



## **Juveniles deprived of their liberty under criminal legislation**

*Extract from the 24<sup>th</sup> General Report of the CPT,  
published in 2015*

### **1. Preliminary remarks**

96. In 1998, in its 9<sup>th</sup> General Report, the CPT set out the criteria which guide its work when visiting places where “juveniles” (i.e. persons under the age of 18<sup>1</sup>) are deprived of their liberty. In particular, it identified a number of safeguards which should be offered to all juveniles deprived of their liberty under criminal legislation and the conditions which should obtain in detention centres specifically designed for juveniles. The Committee considers that the time is ripe to review these standards based upon its visit experience since 1998 and taking into consideration developments at the European and universal levels, focusing at this stage on the deprivation of liberty of juveniles in the criminal law context.

At the outset, the CPT reiterates that its standards should be viewed as complementary to those set out in international instruments, notably the 1989 United Nations Convention on the Rights of the Child and Recommendation CM/Rec (2008) 11 of the Committee of Ministers of the Council of Europe to member states on the European Rules for juvenile offenders subject to sanctions or measures (“European rules for young offenders”), which provides a detailed set of rules for the treatment of juvenile offenders in Europe.<sup>2</sup> The Committee subscribes wholeheartedly to the cardinal principles enshrined in Articles 3 and 37.b of the Convention on the Rights of the Child and in Rules 5 and 10 of the European Rules for juvenile offenders, namely that in all action concerning juveniles, their best interests shall be a primary consideration and that they should only be deprived of their liberty as a last resort and for the shortest possible period of time.

---

<sup>1</sup> In the majority of Council of Europe member states, the minimum age of criminal responsibility is fixed at the age of 14 or 15 years, while, in a few countries, the minimum age ranges from eight to 13 years.

<sup>2</sup> See also the 1985 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”), the 1990 United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”), the 1990 United Nations Guidelines for the Prevention of Juvenile Delinquency (“Riyadh Guidelines”) and the 2010 Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice.

## 2. Juveniles held in police custody

97. Bearing in mind its preventive mandate, the CPT's priority during visits is to seek to establish whether juveniles deprived of their liberty have been subjected to ill-treatment. Regrettably, deliberate ill-treatment of juveniles by law enforcement officials has by no means been eradicated and remains a real concern in a number of European countries. CPT delegations continue to receive credible allegations of detained juveniles being ill-treated. The allegations often concern kicks, slaps, punches or blows with batons at the time of apprehension (even after the juvenile concerned has been brought under control), during transportation or subsequent questioning in law enforcement establishments. It is also not uncommon for juveniles to become victims of threats or verbal abuse (including of a racist nature) whilst in the hands of law enforcement agencies.

98. It is the period immediately following apprehension when persons are most at risk of ill-treatment. Therefore, the CPT has advocated three fundamental safeguards (namely the rights of detained persons to notify a close relative or another person of their detention and to have access to a lawyer and a doctor), which should apply from the very outset of deprivation of liberty (i.e. from the moment a person is first obliged to remain with a law enforcement agency). Given their particular vulnerability, the CPT considers that juveniles held in police custody should always benefit from the following additional safeguards against ill-treatment:

- law enforcement officials should be under a formal obligation to ensure that a relative or another adult person trusted by the juvenile is notified of the fact that a juvenile has been detained (regardless of whether the juvenile requests that this be done);
- a detained juvenile should never be subjected to police questioning or be requested to make any statement or to sign any document concerning the offence(s) he/she is suspected of having committed without the presence of a lawyer and, in principle, a trusted adult person (the option "does not wish to see a lawyer" should not apply to juveniles);
- a specific information sheet setting out the above-mentioned safeguards should be given to all juveniles taken into custody immediately upon their arrival at a law enforcement establishment. The information sheet must be child-friendly, written in simple and clear language and available in a variety of languages. Special care should be taken to ensure that juveniles fully understand the information.

99. The CPT considers that nobody should be held in law enforcement establishments for prolonged periods as such establishments normally do not provide suitable conditions and an appropriate regime. Moreover, experience has shown that persons in police custody are more vulnerable and often run a higher risk of being subjected to torture or other forms of ill-treatment. It follows that even greater efforts should be made to keep the detention in law enforcement establishments to a minimum for juveniles. In some countries, juveniles continue to be held in police stations for periods of ten days or more; such practices are unacceptable. The CPT considers that, as a rule, juveniles should not be held in a law enforcement establishment for more than 24 hours. Further, every effort should be made to avoid placing juveniles in ordinary police cells but rather to hold them in a juvenile-friendly environment. To this end, it would be highly desirable for separate police units for juveniles to be established so that juveniles can be removed as quickly as possible from the general population of persons in police custody and accommodated in a specialised holding facility.

