



Children's rights  
and the European Committee  
for the Prevention of Torture



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*The opinions expressed in this work are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe.*

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# Children's rights and the European Committee for the Prevention of Torture

## *Executive summary*

### 1. Introduction

This report examines the potential of the Committee for the Prevention of Torture (CPT) to protect the rights of children in detention. Its aims are to:

- Analyse country reports and Government responses to those reports with a view to identifying the major deficiencies in the countries examined;
- Analyse the Standards and Annual General Reports of the CPT to see whether they address the situation of children deprived of their liberty in a comprehensive manner;
- Identify ways in which the CPT could contribute further towards improving the protection of children deprived of their liberty.

### 2. Children's rights in detention

Throughout Council of Europe member states, children are deprived of their liberty in different institutions and for different reasons. Children's vulnerability means that removing them from their family environment and placing them in a secure setting – whether for punishment, treatment, protection or education – is an extreme measure which must be limited in use and in duration. For this reason, the United Nations Convention on the Rights of the Child (CRC), ratified by all Council of Europe Member States, provides that the detention of children should be a measure of last resort and for the shortest appropriate period of time. A range of international instruments establish that where children are deprived of their liberty they retain rights to education, to healthcare, to contact with their families. They must be protected from all forms of harm and enjoy a constructive regime that prepares them for their return to their communities.



### 3. The work of the CPT

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, known commonly as the CPT, came into being in 1989 under the Convention of the same name; all 47 States of the Council of Europe are party to the Convention. The CPT's mandate allows it to visit prisons, police stations and penal institutions and other places of detention on a periodic and/or an ad hoc basis with a view to preventing ill-treatment. The CPT report of its visit and the Government's response are published at the latter's discretion and they provide an important source of information about the reality of detention in Council of Europe member states. The recommendations of the CPT also provide a source of guidance for states as to how to ensure that children are detained in a manner consistent with the protection of their rights.

### 4. Analysis of country reports

This section highlights the findings and recommendations of numerous CPT visit reports concerning the rights of children in detention.

#### 4.1 Major deficiencies

It is clear from the CPT visit reports that the circumstances in which juveniles are detained vary dramatically from one Council of Europe state to the next. However, from a review of CPT Reports, the following issues arise with most frequency:

- *Use of detention*

The CPT has expressed concern about the extent to which detention as a last resort is implemented in practice in many states.

- *Separation from adults in detention*

This is a serious problem in many Council of Europe states and the CPT has expressed concern about this on a number of occasions including following its visits to Croatia, Estonia, Germany, Portugal and Slovakia for example. Separation of juveniles in pre-trial detention and in police detention is also an ongoing concern.

- *Police detention*

The CPT's recommendations affirm the special vulnerability of children held by the police and stress certain procedural standards that protect children from the risk of ill-treatment. The CPT has noted with concern that children are sometimes detained in police stations for periods of excessive length and it has raised this issue in Poland,



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Lithuania, the Netherlands and Austria for example. The Committee also expressed concern in Austria, Bulgaria, Estonia, Germany, Latvia, Lithuania, Romania and Slovenia about the practice of allowing young people to be questioned or to sign statements in the absence of a parent or appropriate adult.

- *Conditions and treatment in detention*

The CPT has highlighted that 'the essential components of an appropriate custodial environment for juveniles are: accommodation in small units; a proper assessment system to ensure suitable allocation to units; a multi-disciplinary team (preferably of mixed gender) selected and specially trained for work with juveniles.' It has also highlighted that 'juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young'.

Particular concerns are:

### **Solitary confinement**

The key concern here is the harm caused to a child's development from being deprived of social contact and the CPT has expressed concern about the duration of solitary confinement (or any form of segregation) and the conditions juveniles experience in solitary confinement, including the right to social contact.

### **Material conditions**

The CPT has highlighted inadequate material conditions as a concern in particular countries and institutions such as in Lithuania, Montenegro and Spain.

### **Regime**

The CPT has criticised the inadequate regime observed in juvenile facilities in several facilities in Cyprus, Spain, Greece, Austria and the United Kingdom and noted the risks this poses to juveniles. The CPT has expressed similar concern about the regime in police and pre-trial detention and the extent to which the detention regime has been adapted for children, and for girls has been a particular concern.

### **Protection**

Juveniles require special measures of protection. As the CPT has noted, it is 'the responsibility of the prison administration to take special precautions to protect juveniles and other vulnerable prisoners from all forms of abuse (including sexual exploitation)'. Juveniles in detention can suffer physical and verbal ill-treatment at the hands of (a) staff, (b) other prisoners and (c) themselves and examples of all three forms of harm are all documented in the CPT's visit reports.

- *Documenting, reporting and investigating allegations of ill-treatment*

Safe detention requires that all forms of ill-treatment suffered by juveniles are documented, reported and investigated. Authorities must both respond and be seen to respond in an effective manner when juveniles suffer abuse regardless of



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who perpetrates it. Juveniles face particular problems making formal complaints when they suffer ill-treatment at the hands of staff or fellow juveniles and the CPT has expressed concern that allegations of abuse are not always properly followed up.

- *Visits*

The level of contact that juveniles have with their families and with the outside world is an ongoing concern for the CPT and although linked to regime and reintegration, viewed alone restrictions on contact can be connected with ill-treatment. Limits on and the circumstances of contact between children and family members is also a concern for the CPT with regard to parents in custody and the Committee has recommended the easing of such restrictions where they impact on family relationships.

- *Inspections and complaints*

Robust inspection and independent monitoring of places of detention is vital to ensure accountability and the effective protection of the rights of those deprived of their liberty. Complaints mechanisms are essential to protect children in detention from harm and according to the CPT, juveniles should 'have avenues of complaint open to them, both within and outside the establishments'. These mechanisms are absent in many Council of Europe states and sometimes, where they exist, young people have no faith or confidence in them.

- *Training and specialisation*

The CPT has always maintained that there is a strong connection between the staff who work in juvenile facilities and a facility's capacity to operate in a safe and effective manner. In particular, it has noted frequently the importance of ensuring that all staff working in juvenile detention facilities are suited to the task, chosen in line with this suitability and trained both at induction and on an ongoing basis.

## 4.2 Government responses

The CPT is well placed to identify where practice can be improved to make detention safer for juveniles and it brings to its work an authority derived from extensive practical experience of visiting detention facilities across the Council of Europe. Nevertheless the responsibility lies with governments to implement the changes highlighted by the CPT. Despite this, not all governments respond positively to CPT reports. The following are some of the ways in which Governments respond:

- **Mixed:** Some states take CPT concerns seriously and others appear less concerned;
- **Denial:** The Government asserts that national safeguards are sufficient or that the problem raised by the CPT is either not serious or is not supported by the evidence;
- **Long-term solutions:** Long-term solutions to problems are proposed;



- **Non-implementation:** CPT recommendations are simply ignored.

Clearly some governments take CPT recommendations seriously and some do not. Nevertheless, the CPT's key success is to document existing conditions for children in detention, bringing that evidence to the attention of governments and ultimately, through the reports' publications, to the public.

## 5. Analysis of CPT standards

The CPT reports have contributed to international human rights jurisprudence concerning the treatment of juveniles in detention. At the same time, the CPT does not set out to create standards but rather they emerge and are distilled from its empirical findings and recommendations in the visit reports. These Standards can be found in its reports but also in three main publications as follows:

- The 9<sup>th</sup> General Report (1998) which contains a substantive section on Juveniles Deprived of their Liberty;
- The 18<sup>th</sup> General Report (2007/2008) which contains comments on the draft European Rules on Juvenile Offenders Subject to Sanctions and Measures;<sup>1</sup>
- The 19<sup>th</sup> General Report (2008/2009) which contains a substantive section on safeguards for irregular migrants deprived of their liberty and includes a few paragraphs on additional safeguards for children.

## 6. Recommendations

This section makes recommendations for how the CPT can contribute further to improving the protection of children deprived of their liberty.

### 6.1 *The CPT and children's rights*

**First**, the CPT should develop the extent to which it uses children's rights in its work. For example, it could refer to the Committee on the Rights of the Child's General Comment on Juvenile Justice and the European Rules for Juvenile Offenders Subject to Sanctions and Measures when commenting on the use of custody. This would strengthen CPT recommendations, and reinforce the interrelationship between international instruments.

1. Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the *European Rules for Juvenile Offenders Subject to Sanctions and Measures*. Adopted by the Committee of Ministers on 5 November 2008 at the 1040<sup>th</sup> meeting of the Ministers' Deputies, available at [www.coe.int](http://www.coe.int).



The **second** recommendation here is that the CPT should endeavour to work in a manner more consistent with children's rights standards. In particular, it should work to ensure that its recommendations are implemented in a timely manner and it also needs to focus on how the CPT engages with young people during its visits through the provision of training to CPT members and the Secretariat. The CPT should consider incorporating the Council of Europe Guidelines on Child-friendly Justice into its work.

### *6.2 Strategic visits focused on juveniles in detention*

Two proposals are made with a view to raising the profile of juvenile detention as an issue: first, and at the very least, every CPT visit should include in its itinerary a place of detention where juveniles are detained. The second (alternative) recommendation is that the CPT should dedicate an entire round of visits to the issue of juvenile detention by visiting in each member state a range of places where juveniles are deprived of their liberty.

### *6.3 Standards on children's rights in detention*

The CPT is encouraged to issue a new set of standards dealing with juvenile detention, explaining state obligations with respect to the protection of children's rights in detention, building on existing instruments. Draw on its unique experience and insights in this area, the adoption of new standards would give the CPT an opportunity to develop detailed standards on issues currently covered in insufficient detail in existing instruments and where states urgently need clearer guidance - notable examples of this are the use of solitary confinement, restraint, regime and issues of child protection.

