

Summary of Case AJB-151/2016

On October 13-14, 2015, the National Preventive Mechanism (NPM) conducted on-the-spot inspections in the Central Holding Facility of the Metropolitan Police Headquarters of Budapest (1027 Budapest, Gyorskocsi utca 31.) and in the Holding Facility of the National Bureau of Investigation of the Emergency Response Team of the National Police Headquarters (1062 Budapest, Aradi u. 21-23.). The inspections took into consideration the conclusions formulated in the CPT's reports on its visits to Hungary.¹

The visiting delegation was granted entry to the premises of the Holding Facility in Aradi utca after having to wait for about half an hour – the institution complied with its obligation to cooperate, stipulated in Section 25, Subsection (2) of the Ombudsman Act, with a delay. The NPM requested the Commissioner of the National Police to ensure unrestricted access by the NPM's colleagues to any and all police facilities all around the country.

The stairway of the Holding Facility in Gyorskocsi utca showed signs of leaking on several locations. The rooms where staff members could stay and the kitchens were dilapidated, the linoleum on the floor was worn. The windows of the staff recreation room on the second floor face a firewall, thus natural lighting is very scarce. There is little space in the staff locker room; it is difficult to move around between opposite lockers if their doors are open. The lockers' doors are cracked and broken. The staff shower room is in a bad condition, the light fittings have no covers. Gas pipes are rusty, their painting is flaking off. In many places there are only bare lightbulbs giving light. The difficulties faced by the staff in their everyday work, the absence of proper material conditions, staying in a windowless room—also taking into account that staff members perform activities causing increased mental strain—jeopardize the enforcement of the prohibition of torture, inhuman and degrading treatment, stipulated in Article III of the Fundamental Law, and the enforcement of the right to physical and mental health, stipulated in Article XX of the Fundamental Law. The cells are small, per capita living space is less than three square meters. There are grease stains on the walls and the linoleum is peeling off the floor in many places. There are no separate toilet and shower rooms in the cells, detainees use a common bathroom. Due to the absence of statutory living space, the poor conditions in the cells, the scarce natural lighting, the dangerous equipment, the dilapidated condition of the restrooms and the unusability of the courtyard, the Holding Facility—in its current condition—is unsuitable for prolonged human habitation. The NPM has requested the Ministry of Interior to immediately take care of the full renovation of the Holding Facility and the courtyard in particular, thus making them suitable for human habitation, and the transformation of the Holding Facility in a way that would ensure the statutory living space for each and every detainee.

In the Holding Facility in Aradi utca there are tables fixed to the floor, which is dangerous and impedes free movement. Cells receive little natural light and in many places the lightbulbs are missing from the lamps. There are no separate toilet and shower rooms in the cells. The air in the common bathroom is damp, the walls and the equipment are moldy. From the detainees' standpoint, the conditions in the cells, the dangerous equipment, the lack of natural light, the bad artificial lighting and the dilapidated condition of the restrooms jeopardize the enforcement of the prohibition of torture, inhuman and

¹ The CPT visited the holding facilities in both Gyorskocsi utca and Aradi utca in 1994, the Central Holding Facility in 1999, 2003, 2005 and 2009, and it visited both facilities again in 2013.

degrading treatment, stipulated in Article III of the Fundamental Law, and the enforcement of the right to physical and mental health, stipulated in Article XX of the Fundamental Law. The office and recreational rooms (e.g., the kitchen) for the staff do not receive enough natural light, either, artificial lighting has to be used even during daytime. The poor conditions for human habitation and work create an anomaly related to the staff's right to human dignity, stipulated in Article II of the Fundamental Law. The difficulties faced by the staff in their everyday work, the material conditions—also taking into account that staff members perform activities causing increased mental strain—jeopardize the enforcement of the prohibition of torture, inhuman and degrading treatment, stipulated in Article III of the Fundamental Law, and the enforcement of the right to physical and mental health, stipulated in Article XX of the Fundamental Law.

In the case of both Holding Facilities, medications were provided through taking the detainee home or to an outside hospital. The NPM has requested the Ministry of Interior and the heads of both Holding Facilities to make it possible that the physician treating detainees could prescribe the medications required by the detainees' state of health.

The requirement of independent medical examination within the frameworks of medical care was not met in either institution. The NPM requested the Ministry of Interior and the heads of both Holding Facilities to ensure that the policemen present at the medical examinations were out of earshot, and to try and provide the detainees with the possibility to opt for being examined by a physician at their own cost.

At both Holding Facilities, the medical reports containing the results of the medical examinations are kept and handled together with the detainees' other documents, thus making them accessible to all the members of the staff. According to Clause 50 of the CPT's 3rd General Report, medical secrecy should be observed in prisons in the same way as in the community. The patients' files shall be kept and guarded by the attending physician. The failure to keep the detainees' medical data separated from their other documents, and making them accessible to the staff are in violation of the law and constitute an impropriety related to the rights to the protection of personal data, stipulated in Article VI, Paragraph (2) of the Fundamental Law. In order to remedy the impropriety related to the right to the protection of personal data, the National Preventive Mechanism submitted a petition to the National Authority for Data Protection and Freedom of Information.

Detention conditions are being monitored by the National Preventive Mechanism since the first moment of the deprivation of personal liberty. According to the detainees, there is no legal representative present while being detained, and the detainee's relatives are not notified in due time, either. In the absence of relevant legal regulation, the presence of a legal representative and the notification of the relatives cannot be ensured in the case of persons detained by the police who are not subjects to criminal proceedings yet. In order to remedy this anomaly, the NPM has initiated the amendment of the relevant legal regulations.