Regrettably, the Committee continues to find juveniles in police custody being accommodated together with adults in the same cells. Such a state of affairs is not acceptable. The vulnerability of juveniles means that as a matter of principle they should be accommodated separately from adults.

100. Further, law enforcement officials who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile delinquency should receive specialised initial and ongoing training.

### **3. Detention centres for juveniles**

#### **a. introduction**

101. The CPT has long advocated that all detained juveniles who are suspected or convicted of a criminal offence should be held in detention centres specifically designed for persons of this age, offering a non-prison-like environment and regimes tailored to their needs and staffed by persons trained in dealing with the young. Regrettably, this is still far from being the case in many Council of Europe member states. There has been progress in ensuring that juveniles who are sent to prison are not held together with adults but in juvenile-only units. However, all too often these units offer not only poor material conditions but, due to a lack of trained staff, juvenile inmates are also provided with an impoverished regime, and support and supervision remain inadequate. This means that juveniles do not benefit from purposeful activities and training in life skills which are beneficial for reintegration into the community upon release.

On the other hand, the Committee has visited a number of juvenile establishments in several countries, which are indeed juvenile-centred and based on the concept of living units. These establishments are composed of small well-staffed units, each comprising a limited number of single rooms (usually no more than ten) as well as a communal area. Juveniles are provided with a range of purposeful activities throughout the day, and staff promote a sense of community within the unit. The CPT considers that this type of centre represents a model for holding detained juveniles in all European countries.

102. As indicated above, juveniles (whether on remand or sentenced) should as a rule not be held in institutions for adults but in facilities specially designed for this age group. The CPT considers that when, exceptionally, they are held in prisons for adults, juveniles should always be accommodated separately from adults, in a distinct unit. Further, adult prisoners should not have access to this unit. That said, the Committee acknowledges that there can be arguments in favour of juveniles participating in out-of-cell activities with adult prisoners, on the strict condition that there is appropriate supervision by staff. Such situations occur, for example, when there are very few or only one juvenile offender in an establishment; steps need to be taken to avoid juveniles being placed *de facto* in solitary confinement.

103. Juveniles detained under criminal legislation should, in principle, not be held with juveniles deprived of their liberty on other grounds. Male and female juveniles who are placed in the same institution should be accommodated in separate units, although they may associate for organised activities during the day, under appropriate supervision. Special attention should be paid to the allocation of juveniles belonging to different age groups in order to accommodate their needs in the best way. Appropriate measures should also be taken to ensure adequate separation between these age groups in order to prevent unwanted influence, domination and abuse.

The European Rules for young offenders state that young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly. This practice can be beneficial to the young persons involved but requires careful management to prevent the emergence of negative behaviour. In this respect, the CPT considers that a case-by-case assessment should be carried out in order to decide whether it is appropriate for a particular inmate to be transferred to an adult institution after reaching the age of majority (i.e. 18 years), taking into consideration the remaining term of his/her sentence, his/her maturity, his/her influence on other juveniles, and other relevant factors.

**b. material conditions**

104. A well-designed juvenile detention centre should provide positive and personalised conditions of detention for young persons, respecting their dignity and privacy. All rooms should be appropriately furnished and provide good access to natural light and adequate ventilation.

Juveniles should normally be accommodated in individual bedrooms; reasons should be provided explaining why it is in the best interests of the juvenile to share sleeping accommodation with another inmate. Juveniles should be consulted before being required to share sleeping accommodation and should be able to state with whom they would wish to be accommodated.

Every effort should be made to avoid placing juveniles in large dormitories as the CPT's experience is that this puts juveniles at a significantly higher risk of violence and exploitation. Indeed, establishments with large dormitories should be phased out.

105. Further, juveniles should have ready access to sanitary facilities that are hygienic and respect privacy. In particular, attention should be paid to ensuring that female juveniles are provided with ready access to sanitary and washing facilities as well as to hygiene items, such as sanitary towels.