## **7. Conclusion**

The CPT has made an important contribution to knowledge about the extent to which children's rights are protected in detention and how this can be improved. There is great potential to promote the role of the CPT further in this area by ensuring that it operates in a child-friendly manner and by using its authority to raise the profile of this important issue through a targeted visit strategy and the adoption of a comprehensive body of standards on child detention.



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## 1. Introduction

In February 2012, the Council of Europe adopted the Strategy for the Rights of the Child 2012-2015 proposing a vision for the Council's role and action in this field, taking into account the progress already achieved in this area. The Strategy focuses on four strategic objectives including the elimination of all forms of violence against children and guaranteeing the rights of children in vulnerable situations. The situation of children in detention is relevant to both of these objectives. It is an overarching goal of the Programme 'Building a Europe for and with Children' to achieve the effective implementation of existing children's rights standards. In this regard, the Strategy contains a commitment to greater mainstreaming of children's rights in the monitoring and human rights mechanisms and makes particular reference to providing specific support to the European Court of Human Rights and to other Council of Europe mechanisms such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). It was against this backdrop that this report was commissioned with a view to identifying how the potential of the CPT to protect the rights of children in detention could be more effectively realised. It considers the work of the CPT from a children's rights perspective by examining the extent to which the CPT already promotes the rights of children deprived of their liberty and identifying ways in which the CPT can improve its effectiveness in this area.

This report was asked to undertake the following:

- Analyse country reports and Government responses to those reports with a view to identifying the major deficiencies in the countries examined and whether sufficient follow up was provided to the problems raised;
- Analyse the standards and annual general reports of the CPT to see whether they address the situation of children deprived of their liberty in a comprehensive manner, bearing in mind developments in children's rights over the past decade;
- On the basis of the above analysis, identify ways in which the CPT could contribute further towards improving the protection of children deprived of their liberty.

Before considering each of these issues in turn, the report begins with a broad introduction to the specific issue of children's rights in detention and to the work of the CPT in general.<sup>2</sup>

2. A note on terminology: international instruments use the terms 'children' and 'juvenile' somewhat interchangeably. For instance, the CRC refers to 'children' but the CPT uses the term 'juvenile' in its reports. This explains the different use of these terms in this report. It should be understood, however, that the report takes as its starting point the definition of the child as everyone below the age of 18 years, as defined by the CRC.



## 2. Children's rights in detention

Throughout Council of Europe member states, children are deprived of their liberty in different institutions and for different reasons. Yet, children's innate vulnerability means that removing children from their family environment and placing them in a secure setting – whether for punishment, treatment, protection or education – is an extreme measure which must be limited in use and in duration.<sup>3</sup> For this reason, the United Nations Convention on the Rights of the Child (CRC), ratified by all Council of Europe Member States, provides in Article 37(c) that:

The arrest, detention or imprisonment of a child must be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

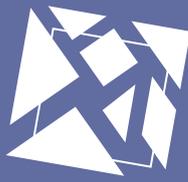
In light of the fact that all forms of detention pose a risk to children's rights, Article 37 goes on to provide that 'every child deprived of liberty' (indicating a broad approach) shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In other words, children deprived of their liberty must be treated like children and as such, the CRC requires that while in detention children must be separated from adults and have the right to maintain contact with their family through correspondence and visits. The Committee on the Rights of the Child has explained that underpinning this right is 'abundant evidence that the placement of children in adult prisons or jails compromises their basic safety, well-being, and their future ability to remain free of crime and to reintegrate.'<sup>4</sup> Moreover, in order to implement Article 37 effectively, the Committee has advised that states should establish 'separate facilities for children deprived of their liberty, which include distinct, child-centred staff, personnel, policies and practices.'<sup>5</sup> Thus, while all forms of detention pose some risk to children, children's rights are at greater risk when they are detained in facilities – like prisons, police stations, psychiatric institutions and immigration centres - that are not focused on children's particular needs and circumstances and where they are marginalised and especially vulnerable.

In Article 37(d) of the CRC, every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such

3. See Rule 21.5 of Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the *European Rules for Juvenile Offenders Subject to Sanctions and Measures*. Adopted by the Committee of Ministers on 5 November 2008 at the 1040th meeting of the Ministers' Deputies, available at [www.coe.int](http://www.coe.int).

4. United Nations Committee on the Rights of the Child, General Comment No. 10 *Children's Rights in Juvenile Justice*, CRC/GC/10 (2007), paragraph 85.

5. *Ibid.*



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action. In other words, the rule of law applies to children deprived of their liberty just as it does to adults in such circumstances.

International law also makes clear that where detention is used, children's rights are not suspended during this period. The Committee on the Rights of the Child has made this clear by summarizing the international standards relevant to the treatment of children in all forms of detention as follows:

- Children should be provided with a physical environment and accommodations which are in keeping with the rehabilitative aims of residential placement, and due regard must be given to their needs for privacy, sensory stimuli, opportunities to associate with their peers, and to participate in sports, physical exercise, in arts, and leisure time activities;
- Every child of compulsory school age has the right to education suited to his/her needs and abilities, and designed to prepare him/her for return to society<sup>6</sup>; in addition, every child should, when appropriate, receive vocational training in occupations likely to prepare him/her for future employment;
- Every child has the right to be examined by a physician upon admission to the detention/correctional facility and shall receive adequate medical care throughout his/her stay in the facility, which should be provided, where possible, by health facilities and services of the community;
- The staff of the facility should promote and facilitate frequent contacts of the child with the wider community, including communications with his/her family, friends and other persons or representatives of reputable outside organizations, and the opportunity to visit his/her home and family;
- Restraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted. The use of restraint or force, including physical, mechanical and medical restraints, should be under close and direct control of a medical and/or psychological professional. It must never be used as a means of punishment. Staff of the facility should receive training on the applicable standards and members of the staff who use restraint or force in violation of the rules and standards should be punished appropriately;

6. Research shows that there are difficulties inherent in ensuring that children enjoy their right to education to the maximum extent in detention. See Lanksey, 'Promise or Compromise? Education for Young People in Secure Institutions in England' 11(1) *Youth Justice* (2011) 47-60.



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- Any disciplinary measure must be consistent with upholding the inherent dignity of the juvenile and the fundamental objectives of institutional care; disciplinary measures in violation of article 37 of CRC must be strictly forbidden, including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or well-being of the child concerned;<sup>7</sup>
- Every child should have the right to make requests or complaints, without censorship as to the substance, to the central administration, the judicial authority or other proper independent authority, and to be informed of the response without delay; children need to know about and have easy access to these mechanisms;
- Independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities, in a confidential setting.<sup>8</sup>

The Committee on the Rights of the Child is limited to reviewing state progress in the implementation of the Convention. It is not authorised or empowered to enter places of detention to see for itself the extent to which these standards are upheld in practice. In this context the work of the CPT comes into sharp focus.

### 3. The work of the CPT

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, known commonly as the CPT, came into being in 1989, the same year as the CRC, following its establishment under the Council of Europe treaty of the same name. All 47 member states of the Council of Europe are party to the Convention. Under Article 1 of the Convention, the CPT enjoys extensive powers including unlimited access to any place where persons are deprived of their liberty with a view to examining the treatment of such persons in order to strengthen if necessary the protection of such persons from torture and inhuman or degrading treatment or punishment. The CPT's mandate allows it to visit prisons, police stations and penal institutions while extending also to young offender institutions, educational units and facilities for the detention of those with mental illness or seeking asylum or permanent leave to remain.

7. See also United Nations Committee on the Rights of the Child, General Comment No. 13, *The Right of the Child to Freedom from All Forms of Violence*, CRC/C/GC/13 (2011).

8. Committee on the Rights of the Child, General Comment No. 10, above, paragraph 89.



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The CPT's visits are undertaken on a periodic and/or an ad hoc basis and relations between the Committee and Parties to the Convention are based on co-operation and confidentiality. The former value is particularly important to the spirit in which visits are undertaken and the emphasis during visits on engaging with staff and detained persons in order to provide constructive support to those responsible for preventing the ill-treatment of persons deprived of their liberty. The visits often involve a dynamic two-way exchange between the CPT and national authorities which helps to raise awareness about good practice in detention and identify how barriers to its implementation might be dismantled or overcome. A formal report issues following the visit – these visit reports are confidential although almost all states have chosen to waive the rule of confidentiality and make them available to the public.

The Committee is composed of an independent member elected in respect of each State Party to the Convention. At present (April 2012), it has 44 members with three vacant seats. Given the role of the CPT, it is vital to ensure a highly qualified membership in terms of professional expertise and empirical experience<sup>9</sup> and the Parliamentary Assembly of the Council of Europe has promoted the need for members to be selected by means of a public and transparent process.<sup>10</sup> The CPT consistently strives to promote a mix of expertise and experience among its membership; in the most recent CPT General Report, it highlighted the need for more members with experience of the work of law enforcement agencies and for members from the medical profession with forensic skills.<sup>11</sup> It is also important that the current CPT membership should include people with particular expertise and experience of the issues faced by children in detention. Regardless, steps should be taken to ensure that all CPT members have some understanding of the special vulnerability of children in detention and of international standards. CPT members should also be supported to develop the skills necessary to communicate effectively and appropriately with the children they meet during visits.

