



## OSCE Human Dimension Seminar

Warsaw, 11–12 October 2017

### Working group I: Children deprived of their liberty

#### Contribution of the Council of Europe

- The Council of Europe's Committee for the Prevention of Torture (better known as the CPT) is a European treaty-based preventive body with **extensive powers**, i.e. to make unannounced visits to any place of detention (*de jure* or *de facto*), to interview detained persons in private, to speak to staff responsible for them and to look into various types of documentation, including medical records, etc.
- Children, including juveniles, are at particular risks when they are in detention. The CPT has therefore paid **extra vigilance** to this group of persons during its monitoring visits to various places of deprivation of liberty (e.g. police stations, prisons and other penal institutions, immigration detention centres, psychiatric hospitals, social care homes).
- The wide range of **expertise** within the Committee and its visiting teams is a strong element in its monitoring work with detained children. CPT delegations are composed of lawyers, doctors, psychologists and other professionals who often had experiences with children in detention or are specialists. Ensuring this balance of expertise is crucial for the CPT in its assessment of the situation of children in places of detention.
- On the basis of 28 years of **experience on the ground** in all the 47 member states of the Council of Europe, it has developed "**standards**" that have become points of reference on the European continent and beyond. These standards are complementary to international instruments. The CPT thus subscribes to the principles according to which i) the **best interests of the child** shall be the primary consideration and ii) deprivation of liberty should only be as a **last resort** and for the **shortest possible period of time**.
- Against this background, as is the case in a recently published [report](#) on 2016 visits to Greece, the CPT has been highly critical of continued **detention of migrant unaccompanied children**.
- One of the CPT's top priorities, when it comes to **juveniles in police custody**, is to establish whether they have been well treated. Unfortunately, police ill-treatment of juveniles remains a cause for concern in a number of countries visited. The Committee has indeed continued to receive allegations of police ill-treatment of juveniles during apprehension, shortly after or in the course of police interviews. It therefore calls for a maximum period of time a juvenile can stay in police custody, which should be limited - as a rule - to 24 hours. In addition, the CPT examines carefully whether additional procedural safeguards have been put in place and implemented in the day-to-day

practice of police officers, such as the mandatory notification of custody to a relative or another trusted adult person, and the mandatory presence of a lawyer and, in principle, a trusted adult during any police interview (and whenever the child is asked to make statements or sign relevant documents). The use of audio-video recording can also be instrumental in the prevention of ill-treatment during police interviews. It is also essential that juveniles are not held together with adults in police cells.

- The CPT has long advocated that all detained juveniles who are accused or convicted of a criminal offence should be held in **detention centres designed for people of this age**, offering a non-prison like environment and regimes tailored to their specific needs and staffed by professionals trained in dealing with the young. There has been some progress in recent years in ensuring that juveniles are held in separate, juvenile-only, units in prisons. However, in the CPT's experience, juveniles held in these units often run higher risks of ill-treatment (by staff or by other juveniles willing to cause them harm) and are generally not offered proper conditions of detention.
- The Committee's 24<sup>th</sup> [General Report](#) gives indications as to what could be seen as a **model centre for holding detained juveniles**. Such an establishment should indeed be juvenile-centred. In particular:
  - a. juvenile inmates should be accommodated in **well-staffed living units**, each comprising a limited number of single rooms as well as a communal area. Staff should promote a sense of community within the units;
  - b. juveniles in detention should be provided throughout the day with a **full programme of education, sport, vocational training, recreation and other purposeful activities** outside their living units. Education and vocational training offered to juveniles in detention should be similar to that in the community, provided by professional teachers and 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;
  - c. **good contact with the outside world** should be actively promoted. Indeed, juveniles in detention may have behavioural problems related to emotional deprivation or a lack of social skills. Every effort should therefore be made to ensure that all of them are afforded the possibility to have contact with their families and other persons.
- The CPT's success in bringing about **positive change** on the ground depends on various factors. One of them is the willingness and the capacity of the Committee and its international and national partners to work together. In this context, the work of national preventive mechanisms set up under the Optional Protocol to the United Nations Convention against Torture (OPCAT) and non-governmental organisations have been crucial in this regard.