

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CPT/Inf (2016) 17 part

# **Executive summary**

**to the Report**

**to the Government of Bosnia and Herzegovina  
on the visit to Bosnia and Herzegovina  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 29 September to 9 October 2015**

Strasbourg, 5 July 2016

## EXECUTIVE SUMMARY

The CPT's fourth periodic visit to the country provided an opportunity to assess progress made since the Committee's previous visits in 2011 and 2012 respectively. To this end, the CPT's delegation reviewed the treatment and conditions of detention of persons deprived of their liberty by the police and in prison establishments. Further, the situation of persons accommodated at two psychiatric establishments in Sarajevo Canton was examined.

The CPT's delegation generally received good co-operation from the authorities at the State and Entity level throughout the visit. Nevertheless, the Committee expresses concern regarding the fact that the bulk of its previous recommendations regarding a purposeful regime for remand prisoners, prison healthcare and safeguards for the prevention of police ill-treatment have not been implemented.

### Law enforcement agencies

The delegation received a considerable number of allegations of widespread physical ill-treatment of detained persons by law enforcement officials. The allegations mostly concerned slaps, punches and truncheon blows but also included prolonged handcuffing in stress positions, the use of non-standard instruments, mock executions and the use of a hand-held electro-shock device. Recommendations are made to promote a culture change within the ranks of law enforcement officials, to enhance professional training in modern scientific methods of criminal investigation and to carry out effective investigations into allegations of ill-treatment. To this end, the CPT is again critical of the lack of action taken by prosecutors and judges to investigate allegations of ill-treatment and, by way of example, notes that the arrangements in place for investigating such allegations in the Canton of Sarajevo are inadequate. The CPT recommends that fully independent police complaints bodies be established and that, until this occurs, prosecutors should seek support from police internal control units when investigating allegations of police ill-treatment.

The delegation also found that safeguards against police ill-treatment, notably the right of access to a lawyer, still do not apply in practice as from the outset of deprivation of liberty. The BiH authorities are again urged to adopt specific legal provisions on access to a doctor during police custody.

The material conditions in most of the police holding facilities visited by the delegation were unfit for holding persons overnight (lack of access to natural light, poor ventilation, deplorable hygienic conditions and an absence of mattresses and bedding). The CPT calls upon the BiH authorities to improve the conditions in all police holding facilities in line with the Committee's standards.

### Prison establishments

The majority of prisoners met by the CPT's delegation stated they were treated correctly by staff; nevertheless, several allegations of ill-treatment of inmates by staff were received at Banja Luka, Bijeljina, Doboje, Mostar, Tuzla and Zenica Prisons, consisting notably of slaps, punches, kicks and blows with truncheons. Not only should a strong message be delivered to penitentiary staff that ill-treatment of prisoners is not acceptable but more training modules on manual control techniques and inter-personal skills should be offered to custodial staff and independent investigations conducted promptly. As regards inter-prisoner violence, increased staffing complements and reduced occupancy levels meant that its incidence had diminished at Foča Prison while at Zenica Prison it remains a serious problem and requires devising a coherent strategy which should include recruiting more prison officers and moving away from large capacity dormitories.

Inmates accommodated in high-security and enhanced supervision departments at Banja Luka, Foča and Zenica Prisons should be informed in writing of the reasons for any placement and of any extension, and be guaranteed the right of appeal to an independent authority. Such basic safeguards were not in place at the time of the visit. Further, all such prisoners should be provided with a purposeful regime and a revised sentence plan should be drawn up to assist the prisoner to successfully reintegrate into the general prison population. The material conditions of certain cells at Foča and Zenica Prisons should be improved.

The low staffing levels encountered in the prisons visited in the FBiH, notably at Zenica Prison, impacted negatively on the ability to guarantee staff safety and the physical and mental integrity of inmates. The ban on recruitment in the public sector in FBiH compounds the situation. Prison staffing levels in all prisons should be reviewed, starting with Zenica Prison. In the RS, prison staffing numbers were generally sufficient. However, at Banja Luka Prison, the CPT is critical of the highly disciplined and martial approach adopted by the prison management which results in the prison not being equipped to defuse and address incidents that challenge its modus operandi. This was brought out clearly by the case of the collective request (*molba*) of June 2015 which the delegation examined in detail. The CPT recommends that the notions of dynamic security be developed and the martial approach ended. Further, prison officers should not carry truncheons inside detention areas.

The CPT's delegation found that remand prisoners still spent 22 hours or more confined to their cells and were offered no purposeful activities. The two hours of daily outdoor exercise provided for by law was not respected at Bijeljina, Doboj, Mostar, Sarajevo, Tuzla and Zenica Prisons. For example, at Sarajevo Prison, some prisoners, including a juvenile, were offered only 30 minutes outside every day. The CPT calls upon the authorities to radically improve activities for remand prisoners. In addition, they should be offered two hours of outdoor exercise every day. For sentenced prisoners, the Committee notes that at Banja Luka, Foča and Zenica Prisons the regime offered to sentenced prisoners was generally good while at Bijeljina, Mostar and Tuzla Prisons it should be improved.

