

EXECUTIVE SUMMARY

In the course of the 2016 periodic visit, the CPT's delegation examined the broad prison reform measures taken by the Italian authorities to reduce prison overcrowding and the ongoing reform of forensic psychiatry. In addition, the situation of persons deprived of their liberty by law enforcement officials and of those placed involuntarily in psychiatric care pursuant to civil legislation was also reviewed. The cooperation received during the visit was, with two exceptions, generally excellent.

At the outset, Committee reiterates its concern that after more than 20 years the penal code still does not contain a specific provision on the crime of torture. It takes note of the recent establishment of the National Preventive Mechanism under the OPCAT.

Law enforcement agencies

The great majority of detained persons met by the CPT's delegation indicated that they had been treated correctly by law enforcement officials. However, a number of allegations of physical ill-treatment and excessive use of force, particularly by members of the State Police and *Carabinieri*, were received. These consisted of slaps, punches, kicks and blows with batons at the time of apprehension and following transfer to a police establishment. Several cases supported by medical documentation are described in the report. A clear message should be conveyed to police officials that all forms of physical ill-treatment are unacceptable and will be prosecuted and sanctioned accordingly.

As regards legal safeguards, several persons alleged that they had experienced delays notifying a third party of their detention, and also in obtaining access to a lawyer prior to their court hearing. Further, foreign nationals deprived of their liberty by the police did not systematically receive information on their rights in a language they understood. Access to a doctor was normally guaranteed to detained persons requiring medical assistance; however, the confidentiality of these examinations was generally not guaranteed.

Conditions in the detention cells (*camere di sicurezza*) were on the whole acceptable for short periods. However, for prolonged detention (i.e. up to 72 hours), the conditions remained inadequate owing to the lack of outdoor exercise yards and showers. The conditions in the detention cells of the Florence *Questura* were found once again to be unacceptable. Immediate steps should be taken to decommission cell no. 3 and to refurbish the remaining cells of the Florence *Questura*.

Prisons

The report takes note of the unprecedented reform of the penitentiary system undertaken by the Italian authorities following the 2013 European Court of Human Rights' pilot judgment *Torreggiani v. Italy*. The various measures have resulted, *inter alia*, in the decrease of the prison population by 11,000 inmates and the increase in the capacity of the prison estate by 2,500 places in the three years prior to the visit. Nevertheless, the prison population has increased in the course of 2016 and prison overcrowding persists (e.g. 16 percent of the prison population are allocated less than 4 m² of personal living space). The CPT comments on these issues and on the current policy advocated by the Italian prison administration of providing inmates with only a minimum living space of 3 m² each in multi-occupancy cells, which is well below the standards advocated by the CPT and provided for by national legislation.

Most prisoners met by the CPT's delegation spoke favourably about the manner in which they were treated by prison officers. That said, with the exception of Ascoli Piceno Prison, allegations of physical ill-treatment of prisoners by staff were received at all the prisons visited. These consisted mainly of punches, slaps, kicks and blows with batons and were often linked to episodes involving agitation and self-harming or suicide attempts on the part of inmates. Further, in a number of cases prisoners claimed that they had been placed in seclusion rooms in only their underwear for prolonged periods and on occasion fixated to a bed with handcuffs. To tackle the issue of physical ill-treatment by prison staff, the Italian authorities should inter alia provide special training in manual control techniques to deal with inmates with suicidal and/or self-harming tendencies, as well as take measures to prevent staff from being under the influence of alcohol while on duty. Episodes of inter-prisoner violence were not infrequent, in particular at Como and Sassari Prisons, and enhanced vigilance by prison staff is required.

All establishments visited suffered from structural material deficiencies and extensive refurbishment should be undertaken. There is an urgent need to resolve the water supply problems at Sassari Prison, and to ensure the provision of an evening meal to inmates on Sundays at Genoa Marassi and Turin Prisons. The CPT notes positively the application of the concept of dynamic surveillance ("*sorveglianza dinamica*"), allowing inmates under a medium security regime to be out of their cells for at least eight hours a day. That said, the range of purposeful activities on offer remained limited (e.g. on average less than 20 percent of inmates were involved in a remunerated activity), and out-of-cell time was generally spent circulating in wing corridors and communal rooms. Steps should be taken to improve the programme of activities on offer to inmates and to enhance the involvement of prison officers in such activities.

The CPT again examined the application of the extensive restrictions imposed on inmates subject to Article 41-bis of the Penitentiary Law at the detention units of Ascoli Piceno and Sassari Prisons. A number of recommendations are put forward to address the limited activities and contacts with the outside world, and the material deficiencies in cells and communal areas. The CPT also found that there was a failure by the prison administration to implement decisions delivered by the supervisory judge. This was a cause of profound psychological distress for the inmates concerned, and reference is made to several specific cases in the report.

The report notes the progress in the transfer of responsibility for prison healthcare to the regional health-care authorities (ASLs). The level of primary care provided to inmates was satisfactory and health-care facilities were generally of a good standard and staffing levels adequate. However, access to specialised care was marred by delays at Como and Sassari Prisons, and access to doctors was filtered by security staff at Ivrea Prison. In terms of psychiatric care in prisons, there is a need to improve the care and conditions in the psychiatric observation unit ("*il Sestante*") of Turin Prison. The recording of injuries observed on inmates upon their admission to prison was generally performed in a correct manner. However, the use of dedicated registers for all injuries observed on inmates ("*Registro 99*") should be reinstated. Finally, further efforts should be invested to guarantee the confidentiality of medical examinations of inmates, notably upon admission to prison.

