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Protecting human rights during transfers of prisoners

Reply to Recommendation[1]: Recommendation 2147 (2019)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 2147 (2019) on "Protecting human rights during transfers of prisoners", which it forwarded to the European Committee on Crime Problems (CDPC) for information and possible comments.

2. The situation of detainees is given special attention by several Council of Europe bodies and institutions which ensure the protection of their rights and respect for their dignity, and work towards the definition of standards in this field. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has defined during its visits precise criteria concerning the material conditions of detention and the CDPC has drawn up and regularly updates the European Prison Rules (EPR), the first version of which was adopted by the Committee of Ministers in 1973.

3. Applications relating to conditions of detention constitute an important part of cases brought before the European Court of Human Rights and have given rise to abundant case law. In its judgments, the Court has on many occasions held that certain conditions of detention, including during the transfer of detainees, constitute an inhuman or degrading treatment within the meaning of Article 3 of the Convention.

4. The Committee of Ministers concurs with the Parliamentary Assembly that the specific issue of the transfer of detainees deserves sustained attention because of the serious human rights violations that may occur on these occasions. Consequently, in the framework of the work currently carried out to revise and update the Committee of Ministers' Recommendation Rec(2006)2 on the European Prison Rules, it is proposed to add a text to the commentary to Rule 32 (Transfer of prisoners), making specific reference to the Parliamentary Assembly Resolution 2266 (2019) on "Protecting human rights during transfers of prisoners" and to the CPT factsheet "Transport of detainees". References to these texts were also added to the commentary to Rules 52 (Safety), 68 (Instruments of restraint) and 93 (Independent monitoring). This new text provides greater practical details as to the conditions of transportation of prisoners nationally and internationally, drawing specifically attention to the minimum space, sitting/bedding, aeration, sanitary facilities, respect for dignity, safety, security and privacy of prisoners, as well as the need to extend monitoring of prisons also to situations involving transportation and transfer of prisoners. These proposals will help to clarify the scope of Rule 32.

5. The revised and updated Recommendation Rec(2006)2 on the European Prison Rules and its commentary are expected to be approved by the CDPC during its plenary meeting of December 2019 and will then be transmitted to the Committee of Ministers at the beginning of 2020.

1. Adopted at the 1350th meeting of the Ministers' Deputies (19 June 2019).