

11. Detainees in high security settings

11.1. Considerations before your visit to detainees in high security settings

High security settings for detainees who are deemed to be particularly dangerous, involved in further crime while in prison, or posing a high risk of escape can be found either in **specific units of ordinary closed prisons, or in the form of special high security prisons**. They are characterised by a stricter regime including restrictions of contact with the outside world, enhanced perimeter security and additional security measures, such as frequent searches or CCTV monitoring of cells, and regular use of solitary confinement. At times, the material conditions in high security facilities or units are comparatively poorer than the conditions in other ordinary prisons. Usually, detainees in high security settings are not there voluntarily, and perceive their placement as an additional punishment.

Furthermore, in many countries, various security regimes are in place to manage pre-trial detainees, with the specific regime determined by a combination of factors including the severity of the charges, assessed risk levels, and the policies of the detention facility.

11.2. Safeguards



Relevant international laws and standards:

- ▶ [Article 3 ECHR](#) (cf. *Ramirez Sanchez v. France*, Appl. No. 59450/00, the Court's Grand Chamber judgment of 4 July 2006, paras. 138-139)
- ▶ [Rule 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Mandela Rules\)](#)
- ▶ [Rules 18.10, 53.2-53.9 and 53.A of the revised European Prison Rules 2020](#)
- ▶ [CPT Standards "Remand detention", "Solitary confinement of prisoners", "Developments concerning CPT standards in respect of imprisonment"](#)

It must be acknowledged that for a small number of detainees, placement in a high security facility is the only option for ensuring the safety and security of the prison system, and in particular the personal safety of other detainees and staff. At the same time, such placements **are inevitably connected with further restrictions of rights** that go beyond the restrictions of ordinary detention.

Prison monitors should therefore pay increased attention to the **placement procedures** and **safeguards** against arbitrariness or punitive use of placement in detention in a high security facility, as well as to keeping the **restrictions** that come with such a regime to the necessary minimum; in particular, situations of **solitary confinement** need to be thoroughly scrutinised, given the potentially very harmful effects of prolonged isolation. Both the Court and the CPT have held that substantive reasons must be given when a protracted period of solitary confinement is extended. The decision should thus make it possible to establish that the authorities have carried out a reassessment that takes into account any changes in the prisoner's circumstances, situation or behaviour. The statement of reasons will need to be increasingly detailed and compelling the more time goes by.

In some countries, prison authorities have a limited role in placement of pre-trial detainees in a high security facility/unit, that being decided by the judicial authorities. Correspondingly, monitors will have limited possibilities to assess the individual decisions of placement of pre-trial detainees in a high security facility. Nevertheless, the monitors can, in this case, identify the "profile" of such pre-trial detainees and if the judicial authorities rely on individual assessment or, in a more automatic way, on "crime committed/accusation". If shortcomings such as indiscriminate or excessive placement of pre-trial detainees in such settings or lack of proper justifications are detected by the monitoring body, avenues of dialogue with the legislative and judiciary powers should be sought to discuss the matter.

Questions to ask and ways to find out



How many persons in total are held in detention in high security settings? How long are they held on average, and what is the shortest and longest stay in detention in high security? What are the trends?

- ▶ Collect statistical data on the total number of detainees in high security settings and establish the reasons for such placement (e.g. pre-trial detainees based on the crime they are accused of, particular dangerousness etc.)
- ▶ Establish the numbers of high security detainees for each facility that can hold this category of detainees.
- ▶ Establish the average length of stay in detention in high security settings, as well as the shortest and the longest periods detainees have spent in high security.
- ▶ Compare data over time to establish trends and forecasts.



Who has taken the decision to put detainees in high security settings and on which basis? Was the procedure done in accordance with the law?

- ▶ Determine the number of decisions that were taken in a specific period of time by the prison authorities, and the number of court-ordered placements in (pre-trial) detention in high security facilities/units.
- ▶ Examine individual files to find out if an individual risk assessment has been conducted by the prison authorities, and if applicable and feasible, by the judicial authorities, for pre-trial detainees placed in high security settings.
- ▶ Examine individual files of detainees who were placed in high security settings with a view to establishing whether the decision-taking process was conducted in line with legal procedures and international standards (e.g. whether an interdisciplinary team with knowledge of the detainee has assessed the case, whether the detainee in question was heard etc.).



Are safeguards in place against arbitrary or punitive decisions?

- ▶ Speak with detainees in high security settings whether they are informed of their rights, such as the right to lodge an appeal against placement decisions, and whether they have availed themselves of these rights.
- ▶ Find out with detainees how far they are involved in reviews of their placement.
- ▶ Check individual files whether the relevant authorities regularly review placement decisions, and whether any extension is individually argued with detailed and compelling reasons for the extension.

11.3. Restrictions on regime or contact with the outside world

“Member States should allow detainees to spend a reasonable amount of time outside their cells to engage in work, education, and recreational activities as are necessary for an appropriate level of human and social interaction. To prevent a violation of the prohibition of torture and inhuman or degrading treatment or punishment, Member States should ensure that any exceptions to this rule in the context of special security regimes and measures, including solitary confinement, are necessary and proportionate.