106. Juvenile offenders should also be allowed to wear their own clothing if it is suitable. Those who do not have suitable clothing of their own should be provided with non-uniform clothing by the establishment.

**c. regime**

107. Although a lack of purposeful activities is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. Juvenile inmates should be provided throughout the day with a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities.

108. Physical exercise should constitute an important part of the juveniles' daily programme. All juveniles should be allowed to exercise regularly, for at least two hours every day, of which at least one hour should be in the open air and, preferably, considerably more. Outdoor exercise yards should be spacious and suitably equipped to give juveniles a real opportunity to exert themselves physically (e.g. to practise sports); they should also be equipped with shelter against inclement weather.

109. Upon admission, an individualised plan should be drawn up for every juvenile, specifying the objectives, the time-frame and the means through which the objectives should be attained, in order to best utilise the time that the juvenile concerned spends in the detention centre, to develop skills and competences that assist him/her to reintegrate into society.

110. Education and vocational training offered to juveniles in detention should be similar to that in the community, provided by professional teachers/trainers, and juveniles in detention should obtain the same types of diploma or certificate (after successfully completing their education) as juveniles who attend educational establishments in the community. Measures should be taken to avoid that school-leaving certificates bear any indication of the juvenile's institutional affiliation. Given the particularly difficult backgrounds of many juveniles, efforts need to be made to encourage and motivate them to attend educational classes/vocational training and to participate in workshops where they can learn skills to assist them upon their release. In a number of countries, the CPT has observed the practice of training juveniles in using computers (including the Internet) and/or of allowing selected detained juveniles to attend schools in the outside community. Such practices should be encouraged.

111. The CPT also wishes to stress that female juveniles should under no circumstances receive less care, protection, assistance and training than male juveniles, despite the fact that their numbers are much lower and that detention centres are nearly always designed for male inmates. If necessary, additional measures should be taken to ensure equal treatment.

112. In various establishments visited, the CPT observed the existence of a differentiated incentive-based regime in which progress is rewarded to juveniles who are co-operative and display good behaviour, while inmates who display negative behaviour are demoted and subjected to various restrictions. In the CPT's view, a behavioural approach can be beneficial in encouraging juvenile inmates to abide by the norms of living within a group and pursue constructive paths of self-development. However, withdrawal of incentives due to non-compliance can quickly reach a level of deprivation which is incompatible with minimum requirements. In particular, steps should be taken to avoid the juveniles concerned being subjected to a regime which is akin to solitary confinement. In addition, there should be formal and transparent procedures in order to avoid "educational measures" becoming or being perceived as arbitrary.

#### **d. health care**

113. When examining the issue of health-care services in prisons, the CPT has been guided in its work by a number of general criteria (access to a doctor; equivalence of care; patient's consent and confidentiality; preventive health care; professional independence and professional competence). Moreover, in its 23<sup>rd</sup> General Report, the Committee set out in detail its standards regarding the role of prison health-care services in preventing ill-treatment (notably through the systematic recording of injuries and the provision of information to the relevant authorities). Naturally, all the aforementioned standards apply equally to detention centres for juveniles.

114. Having said that, the CPT always pays special attention to the specific medical needs of juveniles deprived of their liberty. It is particularly important that the health-care service offered to juveniles constitutes an integrated part of a multidisciplinary (medico-psycho-social) programme of care. This implies, inter alia, that upon admission all juveniles should benefit from a comprehensive individual medical, psychological and social needs assessment and that there is always close co-ordination between the work of an establishment's health-care team (doctors, nurses, psychologists, etc.) and that of other professionals, including specialised educators, social workers and teachers, who have regular contact with inmates. The goal should be to ensure that the health care delivered to juvenile inmates forms part of a seamless web of support and therapy.

115. All juveniles should be properly interviewed and physically examined by a medical doctor, or a qualified nurse reporting to a doctor, as soon as possible after their admission to the detention centre; preferably, on the day of arrival. If properly performed, such medical screening on admission should enable the establishment's health-care service to identify young persons with potential health problems (e.g. drug addiction, sexual abuse and suicidal tendencies). The identification of such problems at a sufficiently early stage will facilitate the taking of effective preventive action within the framework of the establishment's medico-psycho-social programme of care.

