CPT/Inf (2013) 30

Report

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

from 14 to 18 June 2010

The Italian Government has requested the publication of this report and of their response. The Government's response is set out in document CPT/Inf (2013) 31.

Strasbourg, 19 November 2013

Note:
In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

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Copy of the letter transmitting the CPT's report

Mr Diego Brasioli
Minister Plenipotentiary
President of the Inter-Ministerial Committee on Human Rights
Ministry of Foreign Affairs
Piazzale della Farnesina 1
I – 00194 Rome

Strasbourg, 3 December 2010

Dear Mr Brasioli,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Italy drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning two aspects of its visit to Italy from 14 to 18 June 2010, namely the prevention of suicide in the prison context, and the transfer of responsibility for prison health care from the Ministry of Justice to the regional health-care authorities. This report was adopted by the CPT at its 73rd meeting, held from 8 to 12 November 2010. A further report concerning the third aspect of the visit, namely accountability for ill-treatment allegedly inflicted on detained persons, will be forwarded to the Italian authorities separately, at a later date.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Italian authorities to provide within **four months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Italian authorities to provide, in the above-mentioned response, reactions and replies to the comments and requests for information.

It would be most helpful if a copy of the response could be provided in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mauro Palma
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Italy from 14 to 18 June 2010. The visit was one which appeared to the Committee "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention).

2. The visit was carried out by the following members of the CPT:

- Marc NÈVE, Head of delegation
- Dan DERMENGIU
- Pétur HAUKSSON
- Xavier RONSIN.

They were supported by Caterina BOLOGNESE and Francesca MONTAGNA, of the CPT's Secretariat, and were assisted by:

- Alan MITCHELL, medical doctor, former Head of Health-care, Scottish Prison Service, United Kingdom (expert)
- Paula BRUNO (interpreter)
- Maria FITZGIBBON (interpreter)
- Salim GHOSTINE (interpreter)
- Antonella LUCCARINI (interpreter).

B. Context of the visit and establishments visited

3. The visit focused on three issues. Following its previous periodic visit to Italy in 2008, the CPT had recommended a number of measures in relation to suicide prevention in prisons[1]. In the light of the high number of suicides in Italian prisons, the Committee decided to take a closer look at this issue.

Further, the CPT decided to take stock of the ongoing transfer of responsibility for prison health care from the central penitentiary administration to the regional health-care authorities.

The opportunity was also taken during the visit to examine accountability for ill-treatment by law enforcement officials and prison officers, including the effectiveness of investigations. In this connection a number of recent cases of alleged ill-treatment were considered. On 13 September 2010, the Italian authorities provided the CPT with extensive documentation concerning, inter alia, this issue; on 9 November 2010, they provided the Committee with the full record of the investigative acts taken in respect of one of the specific cases considered during the visit. In light of this information, the Committee decided to consider the issue of accountability in a separate report, to be delivered at a later date.

4. The delegation paid targeted visits to a number of establishments, none of which had previously been visited by the CPT.

Castrogno Prison[2], located in the outskirts of Teramo (Abruzzo region), opened in 1986. With an official capacity for 231 inmates, the establishment comprises a small section for up to 21 women and four detention blocks for men. At the time of the visit, it was overcrowded, accommodating 29 women and 360 men.

Mammagialla Prison[3], in Viterbo, north of Rome (Lazio region), was originally built in 1993 as a high security prison for men and consists of several three-storey blocks. At the time of the visit it was overcrowded, holding 683 inmates, for an official capacity of 443. According to the prison authorities, a high proportion of the inmate population had been transferred to the establishment because they were considered to be particularly challenging, either from a security perspective or due to their suffering from a psychiatric condition.

The vast majority of inmates, 570, were held in six sections with medium-security (standard) accommodation; the high security unit, consisting of three sections (including so-called “41 bis” prisoners, suspected or convicted of very serious organised crime) held 52 prisoners; and the protection unit for vulnerable persons accommodated 43 inmates. A further 18 inmates were held in the section for newly arrived prisoners.

The **Prison Health-Care Unit at Sandro Pertini Hospital** in Rome is a 22-bed facility which opened in 2005. It is one of three such facilities in Italy, providing inpatient and outpatient care to inmates primarily from prisons in Lazio. Nine patients were hospitalised at the time of the visit.

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1 See CPT/Inf (2010) 12, at paragraphs 106, 108, 109, 112 and 113.
2 Hereinafter “Teramo Prison”.
3 Hereinafter “Viterbo Prison”.

The **holding cells at the Rome Courthouse** are located at lower ground floor level in two separate buildings. They are intended for stays of up to a few hours prior to or after a court hearing.

The delegation also visited three ***Carabinieri*** establishments, all in Rome: **Trionfale area Headquarters** and the **stations of Monte Mario** and **Ponte Milvio**. Whereas the cells at Trionfale had been out of service for a few months prior to the visit, Monte Mario and Ponte Milvio stations each possessed two cells in which most persons deprived of their liberty by the *Carabinieri* usually did not spend more than a few hours (and in no case more than 24 hours).

Some of the above-mentioned establishments were visited with reference to the third aspect of the visit (see paragraph 3 above).

C. Consultations held by the delegation and cooperation received

5. In the course of the visit, the CPT's delegation held consultations with officials from the Ministries of Foreign Affairs, Health, Interior (in particular, representatives of the national police) and Justice, as well as with representatives of the *Carabinieri* and the *Guardia di Finanza*. It also met with health-care service providers in the regions of Abruzzo and Lazio.

The delegation had discussions with Mr Vitaliano ESPOSITO, the Prosecutor-General, Mr Giovanni FERRARA, Chief Prosecutor of Rome, Mr Gabriele FERRETTI, Chief Prosecutor of Teramo, and a number of prosecutors at the Supreme Court and the Rome District Court.

The CPT's delegation also met two parliamentarians: Senator Albertina SOLIANI and Deputy Leoluca ORLANDO, President of the parliamentary *inquiry on deficiencies in the health-care sector and on regional health-care deficits*.

Further, the delegation met Mr Angiolo MARRONI, the *Garante dei detenuti* (detained persons' Ombudsman) for the Lazio region, as well as representatives of non-governmental organisations active in the areas of interest to the Committee.

Some of the above-mentioned persons were met by the delegation in relation to the third aspect of the visit (see paragraph 3 above).

6. With one exception, the CPT's delegation had unlimited access to places it wished to visit. The delegation was also able to meet in private with all detained persons with whom it wanted to speak.

The exception referred to above concerned the initial refusal of access – expressed in an improper and, in particular, arrogant manner by officers on duty – to one of the two detention blocks situated at the Rome Courthouse. The incident was resolved after three quarters of an hour, following clarification of the situation by the central authorities. **The Committee trusts that, in future, the credentials supplied by the Italian authorities to CPT visiting delegations will cover all places where persons may be deprived of their liberty by a public authority, including courthouse detention cells, and that delegations will be received with a level of courtesy which is in keeping with good cooperation.**

As regards access during the visit to information requested, the CPT's delegation did not receive complete copies of the reports on investigations into deaths at Teramo and Viterbo Prisons in 2008 and 2009. In particular, no copies of autopsy results or conclusions of the prosecutor into the circumstances surrounding the deaths were provided. Statistics requested on criminal and/or disciplinary proceedings concerning alleged ill-treatment by law enforcement officials and prison staff were also not provided in the course of the visit.

7. At the end of the visit, the delegation provided the Italian authorities with its preliminary observations and reiterated a number of requests for information and documentation.

By letter of 13 September 2010, the Italian authorities informed the CPT of measures taken in response to some of the delegation's preliminary observations, and provided the Committee with much of the specific information and documentation requested by the delegation. This information and documentation has been taken into account in the relevant sections of the present report.

Further, as mentioned at paragraph 3, extensive documentation pertaining in particular to investigations into alleged ill-treatment was provided on 9 November 2010. This information will be taken into account in the separate report addressing this issue.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Prevention of suicide (and self-harm) in the prison context

1. Preliminary remarks

8. By virtue of its preventive mandate, the CPT is concerned with every aspect of prison life related to the safety and well-being of prisoners, including measures taken by the authorities, in the discharge of their duty of care towards prisoners, to prevent instances of suicide and self-harm.

9. In 2009, 52 suicides[4] were officially recorded throughout the Italian prison system, for an average daily inmate population of 63,087. In the first seven months of 2010, there had already been 38 suicides for an average daily prison population of 67,596 inmates[5]. This represents a worrying suicide rate.

At Viterbo Prison, two suicides were registered in 2008 and one in 2009. Six suicides were recorded at Teramo Prison since 2005, i.e. around one per year, whereas in the past they had occurred far less frequently.

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[4] This figure does not include six cases of gas inhalation, where it was not possible to ascertain a suicidal intent.

[5] It should also be noted that the (non-governmental) "Permanent Observatory on Deaths in Prison" registered 72 suicides in Italian prisons in 2009. Both the Observatory and OSAPP, a national prison staff trade union, had registered 58 suicides in 2010 by 31 October 2010, when the official prison population stood at 68,795 inmates.

The suicide rate among the general population in Italy was less than five per 100,000 inhabitants in 2008[6]. While it is not unusual for the suicide rate to be higher in prison[7], the number of suicides in the prisons visited, as well as in Italian prisons in general, appears to be disproportionately high.

10. The CPT notes that the causes of prisoner deaths were often not recorded in a medically satisfactory or consistent manner. For example, for certain inmates who had died in their thirties, who apparently suffered from no relevant pre-existing pathological condition, the cause of death noted was “cardio-respiratory arrest”; this is not a cause of death *per se* but merely confirmation that a person is dead.

