

# KEY OBSERVATIONS

## PRIORITY TOPICS

### ■ Police

**CONDITIONS OF DETENTION** – Effectively and cogently address ill-treatment of detained persons by law enforcement officials at the FBiH, RS and Cantonal levels.

### ■ Prison

**LIVING CONDITIONS** – Reform the legal framework and regime of detention for remand prisoners at Entity level (FBiH and RS) in order to allow for out-of-cell entitlements of eight hours per day.

### ■ Social Care

**ILL-TREATMENT** – Prevent ill-treatment in social care homes at Entity level (FBiH and RS), including in terms of recruitment, training and supervision of staff to upgrade their professionalism.

**LIVING CONDITIONS** – Upgrade the appalling living conditions in Pavilions IV and V in the Višegrad Home, including through regular maintenance and cleaning, and by reducing the reliance on residents to provide cleaning services and care for other residents.

**MEANS OF RESTRAINT** – Regulate the use of means of restraint, the criteria for their use in social care homes, and the relevant safeguards at Entity level (FBiH and RS) to avoid their inappropriate use, including for prolonged periods.

### ■ Immigration

**CONDITION OF DETENTION** – Take action at State level to regulate by law the detention of foreign nationals refused entry into BiH and replace the container used for their temporary placement at the Restricted Zone at Sarajevo International Airport with a suitable holding facility.

**HEALTHCARE** – Ensure the provision of psychological and psychiatric care for foreign nationals at risk of self-harm and suicide and with mental disorders detained at Lukavica Immigration Detention Centre, based on a more proactive and therapeutic (rather than security-focussed and punitive) approach.

## CHRONIC ISSUES

### ■ Police

**CONDITIONS OF DETENTION** – Ensure that detainees in police custody are effectively and immediately granted access to a lawyer from the outset of their detention.

### ■ Social care

**HEALTHCARE** – Enhance the numbers of qualified and trained unit-based clinical care staff in social care homes at Entity level (FBiH and RS) to enhance the quality and safety of the care provided to residents, including those with severe disabilities.

## GOOD PRACTICES

### ■ Prison

**CONDITION OF DETENTION** – The extensive out-of-cell entitlements in force for remand prisoners at the State Prison are to be commended.

### ■ Police

**ILL-TREATMENT** – The professional conduct of SIPA police officers in the execution of arrests of criminal suspects in terms of the proportionate use of force and compliance with legal safeguards is praiseworthy.

## THE CPT AND BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina ratified the ECPT in 2002, and the Committee's first visit took place in 2003.

Since ratification, the CPT has carried out 10 country visits to Bosnia and Herzegovina – 6 periodic and 4 ad hoc – including 86 visits to police establishments, 8 prosecutor's offices, 53 to prisons, 12 to psychiatric institutions, 7 social welfare and educational-correctional establishments, and 3 to border and immigration detention facilities.

All the visit reports have been published. Bosnia and Herzegovina did not accept the automatic publication of the visit reports.

## EXECUTIVE SUMMARY

The primary objective of the periodic visit to Bosnia and Herzegovina (BiH) was to examine the treatment of persons apprehended and detained by various police agencies at the State, Entity and Cantonal levels. Furthermore, the CPT delegation also focused on the treatment and conditions of detention of convicted and remand prisoners held in a number of penitentiary establishments under the jurisdiction of the State and Entity Ministries of Justice. The situation of residents of three social care institutions in both Entities was also examined, as was the situation of foreign nationals deprived of their liberty under the State immigration law.

### Law enforcement establishments

Despite the majority of persons interviewed by the CPT's delegation during the visit having declared that they had been treated correctly by police officers in the course of police custody (in particular by the State Investigation and Protection Agency (SIPA), the CPT once again received numerous allegations of physical ill-treatment of detained persons by police officers in both Entities. These allegations primarily consisted of slaps, punches, kicks, truncheon blows and blows from the barrel of a pistol or assault rifle to various parts of the body. The aforementioned ill-treatment was primarily inflicted by members of special intervention units, such as the Sarajevo and Tuzla Cantonal Special Intervention Police, the *Gendarmerie* and the Anti-Terrorist Unit of the *Republika Srpska* (RS) Police (SAJ), and, to a lesser extent, by criminal inspectors and uniformed police officers of the Federal, Sarajevo Cantonal and RS Police, apparently in order to coerce suspects into confessing to certain offences or providing information.

The Committee concludes that persons deprived of their liberty by the police are at risk of physical ill-treatment and of suffering serious injury, especially those arrested in the course of anti-drug and other anti-organised crime operations. The report provides detailed descriptions of several cases of alleged police ill-treatment, citing specific patterns of conduct, including the tight handcuffing of detainees for extended periods, which can result in severe neurological consequences to their arms. The Ministries of the Interior at the Entity and Cantonal levels should issue a clear statement on zero tolerance for torture and ill-treatment of detained persons, provide targeted training on manual control techniques, notably to members of special intervention police units, introduce audio-visual recording of all police interviews, and better regulate the use of force and the independent assessment of its proportionality.

