



## Resolution 2528 (2024)<sup>1</sup>

Provisional version

# Allegations of systemic torture and inhuman or degrading treatment or punishment in places of detention in Europe

Parliamentary Assembly

1. The Parliamentary Assembly notes that the absolute prohibition of torture and other forms of ill-treatment has been codified in numerous universal, regional and national legal instruments, including constitutional norms. The prohibition is also recognised as part of customary international law, and as far as torture is concerned, as having attained *jus cogens* status. It is a norm from which no derogation is permitted, under any circumstances, including in time of war or other public emergency, or in the most difficult circumstances, such as the fight against terrorism. Moreover, it should be recalled that torture may also give rise to individual criminal responsibility for crimes against humanity, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

2. As recalled in the Reykjavík Declaration “United around our values” adopted by the Heads of State and Government at the 4th Council of Europe Summit (Reykjavík, 16-17 May 2023), the Council of Europe must ensure that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is upheld. Article 3 of the European Convention on Human Rights (ETS No. 5, “the Convention”), which contains an absolute prohibition of torture, inhuman or degrading treatment or punishment, enshrines one of the most fundamental values of democratic societies, according to the case law of the European Court of Human Rights (the “Court”). It is a value of civilisation closely bound up with respect for human dignity, which forms part of the very essence of the Convention. Persons in detention are in a vulnerable position and States are under a duty to protect their physical well-being and to account for any injuries suffered.

3. Recalling its [Resolution 2160 \(2017\)](#) “25 years of the CPT: achievements and areas for improvement”, the Assembly congratulates the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for its outstanding work which has led to significant improvements in the States Parties. While it is the duty of the States Parties to implement the recommendations of the CPT, the latter deserves the strongest political support from other bodies, including the Assembly itself and the Committee of Ministers. The Assembly will therefore continue to strengthen its dialogue with the CPT and reinforce its political support, by reacting appropriately to the CPT’s public statements and paying greater attention to its reports and recommendations.

4. The Assembly notes however that torture and ill-treatment continue today to be present in places of detention throughout the world, including in Council of Europe member States and State Parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126, “the CPT Convention”). There is a clear gap between the absolute prohibition of this egregious practice and the reality on the ground. The culture of impunity with regard to torture and ill-treatment allows State actors to repeatedly fall short of their international obligations. The Committee of Ministers, when supervising the execution of judgments of the Court, has regarded some cases concerning violations of Article 3 of the Convention against certain member States as raising long-standing structural problems and is therefore examining them under the so-called “enhanced supervision” procedure. In the past two years

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1. *Assembly debate* on 24 January 2024 (4th sitting) (see [Doc. 15880](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Constantinos Efstathiou). *Text adopted by the Assembly* on 24 January 2024 (4th sitting).



(2021-2022), the cases concerning ill-treatment by State agents and/or failure to investigate such allegations represented 12 % of all leading cases in this procedure, making it the biggest category of cases coming under such type of supervision.

5. The CPT, in the exercise of its mandate, continues to encounter cases of police ill-treatment in a number of States Parties, under various circumstances and involving different law enforcement agencies. It also continues to receive credible allegations of deliberate physical ill-treatment by prison staff in penitentiary establishments, often applied with a punitive purpose. In some cases, the alleged ill-treatment could be qualified as torture. The CPT has sometimes referred in its reports to the systemic or widespread nature of the problem, or to the existence of a pattern, with regard to certain States. This is particularly worrying and indicates that these States do not properly implement the CPT recommendations, repeatedly violate Article 3 of the Convention and do not take the appropriate general measures aimed at eliminating the underlying causes of the problem. Although many States have incorporated the Convention and the CPT standards in their legislation, the practical implementation of these safeguards remains problematic.

6. The Assembly is alarmed about credible reports suggesting that torture and other forms of ill-treatment tend to be systemic and/or widespread in States such as the Russian Federation, Azerbaijan and Türkiye.

