πρόσωπα οκνηρά που ζουν ακατάστατη ζωή και άλλα.

Περαιτέρω, οι χαμηλές ποινές από ένα μήνα μέχρι και ένα και δύο έτη, επιβάλλονται για αδικήματα που αφορούν ουσιοεξαρτώμενους και αλλοδαπούς οι οποίοι θα μπορούσαν να απελαθούν άμεσα, στα πλαίσια μιας αποτελεσματικής μεταναστευτικής πολιτικής στη βάση των σχετικών Συστάσεων των Υπουργών του Συμβουλίου της

Ευρώπης, και αποτελεσματικών μεταναστευτικών πρακτικών και πολιτικών άλλων χωρών του ΣΤΕ, αλλά και εκτός Ευρώπης.

Αξιοσημείωτο είναι το γεγονός ότι τα τελευταία χρόνια υπάρχει μείωση των κρατουμένων με χαμηλές ποινές στις Φυλακές των χωρών του Συμβουλίου της Ευρώπης, καθότι εκτίουν τις χαμηλές ποινές τους στην κοινότητα (κοινωνική εργασία)<sup>39</sup>, με επιτήρηση. Περαιτέρω, αρκετά μικροαδικήματα τα οποία για σκοπούς κοινωνικού ελέγχου πριν αρκετά χρόνια είχαν ποινικοποιηθεί, ωστόσο στα πλαίσια αναθεώρησης των νομοθεσιών και του ποινικού κώδικα, αρκετές χώρες έχουν αποποινικοποιήσει τα μικροαδικήματα όπως η δημόσια μέθη, χρήση laughing gas, οι αλήτες και περιπλανώμενοι, ζημιά/καταστροφή σε οικοδομές, διασάλευση της ειρήνης σε δημόσιο χώρο, πρόσωπα οκνηρά που ζουν ακατάστατη ζωή, καθώς και άλλα που αφορούν τροχαία αδικήματα και αδικήματα δημόσιας τάξης<sup>40</sup>. Για τέτοιου είδους μικροαδικήματα τα Ηνωμένα Έθνη αναφέρουν χαρακτηριστικά:

*“Not all socially undesirable actions should be subject to the criminal law. The response to many undesirable actions may better fall within the scope of social or health-care policies, rather than criminal justice. [...] In addition, many petty offences have been decriminalized and turned into administrative infractions punishable by payment of a fine.”<sup>41</sup>*

Στον Πίνακα 1 περιλαμβάνονται τα ποσοστά των ποινών και για όλες τις καταδίκες ανά έτος, για τα έτη 2017 – 2020.

**Πίνακας 1. Ποσοστά ποινών για όλες τις καταδίκες ανά έτος, 2017 – 2020\***

	2017	2018	2019	2020
<b>ΜΕΧΡΙ ΚΑΙ 6 ΜΗΝΕΣ</b>	41.13%	38.26%	44.74%	38.68%
<b>ΠΑΝΩ ΑΠΟ 6 ΜΗΝΕΣ ΜΕΧΡΙ ΚΑΙ 12 ΜΗΝΕΣ</b>	33.29%	38.98%	32.59%	31.31%
<b>ΣΥΝΟΛΟ</b>	74.42%	77.24%	77.33%	69.99%

\* Στατιστικά στοιχεία από Αρχείο Γραφείου Παραλαβών και Απολύσεων, 21.1.21

<sup>39</sup> Council of Europe (2016). *EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)*. White paper on prison overcrowding. Strasbourg.

<sup>40</sup> United Nations Office on Drugs and Crimes (2013). *Handbook on Strategies to reduce Overcrowding in Prisons*. Vienna Headquarters. Vienna, p.46.

<sup>41</sup> United Nations Office on Drugs and Crimes (2013). *Handbook on Strategies to reduce Overcrowding in Prisons*. Vienna Headquarters. Vienna, p.46.

Από τον Πίνακα 1, διαπιστώνεται ότι κατά τη διάρκεια των τελευταίων χρόνων, ο μέσος όρος των ποσοστών για ποινές από μία μέρα μέχρι 12 μήνες κατά τα έτη 2017 – 2020 είναι 74.75%. **Το ποσοστό ανθρώπων που είχαν καταδικασθεί με ποινές από μία μέρα μέχρι 12 μήνες, αποτελεί σοβαρό μέρος του προβλήματος του υπερπληθυσμού αφού όπως εξάγεται από τα δεδομένα φθάνει το 75% του πληθυσμού των Φυλακών.** Ωστόσο, σε αυτό το ποσοστό πληθυσμού διαχέονται και άλλες ομάδες κρατουμένων, όπως οι αλλοδαποί που αφορά την αυξητική τάση των τελευταίων μηνών (Ιούλιο – Σεπτέμβριο 2021). Για παράδειγμα θα μπορούσε ένας αλλοδαπός, να είναι αρχικά υπόδικος και στη συνέχεια να του έχει επιβληθεί ποινή μέχρι ένα χρόνο. Επίσης, σε αυτό το ποσοστό, όπως έχουμε αναφέρει πιο πάνω, περιλαμβάνονται και οι υπόδικοι που κρατήθηκαν μέχρι την ημέρα της καταδίκης με μέσο όρο ημερών 68.12 το έτος 2019 και 49.56 το έτος 2020.

## **ΜΕΤΑΝΑΣΤΕΥΤΙΚΕΣ ΠΟΛΙΤΙΚΕΣ**

Οι εφαρμοσθείσες μεταναστευτικές πολιτικές σε μια χώρα είναι ο καθρέφτης αντίληψης της κάθε χώρας για το θέμα της μετανάστευσης, μέσα από την οποία καθορίζεται η ζωή των αλλοδαπών. Οι μεταναστευτικές πολιτικές, έχουν καθοριστικό ρόλο στη διαμόρφωση του ποσοστού του αλλοδαπού πληθυσμού στις Φυλακές και γενικότερα στη μεταχείρισή τους στα διάφορα στάδια της ποινικής δικαιοσύνης στη χώρα μας. Είναι κοινά αποδεκτό ότι οι πολιτικές αυτές πρέπει να είναι ισορροπημένα αυστηρές και να συνάδουν με τις ευρωπαϊκές αρχές και τους κανόνες της διεθνούς μετανάστευσης. Συνεπώς η επιβολή αυστηρών ποινών, όπως είναι η υπό κράτηση και ή η ποινή της φυλάκισης αλλοδαπών για το αδίκημα της παράνομης εισόδου και συναφή αδικήματα, δεν μπορεί να εξισορροπήσει τις πολιτικές και ή να αντιμετωπίσει τον έλεγχο της άτυπης και παράνομης μετανάστευσης. Οι αδυναμίες αναφορικά με τον έλεγχο ή έλλειψη αποτελεσματικών μέτρων και ικανοποιητικών διαδικασιών αναγνώρισης καθεστώτος παραμονής, έγκαιρης εξέτασης των αιτήσεων ασύλου και απέλασης, υπό τα σημερινά δεδομένα δεν εξισορροπούνται με την αυστηρότητα που επιδεικνύεται κατά τις περιπτώσεις σύλληψης και καταδίκης, αφού τα κύματα των μεταναστών νόμιμων και παράτυπων είναι κατά χιλιάδες.

Ωστόσο, όπως έχουμε αναλύσει πιο πάνω (Βλέπετε 2.4.3.2), το ποσοστό των αλλοδαπών κρατουμένων είναι ψηλό, καθότι τα άρθρα της Σύστασης που αφορά τους

αλλοδαπούς<sup>42</sup>, τα οποία αποτελούν καθοδηγητικές γραμμές για τις χώρες του Συμβουλίου της Ευρώπης για διαμόρφωση σύγχρονης πολιτικής χειρισμού τους πριν, κατά, και μετά την φυλάκιση, δεν φαίνεται να εφαρμόζονται:

*“Despite being so common today, immigration imprisonment is a historical anomaly. [...] the United States did not lock up migrants for migration-related activities for much of the twentieth century. [...] That historical norm shifted suddenly and radically in the mid-1980s.”<sup>43</sup>*

Ως αποτέλεσμα, οι περισσότεροι αλλοδαποί που έχουν βρεθεί στο σύστημα της ποινικής δικαιοσύνης της χώρας μας, καταλήγουν αρχικά στη Φυλακή, σχεδόν όλοι αφού θεωρούνται άτομα με αυξημένη επικινδυνότητα όσον αφορά την φυγή από τη χώρα, και στη συνέχεια επιχειρείται προσπάθεια απέλασης τους. Αυτό έχει ως αποτέλεσμα ο πληθυσμός των αλλοδαπών στις Φυλακές να αυξάνεται ολοένα και περισσότερο, ενώ αυτό θα μπορούσε να αποφευγόταν με αναστολή της ποινής φυλάκισης και στη συνέχεια να περιοριστεί σε αντίστοιχους χώρους όπως την Μενόγεια, μέχρι την απέλαση στις χώρες καταγωγής ή προέλευσης τους.