The CPT is critical of the use of medical seclusion rooms for the prolonged isolation of inmates with self-harming and/or suicidal tendencies; notably, the potential it represents for physical ill-treatment, the degrading manner of its application (such as inmates being left in only their underwear), the absence of adequate monitoring by health-care staff and the inadequate recording of such measures. Prison staff must be provided with adequate training in the management of such situations and the use of medical seclusion rooms should be better regulated by limiting the duration of the measure to a minimum. The material deficiencies also need to be remedied.

The report also touches upon other issues, such as the effective presence and training of prison staff, the situation of mothers with children in prison, and the need to reinforce legal safeguards surrounding disciplinary proceedings for inmates. The issue of solitary confinement imposed by judicial decision ("*isolamento diurno*") on some life-sentenced prisoners is also raised. The prolonged (up to three years) and punitive nature of the measure in respect of specific cases raised in the report could be considered, in the view of the Committee, as amounting to inhuman and degrading treatment.

Psychiatric establishments

Within the framework of the ongoing reforms for treating forensic psychiatric patients, the CPT's delegation visited one of the few remaining judicial psychiatric hospitals (OPGs), at Montelupo Fiorentino, a former OPG undergoing a process of transformation at Castiglione delle Stiviere, and three of the new *Residenze per l'esecuzione delle misure di sicurezza* (REMS) in Bra, Bologna, and Pontecorvo. In addition, the CPT's delegation carried out a targeted visit to the *Servizio Psichiatrico di Diagnosi e Cura* (SPDC) of the San Giovanni Battista University Hospital Complex in Turin, in order to examine procedures for the involuntary placement of adult general psychiatric patients and the use of means of restraint.

As regards the forensic psychiatric establishments visited, the delegation received no allegations and found no other evidence of deliberate ill-treatment of patients by staff in most of the establishments visited. However, at Castiglione delle Stiviere, patients complained of insults and disrespectful behaviour by some members of staff.

Patients' material living conditions were generally adequate in the establishments visited, the main exception being the unrenovated "Aquarius" building at Castiglione delle Stiviere. Patients in the Pontecorvo REMS were confined at night to their rooms, while patients at Castiglione delle Stiviere were locked out of their rooms for a large part of the day. The CPT considers that patients should in principle be able to circulate freely within their units at all times of day, as a means of fostering individual autonomy and enhancing the rehabilitative process.

The treatment offered to patients was likewise generally adequate at most of the establishments visited, as were staffing levels. However, at Castiglione delle Stiviere more concerted efforts were required to ensure that both the structures and the staff conform to the philosophy of care concept underlying the establishment of the REMS.

The CPT welcomes the initiative to avoid having recourse to mechanical restraint in REMS and to monitor more generally the use of means of restraint in forensic psychiatric establishments given the disparity of practices observed during the visit, including two establishments where neither seclusion nor mechanical restraint were applied. On the other hand, numerous allegations were received from patients at Castiglione delle Stiviere concerning seclusion and mechanical restraint being used as an informal punishment. In addition, one patient had been subjected since August 2015 to heavy doses of psychotropic medication with the express intention of rendering him physically incapable of attempting to escape, which could be considered to be long-term chemical restraint. Such practices are unacceptable and must be stopped. At the same establishment, a severely mentally disabled patient was subjected to continuous mechanical restraint to prevent her from self-harming. The CPT considers that this patient's placement in a forensic psychiatric establishment is far from appropriate and that the Italian authorities should urgently explore alternative options, as well as more appropriate means for dealing with such cases. More generally, the CPT sets out the basic principles regarding the use of restraint measures, and recommends that they be the subject of comprehensive protocols in all psychiatric establishments.

The CPT has noted that judicial decisions in some regions have determined that the deprivation of liberty of persons in OPGs has been without a valid legal basis since 1 April 2015, the definitive date established under Italian law for the closure of the OPGs. On the other hand, the legal bases for the placement of forensic patients in REMS have remained as for OPGs, as have review procedures. The CPT considers that treating psychiatrists should not be required to draw up psychiatric reports on their patients for judicial authorities, and that review procedures should involve independent psychiatric experts. The introduction of two safeguards which address previous CPT recommendations is welcomed. First, patients can no longer be detained in a REMS solely on the basis of the lack of adequate care and/or accommodation in the outside community. Second, no placement in a REMS may last longer than the maximum sentence possible under penal legislation for the offence in question.

In terms of patients' consent to treatment, a clear legal framework regulating the administration of involuntary treatment for all psychiatric patients should be introduced.

In all the establishments visited, patients' rights concerning contact with the outside world continued to be regulated by the Penitentiary Rules. The CPT welcomes the initiative to consider the introduction of new internal regulations for all REMS.

As regards security arrangements, the CPT considers that armed guards should not be employed in REMS in positions where they may have contact with patients, as was the case at Bra, and that adequate procedures for the recruitment and training of security staff, as well as detailed regulations concerning their duties, should be put in place at all REMS.

At the SPDC of the San Giovanni Battista University Hospital Complex in Turin, the CPT found that staff resorted to chemical and/or mechanical restraint to manage patients who were agitated, violent or aggressive. Patients were subjected to mechanical restraint in the corridor of the service, with only a screen to provide some limited privacy. Such a practice is unacceptable, and the CPT recalls its general principles regarding restraint measures which should be applied at the SPDC. There had been no change in the involuntary placement procedures since the 2012 visit, and the CPT repeats the necessity for the Italian authorities to put in place robust safeguards. Finally, as with forensic psychiatry, there is a necessity to establish a clear legal framework for involuntary treatment of psychiatric patients.