Further, the criteria for classifying apparently self-inflicted death as suicide varied. Nearly all suicides officially recorded by the Italian authorities concern deaths by hanging. The delegation was told by the authorities that a considerable number of prisoner deaths were classified as “accidental overdose” or as other types of accident, such as gas inhalation, even when they might have been suicides. As a result, the statistics on suicides are not necessarily reliable and it is very difficult to assess the impact of suicide prevention interventions.

11. The various circulars issued by the Department of Penitentiary Administration[8] provide for a comprehensive, multidisciplinary approach to the question of prevention of suicide in prisons. However, the CPT delegation’s observations indicated that the practical implementation of the above suicide prevention policy was facing a number of challenges which undermined its effectiveness. For example, in one of the establishments visited there was no new arrivals section, and the delegation saw little evidence in either establishment of so-called "listener" staff.

12. The delegation also observed that suicide prevention programmes varied significantly between the two prisons visited. At Viterbo Prison, a “multi-disciplinary suicide prevention team” had been established and met every fortnight. It was composed of an educator, a psychologist, a nurse, prison officers and the prison director, and assisted by a trainee psychiatrist. In Teramo Prison, on the other hand, the delegation was informed that a similarly composed team existed but it only met on an ad hoc basis. The management of both prisons pointed to the lack of a sufficient number of educators to ensure the effectiveness of coordination among the individual team members.

Given the average of one suicide per year and the significant number of inmates (around 120) identified to be at risk of suicide (or self-harm), regular and frequent coordination of suicide prevention efforts would appear to be essential at Teramo Prison.

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6 In 2008, 2828 suicides were registered in the general population in Italy, which corresponds to 4.7 suicides per 100,000 inhabitants. In the Lazio region 182 suicides were recorded, corresponding to a rate of 3.3. Sixty-two suicides were recorded in Abruzzo, corresponding to a rate of 4.7. It is acknowledged that the rate of notified suicides in the general population might be lower than the rate of actual suicides.

7 See Seena Fazel *et al* "Prison suicide in 12 countries: an ecological study of 861 suicides during 2003-2007", *Soc Psychiat Epidemiol*, 7 February 2010.

8 See DAP circular no. 0177644 of 26 April 2010, *aimed at reducing uneasiness resulting from detention and preventing self-harm*, as well as circulars no. 3233/5683 (1987) on *protection of the life and physical and psychological integrity of prisoners*, no. 3524 (2000) on *guidelines on self-harm and suicide*, no. 0181045 (2007) on *guidelines on reception of inmates first arriving in prison*, and no. 0032296 (2010) on *the suicide emergency and the establishment of listener units among prison staff.*

2. Identification of prisoners who may be at risk of suicide or self-harm

13. Medical screening on arrival, and the reception process as a whole, has an important role to play in suicide prevention; performed properly, it should assist in identifying those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners.

14. At Teramo and Viterbo Prisons, inmates were medically screened by a doctor usually within a few hours of their arrival, irrespective of whether it was their first point of entry into the prison system or they had been transferred from another prison. The screening included, in theory, a suicide risk assessment carried out by the doctor and subsequently by a psychologist; the doctor could also refer an inmate for a psychiatric assessment.

However, no identified screening tool[9] was in place at either of the prisons visited to assist in assessing the risk of suicide or self-harm. Further, it appeared from the delegation's interviews and from the medical files examined, that the increased risk of suicide among drug and alcohol dependent inmates was not sufficiently taken into account in the course of the screening process[10].

Finally, when prisoners were transferred from other establishments, information about self-harm, suicide risk or other indicators of vulnerability was not immediately and systematically transmitted to the new prison establishment[11].

The CPT recommends that the Italian authorities introduce a standard screening algorithm to assess the risk of suicide (and self-harm) in prisons; such a tool should, in particular, ensure that drug and/or alcohol dependence are adequately taken into account in the screening process as factors potentially heightening the risk of suicide. Further, steps should be taken to ensure that information on an inmate at risk of suicide or self-harm is transmitted in full and promptly to all those who have a role in caring for the prisoner, including when he or she is transferred to another establishment.

15. The prevention of suicide, including the identification of those at risk, should not rest with the health-care service alone. All prison staff coming into contact with inmates – and as a priority staff who work in the reception and admissions units – should be trained in recognising indications of suicidal risk. In this connection, it should be noted that the periods immediately before and after trial and, in some cases, the pre-release period, are associated with an increased risk of suicide.

Although the delegation was informed by the authorities that staff members had succeeded in averting deaths by suicide, it was also noted that staff at the prisons visited received no specific training in suicide prevention. **The CPT recommends that all prison staff in contact with inmates be provided with practical training on the recognition of behaviour indicative of a risk of suicide. Training should also be provided on basic resuscitation skills.**

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[9] Including a checklist of standard questions, e.g. the Viennese Instrument for Suicidality in Correctional Institutions, or "VISCI".

[10] For example, one inmate who committed suicide by hanging was initially evaluated at both Regina Coeli and Viterbo Prisons as presenting a "minimal risk of self-harm and/or violence", despite suffering from drug addiction.

[11] Notwithstanding this being required by Penitentiary Administration Circular Letter no. 3233/5683 of 30 December 1987 and, at Viterbo Prison, by Service Order No. 282/2008 of 27 October 2008.

3. Management of prisoners at risk

16. Prison management, including the head of the prison health service, should ensure that there is an adequate awareness of the subject of suicide prevention throughout the establishment, and that appropriate procedures are in place. Steps should also be taken to ensure a proper flow of information within a given establishment about persons who have been identified as potentially at risk[12].

All persons identified as presenting a suicide risk should benefit from counselling, support and appropriate association. Further, such persons should be subject to special precautions (see paragraph 19).

17. At Viterbo and Teramo Prisons, inmates manifesting inclinations of suicide or self-harm at the first medical screening or later during their sentence were classified as requiring "high" or "very high" surveillance. A very small number of inmates were identified as having to be under "constant" supervision of staff, usually at the request of a psychiatrist. These classifications essentially determined the frequency of visual checks to be made by prison staff on the prisoners concerned[13].

The supervision of prisoners at risk was carried out by prison officers only, who evidently understood this duty as a security measure and not as being a welfare-related task. Medical staff appeared to have little if any role in following up their assessment of the potentially life-threatening situation of prisoners classified as requiring high or very high surveillance. As regards, more specifically, prisoners identified as requiring very high surveillance, they remained in their cells alone.

In the CPT's view, the treatment and care of patients identified as being at risk of suicide should be overseen by medical staff. Once such a person has been identified, he or she should be the subject of regular medical visits and follow-up. Risk factors should be identified and removed, as far as possible.

Both medical and custodial staff should have an important role to play in the management of the risk of suicide or self-harm. **The CPT recommends that their respective roles be better defined and strengthened in this regard.**

18. At both Teramo and Viterbo Prisons, many prisoners classified as needing high or very high surveillance claimed that prison staff only looked into their cells on an infrequent basis and only via the spy-hole, rather than entering the cell and engaging the inmate in conversation, and that staff often did not respond to their calls for assistance.

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[12] As regards transfers of inmates and the exchange of information between establishments, see paragraph 14 above.

[13] "High" being 4 to 5 times daily; "very high" being 2 to 3 times per hour; "constant" being four times per hour.

In the CPT's view, a key element of suicide prevention is the establishment of constructive relations between staff and inmates, as well as between inmates themselves. The death of an inmate is likely to cause suffering and warrants the provision of appropriate psychological support to inmates and prison staff. But each life saved by a staff member also gives greater meaning to custodial tasks, and should be valued as such by the prison staff and management alike.

As far as the CPT's delegation could observe, contacts between prison staff and inmates in the prisons visited were distant. Moreover, several allegations of verbal abuse were heard at Viterbo Prison, including claims that when inmates asked to see a doctor for already diagnosed depression, certain prison staff responded in an unacceptable manner, for example by telling them to "go hang" themselves. This observation reinforces the necessity to ensure that staff working with vulnerable prisoners possess the requisite skills. **The CPT recommends that staff entrusted with the supervision of prisoners presenting a suicide risk receive specific training on interpersonal communication skills.**

19. Several inmates classified as requiring high surveillance at Teramo and Viterbo Prisons had died from asphyxiation using makeshift nooses (bed sheets, underwear or fabricated items) to hang themselves from a window or a hook affixed by the inmate in the cell bathroom. Suicide-proof clothing and bedding was apparently not in use at the establishments visited.

The CPT recommends that persons who present a major suicide risk are placed in a cell which does not contain any ligature points or other means which might facilitate an attempt to commit suicide (e.g. cell window bars, broken glass, belts or ties, etc), and kept under constant supervision by prison staff. Further, the Committee calls upon the Italian authorities to ensure that, when necessary, appropriate suicide-proof clothing is provided to inmates.

20. The CPT's delegation learned that a considerable number of deaths, including of inmates under surveillance, have occurred as a result of intentional inhalation of gas from small canisters available to prisoners for cooking purposes. Although it is difficult to ascertain precisely how many of these deaths are attributable to suicide as opposed to accidental overdose, the provision of such gas canisters to prisoners, especially those inmates already identified as being at risk of suicide, is not compatible with ensuring a safe prison environment. **The CPT recommends that such devices never be available in prison cells occupied by prisoners who present a risk of suicide (or self-harm); alternative cooking arrangements should be made in such cases.**

21. Further, the delegation was informed of cases in which prisons, due to delays in access to acute mental health care services, were obliged to cope with prisoners showing signs of severe suicidal or auto-aggressive behaviour. In a number of such cases, the prisoner in question committed suicide while in prison[14].

The CPT recommends that the necessary steps be taken to ensure that persons presenting an acute risk of suicide are immediately transferred, for appropriate care, to an acute mental health unit.