Είναι ξεκάθαρες οι κατευθυντήριες γραμμές από το Συμβούλιο της Ευρώπης για την μεταχείριση των αλλοδαπών πριν, κατά και μετά την αποφυλάκιση, διαμορφώνοντας αποτελεσματικές μεταναστευτικές πολιτικές που δεν θα επιβαρύνουν και ή θα έχουν σημαντική συμβολή στη μείωση του αλλοδαπού πληθυσμού στις Φυλακές:

*“[...] 4. Foreign suspects and offenders shall be entitled to be considered for the same range of non-custodial sanctions and measures as other suspects and offenders; they shall not be excluded from consideration on the grounds of their status.*

*5. Foreign suspects and offenders shall not be remanded in custody or sentenced to custodial sanctions on the grounds of their status, but, as for other suspects and offenders, only when strictly necessary and as a measure of last resort.*

*6. Foreign offenders sentenced to imprisonment shall be entitled to full consideration for early release. [...]”<sup>44</sup>*

Ενδεικτική είναι η επιβάρυνση της κατάστασης του υπερπληθυσμού που επικρατούσε το έτος 2019, όπου από τους 764 καταδικασθέντες κρατούμενους των οποίων η ποινή

<sup>42</sup> Council of Europe (2012). Recommendation (2012)12 concerning Foreign Nationals

<sup>43</sup> Cuauhtémoc García Hernández César (2014). Abolishing immigration Prisons. *Boston University Law Review*. V. 97. p. 248

<sup>44</sup> Council of Europe (2012). Recommendation (2012)12 concerning Foreign Nationals (I. Basic Principles).

φυλάκισης τους ήταν μέχρι 12 μήνες, οι αλλοδαποί κρατούμενοι αριθμούσαν σε 475, ενώ για το έτος 2020, από τους 541 καταδικασθέντες κρατούμενους που η ποινή φυλάκισης τους ήταν μέχρι 12 μήνες, οι αλλοδαποί κρατούμενοι αριθμούσαν σε 307. Αυτό σημαίνει ότι το ποσοστό των καταδικασθέντων αλλοδαπών με χαμηλές ποινές μέχρι 12 μήνες, που συνήθως τα αδικήματά τους είναι σχετικά με την παράνομη είσοδο, παράνομη παραμονή, καθώς και άλλα συναφή αδικήματα, είχε φθάσει στο 62.17% για το έτος 2019, και στο 56.75% για το έτος 2020. Αυτά τα ποσοστά αλλοδαπών, θα μπορούσαν να είχαν διαφορετική μεταχείριση στο ποινικό σύστημα και να μην κατέληγαν στη Φυλακή ή κατά τη διάρκεια της φυλάκισης τους να θεσμοθετηθεί διαδικασία για έγκαιρες απολύσεις, δεδομένου ότι στις άλλες χώρες του Συμβουλίου της Ευρώπης, για τις χαμηλές ποινές εφαρμόζονται μόνο άλλα μέτρα και κυρώσεις αντί της κράτησης και φυλάκισης. Τα ποσοστά με τις χαμηλές ποινές, αυτόδηλα συμβάλλουν καθοριστικά στην αύξηση του υπερπληθυσμού, και την ίδια στιγμή σκιαγραφούν την κουλτούρα της αυστηρής τιμωρίας, αφού και στις χαμηλές ποινές, η ποινή που επιβάλλεται είναι η φυλάκιση αντί εναλλακτικοί τρόποι έκτισης τους.

Ολοκληρώνοντας το θέμα σε σχέση με τις αποτελεσματικές μεταναστευτικές πολιτικές, είναι σημαντικό ότι ακόμα και χώρες εκτός Ευρώπης οι οποίες χαρακτηρίζονται από αυστηρή πολιτική τιμωρίας, ακόμα και για σοβαρά αδικήματα, στα πλαίσια των μεταναστευτικών τους πολιτικών εφαρμόζουν εναλλακτικά μέτρα αντί της φυλάκισης, όπως για παράδειγμα στην Αμερική, οι δημόσιοι κατήγοροι συναινούν στην άμεση απέλαση αντί της επιβολής μεγάλης ποινής φυλάκισης<sup>45</sup>. Τέτοιες μεταναστευτικές πολιτικές χαρακτηρίζονται ως αποτελεσματικές αφού μεταξύ άλλων συμβάλλουν θετικά και στη μείωση του υπερπληθυσμού.

Με βάση τα πιο πάνω και λαμβανομένων υπόψη των ζητημάτων και απόψεων που εγείρονται σε σχέση με την τήρηση των δικαστικών καταδικαστικών αποφάσεων και των συναφών ποινών που επιβάλλονται, θα μπορούσε στο πλαίσιο των δικαστικών διαδικασιών, οι δημόσιοι κατήγοροι να συναινούν στην επιβολή ποινής φυλάκισης με αναστολή με σκοπό την απέλαση του καταδικασθέντος αλλοδαπού ή στην άμεση

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<sup>45</sup> Heard Catherine, Jacobson Jessica (2021). *Sentencing burglary, drug importation and murder, evidence from ten countries*. Birkbeck University of London.

απέλαση του όπως εφαρμόζεται σε ανεπτυγμένες χώρες που παρά το μεγάλο μεταναστευτικό πρόβλημα που αντιμετωπίζουν, αναγνωρίζουν την απαίτηση να συμμορφώνονται με τις υπό αναφορά αρχές, ώστε να εφαρμόζονται πολιτικές και θα λαμβάνονται μέτρα μετριασμού και ή αποφυγής της επιβάρυνσης του προβλήματος υπερπληθυσμού.

## **ΚΑΤΑΔΙΚΑΣΤΙΚΕΣ ΑΠΟΦΑΣΕΙΣ ΕΔΑΔ**

Το πρόβλημα υπερπληθυσμού το οποίο διογκώνεται από την ομάδα των αλλοδαπών κρατουμένων και ειδικότερα σε σχέση με τα αδικήματα της παράνομης μετανάστευσης και τα συναφή αδικήματα, εξετάστηκε και μέσα από τις πρόσφατες καταδικαστικές αποφάσεις του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων και η λύση με την εφαρμογή καλών πρακτικών άλλων χωρών σε σχέση με τα εναλλακτικά μέτρα αντί της κράτησης και φυλάκισης, καθώς και με την εφαρμογή αποτελεσματικών μεταναστευτικών πολιτικών, στα θέματα της παράνομης μετανάστευσης, φαίνεται να είναι μονόδρομος. Δυστυχώς η Δημοκρατία λόγω μη εφαρμογής αντίστοιχων καλών πρακτικών και αποτελεσματικής ισορροπημένης μεταναστευτικής πολιτικής κινδυνεύει ακόμη και σήμερα να καταδικαστεί για τη διαβίωση αλλοδαπών κρατουμένων σε συνθήκες υπερπληθυσμού.

Επισημαίνεται ότι στις 18.4.2018 το Ευρωπαϊκό Δικαστήριο Ανθρωπίνων Δικαιωμάτων (ΕΔΑΔ) εξέδωσε καταδικαστική απόφαση εναντίον της Κύπρου για τη διαβίωση αλλοδαπού κρατούμενου σε συνθήκες υπερπληθυσμού στις Φυλακές, κατά την περίοδο μεταξύ Σεπτεμβρίου 2010 και Μαΐου 2012<sup>46</sup>, οι οποίες παραβιάζουν το Άρθρο 3 της Ευρωπαϊκής Σύμβασης Ανθρωπίνων Δικαιωμάτων (ΕΣΑΔ) αφού συνιστούσαν ταπεινωτική μεταχείριση. Μάλιστα, η Κυπριακή Δημοκρατία έχει δεσμευτεί στο ΕΔΑΔ με σχέδιο δράσης (Action Plan) στη βάση του οποίου επεξηγούνται επιγραμματικά τα μέτρα που θα λάβει η Κυπριακή Δημοκρατία για οριστική επίλυση του προβλήματος του υπερπληθυσμού, το οποίο απέστειλε η Νομική Υπηρεσία στο ΕΔΑΔ και η οποία θα παρακολουθεί το θέμα ενημερώνοντας για τις εξελίξεις.

