

KEY OBSERVATIONS

PRIORITY TOPICS

■ Prison

LAW AND POLICIES – A comprehensive overhaul of the legal provisions governing the treatment of remand and sentenced prisoners to ensure that at least the minimum treatment standards are expressly laid down by law

CONDITION OF DETENTION – Accommodate foreign nationals detained under aliens legislation in an appropriate facility for administrative detention

CHRONIC ISSUES

■ Police

SAFEGUARDS – Updating Police Act, Aliens Act and Code of Criminal Procedure to ensure that the fundamental safeguards against ill-treatment are legally guaranteed for all persons deprived of their liberty by the police

■ Psychiatry

SAFEGUARDS – Assure essential rights to psychiatric patients involuntarily held at establishments abroad by finalising the respective bilateral treaty with Switzerland (and possibly Austria)

GOOD PRACTICE

■ Prison

PRISON STAFF – Positive staff-inmate relations with constructive and frequent interaction based on the notions of dynamic security

CONTACT WITH THE OUTSIDE WORLD – Enabling foreign nationals detained under aliens legislation to contact their families by video-calls

THE CPT AND LIECHTENSTEIN

Liechtenstein ratified the ECPT in 1991, and the Committee's first visit took place in 1993.

Since ratification, the CPT has carried out 5 periodic visits to the country including visits to the National Police Headquarters, the National Prison and prisons in Austria as well as Switzerland holding persons sentenced by Liechtenstein courts, Vaduz Hospital, elderly homes and a border post.

All the visit reports have been published. Liechtenstein did not accept the automatic publication of the visit reports.

EXECUTIVE SUMMARY

During its periodic visit to Liechtenstein, the CPT's delegation reviewed the conditions of detention and the treatment of persons deprived of their liberty by Liechtenstein authorities. For this purpose, the delegation examined the situation of persons held at Vaduz State Prison and paid particular attention to the safeguards afforded to persons detained by the police. It also spoke to persons sentenced by Liechtenstein courts who were held in Austria and Switzerland and assessed the legal safeguards surrounding the involuntary placement of patients in psychiatric hospitals abroad.

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

As regards the National Preventive Mechanism (NPM), the Committee recommends that the NPM enlarges the scope of its monitoring in order to ensure that all categories of detention places are being visited, including places where persons are detained by the police.

The CPT notes positively that its delegation received no allegations of ill-treatment of detained persons by staff in any of the establishments visited.

Throughout the report, the Committee expresses concern that the legal provisions regarding the treatment of persons deprived of their liberty are in large parts incomplete or outdated and not in line with the Committee's long-standing standards. For instance, the rights of access to a lawyer and to a doctor as well as the right to inform a person of trust of one's detention, are still not legally guaranteed for all persons detained by the police. Similarly, persons held in prison have very limited legal entitlements to make phone calls and to receive visits and disciplinary solitary confinement can still be imposed on them for up to four weeks (including for juveniles). Furthermore, the legal situation of psychiatric patients placed in hospitals in Switzerland or Austria remains unclear and several safeguards against ill-treatment are not fully guaranteed for these patients.

The CPT acknowledges in this connection that the current treatment of persons deprived of their liberty in Liechtenstein appears to be in many aspects in line with the CPT's standards and the report even highlights positive practices. However, this is largely due to the current authorities' willingness to find individual solutions or not to make use of the far-reaching restrictions and sanctions provided for by law. It is not acceptable that fair and equal treatment of persons deprived of their liberty depends on goodwill rather than being guaranteed by law. Such state of affairs leaves undue room for arbitrariness. Therefore, in the interest of the rule of law, at least the minimum treatment standards for persons deprived of their liberty must be expressly stipulated in the relevant legislation.

At the National Police Headquarters in Vaduz, the delegation had serious concerns about a small waiting cell (measuring about 2 m²) which was equipped with a metal ring for shackling detainees to the wall whilst seated on a bench. Even if only used for very short periods of less than an hour, handcuffing detained persons to fixed objects is inappropriate and could amount to degrading treatment. The CPT requests confirmation that the ring has been removed.