With regard to the operation of legal safeguards against police ill-treatment, the Committee expresses regret that the majority of persons interviewed by the delegation, with the notable exception of those deprived of their liberty by the SIPA, had been given access to a lawyer only 24 hours or more after their apprehension. The BiH authorities at Entity and Cantonal levels should ensure that this important safeguard is applied from the outset of deprivation of liberty, and to develop a more effective and functional system for the appointment of duty lawyers. Finally, recommendations are formulated to ensure that detained persons are promptly and adequately informed by police officers of their rights in a clear and comprehensible manner, that the confidentiality of detainees' medical examinations is ensured, and that police officers are trained in professional methods of police interviewing.

### Prison establishments

The report acknowledges the downward trend in the prison population across the three prison systems at the State and Entity levels, as well as the ongoing efforts to renovate the prison estate. The majority of prisoners interviewed by the delegation reported being treated correctly by the prison staff. However, the report also documents two specific allegations of ill-treatment of prisoners by custodial staff, one at the State Prison and the other at Zenica Prison. The CPT calls for the practice of inmates being placed in padded cells with straitjackets at Zenica Prison to be discontinued. With regard to the material conditions of detention, the report observes that the conditions were satisfactory at the State and Zenica Prisons, as well as at Banja Luka, Doboje and East Sarajevo Prisons. However, it is noted that the conditions at the remand section of Tuzla Prison remain sub-standard, particularly with regard to overcrowding, inadequate ventilation, poor maintenance and hygiene, and the presence of vermin.

With regard to the regime of activities offered to remand prisoners, the Committee highlights that the provision of seven hours of out-of-cell activities at the State Prison could be considered a good practice. The CPT invites the Ministries of Justice at the Entity levels to take the necessary steps to replicate such a model in their respective systems, where remand prisoners continue to be offered the same impoverished regime as in previous visits (i.e. 23 hours or more in their cells with only access to outdoor exercise or poorly equipped gyms).

Turning to the regime offered to sentenced prisoners, the report finds that a satisfactory level of purposeful activities of an individualised nature is being offered at the State, Zenica and Banja Luka Prisons. However, the CPT also expresses criticism regarding certain aspects of the regime pertaining to prisoners who are segregated or isolated for security, disciplinary, or health reasons in these establishments. The regime for inmates in Wing A2 of the State Prison, Pavilion IV of Zenica Prison and the enhanced supervision department of Banja Luka Prison should be subject to adequate legal safeguards, in terms of reasoned legal decisions and effective avenues for challenging their placement, and that they should be provided with a more substantial regime of purposeful activities in order to facilitate their reintegration into the mainstream prison population.

In relation to healthcare provision for prisoners, the report criticises the inadequate presence and deficient staffing levels at Tuzla Prison, where access to medical care was problematic. Furthermore, the Committee also regrets that prisoners from all three penitentiary systems are still not systematically screened for communicable diseases upon their admission to prison and injuries are not adequately described. The CPT also formulates several recommendations, including on the need to preserve the confidentiality of medical examinations of prisoners, the necessity to abandon the practice of mechanical fixation of remand prisoners, the promotion of a reassessment and better therapeutic input to prisoners suffering from a mental disorder, and the adoption of a comprehensive strategy for prisoners with substance use related conditions.

The CPT also identifies the need to reinforce the prison custodial staffing complements and increased entitlements of staff at the level of the FBiH. Furthermore, the Committee once again expresses its disapproval of the practice of lifting the bed fixed horizontally to the wall during the day for prisoners serving a disciplinary sanction of solitary confinement and calls for this to be remedied.

With regard to female prisoners, the report finds that they were mostly treated correctly, with the exception of some recorded incidents of verbal disrespectful behaviour by prison staff at Tuzla Prison. The report also identifies the potential for enhancement of material conditions of detention in cells at East Sarajevo Prison through more personalised cells. With regard to the regime, the report once again criticises the isolation and de facto prolonged segregation to which female remand prisoners are exposed due to the fragmentation of the prison system. While the range of activities available to sentenced prisoners is deemed adequate, the Committee observes that Tuzla Prison could benefit from enhanced vocational and educational opportunities, while East Sarajevo Prison could benefit from increased outdoor exercise opportunities. In addition, the Committee makes several key recommendations regarding healthcare provision for female prisoners. These include the introduction of a specific medical screening for female prisoners, with a view to identifying vulnerabilities such as mental healthcare needs, sexual abuse and other forms of gender-based violence inflicted prior to entry to prison.

## **Social Care Homes**

Many persons with disabilities in Bosnia and Herzegovina continue to live in large institutions, segregated from the community. Such institutions entail major risks of institutionalisation with counter-therapeutic and depersonalising effects on residents. Those with higher support needs often receive insufficient attention and their needs are frequently disregarded. For this reason, the RS authorities should finally initiate, and the FBiH authorities step up, their efforts to effectively advance the process of deinstitutionalisation of residents placed in large social protection institutions in BiH, by creating community-based housing solutions.