[14] For example, an inmate who committed suicide at Viterbo Prison on 19 January 2008 had been recommended by two separate doctors in September and December 2007 for transfer to a Judicial Psychiatric Hospital due to a very high risk of suicide.

22. More generally, the limited availability of psychiatric, psychological and educator staff – coupled with the absence of meaningful activities – undermined overall efforts at a systematic, multi-disciplinary approach towards the prevention of self-harm and the associated risk of suicide. **The Committee reiterates its recommendation[15] that effective access to psychological or psychiatric care for all prisoners who require it be ensured.**

23. In some cases, prisoners considered to be at risk of suicide or self-harm were isolated from other prisoners. *De facto* isolation, resulting from a combination of confinement to a cell for most of the day, little or no contact with staff, and a poor regime, is the exact opposite of the care required; prisoners presenting a risk of suicide or self-harm should be afforded increased contacts with other persons. Indeed, isolation may well increase the risk of suicide rather than decrease it. The CPT's delegation met a number of inmates who had been in de facto isolation for several weeks and who declared that they would go insane if their isolation were to continue.

24. Provision of contact with the outside world should also be reviewed. The delegation noted that infrequent contact with family members was considered by medical staff in the prisons visited as the most pronounced damaging factor for a prisoner's mental health. In certain instances, increased family contact (i.e. visits and telephone calls) had been helpful in improving the mental health of persons met by the delegation. However, the need for enhanced contacts did not appear to be individually assessed.

25. To sum up, the central plank of a suicide prevention programme in the Italian prison context must be to address the problems of inadequate regimes and understaffing and to ensure that appropriate staff training needs are met. It should also be noted that the multiple adverse consequences of overcrowding may increase the risk of suicide.

The CPT calls upon the Italian authorities to analyse the high suicide rate and its causes and to introduce alternative suicide prevention measures – instead of isolation – such as increased and varied activities, opportunities for association, contact with the outside world and effective, multidisciplinary addiction treatment. Active suicide prevention efforts are needed, through the provision of supportive monitoring and the development of trusting relationships between inmates and staff. Further, **measures should be taken to ensure that prevention efforts are adequately coordinated, in particular by regular and frequent meetings of the multidisciplinary team and through an adequate level of input from specialist staff such as psychiatrists and educators.**

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[15] See the report on the CPT's previous periodic visit to Italy in 2008 (CPT/Inf (2010) 12), at paragraphs 106, 108, 109, 112 and 113.

4. Measures taken in the event of death or self-harm in custody

26. All prison deaths were investigated internally by the Department of Penitentiary Administration Inspectorate in order to establish whether the death could be linked to any negligence or wrongdoing on the part of prison administration staff. From the files provided to the CPT's delegation, it would appear that such investigations were conducted in a thorough, apparently critical manner, leading to recommendations, where appropriate, aimed at preventing deaths in future.

Nevertheless, it is not clear from the information provided to the delegation which cases are investigated by the judicial authorities, or what are the criteria for carrying out an autopsy.

Further, the conclusions of investigations, including autopsy reports, were not routinely communicated to the prison management which, in the CPT's view, limits their ability to see what lessons could be learned from the deaths and to respond accordingly. Completeness of information about the actual cause and modality of death is needed in order to identify the magnitude of the problem, the profiles of the prisoners who commit suicide, and to develop a strategy aimed at preventing this phenomenon.

27. It should also be noted that acts of self-harm frequently reflect problems and conditions of a psychological or psychiatric nature, and should be approached from a therapeutic and not from a punitive standpoint. As already noted above, the isolation of the prisoners concerned (even if it is not considered a disciplinary sanction) is likely to exacerbate their psychological or psychiatric problems. It should also be added that all cases of self-harm ought to be assessed medically immediately after the incident to evaluate the extent of any injuries and to assess the psychological state of the prisoner. **In the CPT's view, these requirements were not being met to a satisfactory extent at the prisons visited.**

28. **The CPT recommends that the Italian authorities introduce a clear policy and comprehensive procedure on the identification of the causes of death of detained persons – including when the death occurs in (or on the way to) hospital – and clear criteria on the classification of deaths as suicides.**

In particular, every death of a prisoner should be the subject of a thorough investigation (separate from the *internal* investigation referred to at paragraph 26, subparagraph 1) **to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented.** Further, **whenever a person dies in prison (or soon after transfer from prison), an autopsy should be carried out[16] and the prison's management and medical services should be informed of the outcome.**

Finally, **an analysis should be undertaken of each death in prison to consider what general lessons may be learned for the prison in which the death occurred and whether in the case of self-inflicted death there are any systemic, nationwide measures that need to be taken.**

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[16] The Committee acknowledges that there may be highly exceptional cases in which, as prescribed by law, an independent authority may decide that an autopsy is not required.

B. Transfer of responsibility for prison health care from the Ministry of Justice to the regional health-care authorities

29. Extensive prison healthcare reform has been under consideration in Italy for the past few decades, with the main aim of integrating those services into the national health-care system, i.e. to transfer responsibility for the health care of inmates away from the central prison administration and towards the *Aziende Sanitarie Locali* ("ASLs"), which are the regional entities responsible for providing health-care services to the general population. A major part of the reform has been concluded in respect of most regions since the CPT's periodic visit in 2008. Having raised a number of concerns in the report on that visit in view of the imminent transfer of responsibility[17], the Committee decided to take stock of progress made since 2008.

30. The recent policy trend in Europe has favoured prison health-care services being placed either to a great extent, or entirely, under Ministry of Health responsibility[18]. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of Health Ministries in this area will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.

31. One of the stated aims of the transfer of responsibility in Italy was to ensure that persons held in prison benefit from the same level of medical care as persons in the wider community. In this respect, the CPT would emphasise that equality of care must mean effective equality. The fact that ASLs would treat prisoners just as they would other patients should be positive. In practice, however, effective equality of care requires the special circumstances of detained patients to be adequately taken into consideration.

There would appear to be a variation in the level of health-care benefits provided to persons residing in different Italian regions. This means that prisoners, too, will receive a varying degree of health care depending on the region in which they are incarcerated. Given also that prisoners are often transferred between prisons in different regions, such regional differences may signify a variation in the level of care and may also have an impact on the continuity of care.

The CPT would welcome the comments of the Italian authorities as regards the above-mentioned issues.

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17 See the 2008 visit report (CPT/Inf (2010) 12, at paragraph 87. The transfer in respect of Italy's autonomous regions (Friuli Venezia Giulia, Sardinia, Sicily and Val d'Aosta) and provinces (Trento and Bolzano) was still pending at the time of the 2010 visit.

18 See, for example, Recommendation No R (87) 7 of the Committee of Ministers of the Council of Europe to member States concerning the ethical and organisational aspects of health care in prison.

32. Funding in general appeared to present a problem, in that the ASLs had, at least until the visit in June 2010, been advancing payment for health care staff salaries and services from the regional budgets, to which the relevant financial resources had still not been transferred from the Justice Ministry. Fortunately, the situation had not led to an interruption of services. However, it was clear that such a situation could not be sustained financially in the long term, especially in the less affluent regions.

The CPT trusts that the above-mentioned budgetary difficulties have now been resolved **and would like to receive confirmation that this is the case.**

33. In terms of access to health-care services, it would appear from the delegation's observations that, on the whole, since the transfer of responsibility, a level of health-care service similar to that in the outside community has been provided to inmates in the establishments visited. In particular, at both prisons visited, it had become easier for an inmate to be referred to a local hospital for a specialist opinion and, if necessary, specialist treatment. The CPT welcomes this development.

A wide variety of specialists visited the prisons in order to see patients. Nevertheless, it was also noted that specialists were generally more reluctant than in the past to provide services in prison, or at any rate did so to a lesser extent. This difference was partly attributable to the fact that some specialist medical equipment within prisons was found not to be in compliance with national health service standards and had been taken out of service since the transfer. In this context, it should be noted that some of this equipment is relatively inexpensive machinery for routine tests (e.g. ECG), and ought to be replaced rapidly.

As a result of the increase in medical transfers for specialist care outside prisons, more prison officer time was spent escorting inmates to hospital. This has clearly had a negative impact on staffing levels within prisons, which are already understaffed (particularly compared to current prison occupancy levels[19]).

Specialist health-care services should be provided in an appropriate setting, whether within a prison establishment or outside. Whatever arrangements are made to ensure that this requirement is met, **the CPT recommends that the relevant authorities take the necessary steps to ensure that these arrangements do not undermine other important aspects of prison life, such as the provision of an appropriate regime and sufficient numbers of staff present on the wings.**

[19] On 31 October 2010, prisons in Italy accommodated 68 795 inmates for an official capacity of 44 962. See also paragraph 4.

34. It was not clear to the delegation what criteria were applied for selecting prisoners to receive consultations or care from specialists attending the prisons visited. For instance, certain prisoners appeared to be given priority and moved up the waiting list even though their health condition was clearly not urgent compared to that of other inmates. Particular mention should be made to dental care provided at Teramo Prison: a consultation of the registers showed that inmates of certain nationalities appeared to have no effective access to such care.

In the interest of dispelling any possible perception of favouritism or discrimination, **the CPT recommends that the Italian authorities ensure that access to health care and, in particular, to consultations and care provided by specialists visiting prisons, is managed in a transparent, non-discriminatory manner.**

35. A positive aspect of the service provided to persons on their arrival in the two prisons visited was the promptness with which medical screening was generally carried out.

Although no central trauma register was kept in the establishments visited, the medical files examined showed that injuries were recorded thoroughly. However, the record did not always indicate statements of the inmates as to the origin of injuries observed. Further, in none of the medical files examined in the course of the visit was the doctor’s opinion noted regarding the consistency between the injuries observed and the inmate’s explanation for them. Finally, and perhaps most importantly, the delegation’s observations during the visit indicate that no automatic reporting of any injuries to the appropriate authority is required of prison doctors.