The Secretariat of the CPT provides important support and leadership to the membership and as a permanent body it is intended to provide consistency when changes occur in CPT membership. Currently, however, there is no provision for training for new members of either the Secretariat or the CPT membership on children's rights in detention or on how to carry out interviews with children in detention and this needs to be addressed as a matter of urgency. Even though some members of the CPT or the Secretariat may have experience in this area, it is good practice that all those involved in CPT activities have some training on children in detention and that certain members are nominated for additional training, including issues relating to communication with children. This should be part of both training provided at induction, and on an ongoing basis.

9. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *21<sup>st</sup> General Report of the CPT. 1 August 2010 – 31 July 2011*, p 53.

10. See Parliamentary Assembly Resolution 1808 (2011) and Resolution 1540 (2007).

11. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *21<sup>st</sup> General Report of the CPT. 1 August 2010 – 31 July 2011*, p 54.



## 4. Analysis of country reports

This section presents an analysis of country reports and identifies the major deficiencies identified by the CPT in the countries visited along with the CPT's principal recommendations. It also considers the nature of the Government response to the concerns raised by the CPT. A comprehensive audit of all CPT reports was not possible due to the small scale of this work. Instead, a review of the latest CPT visit reports in the public domain was undertaken and this established that the following CPT visits examined juvenile detention issues specifically: Austria (2009); Croatia (2007); Cyprus (2004); Denmark (2008); Germany (2005); Ireland (2010); Lithuania (2010); Montenegro (2008); Netherlands (2007); Poland (2006); Romania (2011), Slovakia (2010); Slovenia (2006); Sweden (2009), Switzerland (2007) and United Kingdom (2008). During these visits, the CPT witnessed the variety of circumstances in which children are deprived of their liberty such as in detention centres, remand homes, education centres, secure care homes and hospitals. The CPT has also visited other facilities where children may be detained, such as police stations and immigration facilities. This underlines the variety of places in which children are deprived of their liberty and highlights the importance of ensuring that the relevant expertise in juvenile detention is present in all CPT delegations.

### 4.1 Major deficiencies

It is clear from the reports that the circumstances in which juveniles are detained vary dramatically from one Council of Europe state to the next. Like adult detention, the differences between states – based on a variety of factors – mean that the same deficiencies are not present in all Council of Europe member States.

From a review of CPT Reports, the following issues arise with most frequency:

- *Use of detention*

The CPT has expressed concern about the extent to which detention as a last resort is implemented in practice in many states. In the case of Slovakia, for example, the CPT called for the end of the life sentence on juveniles citing the Convention on the Rights of the Child and guidance of the Committee on the Rights of the Child in support of its position.<sup>12</sup> Understandably, however, the CPT prefers to focus not on the use of detention so much as the extent to which the circumstances and conditions in detention meet the needs and fulfil the rights of juveniles. This is linked directly to the core mandate of the CPT – the prevention of ill-treatment – and this arguably limits what the CPT can say about how detention is used notwithstanding the clear linkages between all of these issues.

<sup>12</sup> Slovakia – CPT/Inf (2010) 1, paragraph 66.



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### • *Separation from adults in detention*

Article 37 of the Convention on the Rights of the Child prohibits the detention of children with adults. Nevertheless, this is a serious problem in many Council of Europe states and the CPT has expressed concern about this on a number of occasions including following its visits to Croatia,<sup>13</sup> Estonia,<sup>14</sup> Germany,<sup>15</sup> Ireland,<sup>16</sup> Portugal<sup>17</sup> and Slovakia,<sup>18</sup> highlighting the danger of this practice. Separation of juveniles in pre-trial detention and in police detention is also an ongoing concern.<sup>19</sup> The CPT has highlighted in its reports the connection between the protection of children from inhuman and degrading treatment and their separation from adults in detention. Nevertheless, given the pervasive nature of this problem across the Council of Europe member states, it is recommended that the CPT focus greater attention on the risks that this practice poses to children's protection.

The CPT has commented on the extent to which juveniles can be detained in adult institutions and this is especially relevant to those countries where separation from adults would require conditions close to isolation due to the small numbers of juveniles in detention. For example, the CPT has noted that 'if, exceptionally, a juvenile is held in an institution for adults, he/she must always be accommodated separately from adults, in a distinct unit. In order to avoid such a juvenile being placed in a situation akin to isolation, one might envisage him/her participating in out-of-cell activities with adults and on the strict condition that there is appropriate supervision by staff. However, the risks inherent in juvenile offenders sharing cellular accommodation with adult prisoners are such that this should never occur'.<sup>20</sup>

### • *Police detention*

The CPT's recommendations affirm the special vulnerability of children held by the police and stress certain procedural standards that protect children from the risk of ill-treatment. This is an area where the CPT has made an important and unique contribution to the protection of children from harm and the assertion of the rule of law in children's cases. Consistent with this aim, the CPT has recommended that measures be taken to 'guarantee the obligation for the authorities to notify a person(adult) close to the minor or a person of trust from the very outset of the deprivation of liberty'.<sup>21</sup> Such measures include the guaranteed presence of 'an adult person of trust and/or of

13. Croatia – CPT/Inf (2008) 29, paragraph 46.

14. Estonia – CPT/Inf (2005) 6, paragraph 29.

15. Germany – CPT/Inf (2007) 18, paragraphs 106-107.

16. Ireland – CPT/Inf (2007) 3, paragraph 26.

17. Portugal – CPT/Inf (2009) 13, paragraph 42.

18. Slovakia – CPT/Inf (2010) 1, paragraph 87.

19. See for example, Slovenia – CPT/Inf (2008) 7, paragraph 90.

20. Portugal – CPT/Inf (2009) 13, paragraph 42.

21. Switzerland – CPT/Inf (2008) 33, paragraph 52.



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a lawyer whenever a minor is questioned by the police'.<sup>22</sup> Critically, the onus here is on the police to vindicate the child's right, rather than on the child to exercise that right. As the CPT has stressed, 'if the onus is placed on the juvenile to request the presence of a trusted person, this defeats the object: such a presence should also be obligatory'.<sup>23</sup>

The CPT has noted with concern that children are sometimes detained in police stations for periods of excessive length and it has raised this issue in Austria,<sup>24</sup> Lithuania,<sup>25</sup> the Netherlands<sup>26</sup> and Poland,<sup>27</sup> for example. In the case of Austria, the Committee also expressed concern about the practice of allowing young people to be questioned or to sign statements in the absence of a parent or appropriate adult.<sup>28</sup> Indeed, this is a growing trend, it would appear, illustrated by the fact that it is a concern frequently expressed by the CPT. For example, it can be found in CPT visit reports with respect to Bulgaria<sup>29</sup> Estonia,<sup>30</sup> Germany,<sup>31</sup> Latvia,<sup>32</sup> Lithuania,<sup>33</sup> Romania,<sup>34</sup> Slovenia<sup>35</sup> and Sweden.<sup>36</sup> In the latter case, the gravity of the failure to record the children's admission to detention for questioning was highlighted<sup>37</sup> while in respect of Slovakia, particular concern was expressed with regard to a high profile incident of police ill-treatment of a group of Roma children in 2009.<sup>38</sup>

The CPT has made it clear that the vulnerability of juveniles requires stronger standards to protect their rights. For example, although adults can waive the right to a lawyer, the CPT has noted that juveniles have the right not to make or sign a statement without the presence of a lawyer. As the CPT asserted in the case of Croatia, 'as regards juveniles, a lawyer should always be called when they are deprived of their liberty by the police and they should not be required to make any statement or sign any document related to an offence of which they are suspected without the lawyer being present'.<sup>39</sup> This

22. Switzerland – CPT/Inf (2008) 33, paragraph 53.

23. Germany – CPT/Inf (2007) 18, paragraph 35. Here the CPT cited section 15 of Recommendation Rec (2003) 20 adopted by the Council of Europe Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

24. Austria – CPT/Inf (2010) 5, paragraph 28.

25. Lithuania – CPT/Inf (2009) 22, paragraph 26.

26. Netherlands – CPT/Inf (2008) 2, paragraph 9.

27. Poland – CPT/Inf (2006) 11, paragraph 10.

28. Austria – CPT/Inf (2010) 5, paragraphs 28-29.

29. Bulgaria – CPT/Inf (2010) 29, paragraph 15 where concern related to the failure to produce an amended version of the 'declaration of rights' for juveniles.

30. Estonia – CPT/Inf (2011) 15, paragraph 22 where the authorities must inform the family of a child suspected of a misdemeanour that he/she is in police custody but this does not apply to criminal charges.

31. Germany – CPT/Inf (2007) 18, paragraph 35.

32. Latvia – CPT/Inf (2009) 35, paragraph 22 (the issue here was failure to notify a family member at all).

33. Lithuania – CPT/Inf (2009) 22, paragraph 22.

34. Romania – CPT/Inf (2011) 31, paragraph 33.

35. Slovenia – CPT/Inf (2008) 7, paragraph 23.

36. Sweden – CPT/Inf (2009) 34, paragraph 24.

37. Sweden – CPT/Inf (2009) 34, paragraph 26.

38. Slovakia – CPT/Inf (2010) 1, paragraph 16.

39. Croatia – CPT/Inf (2007) 15, paragraph 23.



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relates to the notion that juveniles require additional support during police questioning with the implication that juveniles may be more susceptible to pressure while in police custody. According to the CPT, 'the point of special provisions for young persons is to protect this age group and to provide them with adult support so that they do not have to make decisions with important legal implications on their own'.<sup>40</sup> For the same reason, the CPT recommended the abolition of incommunicado detention for juveniles on the grounds that it trumps any of the protections that this group are afforded under juvenile justice laws.<sup>41</sup>

- *Conditions and treatment in detention*

The protection of juveniles from inhuman and degrading treatment is central to the mandate of the CPT and the Committee has made strong links between this goal and conditions and treatment in detention. In general, the CPT has highlighted that 'the essential components of an appropriate custodial environment for juveniles are: accommodation in small units; a proper assessment system to ensure suitable allocation to units; a multi-disciplinary team (preferably of mixed gender) selected and specially trained for work with juveniles.'<sup>42</sup> It has also highlighted that 'juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young'.<sup>43</sup>

In carrying out its visits, the CPT regularly finds fault with the conditions experienced by juveniles in detention and these concerns can be grouped under the following headings: solitary confinement, material conditions, regime, protection and visits.