6.1. With regard to the Russian Federation, the Assembly commends the work of the human rights organisation Gulagu.net which has published hundreds of videos and photos of torture and ill-treatment in Russian prisons, often leaked by former prisoners and prisoner employees, some of whom had to flee the Russian Federation for fear of persecution. It is particularly struck by the number and gravity of incidents of rape and other forms of ill-treatment of male inmates at a prison hospital in Saratov, a case which illustrates how videos of torture and rape were used by the federal penitentiary officers to blackmail prisoners or force them to become informal prison agents and even torture other prisoners themselves, a phenomenon known as “torture conveyors”. These revelations led to dismissals and criminal proceedings against some of the officials managing the relevant institutions, and the recognition by the authorities of the need for systemic measures to change the situation. It is also impossible to ignore the torture and inhuman treatment of Ukrainian civil and political prisoners and prisoners of war in Russian prisons and in other places of detention on the temporarily occupied Ukrainian territories.

6.2. The Assembly is also deeply concerned about reports concerning Azerbaijan. In particular, it has been reported that in the context of the “Terter cases” (torture of a group of military personnel and civilians by the Azerbaijani military), many of those detained in 2017 were subjected to torture and inhuman treatment, with 10 confirmed deaths as a result of that torture. Detainees were tortured with the purpose of extracting confessions of treason. The Assembly is appalled by the horrendous methods of torture reported: electric shocks, pulling out nails, waterboarding, blindfolding, removal of genitals, rape, threats of rape of family members, among others. While some of those detained and originally convicted have now been acquitted and released, others remain in prison. It has also been reported that no high-ranking officials have been held to account for the use of torture in these cases. Separate to the “Terter cases”, some reports indicate that torture and other forms of ill-treatment have been used against members of the political opposition, journalists and human rights defenders.

6.3. With regard to Türkiye, the Assembly is also concerned about reports indicating that despite the “zero tolerance” message given by the authorities, there has been a rise in the use of torture and ill-treatment in police custody and prison over the past years, overshadowing Türkiye’s earlier progress in this area. The Assembly welcomes recent decisions delivered by the Constitutional Court finding violations of the prohibition of ill-treatment and ordering new investigations into complaints and encourages other domestic courts to follow this case law.

7. The Assembly strongly condemns the systemic or widespread use of torture and other forms of ill-treatment in certain Council of Europe member States and the Russian Federation. It considers that this practice not only violates the absolute prohibition of Article 3 of the Convention but also undermines the rule of law, democracy and the fundamental values which the Council of Europe stands for. The Assembly is convinced that strengthened action is needed to prevent and eradicate torture and ill-treatment in places of detention in Europe in general, and to make it a torture-free zone. The culture of “zero tolerance” towards torture and ill-treatment needs to have specific content and must not be just a declaration of intent.

8. The Assembly therefore calls on member States and States Parties to the CPT Convention to:

8.1. review their national legislation to ensure that torture and other forms of ill-treatment are included as self-standing offences, in accordance with the definition provided for in international treaties and the case law of the Court, with proportionate and dissuasive sanctions;