The CPT calls for steps to be taken to ensure, throughout the Italian prison system, that the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contains:

(i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him/her;

(ii) a full account of objective medical findings based on a thorough examination;

(iii) the doctor's conclusions in the light of (i) and (ii). In his/her conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings; a copy of the conclusions should be made available to the prisoner concerned and to his/her lawyer, on request.

Further, **if the prisoner refuses to reveal the cause of any signs of violence or gives reasons other than ill-treatment, his or her statement should also be accurately reported by the doctor.** Finally, **when detained persons are found to show signs of ill treatment, doctors should be required immediately to bring the record of such injuries to the attention of the relevant prosecutor.**

36. As regards forensic psychiatric patients in Judicial Psychiatric Hospitals (OPGs), the Italian authorities informed the delegation during the visit that the implications for OPGs of the transfer of prison health-care responsibility were not yet determined. It was not clear, for example, whether penitentiary regions in which no OPG was located would each have to establish their own forensic psychiatric hospital unit in order to cater for patients requiring forensic psychiatric observation or placement. The delegation was told that around 70 forensic patients from Abruzzo would soon have to leave the OPG in Campania where they were placed, but the Abruzzo regional penitentiary authorities had not yet made provision for how or where they would be managed or accommodated.

The CPT would like to receive confirmation that persons requiring forensic psychiatric care will continue to receive such specialist care in an appropriate setting.

Further, **the Committee would like to receive comprehensive information as regards the Italian authorities' medium and long-term plans in relation to forensic psychiatric placements.**

37. The delegation observed that medical confidentiality was not ensured in the prisons visited. Consultations between doctor and patient were often carried out in the presence of prison officers. Moreover, the prison health-care service is required to provide a prisoner's full medical history to the prison management and the relevant judicial authority before any transfer to hospital for examination or treatment may be authorised. This is not acceptable.

Medical confidentiality is a fundamental principle, which is enshrined in Italy's national health-care system and which needs to be equally respected within the prison environment. And yet, despite the transfer of responsibility for health-care services away from the prison administration, this requirement was still not being met.

The CPT recommends that the necessary steps be taken by the relevant authorities to ensure full respect for prisoners' medical confidentiality. In particular, medical examinations of prisoners should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. Further, **whenever a prisoner needs to be hospitalised or examined by a specialist outside the prison, the medical information passed on by the doctor to the prison management or judicial authorities should be limited to that which is strictly necessary to facilitate the prisoner's transfer and supervision.**

38. In the CPT's view, doctor-patient confidence in the wider sense is also undermined by the presence of the prison doctor on the panels of prisoner disciplinary proceedings. This practice was criticised by the Committee in past visit reports[20] and was noted once again in the prisons visited.

The CPT recommends that, in the interest of fostering doctor-patient trust, prison doctors do not sit on prisoner disciplinary panels.

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[20] See, e.g. CPT/Inf (2010) 12, paragraph 117.

39. As with other aspects of deprivation of liberty, prison health-care services should be subject to adequate supervision. One practical difference since the transfer of responsibility has been that Ministry of Justice inspections no longer cover health-care services in prisons, as these services now fall within the remit of the Ministry of Health.

From the information gathered during the visit, it appeared that inspections carried out by the Ministry of Health focus largely on the clinical and hygiene aspects of health-care service performance, and are less concerned with other aspects of those services' tasks for which there might be greater awareness within an inspection carried out by the Ministry of Justice. One such aspect is the adequate recording of injuries, whether during medical screening on arrival or after a violent incident in prison.

In the light of the above remarks, **the CPT recommends that the Italian authorities take appropriate measures to ensure that all aspects of the work of health-care services are supervised; if necessary, prison health-care services should be the subject of joint inspections by the Ministries of Health and Justice.**

40. To sum up, the CPT welcomes the integration of prison health care within the national health-care system. Nevertheless, the transfer process is experiencing teething problems and a number of issues raised by the Committee – some of which it has already raised in previous visit reports concerning prison health care – need to be addressed. The CPT trusts that the Italian authorities will review the provision of health care to detained persons in the light of the remarks in this and previous reports.

The Committee recommends that the relevant health-care authorities be apprised of the contents of both chapters of this report, as each addresses prison health care.

APPENDIX

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Cooperation received

comments

- the Committee trusts that, in future, the credentials supplied by the Italian authorities to CPT visiting delegations will cover all places where persons may be deprived of their liberty by a public authority, including courthouse detention cells, and that delegations will be received with a level of courtesy which is in keeping with good cooperation (paragraph 6).

Prevention of suicide (and self-harm) in the prison context

Identification of prisoners who may be at risk of self-harm or suicide

recommendations

- the Italian authorities to introduce a standard screening algorithm to assess the risk of suicide (and self-harm) in prisons; such a tool should, in particular, ensure that drug and/or alcohol dependence are adequately taken into account in the screening process as factors potentially heightening the risk of suicide (paragraph 14);

- steps to be taken to ensure that information on an inmate at risk of suicide or self-harm is transmitted in full and promptly to all those who may have a role in caring for the prisoner, including when he or she is transferred to another establishment (paragraph 14);

- all prison staff in contact with inmates to be provided with practical training on the recognition of behaviour indicative of a risk of suicide; training should also be provided on basic resuscitation skills (paragraph 15).

Management of prisoners at risk

recommendations

- the respective roles of medical and custodial staff in the management of the risk of suicide or self-harm to be better defined and strengthened (paragraph 17);

- staff entrusted with the supervision of prisoners presenting a suicide risk to receive specific training on interpersonal communication skills (paragraph 18);

- persons who present a major suicide risk to be placed in a cell which does not contain any ligature points or other means which might facilitate an attempt to commit suicide (e.g. cell window bars, broken glass, belts or ties, etc), and kept under constant supervision by prison staff (paragraph 19);

- the Italian authorities to ensure that, when necessary, appropriate suicide-proof clothing is provided to inmates (paragraph 19);

- devices such as gas canisters never to be available in prison cells occupied by prisoners who present a risk of suicide (or self-harm); alternative cooking arrangements should be made in such cases (paragraph 20);

- the necessary steps to be taken to ensure that persons presenting an acute risk of suicide are immediately transferred, for appropriate care, to an acute mental health unit (paragraph 21);

- effective access to psychological or psychiatric care, for all prisoners who require it, to be ensured (paragraph 22);

- the Italian authorities to analyse the high suicide rate and its causes and to introduce alternative suicide prevention measures – instead of isolation – such as increased and varied activities, opportunities for association, contact with the outside world and effective, multidisciplinary addiction treatment. Active suicide prevention efforts are needed, through the provision of supportive monitoring and the development of trusting relationships between inmates and staff (paragraph 25);

- measures to be taken to ensure that prevention efforts are adequately coordinated, in particular by regular and frequent meetings of the multidisciplinary team and through an adequate level of input from specialist staff such as psychiatrists and educators (paragraph 25).

Measures taken in the event of death or self-harm in custody

<u>recommendations</u>

- the Italian authorities to introduce a clear policy and comprehensive procedure on the identification of the causes of death of detained persons – including when the death occurs in (or on the way to) hospital – and clear criteria on the classification of deaths as suicides. In particular, every death of a prisoner should be the subject of a thorough investigation to ascertain, inter alia, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented (paragraph 28);

- an autopsy to be carried out whenever a person dies in prison (or soon after transfer from prison) and the prison's management and medical services to be informed of the outcome (paragraph 28);

- an analysis to be undertaken of each death in prison to consider what general lessons may be learned for the prison in which the death occurred and whether in the case of self-inflicted death there are any systemic, nationwide measures that need to be taken (paragraph 28).

comments

- the requirements described in paragraph 27 in relation to acts of self-harm were not being met to a satisfactory extent at the prisons visited (paragraph 27).

Transfer of responsibility for prison health care from the Ministry of Justice to the regional health-care authorities

recommendations

- the relevant authorities to take the necessary steps to ensure that the arrangements for providing specialist health-care services do not undermine other important aspects of prison life, such as the provision of an appropriate regime and sufficient numbers of staff present on the wings (paragraph 33);

- the Italian authorities to ensure that access to health care and, in particular, to consultations and care provided by specialists visiting prisons, is managed in a transparent, non-discriminatory manner (paragraph 34);

- steps to be taken to ensure, throughout the Italian prison system, that the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contains:

  (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him/her;

  (ii) a full account of objective medical findings based on a thorough examination;

  (iii) the doctor's conclusions in the light of (i) and (ii). In his/her conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings; a copy of the conclusions should be made available to the prisoner concerned and to his/her lawyer, on request.

  (paragraph 35);

- if the prisoner refuses to reveal the cause of any signs of violence or gives reasons for the injuries other than ill-treatment, his or her statement also to be accurately reported by the doctor (paragraph 35);

- doctors to be required immediately to bring the record of injuries to the attention of the relevant prosecutor when detained persons are found to show signs of ill-treatment (paragraph 35);

- the necessary steps to be taken by the relevant authorities to ensure full respect for prisoners’ medical confidentiality. In particular, medical examinations of prisoners should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff (paragraph 37);

- the medical information passed on by the doctor to the prison management or judicial authorities to be limited to that which is strictly necessary to facilitate the prisoner's transfer and supervision, whenever a prisoner needs to be hospitalised or examined by a specialist outside the prison (paragraph 37);

- prison doctors not to sit on prisoner disciplinary panels (paragraph 38);

- the Italian authorities to take appropriate measures to ensure that all aspects of the work of health-care services are supervised; if necessary, prison health-care services should be the subject of joint inspections by the Ministries of Health and Justice (paragraph 39);

- the relevant health-care authorities to be apprised of the contents of both chapters of the visit report, as each addresses prison health care (paragraph 40).

requests for information

- the comments of the Italian authorities as regards the issues of effective equality and continuity of care mentioned in paragraph 31 (paragraph 31);

- regarding the budgetary difficulties described in paragraph 32, confirmation that they have now been resolved (paragraph 32);

- confirmation that persons requiring forensic psychiatric care will continue to receive such specialist care in an appropriate setting (paragraph 36);

- comprehensive information as regards the Italian authorities' medium and long-term plans in relation to forensic psychiatric placements (paragraph 36).