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<sup>46</sup> Danilczuk v. Cyprus (21318/12), Judgement 3.4.2018, Violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

Σε δύο άλλες καταδικαστικές αποφάσεις του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων εναντίον της Κυπριακής Δημοκρατίας, ο υπερπληθυσμός αποτέλεσε ισχυρό τεκμήριο παραβίασης του Άρθρου 3 της Ευρωπαϊκής Σύμβασης των Δικαιωμάτων του Ανθρώπου, καθότι οι τρεις αιτητές αποδεδειγμένα διαβιούσαν σε κελί έχοντας προσωπικό χώρο λιγότερο από 3 τ.μ για μεγάλο χρονικό διάστημα. Οι τρεις υποθέσεις αφορούν τα έτη 2007 – 2013, και είναι οι ακόλουθες:

### **Seagal v. Cyprus**

*The ECtHR found a violation of Article 3 as regards the applicant's conditions of detention for nearly sixteen months in Nicosia Central Prison. The ECtHR followed the general principles set by the Grand Chamber in Muršić v. Croatia and reaffirmed that when the personal space available to a detainee falls below 3 sq. meters there is a strong presumption of violation of Article 3, and it is on the respondent government to rebut this belief. Since the applicant had 2.73 sq. meters of personal space and had been detained for a long period of time in a facility designed for short stays, the Court found a violation of Article 3.<sup>47</sup>*

### **Thuο v. Cyprus**

*The ECtHR found a violation of Article 3 of the Convention in respect of the applicant's conditions of detention at the immigration detention facilities in Block 10 of Nicosia Central Prisons from 14 November 2005 to 9 March 2007.<sup>48</sup>*

### **Danilczuk v. Cyprus**

*The ECtHR found a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights. He spent the entire period of his detention from September 2010, when he was placed in detention on remand, to May 2012, when he was released under a presidential decree. He complained of overcrowding, lack of adequate light, cold cells and poor hygiene. In connection to the latter he complained in particular of difficulties in accessing the toilets (there had been no toilets in the cells) and that when the cells had been locked, he had been forced to urinate in a bottle and defecate in a waste bag.<sup>49</sup>*

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<sup>47</sup> CASE OF SEAGAL v. CYPRUS (Application no. 50756/13), Judgment 12/09/2016. Strasbourg Νομική Υπηρεσία της Κυπριακής Δημοκρατίας - Αποφάσεις ΕΔΑΔ -Αποφάσεις ΕΔΑΔ σε Ατομικές Προσφυγές κατά της Κύπρου - Judgments S to Z ([law.gov.cy](http://law.gov.cy))

<sup>48</sup> CASE OF THUΟ v. CYPRUS (Application no. 3869/07), Judgment 4 April 2017. Strasbourg Νομική Υπηρεσία της Κυπριακής Δημοκρατίας - Αποφάσεις ΕΔΑΔ -Αποφάσεις ΕΔΑΔ σε Ατομικές Προσφυγές κατά της Κύπρου - Judgments S to Z ([law.gov.cy](http://law.gov.cy))

<sup>49</sup> Danilczuk v. Cyprus (Application no. 21318/12), Judgement 3.4.2018. Strasbourg

Περαιτέρω, δεν είναι λίγες οι φορές που σε αρκετές περιπτώσεις η Νομική Υπηρεσία προσπαθεί να διευθετήσει εξωδίκως παρόμοιες περιπτώσεις του παρελθόντος για το θέμα του υπερπληθυσμού με όλα τα αρνητικά συνεπακόλουθα και την παραβίαση του Αρθρου 3 της ΕΣΑΔ.

Πρέπει να γίνει αντιληπτό ότι το πρόβλημα του υπερπληθυσμού, υπονομεύει το κράτος δικαίου, παραβιάζει τα ανθρώπινα δικαιώματα προσβάλλοντας σε αρκετές περιπτώσεις την ανθρώπινη αξιοπρέπεια, όπως τονίζεται και σε αρκετές αποφάσεις του Ευρωπαϊκού Δικαστηρίου, υποβαθμίζοντας τις συνθήκες διαβίωσης των κρατουμένων, υπονομεύοντας το έργο των Φυλακών και ειδικότερα της Διοίκησης, η οποία καλείται από μόνη της, να διαχειριστεί όλες τις αρνητικές συνέπειες του υπερπληθυσμού, δηλαδή τις ανυπέβλητες σοβαρές δυσκολίες στην αποτελεσματική άσκηση των καθηκόντων του προσωπικού στο σωφρονιστικό έργο που επιτελούν, διασφαλίζοντας παράλληλα τα δικαιώματα των κρατουμένων. Η Επιτροπος Διοικήσεως και Ανθρωπίνων Δικαιωμάτων, επισημαίνει ότι:

*«[...] η Διεύθυνση των Φυλακών καλείται, σε αρκετές περιπτώσεις, να διαχειριστεί τις συνέπειες του υπερπληθυσμού με τα ελάχιστα μέσα που διαθέτει, χωρίς να έχει ταυτόχρονα την στήριξη της Πολιτείας μέσα από συντονισμένες δράσεις για την αντιμετώπιση του φαινομένου αυτού»<sup>50</sup>.*

Ο υπερπληθυσμός αποτελεί τη συνισταμένη σειράς προβλημάτων τα οποία σε συνάρτηση με τον σωφρονισμό και την αναμόρφωση, εμπειρικλείουν στοιχεία που διαφέρουν από εποχή σε εποχή, και που είναι μεταβαλλόμενα στοιχεία, προϋποθέτοντας ότι η διαχείρισή τους δεν μπορεί να είναι στατική αλλά θα πρέπει να μεταβάλλεται και αυτή ανάλογα, ώστε να επιτευχθούν τα καλύτερα αποτελέσματα στο μέγιστο δυνατό βαθμό, για την κοινωνία, τις Φυλακές και τον κρατούμενο. Θα πρέπει να γίνει αντιληπτό ότι οι τρόποι αντιμετώπισης της εγκληματικότητας, το είδος και η διάρκεια των ποινών, οι τρόποι έκτισης των ποινών, η σωφρονιστική και μετα-σωφρονιστική πολιτική, αποτελούν στοιχεία τα οποία θα πρέπει να συνάδουν με σύγχρονες μεθόδους πρόληψης της εγκληματικότητας και αστυνόμευσης, με σύγχρονη δικαστική διαδικασία και σύγχρονες πολιτικές ποινών (είδη ποινών), καθώς και με σύγχρονες σωφρονιστικές και μετα-σωφρονιστικές αντιλήψεις, με σκοπό τον

<sup>50</sup>Σαββίδου Ελίζα (2012). Έκθεση Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων αναφορικά με την επίσκεψη που διενεργήθηκε στις Κεντρικές Φυλακές από 7 Ιουνίου μέχρι 11 Ιουνίου 2012, Γραφείο Επιτρόπου. σσ. 21-22.



σωφρονισμό και αναμόρφωση των κρατουμένων, τη μείωση της υποτροπής στο έγκλημα, τη μείωση των κινδύνων για τη δημόσια ασφάλεια, καθώς και την εξοικονόμηση κονδυλίων, τα οποία στο παρόν στάδιο επιβαρύνουν τον φορολογούμενο ελεύθερο πολίτη.

Συνοψίζοντας, ο υπερπληθυσμός – όταν δεν είναι προσωρινή κατάσταση - θεωρείται προσβολή στην αξιοπρέπεια και οι συνθήκες που δημιουργεί συνιστούν απάνθρωπη και εξευτελιστική μεταχείριση. Η επίλυση του προβλήματος του υπερπληθυσμού απαιτεί μια σύνθετη προσέγγιση, ενώ η επίκληση του σε συνδυασμό με την προοπτική ανέγερσης νέων φυλακών δεν αποτελεί λύση στο πρόβλημα του υπερπληθυσμού όπως αναφέρεται επανειλημμένα στις Εκθέσεις της Επιτρόπου Διοικήσεως και της Επιτροπής Πρόληψης των Βασανιστηρίων του ΣΤΕ, και συνεπώς θα πρέπει να ληφθούν αποτελεσματικά μέτρα και δράσεις για τη θεραπεία του προβλήματος.

Παρά το ότι είχε μειωθεί σε μικρό βαθμό το πρόβλημα του υπερπληθυσμού, με τις αναστολές ποινών τέσσερις φορές το χρόνο και τις αναστολές αλλοδαπών κρατουμένων μετά την επιβολή της ποινής τους και τα οποία ήταν τα μοναδικά εναλλακτικά μέτρα που εφαρμόζονται για αποσυμφόρηση της κλειστής φυλακής, όπου συγκεντρώνεται το πρόβλημα του υπερπληθυσμού, δυστυχώς σήμερα τα μέτρα αυτά ειδικότερα όσον αφορά τους αλλοδαπούς έχουν περιοριστεί στο ελάχιστο με αποτέλεσμα το πρόβλημα του υπερπληθυσμού στην Κλειστή Φυλακή να διογκώνεται απειλώντας σοβαρά την ασφάλεια και υγεία του προσωπικού και των κρατουμένων, καθώς και την ασφάλεια, πειθαρχία και τάξη των Φυλακών.

Αποτελεί αδήριτη ανάγκη η συνέχιση των μέτρων αυτών όπως εφαρμόζονταν τα προηγούμενα χρόνια ειδικότερα όσον αφορά την αναστολή ποινών για αλλοδαπούς κρατούμενους, μέχρι την εφαρμογή επιπρόσθετων μέτρων για μείωση του υπερπληθυσμού όπως συμβαίνει και σε άλλες χώρες του ΣΤΕ. Σε αντίθετη περίπτωση, το όλο οικοδόμημα της Φυλακής δεν θα μπορέσει να αντέξει τη συνεχή πίεση των αρνητικών επιπτώσεων του υπερπληθυσμού και θα οδηγηθεί στην κατάρρευση του σωφρονιστικού οικοδομήματος όπως συνέβη πριν επτά χρόνια.