### **Solitary confinement**

Solitary confinement is used for a variety of reasons in juvenile detention: it can be used for assessment purposes ('quarantine') following admission, for disciplinary purposes, to secure the protection of the juveniles, to control internal order and for external security purposes (ie to prevent escape). The CPT has noted that 'any form of isolation of juveniles is a measure that can compromise their physical and/or mental well-being'. As a result the Committee has recommended that such a measure must be 'highly exceptional' and 'last no longer than is strictly necessary' and supports a limit of three days.<sup>44</sup> The key concern here is the harm caused to a child's development from being deprived of social contact and for this reason, as the following examples illustrate, the CPT has expressed concern about the duration of solitary confinement (or any form of segregation) and the conditions juveniles experience in solitary confinement, including the right to social contact.

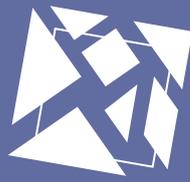
40. Austria – CPT/Inf (2005) 13, paragraph 29.

41. Spain – CPT/Inf (2011) 11, paragraph 46.

42. Turkey – CPT/Inf (2005) 18, paragraph 73.

43. Ireland – CPT/Inf (2011) 3, paragraph 26.

44. CPT 18<sup>th</sup> General Report, paragraph 26.



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Following its visit to Austria, the CPT raised the length of time juveniles spend in solitary confinement and recommended that a maximum period be placed on this practice.<sup>45</sup> This concern was also expressed in respect of certain facilities in Cyprus,<sup>46</sup> Estonia,<sup>47</sup> Germany,<sup>48</sup> and the Netherlands,<sup>49</sup> where its harms were highlighted. In Romania, the use of 'quarantine' where juveniles spend the first three weeks of their detention in isolation, was questioned.<sup>50</sup> In Estonia, the CPT recommended that the maximum period for solitary confinement/punishment (20 days) be reduced and also that juveniles detained in such circumstances receive appropriate human contact.<sup>51</sup> In the UK, the CPT was critical of the fact that the isolation unit visited – called the Intensive Support Unit – did not involve much in the way of intensive support but had been used to isolate a young person who could not, apparently, be accommodated safely in the mainstream population.<sup>52</sup>

### Material conditions

Poor physical environment in places of detention can result in an inadequate regime for juveniles and these concerns are often inextricably linked. At the same time, the CPT has highlighted material conditions as a separate concern in particular countries and institutions. In Lithuania, the CPT has found conditions in which children are detained before trial to be 'appalling', requiring urgent attention in a number of areas.<sup>53</sup> In Montenegro, the living conditions endured by those in a social care institution were similarly described as 'unacceptable'<sup>54</sup> and in Spain, the CPT was very critical of the poor environment in which migrant children were detained, noting that the boys detained there complained about the cold and the lack of warm clothing.<sup>55</sup> It also criticised the material conditions in which the juveniles were held.<sup>56</sup> In Latvia, although some excellent material conditions were noted, concerns were expressed about the use of a system of self-governance (by juveniles) of the facility.<sup>57</sup> The conditions in police custody were the subject of CPT criticism in respect of Lithuania where the treatment of juveniles was found to be inhuman and degrading.<sup>58</sup> The CPT was similarly critical of some conditions of police detention in juveniles were held in Estonia.<sup>59</sup>

45. Austria – CPT/Inf (2010) 5, paragraph 102.

46. Cyprus – CPT/Inf (2008) 17, paragraph 86.

47. Estonia – CPT/Inf (2005) 6, paragraph 32. See also Estonia – CPT/Inf (2011) 15, paragraph 84.

48. Germany – CPT/Inf (2007) 18, paragraphs 120 and 147.

49. Netherlands – CPT/Inf (2008) 2, paragraph 87.

50. Romania – CPT/Inf (2011) 31, paragraph 72.

51. Estonia – CPT/Inf (2011) 15, paragraph 84.

52. United Kingdom – CPT/Inf (2009) 30, paragraph 105.

53. Lithuania – CPT/Inf (2009) 22, paragraph 53.

54. Montenegro – CPT/Inf(2010) 3, paragraph 114.

55. Spain – CPT/Inf (2011) 11, paragraph 152.

56. Spain – CPT/Inf (2011) 11, paragraph 152.

57. Latvia – CPT/Inf (2009) 35, paragraph 59.

58. Lithuania – CPT/Inf (2009) 22, paragraph 26.

59. Estonia – CPT/Inf (2011) 15, paragraph 35.



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### Regime

Notwithstanding the linkage to poor material conditions, the CPT has made distinct remarks about matters concerning regime. In particular, the CPT has criticised the inadequate regime in place during its consideration of juvenile facilities in several Council of Europe states. In doing so, it has highlighted the particular risks of poor regime for juveniles in detention. For example, following its visit to Cyprus in 2008 it noted that 'while a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.'<sup>60</sup> Spain and the UK have also been criticised in this regard. In particular, limitations placed on the amount of recreational activity that juveniles enjoyed in a UK facility was criticised by the CPT in 2009.<sup>61</sup> In Spain, the CPT highlighted the gap between theory and practice noting that although the boys in an immigration centre were offered language or vocational classes, 'in reality, the vast majority of boys were idling away their time with no opportunity to undertake purposeful activities'.<sup>62</sup>

Even within states, the regime can vary in quality from one facility to another. For example, in Austria, the CPT found that a favourable regime with good facilities for education, vocational training and recreation was available in one facility,<sup>63</sup> while other detention centres were criticised for a poor regime with little out of cell time.<sup>64</sup> In respect of Austria, concern was expressed about the level of psychotropic medicine being administered to juveniles in certain facilities and this appeared, to the CPT at least, to be used as a means to alleviate the boredom associated with spending long periods of time in their cells.<sup>65</sup> In Greece, the failure to adapt the regime intended for adult female prisoners to cater for the needs of juvenile female prisoners was criticised.<sup>66</sup>

The CPT has expressed particular concern about the poor regime that prevails in **police and pre-trial detention** in member states. For example, in Estonia, the CPT criticised the fact that juveniles in police detention 'were not offered any activities suitable for their age (such as education, sports, recreation)'.<sup>67</sup> It drew a similar conclusion with respect to prison for juveniles in Romania<sup>68</sup> and in Lithuania it found the conditions in which children are detained in a remand facility to be 'appalling'.<sup>69</sup> Some states which have reasonable regimes for sentenced juveniles do not apply the same high standards to juveniles detained on remand despite the fact that, as the CPT notes, this group faces

60. Cyprus – CPT/Inf (2008) 17, paragraph 70.

61. United Kingdom – CPT/inf (2009) 30, paragraph 90.

62. Spain – CPT/Inf/ (2011) paragraph 153.

63. Austria – CPT/Inf (2010) 5, paragraphs 84-85.

64. Austria – CPT/Inf (2010) 5, paragraph 86.

65. Austria – CPT/Inf (2010) 5, paragraph 128.

66. Greece – CPT/Inf (2010) 33, paragraphs 115-117.

67. Estonia – CPT/Inf (2011) 15, paragraph 36.

68. Romania – CPT/Inf (2011) 31, paragraph 71.

69. Lithuania – CPT/Inf (2009) 22, paragraph 64.



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particular challenges, including those caused by uncertainty around the duration of their detention. Yet, in Finland, where prison conditions for adults are good, the CPT expressed concern that an appropriate regime of meaningful activities was not made available to children on remand.<sup>70</sup> The impoverished remand regime in Slovakia was also criticised by the CPT.<sup>71</sup>

### Protection

It is a fundamental right of everyone deprived of their liberty to be protected from harm and juveniles, who are a particularly vulnerable group, require special measures of protection. As the CPT has noted, it is 'the responsibility of the prison administration to take special precautions to protect juveniles and other vulnerable prisoners from all forms of abuse (including sexual exploitation)'.<sup>72</sup> Juveniles in detention can suffer physical and verbal ill-treatment at the hands of (a) staff, (b) other prisoners and (c) themselves. Given that it is the core mandate of the CPT to prevent ill-treatment, the Committee is particularly well placed both to monitor and to advise states in these areas.

#### • *Ill-treatment by staff*

Juveniles must be protected from ill-treatment inflicted by staff in detention facilities including verbal or physical assault or harm caused by the inappropriate use of restraint, handcuffs, strip searching or other such measures. For instance, following its visit to Latvia, the CPT reported serious allegations about the abuse of juveniles by prison staff.<sup>73</sup> The CPT has made it clear that 'all forms of physical chastisement must be both formally prohibited and avoided in practice ... and that inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures'.<sup>74</sup>

Juvenile's ill-treatment in police custody appears to be a particular problem. For instance, when the CPT visited Austria, it reported that several allegations had been received from juveniles in respect of physical ill-treatment and/or verbal abuse experienced during police questioning.<sup>75</sup> Similar concerns were expressed following the CPT's visit to Denmark,<sup>76</sup> Latvia,<sup>77</sup> Lithuania<sup>78</sup> Poland<sup>79</sup> and Slovenia.<sup>80</sup>

70. Finland – CPT/Inf (2009) 5, paragraph 87.

71. Slovakia – CPT/Inf (2010) 1, paragraph 87.

72. Latvia – CPT/Inf (2008) 15, paragraph 45.

73. Latvia – CPT/Inf (2009) 35, paragraph 43.

74. "The former Yugoslavia Republic of Macedonia" – CPT/Inf (2008) 5, paragraph 117.