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Copy of the letter transmitting the CPT's report

Mr Diego Brasioli
Minister Plenipotentiary
President of the Inter-Ministerial Committee on Human Rights
Ministry of Foreign Affairs
Piazzale della Farnesina 1
I – 00194 Rome

Strasbourg, 14 April 2011

Dear Mr Brasioli,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the supplementary report to the Government of Italy drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Italy from 14 to 18 June 2010. This supplementary report addresses the subject of accountability for ill-treatment of detained persons and was adopted by the CPT at its 74th meeting, held from 7 to 11 March 2011.

The recommendations, comments and requests for information formulated by the CPT are listed in the Appendix of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of Italy to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities of Italy to provide, in the above-mentioned response, reactions and replies to the comments and requests for information.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

cc. Mr Sergio Busetto, Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Italy to the Council of Europe

I. INTRODUCTION

1. It is recalled that a delegation of the CPT carried out a visit to Italy from 14 to 18 June 2010. The visit was one which appeared to the Committee "to be required in the circumstances" (see Article 7, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment).

The visit focused on two main issues, namely the prevention of suicides in prison and the ongoing transfer of responsibility for prison health care from the central penitentiary administration to the regional health-care authorities. The facts found in relation to these issues are set out in the report adopted by the CPT at its 73rd meeting (November 2010) and forwarded to the Italian authorities by letter of 3 December 2010.

2. This supplementary report deals with a third issue examined in the course of the June 2010 visit, namely the system of accountability for possible ill-treatment by law enforcement officials and prison staff as well as the effectiveness of investigations into such acts.

As was indicated in paragraph 3 of the visit report adopted in November 2010, the CPT decided that this third issue should be dealt with in a separate report to be transmitted at a later date, bearing in mind the extensive documentation on the issue which had recently been provided to the Committee by the Italian authorities.

3. As regards the composition of the CPT's delegation, the establishments visited, the consultations held by the delegation and cooperation received, reference should be made to paragraphs 2 and 4 to 7 of the visit report adopted in November 2010.

II. ACCOUNTABILITY FOR ILL-TREATMENT OF PERSONS IN CUSTODY

1. Preliminary remarks

4. During its visit, the delegation examined three particular cases of alleged ill-treatment by law enforcement and/or prison personnel; the detailed facts relating to these cases are set out below.

5. The CPT must first emphasise that, if law enforcement officials and/or prison staff are not held to account for acts of ill-treatment – through appropriate supervision or criminal action – such abuse is likely to become an accepted feature of police or prison practice. It is therefore vital for the prosecution and investigation authorities to take effective measures when they are aware of the slightest indication that ill-treatment might have been inflicted.

The criteria which must be met by an investigation into suspected cases of ill-treatment in order for it to be described as "effective" have been established by abundant case-law of the European Court of Human Rights[21]. In particular, the investigation must be *thorough*, it must be conducted *promptly* and *expeditiously*, and the officials responsible for conducting it must be *independent* of those implicated in the events. The real efforts shown by the competent authorities to meet these requirements and to ensure that the rule of law is respected will have a significant deterrent effect on those inclined to ill-treat persons deprived of their liberty.

2. Case examples examined by the CPT delegation

a. case A

6. Mr X, aged 31, was apprehended at 11.30 p.m.[22] on 15 October 2009 by Appia *Carabinieri* officers in Rome. He was taken to his family's residence for a search to be conducted, and then to Tor Sapienza *Carabinieri* station, where he was placed in a cell pending summary proceedings scheduled for the following morning. Shortly after 5 a.m. on 16 October, an ambulance was called to the station; according to the statements of *Carabinieri* officers, Mr X had complained that he was not feeling well. Nevertheless, Mr X apparently told the ambulance personnel that he needed no assistance, refused to be examined and covered himself in a blanket.

At 9.20 a.m. he was transferred to a cell in the basement of the Rome courthouse, and brought before a judge at around 1 p.m., in the presence of a duty lawyer. The judge adjourned the proceedings for four weeks and confirmed Mr X's remand in custody. Before his transfer, at around 2 p.m., the Rome courthouse doctor was called to the detention unit to examine Mr X. He observed "slight, reddish-purple ecchymotic lesions on both lower eyelids", and noted that the patient, refusing to be examined, reported "pain and lesions in the sacrum and lower limb area", and "evasively" mentioned having falling down the stairs the day before.

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21 Also see paragraphs 25 to 42 of the 14th General Report on the Activities of the CPT.

22 By what appears to be a clerical error, the arrest form refers to the hour of 3.20 p.m.

After arriving at Regina Coeli Prison at 3.45 p.m. on 16 October, Mr X underwent medical screening at 4.35 p.m. The doctor on duty ordered his urgent transfer to hospital, noting that he presented with "ecchymoses of the sacrum and the coccyx, periorbital swelling on both sides of the face, pain on movement of the lower limbs" and spoke of nausea and of a feeling of general weakness; Mr X also spoke of a fall down the stairs the day before.

Mr X arrived at the emergency department of the nearby Fatebenefratelli Hospital at 8 p.m. The x-rays taken showed two spinal fractures: one of the left side of the L3 vertebra and the other of the first coccygeal bone. As he refused to be hospitalised, a prison doctor who examined him on his readmission to prison told him not to walk and placed him as a matter of urgency in the prison's infirmary unit. On the following morning, Saturday 17 October, Mr X's condition was again reviewed by two prison doctors, both of whom took the view that he should be transferred to hospital for further tests and appropriate treatment. At around 1.30 p.m. he was returned, on a stretcher, to the emergency department at Fatebenefratelli Hospital, where the previous day's diagnosis was confirmed and, because of his difficulties urinating, a bladder catheter was inserted. There was no bed available, however, so he could not be admitted as an inpatient.

At 7.45 p.m. on 17 October, Mr X was admitted to the Sandro Pertini Prison Health Care Unit, a facility which is, however, not designed for patients in an acute condition requiring intensive care[23]. The doctor registering his admission noted, inter alia, his "good" general condition and muscle apparatus (tonic-trophic), "fairly good" nutrition and "normal" decubitus[24] and urogenital apparatus. Mr X's medical file (drawn up at the Sandro Pertini Prison Health Care Unit) shows that, during the following four days, he refused to undergo several medical interventions, including intravenous rehydration, and repeatedly asked to speak to his lawyer and a drug rehabilitation worker. This request, however, was not granted, the procedure relating to such requests not having been complied with. Finally, weighing 10 kg less than at the time of his arrest, he died in the early hours of 22 October as a result of kidney failure induced mainly by his dehydrated state[25].

Both the criminal investigation and the administrative investigation reports stated that, on several occasions, on his readmission to Regina Coeli Prison and his transfers to hospital, Mr X had given the prison staff to understand that the episode of the fall down the stairs had been imaginary and that he had been beaten, particularly during the night prior to his arrival in prison, and again during his time spent in the basement of the Rome courthouse. His appearance and physical condition on arrival at the Rome court, as observed by the *Carabinieri* in charge of his transfer and by other detainees, are consistent with the assumption that he had been hit even before his arrival at the court. Furthermore, a detainee placed in a neighbouring cell in the basement stated that he had heard the prison staff beating Mr X[26].

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23 This Unit offered secure detention conditions for prisoners requiring hospital treatment and care of a routine, non-emergency, nature. In particular, hospitalisation on the Unit did not require additional custodial staff to be mobilised. On 26 October 2010, the prison administration official responsible for Mr X's extraordinary placement in the Unit was convicted of making a false statement (by a public official) and abuse of power.

24 'Decubitus' is Latin for the horizontal position of the body. A 'normal' decubitus means no medical problem is observed when the subject is lying horizontally.

25 It should be noted that the extensive autopsy reports point mainly to the negligence of medical personnel at the Unit.

26 The competent prosecutor's investigations into the responsibility of medical personnel at the Unit and penitentiary staff at the court house cells had been concluded at the time of the visit; their trial was due to commence on 24 March 2011.

b. case B

7. At 11.30 p.m. on 5 May 2010, Mr Y (aged 25) was arrested near the Olympic Stadium in Rome, where clashes were taking place between the police and football fans. Video recordings, shown first on the Internet and then on Italian television as well, made using mobile telephones by eyewitnesses in nearby buildings, show Mr Y riding a scooter with a friend, being made to stop by a policeman in riot gear, who immediately punches him hard full in the face several times, for no apparent reason. While Mr Y utters a protest and tries to prevent these blows, several more police arrive on the scene. The films show some of them also striking Mr Y, including with a baton.

Mr Y was then taken to the Olympic Stadium police station. There he was dealt with by an ambulance service, which made the following observations: "alcohol breath odour – amputation of the upper right incisor – bruised laceration wound treated with six stitches – 'steri-strip' applied to wounds above the right eyebrow – upper and lower lip internal wounds – the patient is vigilant, can orient himself in time and space, reactive to sound, can stand straight – no neurological deficit and/or other symptoms reported. At the moment, after medical treatment and in the absence of neurological signs and/or other significant problems, the patient does not need to be taken to hospital".

At the police station Mr Y nominated his lawyer, who was notified of the arrest by fax. Mr Y's family was also informed of his arrest, but it is not clear whether this information was given to it directly by the police.

