

## EXECUTIVE SUMMARY

In the course of the 2017 periodic visit, the CPT's delegation reviewed the treatment of and legal safeguards offered to persons deprived of their liberty by the police. Particular attention was paid to the situation of persons held in prisons. The delegation also examined the situation of foreign nationals deprived of their liberty under aliens legislation and of forensic psychiatric patients.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent.

### Law enforcement agencies

As regards ill-treatment by the police, the delegation only received a few isolated allegations of excessive use of force upon apprehension. Apart from that, the Committee was pleased to note that many detainees spoke positively of the professional conduct of police officers.

With a few exceptions, most persons interviewed by the delegation also indicated that they had been granted the fundamental safeguards against ill-treatment, namely the rights of detained persons to notify a close relative or another person of their detention and to have access to a lawyer and a doctor. The CPT is, however, concerned that persons who were not able to pay for a lawyer themselves, could not, as a rule, effectively benefit from the right of access to a lawyer from the very outset of their deprivation of liberty. *Ex officio* lawyers would only be appointed if such an appointment was considered to be "in the interests of justice" and if they were appointed, they would in practice only meet the detainee after police questioning, very briefly before the court hearing.

The CPT further notes that the possibility of the use of electrical discharge weapons by the police has recently been introduced into the Police Tasks and Powers Act and will be further regulated in the Rules on Police Powers. The Committee welcomes the fact that the new legal provisions include a number of safeguards such as the requirement for the weapons to be equipped with a video camera and the obligation that any person against whom the weapon has been used be subsequently examined by a doctor. However, the CPT also points out that the Slovenian authorities should ensure that additional safeguards are put in place, in particular the careful selection and training of the officials who may use electrical discharge weapons and the general rule that the criteria governing the use of such weapons - at least insofar as they are capable of discharging projectiles - should be directly inspired by those applicable to firearms.

### Prisons establishments

The CPT makes positive comments about developments as regards overcrowding in prisons and points out that in the establishments visited, its delegation did not observe any major overcrowding. A particular reference is made to the progress achieved in this respect at Ljubljana Prison. However, the CPT also notes that the official capacity in a number of prisons throughout the country was being exceeded.

Many prisoners interviewed by the CPT's delegation during the visit made positive comments about staff. No allegations whatsoever of ill-treatment of prisoners by staff were received at Ljubljana and Koper Prisons. At Maribor Prison, a few isolated allegations were received of prisoners being slapped, punched and kicked by prison officers. Further in this establishment, the delegation received a few allegations of disrespectful remarks by staff vis-à-vis inmates.

At Ljubljana Prison, staff reacted adequately to instances of inter-prisoner violence. At Maribor Prison, inter-prisoner violence appeared to be very rare; however, allegations were heard that in a few isolated cases, staff did not react at all when certain prisoners slapped and kicked other inmates in the corridor and, more generally, tried to dominate them. Instances of inter-prisoner violence in this establishment appeared to be almost exclusively linked with the existence of a black market of illicit substances, prescription medication and mobile phones. The Committee recommends that an effective strategy be devised and implemented to tackle trafficking in prohibited items. As part of this strategy, it should be ensured that medication is distributed exclusively by health-care staff and that its intake is properly supervised. Moreover, particular attention should be paid to the potential involvement of prison staff in the smuggling of illicit items into the prison and in their trafficking.

In both establishments visited, material conditions were on the whole acceptable in terms of cell space provided to inmates, state of repair and cleanliness, lighting, ventilation and cell equipment. However, at Maribor Prison, several smaller cells (7m<sup>2</sup>) in the remand section accommodated two prisoners and the CPT recommends that all prisoners should always be provided with at least 4m<sup>2</sup> of living space per person in a multiple-occupancy cell and, preferably, 7m<sup>2</sup>, in line with the Slovenian national standard.

As regards the regime and activities provided to prisoners, the situation varied among different categories of inmate. The situation of sentenced prisoners was relatively positive. The CPT also notes the efforts made to alleviate the situation of remand prisoners by placing them under a so-called “relaxed” regime. However, remand prisoners subject to the “ordinary” remand regime were locked in their cells for 20 to 22 hours a day, watching TV and reading being their only distractions. The CPT recommends that the Slovenian authorities continue their efforts to provide a satisfactory programme of activities to all prisoners, whether held on remand or sentenced.

Particular attention is paid in the report to the situation of prisoners held under the reinforced security regime at Maribor Prison. Regrettably, apart from two hours of outdoor exercise and access to a fitness room for one hour on working days, these inmates spent the vast majority of the day locked in their cells, with little to occupy their time, and the CPT recommends that the Slovenian authorities take decisive steps to review the programme of activities offered to these prisoners.