Γενικότερα, τα υφιστάμενα μέτρα και πρακτικές θεραπείας για το πρόβλημα του υπερπληθυσμού, που εφαρμόζονται στο Τμήμα Φυλακών είναι τα ακόλουθα:

- Αναστολές ποινών για αποφυλακίσεις τέσσερις φορές το χρόνο (Πάσχα, 15 Αυγούστο, Ημέρα της Ανεξαρτησίας - 1<sup>η</sup> Οκτωβρίου, και Χριστούγεννα) για κατάδικους που εξέτισαν το ½ της ποινής τους και αποφυλακίζονται εντός 2μηση μηνών. Εξαιρούνται τα σεξουαλικά αδικήματα, η εμπορία ναρκωτικών, ανθρωποκτονία, φόνος, απόπειρα φόνου. Η πρακτική των αναστολών για αποφυλακίσεις 4 φορές το χρόνο εφαρμοζόταν ανέκαθεν και θα πρέπει να συνεχίσει, καθότι είναι το βασικό εναλλακτικό μέτρο αποσυμφόρησης της κλειστής φυλακής.
- Οι αναστολές ποινών και απελάσεις των αλλοδαπών<sup>51</sup> μετά την επιβολή μικρής ποινής, ειδικότερα για παράνομη είσοδο/παραμονή και συναφή αδικήματα, καθώς και για άλλα αδικήματα με φυλάκιση μικρής διάρκειας. Η πρακτική αυτή εφαρμοζόταν τα τελευταία έξι χρόνια σε συνεργασία με τον Γενικό Εισαγγελέα, σε μια προσπάθεια συμμόρφωσης με τις συστάσεις και δεσμεύσεις της χώρας προς τις Επιτροπές του Συμβουλίου της Ευρώπης και των Ηνωμένων Εθνών, καθώς και προς το Ευρωπαϊκό Δικαστήριο Ανθρωπίνων Δικαιωμάτων, για αποσυμφόρηση των Φυλακών. Όπως έχουμε αναφέρει αυτό είναι αδήριτη ανάγκη να συνεχίσει αφού έχουν περιοριστεί στο ελάχιστο και παράλληλα θα πρέπει να εφαρμοστούν διοικητικά μέτρα για τις περιπτώσεις αυτές αντί της κράτησης ή/και της ποινής φυλάκισης.

Τα άλλα δύο μέτρα που αφορούντο Συμβούλιο Αποφυλάκισης επ' Αδεία και την ηλεκτρονική επιτήρηση, συμβάλλουν σε πολύ μικρό βαθμό στο πρόβλημα του υπερπληθυσμού και σχεδόν καθόλου στο πρόβλημα υπερπληθυσμού στην κλειστή Φυλακή, καθότι αυτά εφαρμόζονται περισσότερο στους κρατούμενους που βρίσκονται στην ανοικτή φυλακή και στο ΚΕΑΑΚΚ.

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<sup>51</sup> Αξίζει να σημειωθεί ότι οι αλλοδαποί που καταδικάζονται κάθε χρόνο σε ποινή φυλάκισης μέχρι 12 μήνες, αποτελούν το 85% του πληθυσμού των καταδικασθέντων αλλοδαπών. Ενδεικτικά, το 2019 είχαν καταδικασθεί 477 αλλοδαποί με ποινή από μία μέρα μέχρι 12 μήνες, ενώ στο σύνολο είχαν καταδικασθεί 577 αλλοδαποί κρατούμενοι. Δηλαδή, οι καταδικασθέντες αλλοδαποί με ποινή μέχρι 12 μήνες αποτελούν το 85.6% των αλλοδαπών καταδικασθέντων για το 2019.

Αυτά σε συνδυασμό με άλλα εναλλακτικά μέτρα και κυρώσεις αντί της κράτησης και ποινής φυλάκισης, θα μπορούσαν να συμβάλουν στη μείωση του προβλήματος του υπερπληθυσμού. Σημειώνεται ότι τα δύο τελευταία μέτρα αφορούν πολύ μικρό αριθμό (μονό αριθμό) περιπτώσεων αλλοδαπών, καθότι η αρμόδια υπηρεσία του Υπουργείου Εσωτερικών δεν αποφασίζει έγκαιρα κατά τη διάρκεια κράτησης του κρατούμενου, το νομικό καθεστώς τους στη χώρα, όπως προβλέπεται στη σχετική Σύσταση του ΣΤΕ σχετικά με τους αλλοδαπούς κρατούμενους<sup>52</sup>, και συνεπώς το μόνο εναλλακτικό μέτρο που μπορεί να εφαρμοστεί στην περίπτωση των αλλοδαπών κρατουμένων είναι οι έγκαιρες αποφυλακίσεις με αναστολή ποινής, όπως εφαρμοζόταν τα τελευταία έξι χρόνια ή θα μπορούσε στο πλαίσιο των δικαστικών διαδικασιών οι δημόσιοι κατήγοροι να συναινούν στην επιβολή ποινής φυλάκισης με αναστολή με σκοπό την απέλαση του καταδικασθέντος αλλοδαπού ή στην άμεση απέλαση του όπως εφαρμόζεται σε ανεπτυγμένες χώρες.

Τα τελευταία έξι χρόνια, ακολουθείται ένας συστηματικός τρόπος διαχείρισης του πληθυσμού των Κύπριων καταδίκων, καθώς και αλλοδαπών με μικρές ποινές, με αποφυλακίσεις τέσσερις φορές το χρόνο όπως πιο πάνω, δεδομένου ότι δεν εφαρμόζονταν άλλα εναλλακτικά μέτρα αντί της ποινής φυλάκισης όπως συμβαίνει σε άλλες χώρες του ΣΤΕ και εκτός Ευρώπης, και είναι το μόνο μέτρο αποσυμφόρησης του πληθυσμού των Φυλακών, χωρίς να σημαίνει ότι αυτό από μόνο του δύναται να επιλύσει το πρόβλημα του υπερπληθυσμού.

Τα υφιστάμενα μέτρα αποσυμφόρησης για το πρόβλημα του υπερπληθυσμού στις Φυλακές, ειδικότερα στην κλειστή φυλακή, δυστυχώς είναι μόνο οι αναστολές ποινών τέσσερις φορές το χρόνο για κατάδικους που εξέτισαν το 1/2 της ποινής τους και αποφυλακίζονται εντός δύο με 2 1/2 μηνών, καθώς και μέχρι πρόσφατα οι απελάσεις των αλλοδαπών μετά την επιβολή μικρής σε διάρκεια ποινής, οι οποίες είναι απολύτως αναγκαίες, δεδομένου ότι δεν υπάρχουν στο παρόν στάδιο άλλα εναλλακτικά μέτρα για αποσυμφόρηση του πληθυσμού των Φυλακών.

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<sup>52</sup> Council of Europe (2012). Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners. Βλέπετε επίσης 2.4.3.2 Αλλοδαποί κρατούμενοι.

**Αξίζει να σημειωθεί ότι οι αλλοδαποί που καταδικάζονται κάθε χρόνο σε ποινή φυλάκισης μέχρι 12 μήνες, αποτελούν το μεγαλύτερο μέρος του πληθυσμού των καταδικασθέντων αλλοδαπών (85%). Ενδεικτικά, το 2019 είχαν καταδικασθεί 477 αλλοδαποί με ποινή από μία μέρα μέχρι 12 μήνες, ενώ στο σύνολο είχαν καταδικασθεί 577 αλλοδαποί κρατούμενοι. Δηλαδή, οι καταδικασθέντες αλλοδαποί με ποινή μέχρι 12 μήνες αποτελούν το 85.6% των αλλοδαπών καταδικασθέντων για το 2019.**

## **ΕΙΣΗΓΗΣΕΙΣ**

Ενόψει των πιο πάνω, ως άμεσες λύσεις εισηγούμαστε όπως συνεχίσει ο συστηματικός τρόπος διαχείρισης του πληθυσμού των Κύπριων καταδίκων καθώς και αλλοδαπών με μικρές ποινές, με αποφυλακίσεις τέσσερις φορές το χρόνο όπως τα προηγούμενα χρόνια.

Περαιτέρω και ειδικότερα για την ομάδα των αλλοδαπών κρατουμένων για το αδίκημα της παράνομης μετανάστευσης και άλλων συναφών αδικημάτων, εισηγούμαστε όπως συνεχίσει ο τρόπος διαχείρισης που μέχρι πρόσφατα εφαρμοζόταν σε συνεργασία με τον Γενικό Εισαγγελέα για αναστολή της ποινής φυλάκισης αμέσως μετά την επιβολή ποινής καθότι οι αναστολές έχουν περιοριστεί στο ελάχιστο ειδικότερα όσον αφορά τους αλλοδαπούς. Επιπρόσθετα, θα μπορούσε στο πλαίσιο των δικαστικών διαδικασιών, οι δημόσιοι κατηγοροί να συναινούν στην επιβολή ποινής φυλάκισης με αναστολή, με σκοπό την απέλαση του καταδικασθέντος αλλοδαπού ή στην άμεση απέλαση του όπως εφαρμόζεται στις χώρες του ΣΤΕ, καθώς και σε άλλες χώρες εκτός Ευρώπης.