As regards material conditions of detention, the situation was generally satisfactory at Banja Luka Prison, where extensive renovations had taken place, and at Foča Prison. That said, conditions were very poor at Sarajevo Prison due to the bad state of repair of the building and the overcrowding (for example, three or even four prisoners in 8m<sup>2</sup>). The remand section at Tuzla Prison and certain pavilions at Mostar and Zenica Prisons were similarly poor. Conditions at Bijeljina Prison remained cramped. The CPT makes a series of recommendations to improve the conditions in the prisons visited.

As regards health care in prisons, the CPT recommends that the Ministries of Health and Justice jointly improve prison health-care services based on the recommendations made by the Committee. The health-care staffing complements should be reinforced, notably at Mostar, Sarajevo and Zenica Prisons, and the health-care facilities suitably equipped. The CPT also recommends that steps be taken to ensure that medical assessments and the recording of prisoners' injuries (including newly admitted prisoners) are conducted in line with the requirements set out by the CPT. The practice of doctors certifying prisoners as "fit for punishment" should be ended and medical confidentiality needs to be guaranteed. The report also recommends that the way in which medication is distributed in prisons be reviewed and that all prisons screen prisoners for transmissible diseases. The continued lack of a coherent approach towards inmates identified as having a drug-related problem was evident in the prisons visited and the authorities should develop a comprehensive strategy for the provision of assistance to such prisoners. Further, in the RS, judges should not interfere with medical decisions in prisons. The CPT is critical of the current use of padded cells and recommends that a uniform evidence-based protocol, which includes appropriate safeguards, be developed on their use.

The CPT's delegation was appalled by the presence at the remand section of Tuzla Prison of seven chronically psychotic forensic psychiatric patients subject to a court-imposed security measure; their basic mental and physical health-care needs were not being adequately addressed. The CPT recommends that these patients be immediately transferred to an adequate health-care facility pending the official start of operations at the Special Hospital for Forensic Psychiatry at Sokolac.

Disciplinary procedures were generally applied in a fair manner although there is a need to introduce a right of appeal; contact with the outside world should not be restricted as a disciplinary measure unless the offence pertains to the abuse of this right. Further, the maximum possible period of solitary confinement as a punishment should be no higher than 14 days and the RS authorities should amend the relevant legal provision accordingly. There is also a need to harmonise State and Entity legal provisions relating to disciplinary punishments to avoid prisoners within the same establishment receiving different sanctions for the same type of offence.

As regards juveniles in detention, the CPT welcomes the new Law of January 2015 in FBiH and looks forward to receiving information on its full implementation. The delegation found that the situation of juveniles at Zenica Prison was generally satisfactory. However, conditions of detention at Tuzla Prison were particularly poor and the juveniles were offered no purposeful activities; the FBiH authorities should take immediate steps to improve their situation. Further, the CPT emphasises the importance of staff working with juveniles receiving professional training.

### **Psychiatric establishments**

The CPT observed a positive and caring approach by staff towards patients at both Jagomir Psychiatric Hospital and Koševo Psychiatric Clinic. Further, staff reacted appropriately to deal with the few incidents of inter-patient violence.

At Jagomir Hospital, living conditions for patients were generally of a decent standard; however, the intensive care unit should not hold male and female patients in the same dormitory. At Koševo Psychiatric Clinic, conditions were less good as the building was dilapidated and patients had limited living space. Further, patients were not able to benefit from at least one hour of outdoor exercise. The CPT recommends that the capacity of the wards be reduced and that consideration be given to transferring Koševo Psychiatric Clinic to new, modern premises.

The treatment of patients at both establishments was mainly based on pharmacotherapy and included some elements of occupational therapy. However, there was no evidence of individual treatment plans being drawn up for patients. Recommendations are made to draw up such treatment plans and to widen the range of rehabilitative and therapeutic activities at both hospitals. The CPT also recommends the need to develop a comprehensive policy on the recourse to means of restraint, including the proper recording of each measure and ensuring that patients are not restrained in full view of other patients.

The legal safeguards surrounding the placement of patients need to be reinforced. The delegation found that the dysfunctional judicial decision-making over involuntary placements resulted in every effort being made to admit patients on a voluntary basis. Patients were not informed of their rights clearly and their consent to treatment while in hospital was not sought. The CPT recommends that the legal safeguards regulating involuntary placement be reinforced and that the relevant authorities take action to ensure that the courts discharge their duties within the time limits set out in law. Recommendations are also made to ensure that patients are provided with full information about their situation and that all psychiatric establishments are visited by an independent monitoring body.