From the police station, he was transferred to Regina Coeli Prison in Rome in the early hours of the morning of 6 May, and placed in solitary confinement.

The judicial investigation states that Mr Y was arrested *in flagrante delicto* for aggravated resistance to a public official (Criminal Code (CC) Articles 337 and 339). The prosecutor applied for validation of the arrest and for remand in custody, which the judge responsible for the preliminary investigation granted on the morning of 8 May 2010.

Subsequently, on 10 May the case was sent to a different prosecutor, a member of the Specialised Group for Crimes against the State and Public Order, who opened a new file on a charge of grievous bodily harm (CC Articles 582 and 583) against Mr Y.

On 12 May the prosecutor filed for and was granted the provisional release of Mr Y, on the basis of the aforementioned video and a preliminary reconstruction of the facts which enabled Mr Y to be dissociated from the clashes between the police and the football fans[27].

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[27] See paragraph 14.

c. case C

8. In a short audio recording – transcribed in print media and widely broadcast on television and via the Internet as of 29 October 2009 – a prison staff member (senior officer) at Teramo Prison expressed concern that an unruly inmate had been beaten within the sight and earshot of other inmates, which in his opinion could have led to a riot. In the recording, he admonishes another staff member, mentioning that recent incident, while acknowledging that the prisoner in question should not have misbehaved as he had. He also insists that, when it is in fact necessary, prisoners should be beaten downstairs[28] and not in the detention unit itself in front of other prisoners. Finally, he says that one inmate[29] saw the whole beating. He adds that, fortunately, it was possible to resolve the situation by laying the blame on the unruly prisoner.

On 2 November 2009, in a letter to the prison director, the senior officer concerned confirmed that the words in the broadcast recording were his own, specifying both the particular context in which he had spoken them and the persons involved. He denied that a prisoner had been beaten, that a practice of ill-treatment existed, and that he would turn a blind eye to any such acts by staff.

The investigation file specifies that the incident referred to in the recording occurred on 22 September 2009, the date on which the disciplinary registers show that the unruly inmate concerned assaulted the staff member, for which a disciplinary sanction of 10 days' exclusion from communal activities was imposed[30].

When defending himself before the disciplinary board, the inmate alleged that, having exited his cell when he was indeed not supposed to do so, he was kicked and punched by the staff member in front of other inmates. He said that another staff member then intervened to make his colleague stop. He further asserted that, barely five minutes after returning to his cell, he was escorted to the staff office. He claimed that, once he was there, around 10 prison staff punched and kicked him several times, with the result that six days later he still felt pain to the head and to the rear right side of his thorax, which was still bandaged at the time of his disciplinary hearing. Furthermore, when he was medically examined following the incident, the duty doctor noted a linear excoriation on the right and lower (*medio-basale)* rear of the hemithorax, and applied disinfection and medication.

Following the release of the above-mentioned recording, more than a month after the facts, the responsible prosecutor opened an investigation into the incident and ordered, inter alia, a more thorough medical examination of the inmate, who alleged that the ill-treatment had broken one of his ribs. Although x-rays showed a malunited previously fractured rib, it was impossible to determine whether the rib had indeed been broken at the time of the incident in question.

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28 The case documentation shows that the room referred to was room 516, a staff room close to the infirmary.

29 This inmate died on 18 December 2009 as a result of an undiagnosed brain tumour.

30 Decision taken on 28 September, notified to the prisoner on 13 October; sanction served 16-26 October 2009.

3. The effectiveness of investigations in the event of allegations/signs of ill-treatment in police custody or in prison

9. Following the visit, the Italian authorities sent the CPT statistics relating to criminal and disciplinary proceedings opened against law enforcement officials and prison staff, on charges of ill-treating detained persons. An examination of these statistics shows both that the number of allegations is low and that the investigations rarely conclude in a conviction.

10. An examination was made of the three specific cases in order to highlight, if necessary, any weaknesses in the system of accountability for ill-treatment, and this clearly does not call into question the independence of the investigating or judicial authorities. Indeed, as regards these three cases, the delegation noted the independence demonstrated by prosecutors and judges.

11. Where the finding and taking into consideration of any signs of ill-treatment are concerned, it is certain that, at his first court hearing, the prisoner in case B presented clearly visible signs of violence. As for the detained person concerned in case A, according to several accounts, signs of violence were also visible when he appeared at a first court hearing. In both cases, however, no forensic examination was requested at that stage, and in addition, in case A, the judge did not identify or record any sign of violence. As the delegation did not receive a copy of the judicial file concerning case B, the CPT is unaware if the judge had identified and/or noted any signs of violence.

The CPT recommends that the competent authorities take the necessary measures to ensure that, whenever a person is brought before a court and alleges ill-treatment or presents visible signs consistent with ill-treatment, such allegations or visible signs are recorded in writing, a forensic examination is immediately ordered, and the issue is the subject of a proper investigation.

12. The delegation noted that, when allegations of ill-treatment were forwarded to the prosecution, it had at its disposal the necessary legal means of taking action and enjoyed very broad autonomy in this respect. That said, the delegation was informed by the central authorities that investigations carried out into allegations of ill-treatment in a police or prison environment are usually entrusted to members of precisely the authorities concerned by those same allegations.

The delegation was nevertheless informed that, in very complex cases, the prosecution itself conducted investigations. This happened in case A, which concerned several agencies, and into which the prosecution carried out a very thorough investigation, particularly by collecting evidence from almost 80 people and requesting no fewer than three post-mortem forensic reports. Furthermore, in the prison environment, the responsible prosecutor may, although not required to do so, ask the central investigation service of the Prison Administration to carry out an investigation. This is what happened in case C.

13. In case A, for which the criminal investigation concluded in April 2010, the public prosecutor's department focused more on the responsibility of the prison staff on duty at the Rome court and that of the medical staff at the Sandro Pertini Prison Health Care Unit in Rome. At the end of its investigations, it excluded any involvement of *Carabinieri* in the ill-treatment to which the deceased prisoner was subjected. However, several elements in the judicial file nonetheless suggest possible involvement of the *Carabinieri*, particularly the very divergent evidence given by *Carabinieri* as to the physical condition of the prisoner and, more specifically, his ability to walk[31]. **The CPT wishes to be informed of the reasons for which the possibility that ill-treatment was inflicted before the prisoner in case A arrived at the Rome court was dismissed during this investigation**.

14. The investigation into case B was still in progress at the time of the CPT's visit. **The Committee wishes to receive full information as regards the progress and the findings of this investigation.**

15. As for case C, in March 2010, the prosecutor requested, notwithstanding the existence of the recording, that the case be closed for lack of sufficient testimony or other evidence to corroborate the inmate's allegations. Examination of the investigation file reveals the fact that, inside the prison, the prosecutor's efforts came up against a wall of silence from both staff and inmates. This silence, coupled with the impossibility of establishing, more than a month after the facts, a causal link between the injuries of the inmate concerned and the ill-treatment which he alleged, constituted, according to the prosecutor's explanations, insurmountable obstacles to the effectiveness of the procedure. **The CPT wishes to receive the comments of the Italian authorities on the measures to be taken to overcome the obstacles to the effectiveness of investigations into allegations of ill-treatment in prisons, particularly in respect of the collection of evidence.**

The CPT recommends that the Italian authorities reinforce their concrete initiatives, through training and the setting of good examples, so as to promote a working environment within which it is regarded as unprofessional to resort to ill-treatment and as correct and professionally rewarding to be a member of a team which abstains from such acts. An atmosphere must be created in which the right thing to do is to report ill-treatment by colleagues[32]. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures.

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31 See the judicial investigation file, for instance document 2850906.

32 See also paragraph 30.

16. In the three specific cases examined by the delegation, there were no suspensions from duty[33]. Further, according to the information supplied by the Italian authorities, it would appear that law enforcement and prison officials are rarely suspended during criminal proceedings opened in respect of alleged ill-treatment. The CPT considers that the use of a suspension measure is sometimes necessary, particularly to send out a clear message of "zero tolerance" of ill-treatment. **The CPT wishes to receive the Italian authorities' comments on this subject, particularly on the criteria for applying provisional suspension in the event of criminal proceedings for ill-treatment.**

The Committee also wishes to be informed of the disciplinary measures taken following any conviction for ill-treatment in cases A and B[34].

4. Procedural safeguards against ill-treatment during detention by law enforcement agencies

17. The CPT has constantly reiterated that, in its experience, it is in the *period immediately following deprivation of liberty* that the risk of intimidation and physical ill-treatment is greatest. Consequently, particular vigilance is called for in the detection of possible ill-treatment throughout the period of arrest/custody by law enforcement officials. This is why the CPT attaches particular importance to three rights for persons deprived of their liberty by law enforcement agencies: the right to inform a relative or third person of their choice of their detention, the right of access to a lawyer and the right of access to a doctor.

The CPT considers that these three rights constitute fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should be applied from the very outset of their deprivation of liberty (i.e. from the moment when these persons are deprived of their freedom to come and go). In addition, persons detained by the police should be explicitly informed, without delay and in a language which they understand, of all their rights, including those referred to above.

18. As concerns effective and confidential contact with a lawyer (whether of the detained person’s choice or a duty lawyer), the information sheet on detained persons’ rights specifies that such a right exists as regards one’s own lawyer, but not as regards a duty lawyer. According to the information gathered by the delegation, it is rare for a lawyer – even a trusted one – to go to a law enforcement establishment when notified of an arrest. Further, the delegation saw no interview rooms at the *Carabinieri* stations or courthouse detention facilities visited. Indeed, *Carabinieri* officers could not recall a lawyer ever having visited a detained person within their establishment; the officials on duty at the Rome court also stated that lawyers never came to visit detained persons at the detention facilities. Further, it would also seem that, in Italy in general, duty lawyers tend not to visit detained persons at police stations, because they receive neither adequate nor timely payment for their services.