75. Austria – CPT/Inf (2010) 5, paragraph 12.

76. Denmark – CPT/Inf (2008) 26, paragraph 9.

77. Latvia – CPT/Inf (2009) 35, paragraph 22 and 43.

78. Lithuania – CPT/Inf (2009) 22, paragraph 10.

79. Poland – CPT/Inf (2006) 11, paragraph 12.

80. Slovenia – CPT/Inf (2008) 7, paragraph 14.



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The CPT has also expressed concern about the use of restraints and injuries resulting from their use. Serious concerns were expressed about the means of restraint used in a Lithuania facility<sup>81</sup>, and in the case of the United Kingdom, the CPT asserted its view that 'only specifically designed non-pain compliant manual restraint techniques, combined with better risk assessment of young people and enhanced staffing skills (as referred to above), should be used in juvenile establishments'.<sup>82</sup> It also criticised the disproportionate use of strip searching in one juvenile institution and recommended the introduction of a strict policy of risk-assessed strip searches.<sup>83</sup> In respect of the Netherlands, the Committee expressed concern about the systematic handcuffing of juveniles and the manner and duration of restraints used on those in detention.<sup>84</sup>

### • *Ill-treatment by other prisoners*

Inter-prisoner violence takes place among juveniles in detention and this problem can be particularly prevalent where gang members are detained in the same facility. The CPT has identified the problem of inter-prisoner violence in certain facilities where juveniles are detained – examples include Germany<sup>85</sup>, Ireland,<sup>86</sup> and Latvia<sup>87</sup> - although in the latter case, the CPT commended the efforts made by the authorities to reduce inter-prisoner violence among juveniles. To date, the CPT's comments on inter-prisoner violence have been confined mainly to adult detention although its recommendations are equally relevant to juveniles. For instance, the CPT has stressed that 'the duty of care, which is owed by the prison authorities to prisoners in their charge, includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison authorities must act in a proactive manner to prevent violence by inmates against other inmates'.<sup>88</sup>

This responsibility is clearly heightened when the prisoners concerned are juveniles and indeed the prevalence of bullying among juveniles makes this a key concern for this age group. The CPT has criticised prison authorities whose response to juveniles in need of such protection is to isolate them, with the effect that they have access to limited time outside their cells.<sup>89</sup> How protective isolation is used to protect the victim is thus a cause for concern.

81. Lithuania – CPT/Inf (2009) 22, paragraph 81.

82. United Kingdom – CPT/Inf (2009) 30, paragraph 106.

83. United Kingdom – CPT/Inf (2009) 30, paragraph 106.

84. Netherlands – CPT/Inf (2008) 2, paragraph 90.

85. Germany – CPT/Inf (2007) 18, paragraph 109.

86. Ireland – CPT/Inf (2011) 3, paragraph 32.

87. Latvia – CPT/Inf (2009) 35, paragraph 44.

88. Ireland – CPT/Inf (2011) 3, paragraph 33.

89. Ireland – CPT/Inf (2011) 3, paragraph 57.



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- *Self-harm*

Juveniles with mental health issues including a propensity to self-harm require dedicated psychiatric services in detention and the CPT has advised states on the special measures necessary to ensure their protection in detention. In respect of its visit to Ireland, the CPT recommended a 'proactive approach by the prison health-care service' towards those on protection, particularly as regards psychological and psychiatric care' with 'individual assessment(s) of their needs at regular intervals'.<sup>90</sup> Following its visit to the UK, the CPT highlighted the importance of ensuring that 'the health care service offered to juveniles constitute(s) an integrated part of a multidisciplinary (medico-psycho-social) programme of care'. This, it reported, should include 'close coordination between the work of an establishment's health care team (doctors, nurses, psychologists, etc.) and that of other professionals (including social workers and teachers) who have regular contact with the minors' with a view to ensuring that 'the health care delivered to juveniles deprived of their liberty forms part of a seamless web of support and therapy'.<sup>91</sup> On a positive note, the staff of one facility in Germany were applauded by the CPT for their substantial and successful efforts at reducing self-harm and suicide<sup>92</sup> and so there is clearly good practice celebrated by the CPT also.

- *Documenting, reporting and investigating allegations of ill-treatment*

Safe detention requires that all forms of ill-treatment suffered by juveniles are documented, reported and investigated. Authorities must both respond and be seen to respond in an effective manner when juveniles suffer abuse regardless of who perpetrates it. Juveniles face particular problems making formal complaints when they suffer ill-treatment at the hands of staff or fellow juveniles and in some cases the CPT has expressed concern that allegations of abuse are not always properly followed up. In respect of Slovenia, for example, the CPT found that those making allegations of ill-treatment had not been taken seriously by the judiciary and others and it recommended that in all such cases 'these allegations [should] be recorded in writing, a forensic medical examination immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated'.<sup>93</sup> This echoes its earlier recommendation – made first in 2002 – that 'competent authorities request a forensic medical examination whenever there are grounds (other than express allegation of ill-treatment) to believe that a person brought before them could have been the victim of ill-treatment. It considered this to be 'all the more important in relation to juveniles who are inherently more vulnerable than adults and may be easily discouraged from making a complaint'.<sup>94</sup>

90. Ireland – CPT/Inf (2011) 3, paragraph 57.

91. United Kingdom – CPT/Inf (2009) 30, paragraph 97.

92. Germany – CPT/Inf (2007) 18, page 56.

93. Slovenia – CPT/Inf (2008) 7, paragraph 14.

94. United Kingdom – CPT/Inf (2002) 6, paragraph 12.



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### • *Visits*

The level of contact that juveniles have with their families and with the outside world is an ongoing concern for the CPT and although linked to regime and reintegration, viewed alone restrictions on contact can be connected with ill-treatment. In Latvia, for example, the CPT found the restrictions on contacts with the outside world to be harsh in respect of juvenile prisoners and recommended their abolition.<sup>95</sup> Similarly, in Poland, the CPT criticised the fact that not all juvenile detention centres guarantee the child's right to maintain contact with his/her family.<sup>96</sup> In the UK, the CPT criticised the facilities for the family visits and made a number of recommendations aimed to improve the quality of the experience from both the family's and the juvenile's perspective.<sup>97</sup>

The CPT has occasionally considered the situation of babies imprisoned with their mothers and in the case of Russia it expressed concern about the importance of maintaining the bond between mother and child during this time. In particular, the CPT recommended that prisoner-mothers are accommodated together with their babies after delivery, thereafter having adequate time every day with their children, with on-going involvement in their lives when the child is placed with alternative carers outside the prison.<sup>98</sup>

Limits on and the circumstances of contact between children and family members is also a concern for the CPT with regard to parents in custody and the Committee has recommended the easing of such restrictions where they impact on these family relationships. By illustration, the CPT noted in its report on Italy that some parents held under a special security regime had chosen to abandon visits, especially from their young children, because of the trauma that such visits caused. Here it recommended that steps be taken to improve the opportunities given to some prisoners to maintain human contact with relatives, in particular children.<sup>99</sup> Similarly, in Greece the Committee recommended that women prisoners meeting their children for an open visit be permitted to fully express their feelings physically.<sup>100</sup>

95. Latvia – CPT/Inf (2009) 35, paragraph 93.

96. Committee on the Rights of the Child, Concluding Observations: Poland, CRC/C/15/Add.194, paragraph 50.

97. United Kingdom – CPT/Inf (2009) 30, paragraph 102.

98. Russian Federation – CPT/Inf (2003) 30, paragraphs 88-89.

99. Italy – CPT/Inf (2010) 12, paragraphs 76-78.

100. Greece – CPT/Inf 2010 (33), paragraphs 143-144.



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### • *Inspections and complaints*

Robust inspection and independent monitoring of places of detention is vital to ensure accountability and the effective protection of the rights of those deprived of their liberty. The vulnerability of those in detention means that monitoring by bodies separate and independent from the detention system such as the CPT, the SPT and NPMs<sup>101</sup> is vital. Complaints mechanisms are also essential to protect children in detention from harm and according to the CPT, juveniles should 'have avenues of complaint open to them, both within and outside the establishments' administrative system, and be entitled to confidential access to an appropriate independent authority (for example, a visiting committee or a judge) that is competent to receive – and, if necessary, act upon – juveniles' complaints'.<sup>102</sup> However, these mechanisms are absent in many Council of Europe states and sometimes, where they exist, young people have no faith or confidence in them.<sup>103</sup> In respect of the UK, the CPT noted that it is 'important that young persons with potential grievances are able to make themselves heard either through the formal complaints system or through being given an opportunity to express themselves directly to staff (in the presence of their caseworker or a manager if they so desire)'.<sup>104</sup> On a related note, following its visit to Malta, the CPT noted the appointment of a Commissioner for Children but lamented that the Office's visits to places of detention were so infrequent.<sup>105</sup>

### • *Training and specialisation*

The CPT has always maintained that there is a strong connection between the staff who work in juvenile facilities and a facility's capacity to operate in a safe and effective manner. In particular, it has noted frequently the importance of ensuring that all staff working in juvenile detention facilities are suited to the task, chosen in line with this suitability and trained both at induction and on an ongoing nature. Recognising the potentially challenging nature of working in juvenile detention the CPT has noted that:

'The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties'.<sup>106</sup>

101. The SPT is the Subcommittee on the Prevention of Torture, Inhuman and Degrading Treatment or Punishment established under the Optional Protocol to the United Nations Convention against Torture. The NPMs are National Preventive Mechanisms which are set up as monitoring mechanisms at national level under OPCAT.

