

Executive summary

to the Report

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

from 21 to 27 October 2015

Strasbourg, 3 November 2016

EXECUTIVE SUMMARY

The purpose of the 2015 ad hoc visit to Hungary was to examine the treatment and conditions of detention of foreign nationals deprived of their liberty as well as the legal safeguards offered to them. To this end, the delegation visited several detention centres for foreigners, police detention facilities and a prison, as well as two so-called “transit zones” located at the border with Serbia. The visit took place in the context of an unprecedented influx of foreign nationals in Hungary, in reaction to which the Hungarian Parliament adopted several legislative amendments concerning in particular asylum and criminal legislation. In addition, a legal basis had been provided for the construction of a border barrier and the creation of so-called “transit zones”. At the outset, the CPT acknowledges the particular challenges faced by the Hungarian authorities in the given context but emphasises that the situation cannot absolve the authorities from their international human rights obligations as regards the treatment of foreign nationals deprived of their liberty.

Throughout the visit, the delegation received generally very good co-operation from both the national authorities and staff at the establishments visited.

The majority of detained foreign nationals interviewed by the delegation stated that they had been treated correctly by police/prison officers and/or armed guards. That said, a considerable number of foreign nationals claimed that they had been subjected to physical ill-treatment by police officers at the moment of apprehension, during transfer to a police establishment and/or during subsequent police questioning. It is of particular concern that some of these allegations were made by foreign nationals who claimed to be unaccompanied minors. In addition, a few allegations were received of physical ill-treatment by police officers and/or armed guards working in immigration or asylum detention facilities. Moreover, some allegations were received of verbal abuse and disrespectful behaviour on the part of police officers and armed guards. The CPT recommends that a clear message be delivered, through a formal statement from the relevant authorities, to all police officers and all armed guards working in asylum and immigration detention facilities that any form of ill-treatment of persons deprived of their liberty is unacceptable and will be punished accordingly.

Particular reference is made to an incident which occurred at the Nagyfa Prison Unit on 23 October 2015 when a large number of foreign nationals staged a protest by damaging the premises and equipment of the detention unit and by barricading themselves in two rooms. When later interviewed by the CPT’s delegation, many of them made consistent and detailed allegations of physical ill-treatment by the special police forces who had intervened in the prison unit and by local police officers in police stations to which the foreign nationals concerned had been transferred. The Committee urges the Hungarian authorities to take steps without further delay to ensure that a thorough and independent inquiry is carried out into the manner in which the foreign nationals involved in the aforementioned incident were treated by the police at the Nagyfa Prison Unit and following their transfer to police establishments.

Material conditions in *ordinary police holding facilities* were on the whole adequate. However, recommendations are made as regards the equipment of cells, the minimum space to be provided to persons held overnight and access to outdoor exercise. Further, several shortcomings are described and recommendations are made as regards *ad hoc detention facilities* (i.e. containers and garages) created at the Detention Facility of the Border Police in Szeged. Moreover, the CPT is seriously concerned that mothers with young children and unaccompanied minors were held in one of the former garages under very cramped conditions for four days prior to the visit by the CPT, without being offered any outdoor exercise and without being able to take a shower. The Committee recommends that the detention rooms in the former garages no longer be used for overnight accommodation of families with children and/or unaccompanied minors; and, in respect of any detainee, for no longer than 36 hours.

As regards *immigration and asylum detention centres*, material conditions varied considerably from one establishment to another. They were on the whole acceptable at the Békéscsaba Asylum Reception Centre, as well as at Unit Kárpát 2 (family unit) and the Unit at Mártírok street of Kiskunhalas Guarded Shelter. However, recommendations are made to ensure in particular that all accommodation areas, including sanitary facilities, are kept in an adequate state of repair and hygiene and are properly heated/ventilated and that all detention rooms are suitably equipped. A number of serious shortcomings concerning material conditions are described in respect of Nagyfa Prison Unit and Unit Kárpát 1 of Kiskunhalas Guarded Shelter, and the CPT recommends that the Hungarian authorities carry out a complete overhaul of the detention conditions in these establishments.