- 8.2. abolish limitation periods for the crime of torture and other crimes of ill-treatment committed by law enforcement and other public officials;
- 8.3. guarantee access without barriers to fundamental procedural safeguards from the very outset of the deprivation of liberty, including the right of access to an independent lawyer, the right to have one's detention notified to a relative or another third person of one's choice, and the right to be examined by an independent doctor;
- 8.4. ensure appropriate record-keeping of the detention and police interviews and video-taping of all police interviews and interrogations. Video cameras should be introduced in interrogation rooms, detention facilities, police vehicles and as body worn video cameras. Uniformed police officers should always wear a clearly distinctive insignia and an identification number;
- 8.5. regulate the maximum duration and modalities of police interviews, through legislation, regulations or guidelines;
- 8.6. consider drawing inspiration from the model of investigative interviewing based on the principle "from the evidence to the suspect" rather than "from the suspect to the evidence";
- 8.7. ensure that evidence obtained through torture or ill-treatment is inadmissible in criminal proceedings;
- 8.8. put in place rigorous recruitment processes of law enforcement officials and prison staff based on strict selection criteria, provide adequate remuneration, initial and continuous training on human rights standards and prevention of torture and ill-treatment, and elaborate clear codes of conduct;
- 8.9. increase and reinforce prison staff in order to prevent reliance on "duty prisoners" or informal power structures among inmates;
- 8.10. set up reporting procedures and measures to encourage and protect whistle-blowers for cases of ill-treatment by the police or in the prison context;
- 8.11. ensure that independent prosecuting and judicial authorities thoroughly examine and investigate all arguable complaints of ill-treatment against law enforcement officials and prison staff and, where appropriate, impose adequate penalties on perpetrators, in line with the relevant procedural obligations imposed by Article 3 of the Convention, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights;
- 8.12. take all appropriate measures to establish accessible and effective remedies or mechanisms which ensure that victims of torture and ill-treatment receive prompt and adequate reparation. This may include measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- 8.13. transmit at the highest political level, but also at the management level of law enforcement agencies and penitentiary establishments, a "zero tolerance" message towards torture and ill-treatment;
- 8.14. ratify, if they have not yet done so, the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) and set up independent and effective national preventive mechanisms, with unconditional access to all places of deprivation of liberty and sufficient resources;
- 8.15. co-operate fully with international bodies which monitor compliance with the prohibition of torture and ill-treatment, such as the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and other relevant treaty bodies;
- 8.16. speedily implement the CPT recommendations concerning their country and execute, as a matter of urgency, the judgments of the Court finding violations of Article 3 of the Convention in relation to torture and inhuman or degrading treatment inflicted in places of detention, by taking the appropriate individual and general measures under the supervision of the Committee of Ministers;
- 8.17. give careful consideration to requests for asylum from whistle-blowers and human rights defenders who revealed or denounced the use of torture and ill-treatment in their countries and had to flee abroad in order to avoid persecution;
- 8.18. co-operate with the Council of Europe Development Bank to contribute to the implementation of and possible financial support for prison infrastructure reform projects in member States that are aimed at preventing inhuman or degrading treatment inflicted in places of detention and fulfilling relevant CPT recommendations.

9. The Assembly urges States which have been found to practice severe physical ill-treatment including torture in places of detention on a systemic or widespread scale, in particular the Russian Federation, Azerbaijan and Türkiye, to address the root causes of the problem, to introduce systemic changes aimed at eliminating abusive and unlawful practices, and to ensure accountability, including in terms of criminal and civil liability, of individual perpetrators, high-ranking officials, and State bodies, for practising or tolerating torture and ill-treatment. In particular, it urges:

9.1. the Russian Federation to ensure that all perpetrators, high-ranking officials and State bodies responsible for the use of torture in prisons, particularly the phenomenon known as “torture conveyors”, are held to account, and that all victims receive adequate reparation;

9.2. Azerbaijan to ensure that all perpetrators, high-ranking officials and State bodies responsible for the use of torture in the so-called “Terter cases” are held to account, and that all victims are compensated and rehabilitated, including through the quashing of convictions based on confessions obtained through torture and through their release.

10. With regard to the CPT, the Assembly calls on States Parties to the CPT Convention to:

10.1. agree in advance to the automatic publication of all CPT visit reports, as many States have done already; authorise the publication of past CPT visit reports, if they have not yet done so. This applies in particular to Azerbaijan, Türkiye and the Russian Federation;

10.2. co-operate fully with the CPT in the organisation of upcoming visits and ensure the follow-up of CPT recommendations, including through the active engagement of national parliaments, in accordance with [Resolution 2160 \(2017\)](#).

11. The Assembly invites the CPT and the Court to indicate more explicitly in their reports and judgments whenever practices of torture and ill-treatment are found to be of a systemic or structural nature in the country concerned. There should be a more timely and co-ordinated action between all Council of Europe bodies, including the Court, the CPT, the Commissioner for Human Rights and the Assembly, to address emerging problems of systemic torture in particular countries, with a view to providing early warning and assistance. In this context, the Assembly invites its Committee on Legal Affairs and Human Rights to hold exchanges of views with national delegations of countries which have been found to have systemic or structural problems related to torture or ill-treatment, on the basis of CPT reports and Court judgments.