102. Cyprus – CPT/Inf (2008) 17, paragraph 139.

103. See for example, United Kingdom – CPT/Inf (2009) 30, paragraph 110.

104. United Kingdom – CPT/Inf (2009) 30, paragraph 110.

105. Malta – CPT/Inf (2011) 5, paragraph 157.

106. Ireland – CPT/Inf (2011) 3, paragraph 40.



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This issue was highlighted in respect of the Netherlands also where the CPT noted that 'a high rate of staff turnover combined with the difficulty in recruiting new, well-trained staff, obviously has an impact on the quality of care provided'.<sup>107</sup> In Spain, a similar point was made about needing to ensure that those who are responsible for the care of unaccompanied minors in detention receive training to enhance that they are sensitive to the multi-cultural needs of this group.<sup>108</sup>

According to the CPT, specialism is secured inter alia by ensuring that 'a rigorous selection and training programme is in place for all staff allocated to [juvenile facilities]' with induction and regular in-service training.<sup>109</sup> In this regard, the CPT was concerned that staff, newly appointed to youth facilities in Austria, receive insufficient specialised training to deal with juveniles.<sup>110</sup> It has also advocated the use of mixed-gender staffing<sup>111</sup> and now frequently advocates for the use of multi-disciplinary teams and approaches.<sup>112</sup>

### 4.2 Government responses

Assessing the effectiveness of the CPT's work in preventing ill-treatment to juveniles in detention requires a review of the progress achieved by States Parties over a long period of time. As the above analysis shows, the CPT is well placed to identify where practice can be improved to make detention safer for juveniles and it brings to its work an authority derived from extensive practical experience of visiting detention facilities across member states of the Council of Europe. Regardless of how effective and robust the work of the CPT is, however, whether reform takes place at national level depends on the extent to which governments and national prison authorities are willing to engage with the process. In this regard, it is relevant that, as highlighted in section 3 above, the CPT's work takes place at a number of levels including the local level – when the CPT engages privately directly with prison authorities, officials and other officers working in places of detention – as well as at the national level, where the government responds to the CPT's visit report in a formal and public manner. There is no formal way of measuring the nature or the effectiveness of the CPT's work in bringing about change at local level. The attitude and approach of governments, however, can be measured with regard to the tone and content of their published responses to CPT visit reports. This is the aim of this short section.

107. Netherlands – CPT/Inf (2008) 2, paragraph 81.

108. Spain – CPT/Inf (2011) 11, paragraph 157.

109. Ireland – CPT/Inf (2011) 3, paragraph 40.

110. Austria – CPT/Inf (2010) 5, paragraph 73.

111. Austria – CPT/Inf (2010) 5, paragraph 74.

112. Turkey – CPT/Inf (2005) 18, paragraph 73. See also the CPT's 9<sup>th</sup> Annual Report CPT/Inf (1999) 12 and further discussion above and below.



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Before assessing these responses, it is important to identify some general features of the CPT reporting process which should be taken into account when considering state responses. First, the CPT process is a constructive and ongoing dialogue which takes place with States Parties over a period of time about how to protect persons in detention from ill-treatment. Thus, while the CPT's report represents its assessment of the places of detention visited, the government report represents the state's opportunity to comment on or correct the CPT's findings. The government chooses whether to place both reports into the public domain and if so when, and it is notable that a long period of time can elapse between the CPT visit and the reports' publication arguably reducing the value of both reports (at least to neutral observers). Similarly, although the CPT requests the government's response to precise issues and questions, the government ultimately decides whether and if so how to respond to the CPT's concerns. This means that government reports do not always address every issue raised by the CPT and indeed they may choose to avoid awkward or difficult issues altogether.

In terms of assessing government's responses to CPT reports, it is not possible to say whether states respond differently to concerns about juvenile detention than they do to concerns about adult detention. Thus although the following remarks flow from an analysis of responses to CPT concerns about juvenile detention, they may be equally applicable to adult detention.

The following comments can be made about government responses to CPT reports:

- **Mixed responses:** Responses to CPT concerns are varied with some states taking them seriously and others appearing less concerned. It is difficult to know what encourages a response of the former, rather than the latter kind, as factors like resources, political will and attitude both to international authorities, to penal reform and to juvenile crime undoubtedly play a role. In some countries, both negative and positive responses can be noted. For example, in the case of Lithuania, although it took a third visit by CPT to finally prompt action, the Government's reply to the most recent CPT visit indicated that concrete steps had been taken to improve the conditions of detention experienced by juveniles there.<sup>113</sup> Similarly, Romania noted some concrete improvements to the level of participation in educational and recreational activities following CPT concerns about poor regime.<sup>114</sup> Similarly, in response to CPT criticism of Huntercombe Young Offender Institution, the UK Government report noted that changes were made to the regime, notably the availability of exercise and recreational opportunities, and the employment of a nutritionist. However, other concerns were greeted with an explanation that the existing conditions met domestic standards.<sup>115</sup> In Sweden, some criticisms

113. Response of the Lithuanian Government, CPT/Inf (2011) p. 18.

114. Response of the Romanian Government, CPT/Inf (2011) p. 32.

115. Response of the United Kingdom Government, CPT/Inf (2009) 31, p. 63.



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were not accepted by Government, whereas others – including the production of an information leaflet for juveniles – were acted upon in full.<sup>116</sup>

- **Denial:** in many cases where concerns are raised the response is to reiterate the view that national safeguards, either in law or policy, are sufficient and that similarly, the problem raised by the CPT is either not a serious one or is not supported by its evidence. For example, this was the case in Croatia,<sup>117</sup> Austria<sup>118</sup> and Sweden<sup>119</sup> in respect of the recommendation that a parent/guardian should always be present when a juvenile is being questioned. A variation of this response is the vague reply where copious amounts of detail mask either a failure or a refusal to address the specific concern raised.
- **Long-term solutions:** In some cases, long-term solutions to problems are proposed. For example, in Croatia, the Government responded to CPT concerns about juvenile's detention with adults by detailing plans for a new facility.<sup>120</sup> Similarly, in Ireland, the response to the CPT's repetition of its recommendation that a particular facility that detains children with adults be closed was to outline proposals to build entirely new facilities by 2015.<sup>121</sup>
- **Non-implementation:** It is possible to point to instances where CPT recommendations have had no effect. For example, in Poland, the CPT noted that it had repeatedly criticised the Government regarding conditions in police establishments used to detain juveniles, to no avail.<sup>122</sup> This is clearly a sign of this Government's lack of willingness to address the CPT's concerns, although it may of course be equally seen as a sign of the CPT's failure to persuade the Government to respond to its legal obligations.

Overall then, it is not possible to conclude that governments take CPT recommendations seriously, or indeed vice versa. The reality is both approaches are evident from government reports. At the same time, it is arguably difficult if not also unfair to assess the 'success' of CPT activity based solely on the nature of government responses. What CPT does very well is to document existing conditions for juveniles in detention and in this way it can be said to 'speak truth to power', bringing that evidence to the attention of Governments and ultimately, through the reports' publications, to the public. Regardless of the government's response to these concerns, therefore, it is the conclusions and recommendations of the CPT that carry weight. These are frequently used by both NGOs

116. Response of the Swedish Government, CPT/Inf (2010) 18, pp. 12-13.

117. Response of the Croatian Government, CPT/Inf (2008) 30, p. 11 (A 5. 32).

118. Response of the Austrian Government CPT/Inf (2010) 6, p. 7 (in response to paragraph 28 of the CPT Report). 'We are well aware of the fact that this age group requires special protection'. See also p. 25.

119. Response of the Swedish Government, CPT/Inf (2010) 18, pp. 12-13.

120. Response of the Croatian Government, CPT/Inf (2008) 30, p. 14 (A 5. 46).

121. Response of the Irish Government, CPT/Inf (2011) 4, p. 18.

122. Poland – CPT/Inf (2006), paragraph 37.



campaigning for reform and scholars researching these issues nationally and internationally and they thus carry added value beyond the strict limits of the CPT process by contributing to the understanding of how human rights standards are implemented in practice. They are also increasingly referred to in the judgments of the European Court of Human Rights.

