

Resolution 2266 (2019)¹

Protecting human rights during transfers of prisoners

Parliamentary Assembly

1. Prisoners are amongst those most vulnerable to violations of their fundamental rights. The European Court of Human Rights (“the Court”) has stressed that authorities have a “duty to protect” people in custody at all times.
2. Unacceptable conditions during transfers of prisoners may amount to inhuman or degrading treatment or punishment, which is contrary to Article 3 of the European Convention on Human Rights (ETS No. 5, “the Convention”), or, in extreme cases, to enforced disappearance (as defined by Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance).
3. International standards relating to the conditions in which prisoners can properly be transported with due respect for their human dignity – including the Court’s case law, the 2006 European Prison Rules, the 2015 United Nations Standard Minimum Rules for the Treatment of Prisoners and reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) – are increasingly clear. Yet, the Court’s judgments and relevant CPT reports, as well as the work of national preventive mechanisms and non-governmental organisations, show that these standards are either insufficiently known and understood, or inadequately applied in a number of Council of Europe member States.
4. In order to guarantee that all prisoners are protected from inhuman or degrading treatment during transfers, the Parliamentary Assembly urges the Council of Europe member States to:
 - 4.1. bring their national legal frameworks and practices into line with existing international standards on transfers;
 - 4.2. avoid any substandard or discriminatory treatment of prisoners during transfers, by ensuring that:
 - 4.2.1. prisoners’ exposure to public view is as limited as possible, and their anonymity is safeguarded;
 - 4.2.2. suitable material and safety standards are respected in all means of prisoner transport;
 - 4.2.3. adequate space is provided for transport in humane conditions, in accordance with CPT recommendations;
 - 4.2.4. basic needs and comfort breaks are provided as appropriate;
 - 4.2.5. prisoner transfers are strictly limited in time and use the shortest routes available, avoiding unnecessary delays;
 - 4.2.6. adequate cells are made available in prisons for prisoners in transit, where necessary;
 - 4.2.7. all transfers are carried out on the basis of an order or decision issued by a competent authority following a thorough assessment and planning of each individual case;

1. *Text adopted* by the Standing Committee, acting on behalf of the Assembly, on 1 March 2019 (see [Doc. 14828](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Emanuel Mallia).
See also [Recommendation 2147 \(2019\)](#).



- 4.2.8. the health of prisoners is safeguarded during transfers;
- 4.2.9. certain categories of prisoners are separated from others during transport, where appropriate;
- 4.2.10. a suitable escort for prisoners is provided when necessary, including medical personnel, female staff members and/or staff trained to work with children, as appropriate;
- 4.3. ensure that any restrictions placed on prisoners during transportation are limited to what is strictly necessary and proportionate to the legitimate objective for which they are imposed, including by guaranteeing that:
 - 4.3.1. the use of force and instruments of restraint is always limited to what is strictly necessary, for the shortest possible period of time, while ensuring that individual risk assessments are performed in the case of use of restraints;
 - 4.3.2. means of restraint prohibited under Council of Europe or other international standards, such as chains, irons and electric stun body belts, or devices aimed at obstructing prisoners' vision, are never used;
- 4.4. ensure that detailed, up-to-date information is kept on the location of all prisoners during transfer and made available to third parties, as appropriate, including by ensuring that:
 - 4.4.1. advance notice and sufficient information is given to any prisoner subjected to a transfer, in a language he or she understands;
 - 4.4.2. prisoners are allowed to inform their families immediately of their transfer to another institution;
 - 4.4.3. an official, up-to-date register of prisoners is maintained and kept easily accessible to any judicial or other competent body, and that relevant information from this register is made available to families and legal counsel seeking to trace the whereabouts of prisoners;
 - 4.4.4. communication with the outside world in relation to transfers may be subject only to restrictions and monitoring that are necessary for the requirements of safety and security, and that any such restrictions nevertheless allow an acceptable minimum level of contact;
- 4.5. train all law-enforcement, prison or any other criminal justice staff, as well as any private contractors dealing with prisoner transport, to respect prisoners' dignity and human rights during transfers;
- 4.6. ensure that conditions during transfers of prisoners are subject to monitoring by national preventive mechanisms and other suitably qualified bodies, and that all prisoners have access to an effective remedy in case of alleged violations of their rights during transfers;
- 4.7. sign and ratify, if they have not yet done so, the International Convention for the Protection of All Persons from Enforced Disappearance.