Σημαντικό μέτρο μεταχείρισης των παράνομων μεταναστών είναι η διευθέτηση της μεταχείρισης τους με άλλες διαδικασίες με την εφαρμογή διοικητικών μέτρων εγκαταλείποντας την αυστηρή πολιτική επιβολής ποινών τουλάχιστον στα αδικήματα της παράνομης εισόδου, παράνομης παραμονής και συναφών αδικημάτων ή/και με πληθώρα εναλλακτικών μέτρων αντί της κράτησης και ποινής φυλάκισης όπως συμβαίνει σε άλλες ανεπτυγμένες χώρες.

Με την εφαρμογή των εν λόγω μέτρων δεν θα υπερφορτώνεται το σύστημα της ποινικής δικαιοσύνης με όλες τις υποθέσεις να καταλήγουν στα δικαστήρια, αφού αφορούν ήσσονος σημασίας αδικήματα και συμπεριφορές οι οποίες δεν συνιστούν σοβαρά ποινικά αδικήματα.

Τέλος, μία δραστική λύση στο θέμα των αλλοδαπών είναι η θεσμοθέτηση εξουσίας του Δικαστηρίου να διατάσσει την απέλαση αλλοδαπών και την απαγόρευση της διαμονής τους στη Δημοκρατία σε αδικήματα που έχουν άμεση ή έμμεση σχέση με την παράνομη είσοδο τους στη Δημοκρατία.

Λευκωσία 11.11.2021

**Η Πρόεδρος της Επιτροπής**

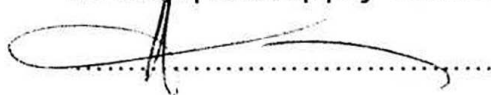


Άννα Αριστοτέλους  
Διευθύντρια Φυλακών

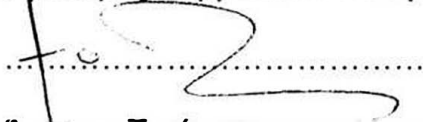
**Τα Μέλη της Επιτροπής**



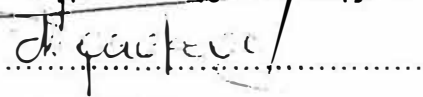
Αθηνά Δημητρίου  
Ανώτερη Λειτουργός Φυλακών



Λεμονιά Καουτζάνη  
Πρόεδρος Συμβουλίου Αποφυλάκισης Κρατουμένων Επ' Αδεία



Αρίστος Τσιάρτας  
Προϊστάμενος Τομέα Ανθρωπίνων Δικαιωμάτων, Αντεγκληματικής και  
Σωφρονιστικής Πολιτικής, ΥΔΔΤ



Κώστας Παρασκευάς  
Επίκουρος Καθηγητής, Τμήμα Νομικής Πανεπιστημίου Κύπρου

(6) Για σκοπούς διατροφής και υγιεινής επιτρέπεται προσωρινή απαλλαγή των χεριών από τον περιορισμό.

(7) Σε περιπτώσεις μεταφοράς κρατουμένου της Κλειστής Φυλακής εκτός των φυλακών, ο αξιωματικός ασφάλειας, και σε περίπτωση απουσίας του ο αξιωματικός υπηρεσίας, αποφασίζει για την πρόσδεση ή όχι του κρατουμένου με χειροπέδες, λαμβάνοντας υπόψη το βαθμό που ο κρατούμενος είναι επικίνδυνος για δραπέτευση, το χαρακτήρα, το παρελθόν, τη συμπεριφορά και την ηλικία του κρατουμένου και γενικά οποιοδήποτε στοιχείο κατά την κρίση του πρέπει να λάβει υπόψη για τη λήψη της απόφασης.

(8) Η ζώνη με χειροπέδες χρησιμοποιείται κυρίως για σκοπούς προστασίας του κρατουμένου από αυτοτραυματισμούς, στις περιπτώσεις που η χρησιμοποίηση αλμάτων χειροπέδων δεν κρίνεται ικανοποιητική.

(9) Αναφορικά με τη χρησιμοποίηση των χειροπέδων της ζώνης ισχύουν όσα και για τη χρήση των αλμάτων χειροπέδων.

(10) Για σκοπούς διατροφής και υγιεινής επιτρέπεται προσωρινή απαλλαγή των χεριών από τον περιορισμό.

(11) Το λουρί αστραγάλων χρησιμοποιείται σε περιπτώσεις που ο κρατούμενος αντίκειται στη μεταφορά του από ένα σημείο της φυλακής σε άλλο και σε περιπτώσεις που η χρησιμοποίησή του κρίνεται αναγκαία για απόλυτο περιορισμό του κρατουμένου, για να κατάσσει δυνατή ή μεταφορά του, να παρεμποδιστεί από του να αυτοτραυματιστεί ή να τραυματίσει άλλους ή να προκαλέσει ζημιά σε περιουσία, χρησιμοποιώντας τα πόδια του.

(12) Το λουρί αφαιρείται μόλις τελεώσει η μεταφορά ή παρέλθει ο κίνδυνος αυτοτραυματισμού, ή τραυματισμού άλλου, ή πρόκλησης ζημιάς.

(13) Ο μανδύας ακινητοποίησης χρησιμοποιείται μόνον κατόπιν οδηγίων του ιατρικού λειτουργού και κυρίως σε περιπτώσεις έντονων ψυχρωματικών διαταραχών και αντιδράσεων εκ μέρους κρατουμένου και για σκοπούς προστασίας του από αυτοτραυματισμό.

«Περιορισμός κρατουμένου για ειδικούς λόγους.

151.(1) Ο Διευθυντής δύναται να διατάξει τον περιορισμό κρατουμένου σε χώρο εντός των φυλακών ως προβλέπεται στην παράγραφο (2), για όσο το δυνατόν μικρότερη χρονική διάρκεια, σε εξαιρετικές περιπτώσεις και μόνο εφόσον είναι αναγκαίο για επίτευξη των ακόλουθων σκοπών:

- (α) Της διατήρησης της πειθαρχίας και τάξης·
- (β) της προστασίας των συμφερόντων του ίδιου ή άλλων κρατουμένων·
- (γ) του περιορισμού βίαιων ή απειθαρχητων κρατουμένων οι οποίοι με τη συμπεριφορά τους δημιουργούν αναστάτωση και εκφοβισμό μεταξύ των υπόλοιπων κρατουμένων.

(2) Ο Διευθυντής διατάσσει τον περιορισμό κρατουμένου-

- (α) στο ατομικό του κελί ή σε άλλο ατομικό κελί, ή
- (β) σε ειδικό δωμάτιο προστασίας.

(3) Οι ακόλουθες προϋποθέσεις εφαρμόζονται σε όλες τις διαταγές που εκδίδονται δυνάμει των προνοιών της παραγράφου (1) και κατά την εφαρμογή αυτών των διαταγών:

(α) Ο Διευθυντής διατηρεί γραπτό αρχείο στο οποίο καταχωρίζει τις λεπτομέρειες κάθε διαταγής, συμπεριλαμβανομένων-

- (i) των λόγων για τους οποίους εκδίδεται η διαταγή,
- (ii) των σχετικών με την περίπτωση γεγονότων,
- (iii) της συμπεριφοράς του κρατουμένου και της προσωπικής του κατάστασης,
- (iv) της χρονικής διάρκειας της διαταγής, και
- (v) του χώρου στον οποίο ο κρατούμενος περιορίζεται·

(β) ο Διευθυντής, προτού εκδώσει διαταγή δυνάμει των προνοιών της παραγράφου (1), παρέχει την ευκαιρία στον κρατούμενο να ακουστεί·

(γ) ο Διευθυντής ενημερώνει γραπτώς τον κρατούμενο για την έκδοση διαταγής δυνάμει των προνοιών της παραγράφου (1), τους λόγους αυτής και τη χρονική της διάρκεια·

(δ) ο Διευθυντής ενημερώνει το ιατρικό προσωπικό των φυλακών για την έκδοση της διαταγής το συντομότερο

δυνατόν και, εν πάση περιπτώσει, εντός είκοσι τεσσάρων (24) ωρών από την έκδοση της διαταγής, και λαμβάνει υπόψη τις οποιεσδήποτε συστάσεις του ιατρικού προσωπικού·