## 5. Analysis of CPT standards

The CPT reports have contributed in a significant way to international human rights jurisprudence concerning the treatment of juveniles in detention. At the same time, it is apparent that the CPT does not set out to create standards but rather they emerge and are distilled from its empirical findings and recommendations in the visit reports. As such, they evolve and develop over time, in line with the CPT's developing experience. Building on this information, this section considers the standards and General Reports of the CPT to see whether they address the situation of children deprived of their liberty in a comprehensive manner, bearing in mind developments in children's rights over the past decade. Of these, three publications are of particular relevance:

- The 9<sup>th</sup> General Report (1998) which contains a substantive section on Juveniles Deprived of their Liberty;
  - The 18<sup>th</sup> General Report (2007/2008) which contains comments on the draft European Rules on Juvenile Offenders Subject to Sanctions and Measures;<sup>123</sup>
  - The 19<sup>th</sup> General Report (2008/2009) which contains a substantive section on safeguards for irregular migrants deprived of their liberty and includes a few paragraphs on additional safeguards for children.
- *The 9<sup>th</sup> General Report – Juveniles Deprived of their Liberty*

In its 9<sup>th</sup> General Report,<sup>124</sup> the CPT set out the criteria which guide its work in respect of juveniles deprived of their liberty. This was considered important in light of the inherent vulnerability of those under 18 years and the fact that 'particular vigilance is required to ensure that their physical and mental well-being is adequately protected'.<sup>125</sup> Having stated its support for the cardinal principle that children should only be detained as a measure of last resort for the shortest appropriate period of time (see Art 37 of the CRC), the CPT considers these issues under two main headings: safeguards against the

123. Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the *European Rules for Juvenile Offenders Subject to Sanctions and Measures*. Adopted by the Committee of Ministers on 5 November 2008 at the 1040<sup>th</sup> meeting of the Ministers' Deputies, available at [www.coe.int](http://www.coe.int).

124. CPT/Inf (1999) 12.

125. *Ibid.*, at para. 20.



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ill-treatment of juveniles and detention centres for juveniles. In the former respect, the CPT notes that the following are essential to protect juveniles from ill-treatment:

- juveniles have the right to notify a relative/adult of the fact of their detention and to access a lawyer and a doctor;<sup>126</sup>
- all forms of physical chastisement are prohibited;
- juveniles are separated from adults in detention;
- mixed gender staffing is used in juvenile detention facilities and
- batons are hidden from view, if carried by custodial staff.

With respect to the standards on Detention Centres for Juveniles, the CPT considers the following basic approaches to be important:

- juveniles are detained in facilities designed for persons of their age and tailored and staffed according to their needs;
- use of a multi-disciplinary approach.

In addition, it addresses the importance of good material conditions, a constructive regime, staff training, contact with the outside world, the application of safeguards when disciplinary procedures are used, the provision of complaints and independent inspection procedures and the provision of child-focused healthcare services.

There is some overlap between these Standards and those in the other international instruments, notably the UN Rules for Juveniles Deprived of their Liberty (the Havana Rules), the European Rules for Juvenile Offenders subject to Sanctions and Measures and the Committee on the Rights of the Child General Comment No. 10.<sup>127</sup> However, the strength of the CPT standards is that they are based on the direct experience of the CPT's visits and in this regard they provide a level of detail not often found in other instruments. Note for example, the recommendations relating to the treatment of a juvenile in police custody and those addressing the necessary elements of a constructive regime.<sup>128</sup>

The fact that the Standards are drawn from CPT experience means that they do not provide a comprehensive guide to the rights of juveniles in detention but, rather respond to the particular issues encountered during its visits to member states with a particular (and obvious) focus on the protection of juveniles from ill-treatment. In this regard, it is apparent that the direct experience of these issues by the CPT means that they are well placed to supplement more general standards with precise guidance in particular areas.

126. This was also addressed in the 21<sup>st</sup> General Report of the CPT (2010/2011) but no specific reference was made to juveniles in this context, CPT/Inf (2011) 28.

127. Committee on the Rights of the Child, *General Comment No. 10, Children's Rights in Juvenile Justice*, UN Doc CRC/C/GC/10 (2007).

128. See paragraphs 23 and 31-32 respectively.



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They do this well, for example, with regard to the application of disciplinary measures and the use of solitary confinement on which other international instruments are of limited value.<sup>129</sup>

A further, important feature of the CPT's standards is the strong connection that they draw between various aspects of children's rights and the protection from ill-treatment. For example, the Standards usefully connect the principle of keeping children separate from adults in detention to the aim of protecting them from harm. Similar connections are drawn between the substantive goal of preventing ill-treatment and the procedural aim of ensuring a juvenile's right to notify a relative of detention, to access a lawyer and to access a doctor in police custody.<sup>130</sup>

Overall, then, the Standards address the issues that arise in the CPT's visiting activities. They usefully reinforce and supplement other instruments in these areas, although they are comparatively limited in scope reflecting the specific mandate of the CPT. For instance, they focus on the conditions of detention, rather than its use and they say relatively little about the rights of children detained outside the penal context (e.g. children detained for health or welfare reasons). In that sense, the CPT could be said to remain focused on the traditional concerns associated with 'juveniles in detention' (as young people in conflict with the law) rather than broader issues like whether the rights of children - to education, to healthcare, to contact with family for example – are secured in detention. Although this arguably reflects the limited remit of the CPT to prevent the ill-treatment of juveniles in detention, it is an area where the CPT Standards could be strengthened in particular by emphasising the relevance of core children's rights principles like the requirement to have regard to the best interests of the child (set out in Article 3 of the CRC) and the duty to affirm to the child the right to have a say in matters that affect him/her (as recognised by Article 12 of the CRC) to the protection of juveniles in detention.

### • *The 18<sup>th</sup> General Report - CPT Comments on the Draft European Rules*

The CPT responded to an invitation to comment on the draft European Rules on Juvenile Offenders Subject to Sanctions and Measures and its submission appeared in its 18<sup>th</sup> General Report covering the period 2007/2008. In it, the CPT noted a large degree of coherence between the standards that it has developed on Juvenile Offenders and the draft of the Rules but it recommended strengthening of the rules in a number of precise areas, all of which related directly to its experience of where juveniles' rights are threatened in practice. These included the separation of juveniles from adults (where it disagreed with the 'best interests' exception), the need to ensure that a

129. The issue of solitary confinement is also addressed in the 21<sup>st</sup> General Report of the CPT, but no specific reference was made to juveniles, other than to refer to the standards outlined in the 9<sup>th</sup> Report, at para 54.

130. See the 21<sup>st</sup> General Report, above.



juvenile does not sign a statement or confession in police custody in the absence of a parent, the need for specialist police divisions to deal with juveniles, the need for precise limits on the maximum time for which solitary confinement can be used, and the need to ensure that a juvenile detained in such circumstances enjoy his/her rights to contact. Regrettably, none of its recommendations appear to have been taken on board and it is very disappointing that within the Council of Europe (although not within the case-law of the European Court of Human Rights where the CPT's conclusions appear to carry significant weight), the special expertise of the CPT is not always taken into account.

• *The 19<sup>th</sup> General Report – CPT comments on Safeguards for Irregular Migrant Children*

In its 19<sup>th</sup> General Report,<sup>131</sup> the CPT set out its position in relation to the safeguards that should be afforded to irregular migrants deprived of their liberty. It dedicated several paragraphs to the additional safeguards that should be granted to children in this situation. It began by setting out that following the 'best interests principle' in Article 3 of the Convention on the Rights of the Child, the detention of children, including unaccompanied and separated children, 'is rarely justified' and 'can certainly not be motivated solely by the absence of residence status'.<sup>132</sup> In the exceptional situation when a child is detained, this should be for the shortest possible period of time and all efforts should be made to allow the immediate release of unaccompanied or separated children from a detention facility and their placement in more appropriate care. Furthermore, owing to children's vulnerability, it is the view of the CPT that additional safeguards should apply whenever a child is detained, but especially where the child is deprived of parental care.

According to the CPT, as soon as possible after the presence of a child becomes known to the authorities a professionally qualified person should conduct an initial interview in a language the child understands. The child's particular vulnerabilities should be assessed and other protection needs identified. Unaccompanied or separated children deprived of their liberty should be provided with free and prompt access to legal and other appropriate assistance, including the assignment of a guardian or legal representative.<sup>133</sup> Similarly, such children should have regular contact with a social worker and psychologist. Such detention facilities should employ mixed gender-staffing and ensure a constructive regime (with special emphasis on education) is in place.<sup>134</sup> Such children should be detained in living quarters that are separate from adults unless it is considered in the child's best interests not to do so such as where it would split up the family.<sup>135</sup>

131. CPT/Inf (2009) 27.

132. Ibid, paragraph 97.

133. Ibid, paragraph 98.

134. Ibid, paragraph 99.

135. Ibid, paragraph 100.



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In these paragraphs, the CPT provides useful detail on the safeguards that should apply to irregular migrant children deprived of their liberty. They add support to the other standards in this area, including the Committee on the Rights of the Child's General Comment on the Treatment of Unaccompanied and Separated Children outside their Country of Origin.<sup>136</sup> The status of these Standards is strengthened by the fact that they have emerged from the CPT's empirical experience and their emphasis on the practical as well as procedural safeguards for migrant children deprived of their liberty.

## 6. Recommendations

The final section of this document reflects on the preceding sections to ground recommendations as to how the CPT can make a greater contribution to improving the protection of children deprived of their liberty. It takes into account the major deficiencies identified by the CPT reports, the analysis of Government responses to those reports, and the Standards that have emerged from the CPT's work.

### 6.1 *The CPT and children's rights*

In order for the CPT to play a proactive role in protecting children's rights in detention it is necessary that the work of the Committee itself is informed by children's rights principles. There are two aspects to this:

**First**, the CPT should take steps to develop the extent to which it uses children's rights standards in its work. Many of the reforms that the CPT recommends are based on or drawn from international children's rights standards like the CRC, the Havana Rules and the Council of Europe Rules on Juveniles Subject to Sanctions and Measures. As the CPT itself notes, there is a large degree of consistency between its standards and those adopted by other international bodies. However, more could arguably be done to make those linkages in its reports, with the aim of ensuring a convergence and mutual reinforcement of state's obligations in this area. This is necessary *inter alia* to ensure that a CRC-compliant approach is being advocated by the CPT, in particular by drawing attention to the core principles of 'non-discrimination', 'best interests' and 'right to be heard' in addition to the child's rights to protection from harm, to education and to healthcare. The CPT could usefully refer to the CRC General Comment (on Juvenile Justice) and the European Rules for Juvenile Offenders Subject to Sanctions and Measures when commenting on the use of custody with a view to both strengthening CPT recommendations, and reinforcing the interrelationship of international instruments.