The CPT's delegation gained a generally favourable impression of the regime offered to foreign nationals at Békéscsaba Asylum Reception Centre. At Unit Kárpát 2 of Kiskunhalas Guarded Shelter, foreign nationals benefited from an open regime and could access a communal room and a garden-like outdoor yard during the day. That said, it is regrettable that they were not offered any organised activities or provided with any reading material. At Units Kárpát 1 and Mártírok street of Kiskunhalas Guarded Shelter, as well as at the Nagyfa Prison Unit, hardly any sports or other recreational activities were offered, nor were detainees provided with board games or reading material. As regards outdoor exercise, the delegation received numerous allegations from foreign nationals held in Units Kárpát 1 and Mártírok street of Kiskunhalas Guarded Shelter that they were not offered outdoor exercise every day and when they were allowed to go outside it was often for significantly less than one hour. The Committee recommends that the Hungarian authorities develop regime activities for foreign nationals in all immigration and asylum detention centres, including outdoor exercise for at least one hour (and preferably considerably more) per day.

The CPT is concerned that hardly any arrangements were in place to cater for the needs of young children held with their families at the Békéscsaba Asylum Reception Centre and at Unit Kárpát 2 of the Kiskunhalas Guarded Shelter. Further, several husbands had apparently been separated by the authorities from the rest of their families. The Committee considers that, as a matter of principle, the placement of minors with their parents in a detention centre should only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible and children should be provided with appropriate care. Every possible effort should be made to avoid separation of children from their parents and splitting up the family.

As regards health-care services in immigration and asylum detention centres, the CPT's delegation gained a generally favourable impression of the health-care facilities and the general health care provided to foreign nationals in all the establishments visited. Further, newly-arrived foreign nationals were usually subjected to medical screening by a doctor or nurse within 24 hours of arrival. However, the provision of psychological and psychiatric care was clearly insufficient, if not non-existent, and the CPT recommends that the regular presence of a psychologist and adequate psychiatric care be arranged in all immigration/asylum establishments. A specific recommendation has also been formulated with a view to guaranteeing the confidentiality of medical examinations.

Concerning fundamental safeguards against ill-treatment in the context of police custody, the findings of the visit suggest that whenever foreign nationals detained by the police were in need of medical care, a doctor was called without delay. Further, the CPT welcomes the existence of information materials in the various police establishments visited and the arrangements made concerning interpretation. That said, the Committee puts on record that complaints were received about delays in the enjoyment of the right of notification of custody to a third person, about a lack of information on the right of access to a lawyer, the inability to consult a lawyer before being questioned by the police or before a court hearing or about a lack of information on the right of access to a doctor. Moreover, many foreign nationals complained about the quality of interpretation services and in particular that they were made to sign documents which they did not understand. The Committee formulates several recommendations with a view to ensuring the effective operation in practice of fundamental safeguards against ill-treatment.

The CPT notes the efforts made to provide information and legal assistance to foreign nationals in immigration and asylum detention. However, a lack of information on their legal situation, on the future steps in their respective proceedings and the length of their detention was perceived by foreign nationals as a major problem in most of the establishments visited. The Committee recommends that clear information about access to legal assistance is made available to all immigration/asylum detainees and that they are fully informed of their situation and the stage of the proceedings in their case.

As regards the safeguards to protect foreign nationals against *refoulement*, the CPT expresses doubts, in view of the relevant legislative framework and its practical operation, whether border asylum procedures are in practice accompanied by appropriate safeguards, whether they provide a real opportunity for foreign nationals to present their case and whether they involve an individual assessment of the risk of ill-treatment in the case of removal.

Finally, the delegation gained a generally positive impression of the arrangements made in the immigration/asylum detention centres visited to enable foreign nationals to have contact with the outside world. Foreign nationals could send and receive letters without any restrictions and were in principle allowed to receive visits and make telephone calls every day (provided that detainees were able to purchase a phone card). Further, in several of the establishments visited, arrangements had been made to allow foreign nationals to make free-of-charge Voice over Internet Protocol (VoIP) calls on a regular basis.