

OSCE 2010 Review Conference

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Working Session 5: Rule of Law

Contribution of the Council of Europe

THE WORK OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

As mentioned above, the Council of Europe's efforts to protect persons deprived of their liberty against torture and other forms of ill-treatment have laid increasing emphasis on mechanisms for preventing violations rather than denouncing those which may have occurred. This was the idea behind the drafting of the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Convention foresaw the establishment of a proactive non-judicial mechanism based on visits to places of deprivation of liberty. Such a mechanism would operate alongside the already existing reactive judicial mechanism of the European Court of Human Rights.

The Convention was opened for signature by the member States of the Council of Europe on 26 November 1987 and entered into force on 1 February 1989. The Convention has been ratified by all the 47 member States of the Council of Europe¹. Further, since 1 March 2002², the Committee of Ministers of the Council of Europe may invite any non-member State to accede to the Convention.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), set up under the Convention, met for the first time in November 1989. It is composed of one member in respect of each Party to the Convention, elected by the Committee of Ministers and serving in his or her individual capacity. The CPT's members are independent and impartial experts from a variety of backgrounds: they are for example lawyers, medical doctors, psychiatrists and specialists in prison or police matters.

¹ Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

² Following the entry into force of Protocol No. 1 to the Convention.

The CPT's task is to examine the treatment of persons deprived of their liberty by a public authority (e.g. prisons and juvenile detention centres, police stations, immigration holding centres and psychiatric hospitals) in order to strengthen, if necessary, their protection from torture and inhuman or degrading treatment and punishment. However, the CPT is not empowered to deal with individual applications, as these are the responsibility of the European Court of Human Rights.

The CPT carries out two types of visit: a rolling programme of periodic visits to each State Party – roughly every four years - and ad hoc visits which are those that appear to the Committee "to be required in the circumstances". To date the CPT has made 173 periodic and 118 ad hoc visits. Visits vary in length from a few days to more than two weeks. Visiting delegations are usually made up of four to five CPT members accompanied by one or two specialists (medical, legal, prison, police, etc.), members of the Committee's Secretariat and interpreters. However, the member elected in respect of the country being visited does not join the delegation. Information on the most recent visits carried out by the Committee can be found on the CPT's website.

Under the Convention, CPT delegations have unlimited access to places of deprivation of liberty and complete freedom of movement within them. They may interview detainees in private and have free access to anyone who can provide relevant information. The delegation's findings are subsequently set out in a report, which is adopted by the Committee during one of its three plenary sessions. The report includes concrete recommendations for improvements and forms the basis for an ongoing dialogue with the State concerned.

The CPT's work is guided by two fundamental principles – co-operation and confidentiality. In this respect, it should be emphasised that the role of the Committee is not to condemn States, but rather to assist them to prevent the ill-treatment of persons deprived of their liberty. The Committee meets *in camera* and its visit reports are, in principle, confidential. However, almost all States have chosen to waive the rule of confidentiality and publish the reports as well as the Government responses. At the time of writing, 220 visit reports drawn up by the CPT have been published; many of the remaining reports have only recently been forwarded to Governments and will in all likelihood be published in due course. The Committee's visit reports can be consulted on the CPT's website (<http://www.cpt.coe.int>).

It should also be added that, in exceptional circumstances, if a country refuses to co-operate or fails to improve the situation in the light of the Committee's recommendations, the CPT may decide to make a public statement³.

The CPT submits an annual report on its activities to the Committee of Ministers. The reports represent an opportunity to describe the standards developed by the Committee in relation to issues falling within its mandate, as well as an occasion to comment on other matters of relevance:

- police custody ⁴

³ So far, the CPT has made five public statements: twice in respect of Turkey (in 1992 and 1996) and three times concerning the Chechen Republic of the Russian Federation (in 2001, 2003 and 2007).

⁴ cf. 2nd General Report (CPT/Inf (92) 3), updated description in 12th General Report

- imprisonment ⁵
- health care services in prisons ⁶
- foreign nationals detained under aliens legislation ⁷
- involuntary placement in psychiatric establishments ⁸
- juveniles deprived of their liberty ⁹
- women deprived of their liberty ¹⁰
- deportation of foreign nationals by air ¹¹
- combating impunity ¹²
- irregular migrants deprived of their liberty ¹³
- the use of electrical discharge weapons ¹⁴

A compilation of these "standards", as well as a set of other brochures describing the Committee's *modus operandi*, is available in English and French. Translations have been produced in Albanian, Bulgarian, Croatian, Czech, Estonian, German, Italian, Latvian, Lithuanian, Macedonian, Polish, Romanian, Russian, Serbian, Slovak, Spanish, Turkish and Ukrainian. These texts can be consulted on the CPT 's website (as well as on the CPT's CD ROM).

Further information may be obtained from:

- **Legal Affairs Website:** http://www.coe.int/T/E/Legal_affairs/
- **Prisons Website:**
<http://www.coe.int/T/E/Legal%5Faffairs/Legal%5Fco%2Doperation/Prisons%5Fand%5FAlternatives/>
- **the CPT's Website:** <http://www.cpt.coe.int>
- **the Committee for the Prevention of Torture's Secretariat:**
tel. +33/(0)3 88 41 39 39; fax +33/(0)3 88 41 27 72; e-mail: cptdoc@coe.int

5 (CPT/Inf (2002) 15)
cf. 2nd General Report (CPT/Inf (92) 3), updated description in 11th General Report (CPT/Inf (2001) 16)

6 cf. 3rd General Report (CPT/Inf (93) 12)

7 cf. 7th General Report (CPT/Inf (97) 10)

8 cf. 8th General Report (CPT/Inf (98) 12), updated description in 16th General Report (CPT/Inf (2006) 35)

9 cf. 9th General Report (CPT/Inf (99) 12)

10 cf. 10th General Report (CPT/Inf (2000) 13)

11 cf. 13th General Report (CPT/Inf (2003) 35)

12 cf. 14th General Report (CPT/Inf (2004) 28)

13 cf. 19th General Report (CPT/Inf (2009) 27)

14 cf. 20th General Report (to be published)