- (ε) το ιατρικό προσωπικό των Φυλακών επισκέπτεται τον κρατούμενο χωρίς καθυστέρηση, παρακολουθεί την κατάσταση της υγείας του και ενημερώνει το Διευθυντή, και αρμόδιος ιατρός συντάσσει έκθεση για την κατάσταση της υγείας του κρατουμένου σε τακτά χρονικά διαστήματα·
- (στ) σε περίπτωση που ο αρμόδιος ιατρός κρίνει ότι η κατάσταση της υγείας του κρατουμένου έχει κλονισθεί λόγω της διαταγής, ενημερώνει γραπτώς το Διευθυντή και, στην περίπτωση αυτή, ο Διευθυντής διακόπτει τον περιορισμό·
- (ζ) τα ειδικά δωμάτια προστασίας είναι πάντοτε διαμορφωμένα κατά τρόπο που να προστατεύουν τον κρατούμενο από του να αυτοτραυματισθεί·
- (η) διαταγή που εκδίδεται δυνάμει των προνοιών της παραγράφου (1) δεν χρησιμοποιείται ως τιμωρία·
- (θ) η επιβολή διαταγής που εκδίδεται δυνάμει των προνοιών της παραγράφου (1) δεν επηρεάζει τα προβλεπόμενα στον Κανονισμό 114 δικαιώματα του κρατουμένου·
- (ι) κατά την εφαρμογή διαταγής που εκδίδεται δυνάμει των προνοιών της παραγράφου (1), ο κρατούμενος έχει τα κάτωθι ελάχιστα δικαιώματα τηλεφωνικής επικοινωνίας και επισκέψεων:
  - (i) Τηλεφωνική επικοινωνία με το συνήγορό του και επισκέψεις από τον συνήγορό του·
  - (ii) τηλεφωνική επικοινωνία με μέλη της οικογένειάς του, συνεργάτες και φίλους του μία φορά την εβδομάδα· και
  - (iii) επισκέψεις από μέλη της οικογένειάς του, συνεργάτες και φίλους του μία φορά την εβδομάδα·
- (ια) ο κρατούμενος δικαιούται τουλάχιστον μίας ώρας άσκηση σε εξωτερικό χώρο ανά εικοσιτετράωρο·

Νοείται ότι, για τους σκοπούς της παρούσας παραγράφου «ιατρικό προσωπικό» περιλαμβάνει και το νοσηλευτικό προσωπικό των Φυλακών.

(4) Ο Διευθυντής επανεξετάζει διαταγή που εκδίδεται δυνάμει των προνοιών της παραγράφου (1) κατά τακτά χρονικά διαστήματα και, εν πάση περιπτώσει, κάθε δέκα (10) μέρες, προκειμένου να κρίνει εάν οι λόγοι βάσει των οποίων εκδόθηκε η διαταγή συνεχίζουν να υφίστανται.».

Παραπομπή  
απόδοσης.

152.—(1) Σε περίπτωση απόπειρας απόδοσης κρατούμενου κατά την οποία ο κρατούμενος κατορθώνει με οποιοδήποτε τρόπο να αναρριχηθεί επί του περιμετρικού τείχους της φυλακής και προσπαθεί να εξέλθει από αυτήν, οποιοδήποτε μέλος του προσωπικού, αφού καλέσει πρώτα τον κρατούμενο να σταματήσει και δε συμμορφωθεί, και αφού ρίψει έναν προειδοποιητικό πυροβολισμό στον αέρα και ο κρατούμενος εξακολουθεί να προσπαθεί να απαρθεί, μπορεί να πυροβολήσει εναντίον του κρατουμένου αυτού·

Νοείται ότι απαγορεύεται σε οποιοδήποτε μέλος του προσωπικού να πυροβολήσει εναντίον κρατουμένου που αποπειράται να δραστηρευτεί ενόσω ο κρατούμενος αυτός εξακολουθεί να βρίσκεται ακόμη εντός της φυλακής·

(2) Ο σκοπός της ρίψης πυροβολισμών αποβλέπει στο να πεισθεί ο κρατούμενος να σταματήσει την προσπάθειά του να δραστηρευτεί και όχι στο να προκαλέσει το θάνατό του. Γι' αυτό και στις περιπτώσεις που είναι αναγκαία η χρησιμοποίηση πυροβόλου όπλου αυτό χρησιμοποιείται, στο μέτρο του δυνατού, για να καταστήσει αυτόν που στρέφεται εναντίον του ανίκανο να δραστηρευτεί και όχι για να τον φονεύσει·

Annex 3

(6) Για σκοπούς διατροφής και υγιεινής επιτρέπεται προσωρινή απαλλαγή των χειρών από τον περιορισμό.

(7) Σε περιπτώσεις μεταφοράς κρατούμενου της Κλειστής Φυλακής εκτός των φυλακών, ο αξιωματικός ασφάλειας, και σε περίπτωση απουσίας του ο αξιωματικός υπηρεσίας, αποφασίζει για την πρόσδεση ή όχι του κρατούμενου με χειροπέδες, λαμβάνοντας υπόψη το βαθμό που ο κρατούμενος είναι επικίνδυνος για δραπέτευση, το χαρακτήρα, το παρελθόν, τη συμπεριφορά και την ηλικία του κρατούμενου και γενικά οποιοδήποτε στοιχείο κατά την κρίση του πρέπει να λάβει υπόψη για τη λήψη της απόφασης.

(8) Η ζώνη με χειροπέδες χρησιμοποιείται κυρίως για σκοπούς προστασίας του κρατούμενου από αυτοτραυματισμούς, στις περιπτώσεις που η χρησιμοποίηση ατλών χειροπέδων δεν κρίνεται ικανοποιητική.

(9) Αναφορικά με τη χρησιμοποίηση των χειροπέδων της ζώνης ισχύουν όσα και για τη χρήση των ατλών χειροπέδων.

(10) Για σκοπούς διατροφής και υγιεινής επιτρέπεται προσωρινή απαλλαγή των χειρών από τον περιορισμό.

(11) Το λουρί αστραγάλων χρησιμοποιείται σε περιπτώσεις που ο κρατούμενος αντιτίθεται στη μεταφορά του από ένα σημείο της φυλακής σε άλλο και σε περιπτώσεις που η χρησιμοποίησή του κρίνεται αναγκαία για απόλυτο περιορισμό του κρατούμενου, για να κατάσται δυνατή η μεταφορά του, να παρεμποδιστεί από τούτο να αυτοτραυματιστεί ή να τραυματίσει άλλους ή να προκαλέσει ζημιά σε περιοχία, χρησιμοποιώντας τα πόδια του.

(12) Το λουρί αφαιρείται μόλις τελειώσει η μεταφορά ή παρέλθει ο κίνδυνος αυτοτραυματισμού, ή τραυματισμού άλλου, ή πρόκλησης ζημιάς.

(13) Ο μανδύας ακινητοποίησης χρησιμοποιείται μόνον κατόπιν οδηγιών του ιατρικού λέιτσοργού και κυρίως σε περιπτώσεις έντονων ψυχοσωματικών διαταραχών και αντιδράσεων εκ μέρους κρατούμενου και για σκοπούς προστασίας του από αυτοτραυματισμό.

«Περιορισμός κρατούμενου για ειδικούς λόγους.

151.(1) Ο Διευθυντής δύναται να διατάξει τον περιορισμό κρατούμενου σε χώρο εντός των φυλακών ως προβλέπεται στην παράγραφο (2), για όσο το δυνατόν μικρότερη χρονική διάρκεια, σε εξαιρετικές περιπτώσεις και μόνο εφόσον είναι αναγκαίο για επίτευξη των ακόλουθων σκοπών:

- (α) Της διατήρησης της πειθαρχίας και τάξης.
- (β) της προστασίας των συμφερόντων του ίδιου ή άλλων κρατούμενων.
- (γ) του περιορισμού βίαιων ή απειθάρχητων κρατούμενων οι οποίοι με τη συμπεριφορά τους δημιουργούν αναστάτωση και εκφοβισμό μεταξύ των υπόλοιπων κρατούμενων.

(2) Ο Διευθυντής διατάσσει τον περιορισμό κρατούμενου-

- (α) στο ατομικό του κελί ή σε άλλο ατομικό κελί, ή
- (β) σε ειδικό δωμάτιο προστασίας.

(3) Οι ακόλουθες προϋποθέσεις εφαρμόζονται σε όλες τις διαταγές που εκδίδονται δυνάμει των προνοιών της παραγράφου (1) και κατά την εφαρμογή αυτών των διαταγών:

- (α) Ο Διευθυντής διατηρεί γραπτό αρχείο στο οποίο καταχωρίζει τις λεπτομέρειες κάθε διαταγής, συμπεριλαμβανομένων-
  - (i) των λόγων για τους οποίους εκδίδεται η διαταγή,
  - (ii) των σχετικών με την περίπτωση γεγονότων,
  - (iii) της συμπεριφοράς του κρατούμενου και της προσωπικής του κατάστασης,
  - (iv) της χρονικής διάρκειας της διαταγής, και
  - (v) του χώρου στον οποίο ο κρατούμενος περιορίζεται.
- (β) ο Διευθυντής, προτού εκδώσει διαταγή δυνάμει των προνοιών της παραγράφου (1), παρέχει την ευκαιρία στον κρατούμενο να ακουστεί.
- (γ) ο Διευθυντής ενημερώνει γραπτώς τον κρατούμενο για την έκδοση διαταγής δυνάμει των προνοιών της παραγράφου (1), τους λόγους αυτής και τη χρονική της διάρκεια.
- (δ) ο Διευθυντής ενημερώνει το ιατρικό προσωπικό των Φυλακών για την έκδοση της διαταγής το συντομότερο



# Annex 4

Κ.Α.Π. 121/97

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Πειθαρχικά  
παραπτώματα  
και πειθαρχικές  
ποινές.  
Παράρτημα  
Α, Β, Γ, Δ.

