

## OSCE/ODIHR

### HUMAN DIMENSION IMPLEMENTATION MEETING

11-22 September 2017

Warsaw, Poland

### WORKING SESSION 12

#### *Introduction by Mykola GNATOVSKYY*

President of the European Committee for the Prevention of Torture (CPT)

#### Preventing torture in Europe

#### General remarks

- The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is a **treaty-based human rights monitoring body**.
- Its **task** is to examine the situation of people deprived of liberty by a public authority in various places of detention (e.g. police stations, prisons, holding facilities for migrants, psychiatric hospitals, social care homes, military detention facilities, etc.). It does so by means of **periodic visits** to all states parties to the Convention establishing the Committee or so-called **ad hoc visits**, when such visits are required by the circumstances. For instance, the CPT carried out *ad hoc* visits to hotspots in Greece and in Italy, to Belgium during strikes by prison staff, and to Turkey following the failed coup.

#### Visits

- Under the Convention, the CPT visits states in **all 47 member States of the Council of Europe**. In addition, under special agreements<sup>1</sup> it also carries out visits to **Kosovo**<sup>2</sup>.

---

<sup>1</sup> Special agreement between the Council of Europe and the United Nations Interim Administration Mission in Kosovo (UNMIK), which was concluded in 2004, and an exchange of letters with the North Atlantic Treaty Organisation (NATO) in 2006

<sup>2</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

- Each year the CPT carries out some 18 visits, **totalling some 170 visit days**. This means that almost every second day a CPT delegation is in the field, carrying out a visit.
- Relations between the CPT and authorities of the States parties are based on the principle of co-operation. Parties are under a legal obligation to provide it with all the necessary facilities to enable it to carry out its task, in particular **access to their territory** and the **right to travel without restriction, unlimited access to any place where people may be deprived of their liberty** and the prerogative of **interviewing detained people in private**. The principle of co-operation also includes Government action **to implement the Committee's recommendations**.
- The CPT's work is also based on **confidentiality**. Visit reports and responses are made public at the request of the party concerned only. If the party concerned fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the CPT may exceptionally make a public statement in accordance with Article 10, paragraph 2, of the Convention. The Committee only made eight public statements in its 28 years of existence: two concerning Turkey, three concerning the Russian Federation (Chechen Republic), one on Greece, one on Bulgaria and, most recently in July, one on Belgium. Such public statements may trigger action in other international organisations or in other countries. For instance, on the basis of the public statement on Belgium this summer, a Dutch court decided to allow the handover of criminal suspects to Belgium only after specific assurances had been obtained regarding their conditions of detention.

## **Publications**

- Overall, **about 90% of all reports and responses are published**.
  - In most cases, states publish the reports once they receive them, or once their response has been prepared.
  - Eight states<sup>3</sup> have gone even further and have agreed to publish in future all CPT reports ("automatic publication procedure").
  - On the other side, three states<sup>4</sup> have several recent reports unpublished (at least three reports, in some cases significantly more.)
- The **publication** of CPT reports is not only indicative of a healthy and constructive dialogue with the Committee, but it also provides an opportunity to open a wider debate on the issues raised in them and to highlight progress made by the authorities in the implementation of key recommendations.

---

<sup>3</sup> Austria, Bulgaria, Finland, Luxembourg, Moldova, Monaco, Sweden, Ukraine

<sup>4</sup> Azerbaijan, Russian Federation, Turkey

- The CPT has also published its **standards** on many issues (e.g. police, prisons, immigration detention, psychiatric establishments and social care homes). They are available in some 20 languages on our website ([www.cpt.coe.int](http://www.cpt.coe.int))

### Some current challenges

- **Combating terrorism** does not signify allowing torture. Quite the opposite: Using torture is not only prohibited under international law, but also ineffective and plays into the hands of persons who might be inclined to carry out terrorist acts.
- **Prison overcrowding** affects most countries visited by the CPT. All too often, the CPT has found prisoners in dilapidated and overcrowded cells, suffering more lack of activities, appropriate medical care and subjected to undue restrictions, in particular as regards contact with the outside world. In several countries, the CPT even found that prisoners did not have a bed, obliging them to share a bed or sleep in shifts. The first victims of prison overcrowding are often remand prisoners. That is one of the reasons why the CPT focussed on this category of prisoner in its general report this year.
- Over the last years, the CPT has increasingly paid particular attention to the **detention of irregular migrants**. As part of the general effort to make the CPT's standards more accessible, the Secretariat has recently prepared and published a factsheet on immigration detention. The CPT also follows closely the work of the Council of Europe drafting group on the administrative detention of migrants (CJ-DAM), which is preparing draft European rules on immigration detention.

### The CPT and its position in Europe and the world

- **Frozen conflict areas** have often led to the emergence of self-proclaimed independent republics or other territories which have no or little international recognition. These areas have posed legal and practical challenges for the CPT as the parties concerned have no effective control of these territories. In order to be able to visit these regions, the party concerned should facilitate the work of the CPT by allowing a proper dialogue between the Committee and the de facto authorities to develop before, during and after the visit. As far as the de facto authorities are concerned, they should accept that the Committee will operate according to its powers. In order for these legal and practical obstacles to be overcome, the CPT often had to rely on some support from other international partners, in particular OSCE or United Nations field missions.
  - **Transnistria** (Republic of Moldova): The Committee has visited the region four times since 2000. However, the latest visit in 2010 had to be interrupted mainly due to a change of attitude of the de facto authorities. Tiraspol no longer agreed that CPT delegations carry out interviews with remand prisoners in private. There have been a number of contacts with the

Moldovan authorities and the de facto authorities since then in order to resume CPT visits to this territory.

- **Abkhazia** (Georgia), which was visited by the CPT in 2009. The Committee has since not been able to return to Abkhazia.
- There have been serious attempts from the Committee to visit other similar areas (e.g. Northern Cyprus, South Ossetia). However, they have so far proved to be unsuccessful.
- the **Crimean peninsula** (Ukraine): the situation of Crimea and Sevastopol is one of the most challenging for the CPT, for reasons I do not need to spell out in an OSCE forum. The CPT last visited Crimea in October 2013 during a periodic visit to Ukraine. It made a number of recommendations in its visit report adopted in March 2014. It has been unable to monitor their implementation since then. **The Committee is strongly committed to doing so.** In this case and indeed for all the frozen conflict zones in Europe **the CPT believes that with good faith cooperation from all the parties concerned pragmatic solutions should and can be found to make this happen in the overriding interest of human rights protection and, in particular, the prevention of torture.**
- The CPT has always believed that **there should be no human rights vacuum anywhere in the European continent** and that it is in the interests of everyone that the Committee exercise – and be seen to exercise – its preventive mandate in every part of Europe.
- **To conclude, let me make a brief comment on the role of the CPT in the global torture prevention architecture.** The CPT very much values its co-operation with effective **national preventive mechanisms (NPMs)**, or similar bodies established at national level, and with the **United Nations Subcommittee on prevention of torture (SPT)**. I went to Geneva last November to **take part in a celebration of** the 10th anniversary of the entry into force of the Optional Protocol to the United Nations Convention against Torture (OPCAT). I underlined that the triangular relations between the SPT, the CPT and NPMs, in order to bring about concrete results, should be based on the principles of complementarity and subsidiarity. This requires that NPMs are able to work effectively **and independently**, following the SPT's guidance, **so that synergy with the CPT can be boosted and the overall effectiveness of our collective efforts be increased.**