In connection with the above-mentioned need for legally guaranteeing the fundamental safeguards against ill-treatment, the CPT also recommends abolishing the legal provisions allowing for the supervision of conversations between detained persons and their lawyers and those for fully denying the presence of a lawyer during police questioning. The Committee is equally concerned that juveniles may still be subjected to police questioning and requested to sign statements without the benefit of the presence of either a lawyer or a trusted person. It also reiterates its recommendation that a fully-fledged and properly funded system of legal aid for indigent persons already at the stage of police custody be developed.

Another repeated recommendation concerns the need to re-establish a custody register at the National Police Headquarters. The CPT further asks for the most recent version of the information sheet to be made available to detainees in a wider range of frequently needed foreign languages.

The Committee notes positively that the police custody area had been fully renovated. It comprised a well-equipped multi-occupancy detention cell for up to three detainees and two excellently designed secure cells providing a safe environment particularly for persons in need of detoxification and/or at risk of serious self-harm or suicide.

At Vaduz State Prison, the material conditions of detention remained very good and the report again highlights the positive atmosphere at the establishment with constructive relations and frequent interaction between management, staff and inmates, based on the notions of dynamic security and care.

That said, the CPT points out that the establishment is not an adequate place for the detention of foreign nationals under aliens legislation. The Liechtenstein authorities should take the necessary measures to ensure that this group of administrative detainees is accommodated in a less carceral facility.

As regards the regime activities on offer for inmates, the CPT acknowledges the challenges faced by the management due to the establishment's small size and the diversity of its inmate population. It appreciates the efforts made to provide opportunities to work and frequent access to the outdoor exercise yard and the fitness room. Nonetheless, the CPT encourages the Liechtenstein authorities to expand the offer of activities in particular for inmates held for prolonged periods.

In respect of the health care services provided, the CPT welcomes the fact that inmates could usually see a doctor without delay at their own request. However, it remains a matter of serious concern that, despite the specific recommendation repeatedly made by the Committee after its previous visits, newly arrived inmates still did not benefit from a comprehensive medical examination upon their admission. All persons admitted to the State Prison should be examined by a doctor, or by a qualified nurse reporting to a doctor, no later than 24 hours of their admission. The CPT further recommends that provision of psychological care be reinforced at the prison. In addition, efforts should be continued to ensure that all inmates in need of psychiatric in-patient care be transferred to an appropriate hospital without undue delay. Finally, inmates should not be requested to disclose the reason to see the doctor on a request form which is visible to custodial staff.

The Committee notes positively that that the prison management appeared to be able to ensure a secure environment for inmates and staff without frequent recourse to disciplinary sanctions. Nonetheless, in the context of the above-mentioned need for an overall update of the legal provisions concerning the treatment of inmates, the Committee reiterates its view that the legally defined maximum for disciplinary solitary confinement of adults should be no more than 14 days (and preferably less). It should further be fully abolished in respect of juveniles. The CPT also recommends that inmates are generally allowed to receive visits without physical separation, except in individual cases where there may be a clear security concern. The possibility to make use of straight-jackets and shackles as security measures should be fully removed from the relevant legislation. Other recommendations concern information provided to inmates, including the Prison's House Rules, and inmates' possibilities to file complaints.

The report further deals with the situation of persons deprived of their liberty pursuant to decisions of Liechtenstein courts who were held at establishments in Austria and Switzerland and describes several shortcomings in their treatment at the establishments visited (Innsbruck Prison, Saxerriet Prison, Forensic Department of Hall Regional Psychiatric Hospital). The CPT invites the Liechtenstein authorities to raise these issues with the competent Swiss and Austrian authorities.

With regard to psychiatric patients held against their will at establishments in Switzerland and Austria, the CPT welcomes that the relevant legal provisions appeared to be generally implemented in practice. However, it recommends amongst others to amend the law in order to ensure that in the context of involuntary placement, retention (of formerly voluntary patients) and placement reviews, all patients are entitled to benefit from legal assistance whether or not they are under guardianship as well as from independent psychiatric expertise.

The CPT also welcomes the Liechtenstein authorities' efforts to clarify the legal uncertainties regarding the involuntary placement of psychiatric patients abroad through the conclusion of a bilateral treaty with Switzerland. It urges the Liechtenstein authorities to pursue their efforts to finally conclude the treaty. The treaty should amongst others ensure that essential rights are guaranteed throughout the patients' deprivation of liberty abroad and that patients are enabled to file complaints against their treatment to internal and external bodies.