116. It is also widely recognised that detained juveniles have a tendency to engage in risk-taking behaviour, especially with respect to drugs, alcohol and sexual practices, and that they are more likely to engage in self-harm. In consequence, in every detention centre for juveniles, there should be a comprehensive strategy for the management of substance abuse (including prevention and treatment) and the prevention of self-harm and suicide. The provision of health education about transmissible diseases is another important element of a preventive health-care programme. Juveniles with mental-health problems should be cared for by psychiatrists and psychologists specialising in the mental health of children and adolescents.

117. Particular attention should always be paid to the health-care needs of female juveniles: access to gynaecologists and education on women's health care should be provided. Pregnant juvenile girls and juvenile mothers in detention should receive appropriate support and medical care; as far as possible, alternatives to detention should be imposed. In this regard, the relevant standards on women deprived of their liberty which the CPT elaborated in its 10th General Report apply equally to detained female juveniles.<sup>3</sup>

118. Health-care staff should also play an active role in monitoring the quality and quantity of food. The juveniles' nutritional state should be assessed through, inter alia, drawing up a growth chart for those juveniles who are still in the growth phase.

**e. staffing issues**

119. The custody and care of juveniles deprived of their liberty is a particularly challenging task. It should be taken into account that many of them have suffered physical, sexual or psychological violence. The staff called upon to fulfil this task should be carefully selected for their personal maturity, professional integrity and ability to cope with the challenges of working with – and safeguarding the welfare of – this age group. More particularly, steps should be taken to ensure the regular presence of specialised educators, psychologists and social workers in detention centres for juveniles. They should be committed to working with young people, and be capable of guiding and motivating them. With a view to avoiding a prison-like environment, staff working in direct contact with juveniles should as a rule not carry batons, incapacitating sprays or other means of restraint. The practice observed by the CPT in a number of juvenile detention centres of custodial staff not wearing a prison uniform is to be encouraged. Mixed-sex staffing can have a beneficial effect in terms of the custodial ethos and foster a more caring and relaxed atmosphere.

120. All staff, including those with custodial duties, who are in direct contact with juveniles should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties. Particular attention should be given to staff training in the management of violent incidents, especially in verbal de-escalation to reduce tension and professional restraint techniques.

121. It is the responsibility of the establishments' administration to take special precautions to protect juveniles from all forms of abuse, including sexual or other kinds of exploitation. Staff members should be alert to signs of bullying (including physical and sexual assault, verbal abuse, extortion, and theft of other juveniles' belongings) and should know how to respond accordingly and adopt a pro-active attitude to prevent such incidents from occurring.

**f. contact with the outside world**

122. The active promotion of good contact with the outside world can be especially beneficial for juveniles deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or a lack of social skills. Every effort should be made to ensure that all juvenile inmates are afforded the possibility to have contact with their families and other persons from the moment they are admitted to the detention centre. The concept of family should be interpreted liberally, so as to include contacts with persons with whom the juvenile has established a relationship comparable to that of a family member, even if the relationship has not been formalised. For the purpose of their social integration, juveniles should as far as possible also be allowed regular periods of leave (either escorted or alone).

---

<sup>3</sup> See CPT/Inf (2000) 13, paragraphs 26 to 33.

123. Juveniles should benefit from a visiting entitlement of more than one hour every week, and they should also be able to receive visits at weekends. Short-term visits should be allowed, as a rule, under open conditions.

The CPT has observed in some countries that juveniles are authorised to benefit from long-term unsupervised visits. Except for cases when it is not in the juveniles' best interests, such an approach is particularly welcome in order to foster the family life of the juvenile and his/her close relatives and the juvenile's reintegration into society.

124. All juveniles, including those on remand, should have frequent access to a telephone and the opportunity to exercise their right to correspondence at all times. If there are security concerns, particular telephone calls and correspondence could be monitored, and exceptionally prohibited. Any such decision should be based on a substantiated risk of collusion or other illegal activity, and be for a specified period.

In some establishments visited by the CPT, juveniles are allowed to communicate with family members on a regular basis by using free-of-charge Voice over Internet Protocol (VoIP) services. Such practices are highly welcome; however, they should not be considered as a substitute for visits.

125. Information on transfers, release, disciplinary sanctions and protective and security measures applied to a juvenile, as well as concerning any illness, injury or death, should be provided without delay to the parents or legal representative of the juvenile concerned.