160.—(1) Τα πειθαρχικά παραπτώματα, τα οποία διαπράττονται από κρατούμενους και τα οποία εκδικάζονται από το Διευθυντή, καθορίζονται από τους παρόντες Κανονισμούς και ιδιαίτερα στην πρώτη στήλη των Παραρτημάτων Α, Β, Γ και Δ.

Στη δεύτερη στήλη των Παραρτημάτων Α, Β, Γ και Δ καθορίζονται οι πειθαρχικές ποινές που μπορούν να επιβληθούν από το Διευθυντή για τα παραπτώματα που αναφέρονται στην πρώτη στήλη του ίδιου Παραρτήματος ή σε οποιοδήποτε άλλο Κανονισμό των παρόντων Κανονισμών.

(2) Ο Διευθυντής μπορεί για κάθε αδίκημα να επιβάλει μία ή περισσότερες από τις ποινές αυτές.

(3) Ο Διευθυντής μπορεί με γραπτή εξουσιοδότησή του να εκχωρεί ορισμένες από τις πιο πάνω πειθαρχικές εξουσίες του σε Πειθαρχικό Συμβούλιο το οποίο να απαρτίζεται από δύο τουλάχιστον αξιωματούχους των φυλακών οι οποίοι να φέρουν το βαθμό του λειτουργού φυλακών των φυλακών.

(4) Τον Πειθαρχικό Συμβούλιο προεδρεύει το αρχαιότερο από τα δύο μέλη του και οι αποφάσεις λαμβάνονται ομόφωνα. Σε περίπτωση διαφωνίας η υπόθεση μαζί με όλα τα πρακτικά, γραπτές μαρτυρίες και οποιαδήποτε άλλα έγγραφα αφορούν την υπόθεση, περιλαμβανομένων και των απόψεων των μελών του Πειθαρχικού Συμβουλίου, παραπέμπονται στο Διευθυντή για απόφαση.

«Περιορισμός σε  
ατομικό κελί ως  
πειθαρχική ποινή για  
διάπραξη  
πειθαρχικού  
παραπτώματος.  
Παράρτημα Β.  
Παράρτημα Γ.  
Παράρτημα Δ.

160Α.(1) Ο περιορισμός σε ατομικό κελί, όπως προβλέπεται στα Παραρτήματα Β, Γ και Δ, επιβάλλεται με απόφαση του Διευθυντή μόνο για την τέλεση των πιο σοβαρών πειθαρχικών παραπτωμάτων και δεν δύναται να υπερβαίνει τις είκοσι (20) ημέρες συνολικά:

Νοείται ότι, προτού αποφασίσει τον περιορισμό σε ατομικό κελί ο Διευθυντής παρέχει την ευκαιρία στον κρατούμενο να ακουστεί.

(2) Για σκοπούς λήψης της απόφασης δυνάμει των προνοιών της παραγράφου (1), ο Διευθυντής λαμβάνει δεόντως υπόψη και συνεκτιμά σε κάθε περίπτωση τη σοβαρότητα του παραπτώματος και τις περιστάσεις κάτω από τις οποίες διαπράχθηκε, τη συμπεριφορά του κρατούμενου και τις προσωπικές ή άλλες συνθήκες του κρατούμενου, καθώς και τις τυχόν απόψεις του.

(3)(α) Απόφαση του Διευθυντή που εκδίδεται δυνάμει των προνοιών της παραγράφου (1) είναι γραπτή και αιτιολογημένη και περιλαμβάνει -

- (i) τη χρονική διάρκεια του περιορισμού στο ατομικό κελί,
- (ii) τους παράγοντες που έλαβε υπόψη, και
- (iii) τις τυχόν απόψεις του κρατούμενου.

(β) Η δυνάμει των προνοιών της παραγράφου (1) απόφαση του Διευθυντή καταχωρίζεται ως πειθαρχική ποινή στο μητρώο που τηρείται, δυνάμει των προνοιών του Κανονισμού 159, σε χωριστό κατάλογο υπό τον τίτλο «Περιορισμός σε ατομικό κελί».

(4) Ο κρατούμενος ενημερώνεται γραπτώς για απόφαση του Διευθυντή που εκδίδεται δυνάμει των προνοιών της παραγράφου (1), καθώς και για τους παράγοντες που λήφθηκαν υπόψη και τη διάρκεια του περιορισμού.

# Annex 5

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Νοείται όμως ότι σε περίπτωση που ο κρατούμενος βρίσκεται πάνω στο περιμετρικό τείχος ή κατόρθωσε να εξέλθει της φυλακής με οποιοδήποτε τρόπο και το μέλος του προσωπικού στην προσπάθεια του να αποτρέψει τη δραπέτευση προκάλεσε με πυροβολισμό το θάνατο του κρατουμένου αντί τον τραυματισμό του, το μέλος του προσωπικού δε φέρει οποιαδήποτε ευθύνη εφόσον προηγουμένως έχει τηρήσει όλες τις άλλες διαταγές του Κανονισμού αυτού.

(3) Ο Διευθυντής μπορεί να εκδίδει επιτρόσθετες γραπτές οδηγίες και διαταγές προς το προσωπικό για την καλύτερη δυνατή εφαρμογή των πιο πάνω Κανονισμών και τη διατήρηση της ασφάλειας, της πειθαρχίας και της τάξης μέσα στις φυλακές.

## ΠΕΙΘΑΡΧΙΑ

153. Ο Διευθυντής είναι υπεύθυνος για την τήρηση της τάξης και της πειθαρχίας στις φυλακές και αρμόδιος για την εκδίκαση πειθαρχικών παραπομπών και άλλων αξιόποινων πράξεων που τελούνται από κρατουμένους καθώς και για την επιβολή ποινών.

Τήρηση της τάξης και της πειθαρχίας και εκδίκαση πειθαρχικών παραπομπών.

154. Τα πειθαρχικά παραπτώματα των κρατουμένων βεβαιώνονται αμέσως από τα αρμόδια όργανα με έγγραφη αναφορά τους στο Διευθυντή, ο οποίος αποφασίζει, ανάλογα με την περίπτωση, για τον ορισμό ειδικού ανακριτή για την παρατέρα διερεύνηση της υπόθεσης, ή για την έναρξη ή μη της πειθαρχικής διαδικασίας με βάση τα ενάπιόν του στοιχεία.

Βεβαίωση πειθαρχικών παραπομπών.

155. Κρατούμενος, ο οποίος πρόκειται να κατηγορηθεί για πειθαρχικό παράπτωμα, μπορεί να περιοριστεί στο ατομικό του κελί. ~~ή σε άλλο ατομικό κελί~~ ανάλογα με την περίπτωση και τη σοβαρότητα του παραπτώματος, μέχρις ότου ολοκληρωθεί η εξέταση των γεγονότων της υπόθεσης. Η περίοδος περιορισμού του κρατουμένου δεν μπορεί να υπερβαίνει τις τέσσερις μέρες. Εκτός αν ο Διευθυντής εγκρίνει παράταση της περιόδου περιορισμού του κρατουμένου για άλλες δύο μέρες.

Περιορισμός κρατουμένου ο οποίος πρόκειται να κατηγορηθεί για πειθαρχικό παράπτωμα.

ή σε άλλο ατομικό κελί:

156. Σε περίπτωση που ο κρατούμενος πρόκειται να κατηγορηθεί για πειθαρχικό παράπτωμα, η κατηγορία διατυπώνεται το συντομότερο δυνατό και η εκδίκαση της υπόθεσης αρχίζει το αργότερο μέσα σε δύο μήνες από την ημερομηνία διάπραξης του παραπτώματος και ολοκληρώνεται το ταχύτερο δυνατό.

Περίοδος εξέτασης και εκδίκασης πειθαρχικού παραπτώματος.

157. Η πειθαρχική δίωξη κρατούμενου δεν εμποδίζει την ποινική δίωξη του ενάπιον του δικαστηρίου, νοουμένου ότι η ποινική δίωξη δεν αφορά την ίδια κατηγορία για την οποία ο κρατούμενος διώχθηκε πειθαρχικά.

Πειθαρχική και ποινική δίωξη του κρατουμένου.

Νοείται ότι σε περίπτωση που ασκείται ποινική δίωξη εναντίον κρατουμένου για παράπτωμα που διαπράχθηκε μέσα στη φυλακή, καμιά πειθαρχική δίωξη δεν επιτρέπεται να ασκηθεί ή να συνεχιστεί εναντίον του για λόγους που σχετίζονται με την ποινική δίωξη, μέχρις ότου αυτή πάρει οριστικό τέλος.

158.—(1) Ο κρατούμενος δεν τιμωρείται, χωρίς να λάβει προηγουμένως γνώση για την παράβαση για την οποία κατηγορείται και χωρίς να του δοθεί η δυνατότητα να υπερασπίσει τον εαυτό του.

Ενημέρωση κατηγορουμένου και δικαίωμα υπεράσπισης.

(2) Κανένας κρατούμενος δεν τιμωρείται δύο φορές για το ίδιο παράπτωμα.

