



Resolution 2082 (2015)¹

The fate of critically ill detainees in Europe

Parliamentary Assembly

1. The Parliamentary Assembly considers that nobody should die in detention. All member States should ensure that each detainee is afforded the basic human dignity of dying outside of prison.
2. In this vein, the Assembly is concerned about legal and practical barriers to detainees' access to critical medical care and to the compassionate release of elderly or terminally ill detainees.
3. Despite international standards stating that a detainee must enjoy the same right of access to health care as any other member of society, the Assembly is concerned that the prison health-care system does not always provide for timely access to vital medical treatment, particularly for critically ill detainees.
4. Practical barriers, such as the unavailability of trained medical staff, the lack of prompt and efficient communication between prison staff and medical staff, the failure to transfer detainees to a public hospital, and the disproportionate physical restraint of detainees, create obstacles to a detainee's ability to obtain adequate medical care, especially in instances in which the detainee's condition is so severe that he or she must seek care at an off-site hospital.
5. The Assembly is also worried about reports regarding the inappropriate use of handcuffs on immobile, comatose, dying or even dead detainees, which draw attention to the alarming practices in some member States that insist on the use of means of restraint even when it is obvious that a detainee is physically incapable of escaping or harming those nearby.
6. The Assembly also expresses concern about restrictive practices for granting compassionate release. These are often based on undetermined and subjective criteria or on recommendations from medical professionals who are not independent from the prison system or the executive. Moreover, the final decision sometimes rests with a government official, without the possibility of judicial review.
7. The ageing trend in society is mirrored in the prison population. As the population of detainees grows older, the need for appropriate medical care and compassionate early release becomes critical for humanitarian reasons.
8. People in detention tend to age prematurely and are often subject to more health concerns than people living in freedom. The resulting need for geriatric-friendly facilities in detention centres should be taken into account in the construction and renovation of premises.
9. The lack of end-of-life or palliative care plans in many detention centres, or their misuse or poor implementation where they do exist, leads to situations in which detainees suffer undignified and painful deaths, often still in a cell or prison hospital and without the presence of family or friends.
10. The Assembly therefore urges the Council of Europe member States to:
 - 10.1. bring their domestic law and practice into line with international standards that guarantee the right to equal access to health care for detainees;

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 27 November 2015 (see [Doc. 13919](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Andreas Gross; and [Doc. 13924](#), opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Stefan Schennach).

See also [Recommendation 2082 \(2015\)](#).



10.2. ensure that processes exist by which seriously ill detainees can apply for temporary compassionate release in order to receive specialised medical attention, for which the approval or refusal is subject to review by an independent judicial body;

10.3. ensure that processes exist by which elderly or terminally ill detainees can apply for permanent compassionate release in order to die with dignity, for which the approval or refusal is subject to review by an independent judicial body;

10.4. ensure that the relevant authorities:

10.4.1. authorise treatment and efficiently provide transport in the event that a sick detainee requires special medical care at an outside facility, including when a woman goes into labour;

10.4.2. undertake a risk assessment to determine the necessary level of restraint, if any, when a detainee requires treatment at an outside facility, considering primarily the detainee's state of health and how it is changing;

10.4.3. expedite decision making with respect to applications for temporary or permanent compassionate release, keeping in mind the medical urgency of the situation;

10.4.4. set up geriatric, palliative and end-of-life care plans that address the specific needs of an elderly detainee population and terminally and seriously ill detainees, in order to provide the most humane and comfortable environment possible until a detainee's release.

11. In addition to the above, the Assembly invites:

11.1. Turkey to:

11.1.1. adopt a national policy stipulating that the use of restraints on detainees in medical settings must be exceptional and at all times proportionate to the security risks that the person can realistically pose;

11.1.2. entrust the responsibility for transporting detainees to outside hospitals to a body other than the gendarmerie, and take all necessary measures to safeguard the detainee's dignity prior to and during such transfers, in particular by making sure that they take place without undue or arbitrary delays and by avoiding any ill-treatment of detainees during the transfers;

11.1.3. amend its legislation on suspension of prison sentences for medical reasons in such a way as to ensure that:

11.1.3.1. decisions on granting or revoking the suspension of a prison sentence are taken by an independent authority established by law, other than the public prosecutor's office, in order to avoid any risk of conflict of interest or political bias;

11.1.3.2. a petitioner's eligibility for compassionate release is evaluated based on medical reports from doctors who are independent from the prison administration and the executive branch of government;

11.1.3.3. the eligibility criterion that the person to be released does not pose a threat to public security is not applied in a discriminatory manner, so that all prisoners who are eligible for release on medical grounds are released, while imposing whatever conditions may be needed to avoid reoffending;

11.1.3.4. national law and practice is compliant with the case law of the European Court of Human Rights on whole-life prison sentences, by providing the possibility for prisoners serving an aggravated life sentence to apply for conditional release as well as for suspension of a sentence for medical reasons;

11.2. Romania to:

11.2.1. increase the number of medical staff in places of detention, including by creating incentives for qualified medical staff to work in prison establishments;

11.2.2. significantly increase the daily food allowance for detainees and ensure that they are provided with nutritious food;

11.2.3. redouble its efforts to combat overcrowding in prisons and guarantee conditions of detention conducive to good health and recovery from illness;

11.3. Montenegro to undertake to further increase the number of medical staff in its prisons, and enhance co-operation with medical services outside the prison system, especially as concerns psychological care and treatment for mental illness.

12. Lastly, the Assembly notes that the situation of people in detention with severe disabilities raises similar concerns as those outlined above and considers that these should be explored separately.