[33] In case A, the three prison staff who were the subject of an investigation for aggravated intentional homicide were placed on leave for six days in November 2009, after which they were assigned to other duties. Provisional assignment to other duties was also ordered for the hierarchical superior in case C, as well as for the main member of the police identified on the video recording in case B.

[34] The delegation was informed that the prison officers involved in case C, which was dropped, were also not subject to any disciplinary measures.

In both cases A and B, *Carabinieri* officials notified the detention to the lawyer by fax sent to the lawyer's office late at night, which would appear to be common and accepted practice[35]. In the CPT's view, notification by fax to a lawyer's office outside working hours can hardly afford the protection against ill-treatment which effective and prompt access to a lawyer should provide. The lawyer chosen by the person deprived of his liberty not being contactable or available, the effectiveness of this safeguard requires that, in the context of an on-call service, the duty lawyer or his or her deputy are able to be contacted directly by telephone.

The CPT recommends that the competent authorities, with the assistance of, among others, Bar associations, ensure that the lawyer effectively provides assistance during custody, whether this be the chosen lawyer or a duty lawyer.

19. In practice, the presence of the lawyer is effective only once the person concerned appears in court for validation of the arrest, and possibly for an order for placement in pre-trial detention[36]. Before the actual hearing, the lawyer is not usually allowed time to hold a discussion with the detainee, either confidentially or otherwise. Thus the inmate concerned in case A did not have an opportunity to have a confidential consultation with the lawyer before appearing in court.

In the CPT's opinion, this confidential discussion is particularly important, for, in the event of allegations of ill-treatment, it enables the lawyer concerned to be informed thereof so that, at the earliest opportunity, an investigation into the facts can be first discussed, then requested and ordered, and subsequently carried out efficiently. **The CPT recommends that the Italian authorities take the necessary steps to ensure that all persons deprived of their liberty can have access to a lawyer – in particular, a confidential consultation – during the period immediately following their deprivation of liberty (and at all events before appearing in court).**

20. As regards confidential access to a doctor, detained persons appeared to be able to consult a doctor if needed in all the establishments visited. That said, medical consultations were still always carried out in the presence of law enforcement officials. Thus, the records regarding case A show that on two occasions when the detained person, even before being transferred to prison, came into contact with a health-care professional, the staff in charge of his supervision remained present. On the first occasion he refused to be examined, and on the second (at the courthouse cells) he spoke of having fallen down the stairs the previous day.

Further, detained persons are still not allowed to consult a doctor of their own choice while in custody in law enforcement establishments.

The Committee reiterates its recommendation that the Italian authorities take immediate steps to ensure that in law enforcement establishments as well as at courthouse detention facilities, all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials.

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[35] Notification of the lawyer by fax is acceptable according to the Italian Supreme Court (see *Corte di Cassazione - Sezioni Unite 30 October 2002*).

[36] See also the report on the periodic visit of 2008 (CPT/INF(2010)12), paragraph 16, concerning the restrictions on access to a lawyer ordered by a court.

Furthermore, **the CPT reiterates its recommendation that specific legal provisions be adopted governing the right of persons detained by law enforcement agencies to have access to a doctor of their own choice (at their own expense).**

21. As on previous occasions, the delegation observed shortcomings in the maintenance of custody registers at the law enforcement establishments visited, the entries often being incomplete (e.g. no systematic recording of the time of apprehension and the time of placement in a cell; no recording of notification to the public prosecutor, the family or a lawyer, although the register format included these items). No custody register at all was being kept at the end of 2009 at the Rome courthouse detention facilities, where inmates were in the custody of staff of the Prison Administration. Thus, in case A it was not possible, from the registers, to establish the exact times of all the detained person's movements during the first 24 hours of his arrest and detention.

The CPT recommends that the responsible authorities remind staff at all law enforcement establishments, as well as at courthouse detention facilities, to maintain custody/detention registers meticulously.

22. The use of closed-circuit video surveillance (CCTV) in the common areas of police, prison or courthouse detention facilities and in police interview rooms may act as a safeguard which helps to reduce the incidence of ill-treatment (as well as to confirm or refute allegations). Nevertheless, various issues need to be taken into consideration, in the context of a CCTV usage policy, including whether a recording is available, and whether such recordings are automatically kept for a period – such as 28 days – sufficient to be used as evidence if need be.

For example, in case A, a CCTV system which did not make a recording was operational in the common areas of the Rome courthouse detention facility. A recording of the events which occurred in the detention facility corridor on the morning of 16 October 2009 might have helped to detect any wrongdoing by custody officers.

The CPT recommends that the Italian authorities take the necessary steps in the light of the above remarks to ensure that an effective policy on the use of CCTV is introduced. In particular, the system in place should include security features, such as running time and date stamp, to counter any manipulation of recordings.

23. The CPT notes, once again, the lack of effective internal or external inspections of law enforcement establishments. **The Committee reiterates its recommendation that the detention facilities of all law enforcement agencies effectively be examined by the relevant judicial/prosecutorial authorities and that the possibility be considered of inspections being carried out by other independent bodies.**

5. Prevention of ill-treatment in prisons

24. The CPT promotes a number of initiatives to guarantee the detection and prevention of ill-treatment in prisons. The aims, more particularly, are to introduce effective medical monitoring, to guarantee medical confidentiality, to organise medical supervision of detainees in solitary confinement, to guarantee contact with the outside world, to allow confidential complaints to be filed or lodged and, lastly, to provide for independent inspections.

The delegation's observations during the visit show that certain mechanisms have been set up in the Italian prison system, but that these are not sufficiently effective to enable ill-treatment to be detected in practice. Some experienced public prosecutors also told the delegation that it proved particularly difficult to detect and establish ill-treatment in prisons.

25. In its main report on the visit in June 2010, the CPT made certain recommendations concerning medical examinations, medical confidentiality, and the relationship of trust between doctors and patients in custody[37]; these will not be reiterated in this supplementary report. However, the examination of the above-mentioned three specific cases during the visit highlighted certain shortcomings, which no doubt increase the necessity to implement the Committee's recommendations in this respect.

As for the recording of injuries during medical examinations, in case A, the detained person's statement about the origin of his injuries was meticulously noted down. However, the same was not true for the prisoner concerned in case C, whose medical file contained no explanation of the injuries noted. Furthermore, in none of the medical files examined during the visit was the doctor's opinion recorded as to the consistency between the injuries noted and the prisoner's explanations on the subject. Lastly, and even more importantly, the delegation's findings and the examination of cases A, B and C show that prison doctors are not required to make systematic reports when they come across detained persons with injuries. On the contrary, the delegation, once again[38], noted the practice of systematically reporting to the judicial authorities only those injuries from which recovery would take 20 days or more.

As in the context of the law enforcement agencies (see paragraph 20), consultations between doctor and patient often took place in the presence of prison staff, i.e. without any guarantee of medical confidentiality. Examples of such presence were found in case A, during medical examinations conducted at Fatebenefratelli Hospital.

The relationship of trust between doctor and patient, an important element in the detection of ill-treatment, suffers, or is even called into question, if the doctor is present on disciplinary panels. This practice, which is in accordance with the regulations in force in Italy, was noted by the delegation in case C.

In the light of the above remarks, the CPT looks forward to receiving a full account of action taken by the Italian authorities to implement the recommendations in paragraphs 35, 37 and 38 of the main report on the June 2010 visit (see also the CPT President’s letter of 3 December 2010 transmitting the main report).

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37 See document CPT(2010)84, paragraphs 35, 37 and 38.

38 See, for example, the previous periodic visit report (CPT/Inf(2010)12, paragraph 91).

26. Opportunities for contacts with persons of trust not linked in any way to the establishment in which a person is held can also be an effective means of detecting ill-treatment.

In case A, from the very beginning of his stay in the Sandro Pertini Prison Health Care Unit, the prisoner insistently asked to see his lawyer and a person of trust (a drug rehabilitation worker) and went so far as to refuse to eat for this reason. This right was not, however, granted to him during his four days' presence in the establishment. It should be pointed out that the prisoner had had only very limited contacts with a duty lawyer on the morning after his arrest. In addition, his parents, who several times went to the entrance to the Unit requesting information about their son's health and the reasons for his urgent hospitalisation, were repeatedly turned away and invited to submit a request for judicial authorisation, which they finally obtained only after their son's death.

The CPT recommends that the necessary steps be taken to ensure that all prisoners, including those in hospital in a secure unit, are able to have effective access to a lawyer. Furthermore, sufficient contacts with the outside world, and particularly with close family members, should be facilitated as far as is possible; this is especially important when the prisoner's state of health is uncertain, or if he goes on hunger strike or refuses treatment which is nevertheless needed.

27. Italian prisons are subject to internal monitoring in the form of regular or ad hoc inspections by the Inspectorate of the Prison Administration, which could, in the CPT's view, be strengthened through additional resources and staff. **The Committee wishes to receive the Italian authorities' comments on this subject.**

The need for independent monitoring of prisons and the handling of complaints more effectively was already noted by the Committee during past visits[39]. In particular, the inspecting judges have a role and a field of action which are too broad in scope to be effective: their workload makes it impossible for them to oversee prisons in a thorough and proactive manner. As their time is typically monopolised by the processing of written procedures, they often lack the time to meet prisoners and staff in detention facilities and carry out spot checks of practice and conditions.

Recently established *Garante* offices, akin to offices of the detained persons' ombudsman, are independent and may receive complaints and carry out inspections of prisons. In the CPT's view, the work of such bodies, which have regional competence, could be strengthened through greater co-ordination.