**g. discipline and security**

126. Restorative conflict resolution should be given priority over formal disciplinary procedures and sanctions. Disciplinary sanctions, if applied, should be governed by the principle of proportionality and imposed in full compliance with the relevant formal disciplinary rules and procedures, and not take the form of an unofficial punishment. Any form of collective punishment is unacceptable.

In a number of establishments visited by the CPT, it was not uncommon for staff to administer a so-called "pedagogic slap" or other forms of physical chastisement to juveniles who misbehaved. In this regard, the CPT recalls that corporal punishment is likely to amount to ill-treatment and must be strictly prohibited.

127. The CPT wishes to stress that a juvenile's contact with the outside world should never be denied as a disciplinary measure; nor should it be limited unless the disciplinary offence relates to such contact.

128. Any form of isolation of juveniles is a measure that can compromise their physical and/or mental well-being and should therefore be applied only as a means of last resort.

In the CPT's view, solitary confinement as a disciplinary measure should only be imposed for very short periods and under no circumstances for more than three days. Whenever juveniles are subject to such a measure, they should be provided with socio-educational support and appropriate human contact. A member of the health-care staff should visit the juvenile immediately after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment.<sup>4</sup>

129. As regards solitary confinement for protection or preventive purposes, the CPT recognises that such a measure may, in extremely rare cases, be required in order to protect particularly vulnerable juveniles or to prevent serious risks to the safety of others or the security of the prison, provided that absolutely no other solution can be found. Every such measure should be decided by a competent authority, based on a clear procedure specifying the nature of the confinement, its duration, the grounds on which it may be imposed and providing a regular review process, as well as the possibility for the juvenile concerned to appeal against the decision to an independent external authority. The juveniles concerned should always be provided with appropriate human contact and benefit from daily visits by a member of the health-care staff.

Likewise, the placement of a violent and/or agitated juvenile in a calming-down room should be a highly exceptional measure. Any such measure should not last for more than a few hours and should never be used as an informal punishment. Mechanical restraint should never be used in this context. Every placement of a juvenile in a calming-down room should be immediately brought to the attention of a doctor in order to allow him/her to look after the health-care needs of the juvenile concerned. In addition, every such placement should be recorded in a central register as well as in the juvenile's individual file.

#### **h. information on rights**

130. Upon admission, all juveniles should be given a copy of the rules governing everyday life in the institution and a written description of their rights and obligations in a language and manner they can understand. Juveniles should also be given information on how to lodge a complaint, including the contact details of the authorities competent to receive complaints, as well as the addresses of any services which provide legal assistance.

For those juveniles who are illiterate or who cannot understand the language in the written form, the above-mentioned information should be conveyed in a manner enabling full comprehension.

---

<sup>4</sup> Note [*by the Secretariat of the CPT; in 2017*]:

In recent years, the CPT has observed an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. The Committee fully endorses this approach. Particular reference is made in this regard to Rule 45 (2) of the United Nations Standard Minimum Rules on the Treatment of Prisoners (Nelson Mandela Rules, 2015). For more details on this subject, see, for instance, the CPT's reports on the 2015 visit to France ([CPT/Inf\(2017\)7](#), paragraph 95), on the 2015 visit to Germany ([CPT/Inf\(2017\)13](#), paragraph 70) and on the 2016 visit to Latvia ([CPT/Inf\(2017\)16](#), paragraph 96).



**i. complaints and inspection procedures**

131. Effective complaints and inspection procedures are basic safeguards against ill-treatment in all places of detention, including detention centres for juveniles.

Juveniles (as well as their parents or legal representatives) should have avenues of complaint open to them within the establishments' administrative system and should be entitled to address complaints – on a confidential basis – to an independent authority. Complaints procedures should be simple, effective and child-friendly, particularly regarding the language used. Juveniles (as well as their parents or legal representatives) should be entitled to seek legal advice about complaints and to benefit from free legal assistance when the interests of justice so require.

132. The CPT also attaches particular importance to regular visits to all detention centres for juveniles by an independent body, such as a visiting committee, a judge, the children's Ombudsman or the National Preventive Mechanism (established under the Optional Protocol to the United Nations Convention against Torture – OPCAT) with authority to receive – and, if necessary, take action on – juveniles' complaints or complaints brought by their parents or legal representatives, to inspect the accommodation and facilities and to assess whether these establishments are operating in accordance with the requirements of national law and relevant international standards. Members of the inspection body should be proactive and enter into direct contact with juveniles, including by interviewing inmates in private.