The delegation received some allegations of physical ill-treatment (slaps and pushing) of residents by certain orderlies in specific pavilions/units at both the Pazarić and Drin Homes. Some complaints were also received about verbal abuse and improper language by certain members of staff in the three institutions visited. Further steps are required to prevent ill-treatment in social care homes in both Entities, including in terms of recruitment, training and supervision of staff to upgrade their professionalism. The report also notes occasional physical and verbal conflicts between residents in all three institutions and recalls that violence in an institution for persons with disabilities might be hidden, which requires a proactive approach to protect vulnerable persons from other residents who might cause them harm.

In the three homes visited, the living conditions were extremely poor in the pavilions/units for residents with the most severe disabilities, which often lacked basic maintenance, cleaning and hygiene. The worst situation was observed in Pavilions IV and V in Višegrad, where material conditions were appalling, with dilapidated facilities, broken doors and furniture, and dreadful hygiene. Many of the totally bare and austere rooms had a constant stench of urine and faeces, some residents were laying in dirty bedding covered with urine or excrements which had not been changed, while others were not provided with pillows or bedding. Some were found naked. In the CPT's view, residents' living conditions in these two units may amount to inhuman and degrading treatment and require urgent upgrading, including regular maintenance and cleaning.

Further, not all residents in Drin had their own beds and, in Pavilion B-II, 58 residents with mental disorders were crowded in large dormitories. The report also notes the lack of privacy in all three institutions and the inadequate or derelict equipment used in Višegrad and Pazarić. Further, steps are required to ensure that all residents can benefit from daily access to outdoor exercise.

The situation was compounded by insufficient numbers of qualified and trained unit-based clinical care staff (mainly orderlies and nurses) to provide proper individualised and personalised care to residents, with strong evidence of both physical and emotional neglect.

The needs of residents with severe disabilities were not being met in terms of care in any of the three institutions visited, and especially not in the Višegrad Home, and the situation of these residents might, in the CPT's view, be described as amounting to inhuman and degrading treatment. Urgent measures are required to enhance the quality and safety of the care provided to residents with severe disabilities and the dependence upon residents to support staff by providing cleaning services, supervision or even care to other residents must be ended. Further, the number of multi-disciplinary rehabilitation staff was also insufficient to provide a proper range of psycho-social rehabilitative activities.

Moreover, both Entities should take steps to ensure that all types of restraint, the criteria for their use in social care homes, and the relevant safeguards be thoroughly regulated by law and that detailed guidelines for their application with clear safeguards be drawn up in all social care homes. The report finds numerous shortcomings concerning the use of means of restraint, especially in Pazarić and Višegrad. The CPT is particularly concerned about the situation of a female resident who had been almost constantly subjected to mechanical restraint with textile straps around her arms attaching her to a bed, day and night – with only very short periods of de-fixation – for several years, due to an increased risk of self-harm. Such a practice should be immediately ended. The report also contains recommendations on PRN ("as needed") prescriptions for restraint and the use of movement-restricting measures.

The CPT also formulates several recommendations to address the lack of appropriate safeguards in the context of involuntary placement of residents or the placement of residents under guardianship in social care homes in BiH, and particularly the absence of a regular automatic judicial review of the need for their continued placement. The report concludes that further measures are required to comply with the jurisprudence of the European Court of Human Rights.

## Immigration detention

The BiH authorities should end the immigration detention of both unaccompanied children and children with their families and clearly regulate by law the detention of foreign nationals refused entry into BiH and placed in the temporary holding area at the Restricted Zone at Sarajevo International Airport (including the grounds for detention, length of detention and judicial control). This also requires that every foreign national detained there is provided, without delay, with an individual detention order, that a custody register is kept and that they be systematically and fully informed of their rights and the procedure applicable to them.

The material conditions in the holding rooms and sanitary annex inside the prefabricated container located near the tarmac at the Restricted Zone of Sarajevo Airport were extremely poor, with insufficient hygiene and maintenance. The delegation met a mother with children, including toddlers, who had been detained for three days inside the locked container without any activities on offer or even access to outdoor exercise. The conditions of detention in the container were totally unsuitable for holding persons, and particularly children. The CPT urges the BiH authorities to take swift action to replace the container with a suitable holding facility equipped to provide adequate conditions of detention to persons refused entry into the country.

At the Lukavica Immigration Detention Centre, several foreign nationals interviewed provided credible allegations of the deliberate physical ill-treatment (severe beatings) of a detained foreign national with a severe mental disorder by security staff. When met by the delegation, the person concerned was found in a critical state in disciplinary solitary confinement and required urgent psychiatric treatment and care. Healthcare services at the Centre must be improved, particularly to ensure the provision of psychological and psychiatric care, based on a more proactive and therapeutic (rather than security-focussed and punitive) approach for detained foreign nationals at risk of self-harm and suicide and with mental disorders. Further, measures are required to better regulate and review the practice of placement in solitary confinement, notably by ensuring that persons placed there have daily access to outdoor exercise and benefit from immediate and regular checks by healthcare staff.

The living conditions at the Lukavica Centre were poor and carceral, with poor hygiene and maintenance. Urgent steps are required to refurbish and regularly maintain and clean the accommodation areas in all units. Further, all foreign nationals detained at the Centre should be granted access to outdoor exercise for at least two hours a day (and preferably more) and be offered a range of purposeful activities.