



Doc. 11838

12 February 2009

Women in prison

Committee Opinion¹

Committee on Legal Affairs and Human Rights

Rapporteur: Ms Gultakin HAJIBAYLI, Azerbaijan, Group of the European People's Party

A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights congratulates the Rapporteur of the Social, Health and Family Affairs Committee, Mrs Minodora Cliveti (Romania, SOC), on her excellent report and supports, by and large, the proposed draft resolution.
2. The Committee on Legal Affairs and Human Rights nevertheless wishes to make a few amendments to further strengthen the draft resolution and take more account of the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) relating to women deprived of their liberty, as well as the CPT's working methods.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

Replace paragraph 4 by the following paragraph:

"Similarly, the Assembly considers that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Council of Europe's Commissioner for Human Rights should pay increased attention to the situation of women deprived of their liberty, in their respective visits and work."

Amendment B (to the draft resolution)

Replace the first sentence of sub-paragraph 7.1 by the following sentence:

"ensure that, whenever there is no possibility of using alternative measures to remand in custody, pre-trial conditions are as favourable as possible."

Amendment C (to the draft resolution)

In paragraph 8, after the words "as regards the", add the words "hygiene and".

1. See [Doc. 11619](#) presented by the Social, Health and Family Affairs Committee, and [Doc. 11665](#) presented by the Committee on Equal Opportunities for Women and Men.



Amendment D (to the draft resolution)

Replace sub-paragraph 8.1 by the following sub-paragraph:

“ensure that prison policies and programmes for women in the areas of hygiene and health care exist and that they are specifically tailored to their needs. In particular, hygiene and health care needs of pregnant women, breast-feeding mothers, post-natal and older women should be identified and met;”.

Amendment E (to the draft resolution)

Replace sub-paragraph 8.2 by the following sub-paragraph:

“ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise – out of the sight of prison officers. Furthermore, prisoners should be examined on an individual basis, not in groups;”.

Amendment F (to the draft resolution)

After sub-paragraph 8.2, add the following sub-paragraph:

“ensure that no means of restraint (such as handcuffs) are used during medical consultations since such practices infringe upon the dignity of the prisoners concerned and prohibit the development of a proper doctor-patient relationship (and are possibly detrimental to the establishment of an objective medical finding);”.

Amendment G (to the draft resolution)

After sub-paragraph 8.2, add the following sub-paragraph:

“ensure that pregnant prisoners are transferred, at the appropriate moment, to outside hospitals so that babies are not born in prisons. In particular, pregnant women should not be shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or during and immediately after childbirth. Other means of meeting security needs can and should be found;”.

C. Explanatory memorandum, by Mrs Gultakin Hajibayli, rapporteur

1. Like the Rapporteur of the Committee on Equal Opportunities for Women and Men, which was also seized for opinion, I can only congratulate Mrs Cliveti on her excellent report and stress again that her explanatory memorandum is so complete that there is not much to add.
2. I should like, however, to put forward a few amendments to the draft resolution to strengthen it and to ensure that it fully reflects the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),² as well as its working methods.

Amendment A

Explanatory note:

I would like to slightly amend the request made in the draft resolution asking the CPT to visit at least one prison holding women during each of its inspections.

Even in the framework of a periodic visit, the CPT must set priorities according to the information at its disposal and such information might suggest focusing on other categories of persons deprived of their liberty (such as juveniles, foreigners, detainees with life sentences, high security detainees, etc.). This is also true, to a lesser extent, for the work of the Commissioner for Human Rights.

Nevertheless, both the CPT and the Commissioner could be requested to pay increased attention to the situation of women deprived of their liberty in their respective visits and work.

2. See [The CPT standards](#) (CPT/Inf/E (2002)1 rev. 2006).

Amendment B

Explanatory note:

This amendment addresses the widespread concern that too many mothers are held in pre-trial detention (with or without their children). The proposed formulation therefore underlines that remand in custody shall only be used when there is no possibility of using alternative measures. This is in line with the recommendation of the Committee of Ministers of the Council of Europe to member states on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse ([Rec\(2006\)13, adopted by the Committee of Ministers on 27 September 2006](#)).

Amendment C

Explanatory note:

Some of the highlighted CPT standards pertaining to women deprived of their liberty concern hygiene as well as health. In that respect, the CPT considers that the specific hygiene needs of women should be addressed in an adequate manner and that failure to provide basic necessities can, in itself, amount to degrading treatment.³

Amendment D

Explanatory note:

In the original sub-paragraph, the term “minority groups” is misleading in this context. In addition, a reference to hygiene would again be appropriate.

Amendment E

Explanatory note:

As it stands, sub-paragraph 8.2, and especially the use of the words “whenever possible”, weakens the level of protection offered by the CPT. The sub-paragraph needs to be reformulated according to CPT standards, which provide that “all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and – unless the doctor concerned requests otherwise – out of the sight of prison officers. Furthermore, prisoners should be examined on an individual basis, not in groups”.⁴

As regards women prisoners, according to the CPT’s interpretation of these standards, in a case where a doctor were to request the presence of non-medical staff, it could only be female staff.

Amendment F

Explanatory note:

As regards the health needs of women prisoners, it is also worth recalling that no means of restraint (such as handcuffing) should be used during medical consultations. As clearly stated by the CPT, such practices infringe upon the dignity of the prisoners concerned and prohibit the development of a proper doctor-patient relationship (and are possibly detrimental to the establishment of an objective medical finding).⁵ This, of course, also applies to men.

Amendment G

Explanatory note:

In this context, it would also be appropriate to recall the standards concerning ante- and post-natal care. According to the CPT:

“It is axiomatic that babies should not be born in prison, and the usual practice in Council of Europe member states seems to be, at an appropriate moment, to transfer pregnant women prisoners to outside hospitals. Nevertheless, from time to time, the CPT encounters examples of pregnant women

3. See [The CPT standards](#), Chapter VII: Women deprived of their liberty, paragraph 31 (CPT/Inf/E (2002)1 rev. 2006).

4. See [The CPT standards](#), Chapter III: Health care services in prisons, paragraph 51 (CPT/Inf/E (2002)1 rev. 2006).

5. See CPT reports, in particular: www.cpt.coe.int/documents/hun/2007-24-inf-eng.htm#_Toc165257199.

being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.”⁶

Reporting committee: Social, Health and Family Affairs Committee

Committee seized for opinion: Committee on Legal Affairs and Human Rights

Reference to committee: [Doc. 10900](#) and Reference No. 3248 of 30 June 2006

Opinion approved by the committee on 29 January 2009

Secretariat of the committee: Mr Drzemczewski, Mr Schirmer, Ms Maffucci-Hugel, Ms Heurtin

6. See [The CPT standards](#), Chapter VII: Women deprived of their liberty, paragraph 27 (CPT/Inf/E (2002)1 rev. 2006).