159. Οι αποφάσεις του Διευθυντή είναι πάντοτε αιτιολογημένες και καταγράφονται με κάθε λεπτομέρεια και σαφήνεια στα πρακτικά της δικής και καταχωρούνται περιληπτικά στο Μητρώο Πειθαρχικών Αδικημάτων και Ποινών Κρατουμένων. Τα πλήρη πρακτικά καθώς και όλες οι γραπτές αναφορές και μαρτυρίες που αφορούν την υπόθεση καταχωρούνται στον προσωπικό φάκελο του κρατουμένου.

Αιτιολόγηση αποφάσεων Διευθυντή και Πειθαρχικού Συμβουλίου.

## ANNEX 6

### ACTIONS TO PREVENT TORTURE

Training: In the context of further upgrading the training and education of police officers and developing a culture in line with the respect of human rights, a large number of programmes offered at the Cyprus Police Academy cover thematic on Human Rights (discrimination / racism, detainee's and suspects rights, prohibition of torture, violence against women, human trafficking, etc.). It should be noted that the Cyprus Police pays extra attention on the training of members of the Police at all levels.

Police Standing Orders on related issues: A number of Police Standing Orders have been issued giving specific instructions and guidelines to members of the police as regards the issue of abuse during investigation and detention. It is stressed that all Police Standing Orders are binding for police members.

In particular, the following Police Standing Orders provide on this matter:

- Police Standing Order 3/3 "Investigating Officers"
- Police Standing Order 5/3 "Rights of Detained Persons"
- Police Standing Order 3/55 "Arrest and Detention of Persons"
- Police Standing Order 5/4 "Escorts of detainees, pre-trial and convicted persons – Escape from Lawful Arrest"
- Police Standing Order 1/97 "Menoyia Detention Center"
- Police Standing Order 1/97 "Cooperation of the Police with the Independent Authority for Investigation of Allegations and Complaints against the Police".

It should be noted that, when necessary, all Police Standing Orders are reviewed and amended on the basis of legal, organizational and other developments.

The content of Police Standing Orders is incorporated in the modules included in the basic and specialized training programmes offered at the Cyprus Police Academy.

Other actions: The Police makes continuous efforts to promote human rights in general. In particular you are informed of the following actions taken:

a. The Cyprus Police has established the **Human Rights Office and Combating Discrimination Office**, which falls under the jurisdiction of the European Union and International Police Cooperation Directorate. The Office, mainly deals with the monitoring and implementation of the Cyprus Police obligations arising from the reports / decisions of various relevant national and European organizations / bodies. The Office, amongst others, studies and forwards along with other competent offices the implementation of the recommendations made by the Commissioner of Administration and Protection of Human Rights (Ombudsman), the Committee for the Prevention of Torture (CPT) of the Council of Europe as well as the suggestions made by other European, international and national organizations focusing on the field of the protection of human rights. In this vein, the emphasis is given to the detention and living conditions of detainees in police stations and detention facilities for prohibited migrants in correlation with the rights and managing of such persons. The dissemination of knowledge to police officers is among the main concerns of the Human Rights Office and Combating Discrimination Office. The Office prepares and distributes relevant handbooks / brochures, organizes seminars to raise the awareness of police members and conducts trainings at all organizational levels.

b. **Circular letters** are constantly sent at all members of the Police with instructions concerning the broad spectrum of fundamental human rights. According to the circular letters, “zero tolerance must be shown in incidents of ill-treatment, use of excessive force, torture, inhuman and degrading treatment or punishment. The threat or the use of any form of violence by members of the Police is the most serious form of intervention/violation in the personal freedom of citizens. Therefore, the use of force is subject to strict, formal and substantive limitations in order to minimize the risk of abuse and violation of rights. Violation of the aforementioned principles constitutes a disciplinary / criminal offense, depending on its severity”.

c. **Police Code of Ethics** was enriched with provisions concerning the behavior of the police officers during the performance of their duties. Additionally, the Code of Ethics was divided in articles in order to facilitate members of the Police and make the Code more efficient in its use. The Code of Ethics was issued in a booklet form and was distributed to all members of the Police to create awareness, strengthen public confidence towards the Police and further develop professionalism within the Police. It should be noted that the Code of Ethics was uploaded on the Police Portal and the official website of the Cyprus Police, in Greek and in English. Lastly, the Police Standing Order 1/73 “Police Code of Ethics” has also been amended.

d. **Handbooks on Human Rights** - The Handbook on Human Rights was prepared in 2023 by the Police in order to inform and sensitize police members on the protection and promotion of human rights. The Handbook includes issues relating to the use of force, treatment of detainees, detention conditions, etc. The Handbook was uploaded on the police portal and was printed and distributed to members of the Police. Moreover, the “Manual on the Treatment on Juvenile Victims” in 2022 was prepared and distributed to all relevant departments of the Police. The Manual aims to raise the awareness of police officers on handling juvenile victims, and to promote and protect the rights of these persons. The Manual was distributed to members of the Police and was uploaded on the police portal.

e. **Conferences on Human Rights** - A one-day conference is being organized for the past 6 years (2016, 2017, 2018, 2019, 2022 and 2023) on the occasion of the International Human Rights Day (10th of December). The aim of the conference was to raise awareness with regards to the respect and protection of human rights and the strengthening of human rights protection during the exercise of Police duties. Due to the pandemic, the conference intended to be organised in 2020 and 2021 was cancelled.

f. **Folder on Human Rights** - A folder was created on the internal website of the Police (portal) entitled “Human Rights”, to systematically inform and raise awareness among all members of the Police about issues concerning human rights and treatment of detainees. The folder includes circular letters, conventions, legislation, reports and manuals on good practices.

g. **Informational leaflet, calendar and audio-visual material** - The Police raises awareness on Human Rights, through several material distributed to members of the Police and the public. This material is also uploaded on the Police Portal.

h. **Cooperation with other Authorities** - The Cyprus Police has established excellent cooperation with the Ombudsperson and other competent Authorities handling issues related to human rights.

**ANNEX 7**  
**SUICIDE PREVENTION IN PLACES OF DETENTION**

Taking into account the provisions contained in the "Guidelines for the Prevention of Suicide in Prisons and Detention Centers", prepared by the Ministry of Justice and Public Order and the Office of the Ombudsperson, members of the Police apply the following to all detainees:

(1) Interview of a detainee immediately before his/her placement in a detention center

- (a) The person in charge, immediately before placing a person in a cell and without undue delay, arrange for the detainee to be interviewed in a language he/she understands. The interview form is completed with information given by the detainee, regardless of whether some detainees are reluctant or refuse to answer specific questions. For this purpose, the Detainees 's Personal File and "Interview Form" are completed. Where necessary, an interpreter is called. In case it is not possible to find an interpreter, a registration is made with the reasons.
- (b) The interview is conducted by members who have received training on the relevant procedures. A space is secured for the interview to be conducted in a confidential manner and any information collected during it, which concerns medical and other personal data, is handled confidentially, in accordance with the provisions of the Personal Data Processing (protection of the individual) Law.
- (c) The member of the Police records on the Interview Form all of the detainee's answers, as well as any abnormal or unusual behavior observed.
- (d) In case, the detainee's behavior is unusual (e.g. crying, expressing thoughts of despair or even clearly wishing to die, etc.), the procedure for immediate psychiatric examination begins with his/her consent. If the detainee refuses to be examined and appears to have a mental disorder requiring psychiatric hospitalization, a compulsory examination order is issued, in cooperation with his family/relatives and in accordance with the provisions of the Psychiatric Hospitalization Law.
- (e) Until his/her examination, the detainee is under supervision in a place where there are no objects, which he/she can use to cause harm to himself and/or others. At the same time, efforts are made for his/her psychological support. After the psychiatric examination, the doctor's instructions for treatment are followed.

(2) Observation of detainee's behavior during detention

- (a) Each detainee, is monitored systematically every 30 minutes, unless more frequent monitoring is deemed necessary for the protection of his life/health or for security reasons. The member of the Police, among other things, checks for any unusual or dangerous behavior of the detainee (e.g. talking to himself, crying, expressing suicidal intent, etc.). In this case, the member of the Police immediately informs his/her superiors and makes the relevant registries, in the Station Diary and on the form titled "Recording Observations during Detention".
- (b) In cases where information is obtained by relatives/friends about any psychological problems or previous self-harm behaviors, special attention is given and the

information is evaluated in a timely manner in relation to the rest of the information received.

- (c) In case the detainee's behavior continues to be unusual (cries continuously, expresses thoughts of despair or even clearly wishes to die), then the procedure for an immediate psychiatric examination begins.

(3) General Guidelines for the prevention of suicides in detention facilities

- (a) Emergency cases are transferred to Hospitals staffed with a psychiatrist. The Human Rights and Combating Discrimination Office ensures at regular intervals in cooperation with the Mental Health Services, that all Police Stations receive a list with the Governmental Hospitals that employ a psychiatrist.
- (b) The completed Interview Form is placed, in the personal file of the detainee.
- (c) The Interview Form accompanies the detainee in case he/she is transferred to another detention center. In such a case, a copy is kept at the Station and the Person in Charge of the other Detention Center completes a new Form.
- (d) In case the detainee is transferred to the psychiatrist for examination, copies of these documents given to the psychiatrist.