The CPT recommends that the Italian authorities establish a national, independent inspectorate mandated and adequately resourced to visit all places where people are deprived of their liberty and to receive complaints from such persons.

[39] See, for example, the previous periodic visit report (CPT/Inf (2010)12, paragraphs 85 and 118).

28. The CPT has also noted the important role played by ad hoc investigations established in response to particular issues or events, such as the death of the inmate in case A, in drawing up lessons learned and in raising awareness of detention-related issues.

The CPT would like to be informed of the concrete follow-up measures taken by the Italian authorities in the light of the parliamentary and administrative investigations into case A, in particular those measures designed to prevent ill-treatment of arrested/detained persons.

6. Final observations

29. In all three of the specific cases examined, elements indicative of ill-treatment by public officials from various bodies have been widely publicised. Moreover, in cases B and C, had it not been for video and/or audio material broadcast widely, the ill-treatment alleged would probably not have been detected or been the subject of an investigation.

The CPT recommends that the Italian authorities ensure that whenever a person is injured while under the supervision of public officials, the case is considered by the relevant authorities as one indicative of ill-treatment, until such time as a plausible alternative explanation for the injuries can be provided[40].

Furthermore, in the light of the findings made during the visit, **the Committee invites the Italian authorities to consider setting up a specialised service, under the authority of the public prosecutor's office, to deal with allegations of ill-treatment by law enforcement and/or prison officials.**

30. The CPT notes that, in pursuance of Italian law, the failure by an official to warn the responsible public prosecutor or court when he has knowledge of information giving reason to suppose that ill-treatment has been inflicted, is an offence (*inter alia* see CC Article 311). This is an important obligation which may not have been complied with on several occasions in the cases described above.

The delegation's findings during the visit show that, in case A, the prisoner concerned was ill-treated at least once, and that, nevertheless, no other official present reported his colleagues' acts. In case C, a member of prison staff chose to make public the ill-treatment inflicted on prisoners by his colleagues by making a surreptitious recording of a conversation between colleagues and sending it to the press, accompanied by a note purportedly written by a prisoner.

The CPT recommends that the necessary measures be taken to raise awareness among law enforcement, prison, medical and other staff at every hierarchical level of the important duty incumbent on them of reporting ill-treatment to the competent authorities.

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[40] In this respect, according to the well-established case-law of the European Court of Human Rights (see, for example, *Ribitsch v. Austria*, 42/1994/989/571 of 4 December 1995), whenever a person is injured while under the supervision of officials, there is a strong presumption that the person concerned has been ill-treated, and the authorities have a duty to supply a satisfactory and convincing explanation of the way in which the injuries were caused.

31. No matter how effective an investigation may be, it will be of little avail if the sanctions imposed for ill-treatment are inadequate. Of course, judicial authorities are independent, and hence free to determine, within the parameters set by law, the sentence in any given case. However, the CPT wishes to emphasise that, in the interest of prevention of ill-treatment, the criminal justice system should demonstrate, through appropriate repressive measures, a firm attitude with regard to torture and other forms of ill-treatment.

An analysis of the accountability system in Italy would not be complete without mentioning, in this context, the so-called “Bolzaneto Barracks” and “Diaz School” cases, in which egregious acts were proven to have been committed by police, *Carabinieri* and prison officers during the Genoa G8 Summit in 2001. These events have been the subject of dialogue between the Committee and the Italian authorities[41]. In March and May 2010, almost 9 years after the facts, 69 officials – members of prison staff, the *Carabinieri*, the national police force and the medical service – were convicted by the Court of Appeal in Genoa of various acts of violence, some of which were classified as inhuman and degrading treatment, as well as of false statements and accusations. The combined effect of the statute of limitations and an amnesty law[42] has meant that criminal sanctions have been imposed on only a small proportion of the persons involved in these acts.

In the CPT's view, this result calls into question the effectiveness of the system of accountability for ill-treatment by law enforcement and prison officials.

32. The CPT again notes that the plan to introduce the crime of torture into the Italian Criminal Code has made no progress. According to the prosecutors responsible for some of the cases relating to the G8 events in Genoa in 2001, it would seem that the availability of such a charge (not subject to the statute of limitations) would have produced more effective results.

The Committee reiterates[43] its invitation to the Italian authorities to increase their efforts to introduce the crime of torture into the Criminal Code, in accordance with the country's obligations under international law.

[41] See *inter alia* the reports on the previous two periodic visits, in November 2004 (CPT/Inf(2006)16, paragraph 14) and in September 2008 (CPT/Inf(2010)12, paragraph 11).

[42] Law 241/06 provides for three years' reduction in sentence for any crime committed before 2 May 2006, with the exception of certain violent crimes, but not including those for which persons were convicted following the events during the Genoa G8 Summit in July 2001.

[43] See, for example, the previous periodic visit report (CPT/Inf(2010)12), paragraph 12.

APPENDIX

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Accountability for ill-treatment of persons in custody

The effectiveness of investigations in the event of allegations/signs of ill-treatment in police custody or in prison

recommendations

- the competent authorities to take the necessary measures to ensure that, whenever a person is brought before a court and alleges ill-treatment or presents visible signs consistent with ill-treatment, such allegations or visible signs are recorded in writing, a forensic examination is immediately ordered, and the issue is the subject of a proper investigation (paragraph 11);

- the Italian authorities to reinforce their concrete initiatives, through training and example, so as to promote a working environment within which it is regarded as unprofessional to resort to ill-treatment and as correct and professionally rewarding to be a member of a team which abstains from such acts. An atmosphere must be created in which the right thing to do is to report ill-treatment by colleagues. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures (paragraph 15).

requests for information

- the reasons for which, during the investigation into case A, the possibility that ill-treatment was inflicted before the detained person arrived at the Rome court was dismissed (paragraph 13);

- full information as regards the progress and the findings of the investigation into case B (paragraph 14);

- the comments of the Italian authorities on the measures to be taken to overcome the obstacles to the effectiveness of investigations into allegations of ill-treatment in prisons, particularly in respect of the collection of evidence (paragraph 15);

- the comments of the Italian authorities on the subject of the use of a measure of suspension from duty, particularly on the criteria for applying provisional suspension in the event of criminal proceedings for ill-treatment (paragraph 16);

- the disciplinary measures taken following any conviction for ill-treatment in cases A and B (paragraph 16).

Procedural safeguards against ill-treatment during detention by law enforcement agencies

recommendations

- the competent authorities, with the assistance of, among others, Bar associations, to ensure that a lawyer effectively provides assistance during custody, whether this be the chosen lawyer or a duty lawyer (paragraph 18);

- the Italian authorities to take the necessary steps to ensure that all persons deprived of their liberty can have access to a lawyer – in particular, a confidential consultation - during the period immediately following their deprivation of liberty (and at all events before appearing in court) (paragraph 19);

- the Italian authorities to take immediate steps to ensure that in law enforcement establishments as well as at courthouse detention facilities, all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials (paragraph 20);

- specific legal provisions to be adopted governing the right of persons detained by law enforcement agencies to have access to a doctor of their own choice (at their own expense) (paragraph 20);

- the responsible authorities to remind staff at all law enforcement establishments, as well as at courthouse detention facilities, to maintain custody/detention registers meticulously (paragraph 21);

- the Italian authorities to take the necessary steps in the light of the remarks set out in paragraph 21 to ensure that an effective policy on the use of CCTV is introduced. In particular, the system in place should include security features, such as running time and date stamp, to counter any manipulation of recordings (paragraph 22);

- the detention facilities of all law enforcement agencies to be effectively examined by the relevant judicial/prosecutorial authorities and the possibility to be considered of inspections being carried out by other independent bodies (paragraph 23).

Prevention of ill-treatment in prisons

recommendations

- the necessary steps to be taken to ensure that all prisoners, including those in hospital in a secure unit, are able to have effective access to a lawyer. Furthermore, sufficient contacts with the outside world, and particularly with close family members, should be facilitated as far as is possible; this is especially important when the prisoner's state of health is uncertain, or if he goes on hunger strike or refuses treatment which is nevertheless needed (paragraph 26);

- the Italian authorities to establish a national, independent inspectorate mandated and adequately resourced to visit all places where people are deprived of their liberty and to receive complaints from such persons (paragraph 27).

requests for information

- the comments of the Italian authorities on the possibility of strengthening the monitoring capacity of the Inspectorate of the Prison Administration (paragraph 27);
- the concrete follow-up measures taken by the Italian authorities in the light of the parliamentary and administrative investigations into case A, in particular those measures designed to prevent ill-treatment of arrested/detained persons (paragraph 28).

Final observations

recommendations

- the Italian authorities to ensure that whenever a person is injured while under the supervision of public officials, the case is considered by the relevant authorities as one indicative of ill-treatment, until such time as a plausible alternative explanation for the injuries can be provided (paragraph 29);
- the necessary measures to be taken to raise awareness among law enforcement, prison, medical and other staff at every hierarchical level of the important duty incumbent on them of reporting ill-treatment to the competent authorities (paragraph 30).

comments

- the Committee invites the Italian authorities to consider setting up a specialised service, under the authority of the public prosecutor's office, to deal with allegations of ill-treatment by law enforcement and/or prison officials (paragraph 29);
- in the CPT's view, the fact that criminal sanctions have been imposed on only a small proportion of the persons involved in the acts committed in the so-called "Bolzaneto Barracks" and "Diaz School" cases during the Genoa G8 Summit of 2001, calls into question the effectiveness of the system of accountability for ill-treatment by law enforcement and prison officials (paragraph 31);
- the Committee invites the Italian authorities to increase their efforts to introduce the crime of torture into the Criminal Code, in accordance with the country's obligations under international law (paragraph 32).