<sup>136</sup> United Nations Committee on the Rights of the Child General Comment No. 6 (2005) *Treatment of Unaccompanied and Separated Children outside their Country of Origin*, CRC/GC/2005/6.



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As a related point, the CPT should consider ways in which it could develop greater synergy with international monitoring mechanisms like the Council of Europe Commissioner for Human Rights and, perhaps, the United Nations Committee on the Rights of the Child. There is a particular consistency between the recommendations made by the Committee commenting on juvenile detention in Council of Europe states and many of the criticisms and recommendations expressed by the CPT have also been made the Committee.<sup>137</sup> The Committee's concluding observations could thus usefully be used to reinforce CPT findings and recommendations, and work could also be undertaken to promote – among NGOs and the Committee on the Rights of the Child itself – the recommendations of the CPT so that cross-referencing becomes much more commonplace. This would help to strengthen the impact of the CPT's work in this area. Similar links should be made with the country monitoring reports of the Commissioner for Human Rights.

The **second** recommendation is that the CPT, itself, take steps to ensure that it operate in a manner consistent with children's rights standards. Two issues arise here:

- First, it is recommended that the CPT should work to ensure that its recommendations concerning children are implemented in a timely manner. As noted, a significant period of time can elapse between the CPT's visit and the publication of its report. Even though publication of the reports does not prevent the concerns they identify being addressed in the interim, it is of concern that there should be delay in putting serious concerns affecting children in detention into the public domain. To minimise this problem, efforts should be made to encourage states to expedite the normal process of responding to the CPT's concerns and publishing the reports where children's rights issues are at issue. One measure worthy of consideration is that the CPT could encourage the authorities to invite their NPM (National Preventive Mechanism under the Optional Protocol to the Convention against Torture, if the states are parties to the OPCAT) to attend the final talks at the end of the visit when the delegation outlines its preliminary observations. Although this is a confidential process, including the NPM could allow this body to follow-up on the points raised by the CPT without delay.
- Second, there is a need to focus on how the CPT engages with young people during its visits. It is very welcome that juveniles have the opportunity to speak with the CPT delegation during their visits although very little is known about the nature of this interaction or what skills and experience the CPT delegation brings

<sup>137</sup>. See Kilkelly, U. *Measures of Deprivation of Liberty for young offenders: how to enrich International Standards in Juvenile Justice and promote alternatives to detention in Europe*. Green Paper Academic Section of the European Council for Juvenile Justice, International Juvenile Justice Observatory, 2010, available from the author or at <http://www.ijjo.org>.



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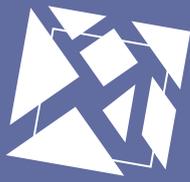


to this process. In addition to ensuring that each CPT delegation is of mixed gender and disciplinary background, therefore, it is important to ensure that *each delegation includes expertise in children's issues*, such as child development, psychiatry or social work. It would also be important that each delegation has amongst its members at least one person with the expertise and experience associated with communicating with young people especially those in particularly vulnerable situations such as children in immigration centres and psychiatric institutions. In order to ensure that this expertise is as mainstreamed as possible throughout the CPT membership and secretariat, it is *strongly recommended that all members and staff undergo training* – both at induction and on an ongoing basis – *on both child development, children's rights and interviewing children*. The adoption of the Council of Europe's Guidelines on Child-friendly Justice in 2010 also presents an opportunity to review CPT working methods and approaches to ensure that they too are child-friendly. Adopting these procedures itself would strengthen the CPT's position in making similar recommendations to states.

### 6.2 Strategic visits focused on juveniles in detention

It is very clear from the above analysis that wherever the CPT has visited places where children are detained this has enabled it to raise concerns and make recommendations focused on preventing ill-treatment. Based on this experience, it is worth considering how CPT visits could be used in a more strategic manner to further the potential of the process to promote the rights of children in detention. Two proposals are made in this regard:

- the first recommendation is that every CPT visit should include in its itinerary a place of detention *where juveniles are detained* bearing in mind the range of places where juveniles are deprived of their liberty including police stations, psychiatric and care homes, immigration centres, young offender institutions and prisons. This would help to ensure that the issue of juvenile detention is raised by the CPT at every opportunity with the knock-on effect of promoting greater adherence to international standards in this area. In the event that this is not possible or feasible, for whatever reason, then the delegation should take the opportunity during each visit to make formal enquiries about the conditions in which juveniles are detained, specifically addressing any concerns highlighted during previous visits;
- the second recommendation worthy of consideration is that *the CPT should dedicate an entire round of visits to the issue of juvenile detention by visiting in each member state a range of places where juveniles are deprived of their liberty*. In doing so, it would be important to include in such visits the wide range of facilities in which juveniles are



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detained, including both centres dedicated to juvenile detention and adult institutions in which juveniles are detained, either segregated or otherwise. Again, this would serve to highlight the particular circumstances of juveniles in detention and it would raise awareness about the extent of state obligations with respect to children detained in *all* settings. A thematic visit would create a clear picture across the member states of the Council of Europe in relation to the conditions and use of juvenile detention and it would also provide a very valuable baseline of information that could be used by other monitoring bodies and organisations at national and international levels.

### *6.3 Standards on children's rights in detention*

As highlighted above, the CPT makes good use of existing standards in its work and occasionally draws on international instruments in its analysis and recommendations. As this report shows, the CPT has its own contribution to make to the existing body of law on juvenile detention and the rights of children deprived of their liberty and it does this from a position of authority, based on its practical insights into the reality of children's experiences. It is now over 13 years since CPT last published its standards in this area and in the intervening years the CPT has amassed a wide range of experience and the standards it advocates have evolved to reflect a greater understanding of the particular needs and rights of juveniles deprived of their liberty. Although much in the way of CPT jurisprudence already exists on the subject of juvenile detention, implementation of the recommendation made above to undertake a series of strategic visits focused on juvenile detention would provide an even greater depth of standards worthy of publication. *The CPT is thus encouraged to issue a new set of standards dealing with juvenile detention, explaining state obligations with respect to the protection of children's rights in detention, building on existing instruments like the Havana Rules, the European Rules for Juvenile Offenders Subject to Sanctions and Measures and the Committee on the Rights of the Child General Comment No. 10.* Although this would, significantly, draw on its experience and insights in this area, the adoption of new standards would give the CPT an opportunity to develop detailed standards in areas currently covered in insufficient detail in existing instruments and where states urgently need clearer guidance - notable examples of this are the use of solitary confinement, restraint, regime and issues of child protection.



## 7. Conclusion

This report focuses on the work already undertaken by the CPT with regard to juvenile detention. It sets out the range of concerns highlighted to date in its reports and the detailed and specific recommendations made by the CPT in its reports to the States Parties. As part of this process, it has developed Standards which both build on and supplement Council of Europe and UN instruments in this area. As this report shows, these Standards are reinforced and informed by the authority of the CPT gained, in large part, by its direct exposure to the experiences of children themselves. This report establishes that there is considerable potential within the CPT to promote the rights of children deprived of their liberty across a range of settings. To do this, however, it is recommended that the Committee take certain steps aimed at developing its own capacity to implement a children's rights approach to its work, raising greater awareness about children's rights in detention and developing a new, up to date set of standards to guide state practice in the area.



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The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) organises visits to places of detention, in order to assess how persons deprived of their liberty are treated. These places include prisons, juvenile detention centres, police stations, holding centres for immigration detainees, psychiatric hospitals, social care homes, etc. States are notified that the CPT intends to carry out a visit; after notification, the CPT delegation may go to any place where persons may be deprived of their liberty at any time and without notice.

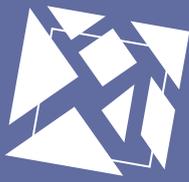
The CPT's members are independent and impartial experts from a variety of backgrounds, including lawyers, medical doctors and specialists in prison or police matters.

The CPT is not an investigative body, but provides a non-judicial preventive mechanism to protect persons deprived of their liberty against torture and other forms of ill-treatment. It thus complements the judicial work of the European Court of Human Rights.

The Council of Europe transversal programme "Building a Europe for and with children" was launched in 2006 in response to a call for mainstreaming children's rights into all policies, for coordinating all child-related activities and for eradicating all forms of violence against children.

The key themes covered under the programme include prevention, protection, provision and participation and the goals outlined in the Strategy for 2012-2015 are to achieve effective implementation of existing children's rights standards, complementing the provisions contained in the United Nations Convention on the Rights of the Child. The Strategy objectives for the current period focus on promoting child-friendly services and systems; eliminating all forms of violence against children; guaranteeing the rights of children in vulnerable situations, and promoting child participation.

Focusing in particular on certain vulnerable children, the Council of Europe is paying special attention to developing alternatives to detention, access to legal aid and legal representation, and protecting children in detention from violence.



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## The Council of Europe

The Council of Europe is an international organisation founded in 1949 which now has 47 member states. Its role is to promote human rights, democracy and the rule of law. It establishes common democratic principles based on the European Convention on Human Rights and other conventions and recommendations on the protection of persons, which of course includes Europe's 150 million children.



### **"Building a Europe for and with Children"**

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