Member States should ensure that, where detainees are exceptionally prohibited from communicating with the outside world, such a restrictive measure is strictly necessary and proportionate and is not applied for a prolonged period of time.”

Paragraphs 46 and 57 of the Commission Recommendation



Relevant international laws and standards:

- ▶ Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)
- ▶ Rules 24.2, 51.1 and 53.A of the revised European Prison Rules 2020
- ▶ CPT Standards “Remand detention”, “Solitary confinement of prisoners”, “Developments concerning CPT standards in respect of imprisonment”

Detainees who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and detainees. This is in the interests not only of the humane treatment of the unit’s occupants but also of the maintenance of effective control and security and of staff safety.

The existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit than on normal location. It can do much to counter the deleterious effects upon a detainee’s personality of living in the bubble-like atmosphere of such a unit.

Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.

Questions to ask and ways to find out



Preliminary assessment:

Are the national laws and policies in line with paragraphs 46 and 57 of European Commission Recommendation?



Are conditions of detention comparable with the conditions for ordinary detainees?

- ▶ Visit cells, courtyards and other common areas of high security units and prisons with a view to establishing whether they offer conditions comparable with ordinary detention units or facilities.



Are further restrictions of the regime, contact with the outside world etc. and additional security measures in the diverse high security settings and of individual detainees in accordance with the law?

- ▶ Compare general restrictions on the regime, detainees’ contact with the outside world, contact among detainees, etc. as well as additional security measures (handcuffing when outside the cell, regular searches etc.) applied in diverse high security settings, with a view to their uniformity and legality, including their compatibility with international human rights norms and standards.
- ▶ Discuss with the prison management whether additional restrictions and/or security measures are applied vis-à-vis individual high security detainees.
- ▶ Examine the individual files of these persons with a view to establishing that an individual risk assessment has been carried out that forms the basis for additional restrictions and/or security measures.

11.4. Solitary confinement

"[...] To prevent a violation of the prohibition of torture and inhuman or degrading treatment or punishment, Member States should ensure that any exceptions [...] in the context of special security regimes and measures, including solitary confinement, are necessary and proportionate."

Paragraph 46 of the Commission Recommendation



Relevant international laws and standards:

- ▶ Rules 43 and 45 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)
- ▶ Rule 60.6 of the revised European Prison Rules 2020
- ▶ CPT Standards "Remand detention", "Solitary confinement of prisoners", "Developments concerning CPT standards in respect of imprisonment"

(See also above, at Chapter 5.11).

Questions to ask and ways to find out



Preliminary assessment:

Are the national laws and policies in line with [paragraph 46](#) of European Commission Recommendation?



How many detainees in high security settings are held in solitary confinement, and for which periods of time?

- ▶ Get from the management an overview of all cases of solitary confinement in a specific period of time, and/or check the relevant registers.
- ▶ Prepare statistics on the frequency and length of solitary confinement that have been applied.
- ▶ Verify whether all cases have been properly documented and reported to the relevant authorities.
- ▶ Identify detainees who are currently or who were (recently) in solitary confinement and who are still in the facility, with a view to conducting an interview with them.

Have the cases of solitary confinement in individual cases been necessary and proportionate? Are decisions to isolate a pre-trial detainee regularly reviewed? Have detainees who are put in solitary confinement been heard? Is a right to appeal such a decision possible?

- ▶ Interview detainees who are currently isolated and inquire whether they are aware of their rights (e.g. to be heard, to appeal etc.), and whether they have availed themselves of these rights.
- ▶ Examine individual files, registers and reports, and determine whether the relevant procedures have been followed. Establish whether regular reviews of the decision are conducted.
- ▶ Apply the criteria of proportionality, lawfulness, accountability, necessity, non-discrimination to determine whether the use of solitary confinement was legitimate.



Are a regime of activities and additional measures in place to alleviate the negative effects of prolonged solitary confinement of detainees?

- ▶ *Speak with staff responsible for the regime, psychologists and other staff members about the measures they take to offer meaningful activities to and maintain regular human contact with detainees in solitary confinement.*
- ▶ *Discuss with the management and staff whether they have made efforts to identify selected detainees with whom persons who are in solitary confinement could safely associate.*

11.5. Measures for reintegration



Relevant international laws and standards:

- ▶ CPT standards, “Solitary confinement of prisoners”, “Developments concerning CPT standards in respect of imprisonment”

It is in the interest of the penitentiary system to keep only a very limited number of detainees in high security facilities, and the aim should be to enable persons in high security to be re-integrated into the mainstream prison population as soon as possible.

Questions to ask and ways to find out



Are measures in place to facilitate the re-integration of high security detainees into the mainstream prison population?

- ▶ *Check individual files of high security detainees whether they contain any measures for re-integration into the ordinary prison regime.*
- ▶ *Speak with detainees in high security settings if they are aware of the conditions they have to fulfil in order to be re-integrated into the ordinary prison regime.*
- ▶ *Speak with staff responsible for the regime and other civilian staff about measures and interventions on offer to help high security detainees overcome obstacles that keep them from re-integration.*