As for psychiatric and psychological care in prisons, it is a positive development that following the opening of the Forensic Unit of the Psychiatric Department of Maribor University Hospital, prisoners from both establishments visited who suffered from a psychiatric disorder and required hospital care were now rapidly transferred to this unit. However, a recommendation is made to ensure that a clinical psychologist is contracted (at least on a part-time basis) at Ljubljana and Maribor Prisons.

### **Foreign nationals held under aliens legislation**

The delegation received no allegations of ill-treatment by staff at Postojna Detention Centre for Foreigners. On the contrary, relations between staff and foreign nationals appeared to be friendly and relaxed.

Material conditions at the centre were found to be of a good standard. However, the Committee recommends that certain specific shortcomings be remedied.

The report is also critical of the fact that unaccompanied minors and families with children awaiting deportation are still regularly detained at the Postojna Centre for Foreigners. As regards unaccompanied minors, the Committee recommends that, given their particular vulnerability, they should always be provided with special care and accommodated in an open (or semi-open) specialised establishment for juveniles. The Committee further stresses that the accommodation of children accompanying their parent(s) in a detention centre can have a negative psychological effect on the child's development and well-being, particularly when the child is young. The placement of children with their parents in a detention centre should therefore only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible. In addition, every possible effort should be made to avoid separation of children from their parent(s).

Further, the CPT emphasises that the prohibition of torture and inhuman or degrading treatment entails the obligation not to send a person to a country if there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or other forms of ill-treatment (*refoulement*). In this context, the Committee has misgivings about the new Sections 10a and 10b of the Aliens Act which introduced the possibility for the Parliament to activate a "measure in response to mass migration" which would deny foreign nationals the possibility to apply for asylum, without an individual assessment of their case. An appeal against such a denial would not have a suspensive effect. Whilst acknowledging the Slovenian authorities' concerns about possibly once again having to cope with the same situation as that faced during the 2015/2016 migration influx, the Committee expresses its doubts as to whether foreign nationals under this measure would in practice be effectively protected against *refoulement* including "chain *refoulement*".

The report praises the high standard of health-care services provided at the centre as well as the generous access foreign nationals had to telephones and to the internet.

### **Forensic psychiatric patients**

At the Forensic Unit of the Psychiatric Department of Maribor University Hospital, the delegation received no allegations, and found no other indications, of ill-treatment of patients by staff. Instances of inter-patient violence appeared to be extremely rare and relations between patients were generally very relaxed.

Material conditions at the Forensic Unit were in most aspects of a very high standard. However, patients accommodated on ward F1 had to wear pyjamas and were only provided a metal spoon with which to eat. The CPT recommends that this practice be revised.

For several days after admission, patients on ward F1 were not granted any outdoor exercise. After this initial period and for patients accommodated on ward F2, outdoor exercise was usually only offered for 30 minutes and not necessarily every day. The CPT recommends that patients' access to outdoor exercise be significantly improved.

As regards the daily regime, it is positive that patients were not locked in their rooms during the day or at night and were free to move about their respective wards.

Psychiatric treatment provided to patients generally appeared to be appropriate and pharmacotherapy was supplemented by a range of therapeutic and recreational activities. That said, the offer of therapeutic activities for patients in the F1 ward was rather limited and the CPT recommends that patients on this ward be offered a broad range of therapeutic activities and be encouraged to participate in these activities.

The CPT expresses serious reservations as regards several aspects of the use of means of restraint. In particular, it appeared that fixation of patients to a bed was not always used as a matter of last resort and the measure was apparently not always terminated when the grounds for it had ceased to exist. Further, patients were usually strapped to a bed in full view of other patients and were systematically provided with an adult nappy or a bedpan to comply with the needs of nature. Moreover, no member of the health-care staff was constantly present in the patients' room and patients were not de-briefed by staff once the measure had been terminated.

The CPT sets out in detail the principles which should be respected when resort is had to means of restraint and recommends that the policy and practice at the Forensic Unit in Maribor and in all other psychiatric establishments in the country be brought into line with these requirements. The CPT also underlines that, in its view, the practice of putting patients in adult nappies or having them use a bedpan in view of other patients may amount to degrading treatment.

Concerning legal safeguards for forensic psychiatric patients, the CPT recommends that all patients subject to the security measure of compulsory psychiatric treatment and protection in a health-care institution be heard in person by the judge in the context of the six-monthly review of the security measure.

The imposition of the security measure entailed the obligation of patients to undergo certain treatment, as decided by the court, and there was no procedure in place for requesting their free and informed consent to the treatment. The CPT considers that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment.