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European Committee for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment  
(CPT)

# **2nd General Report on the CPT's activities**

**covering the period 1 January to 31 December 1991**

Strasbourg, 13 April 1992

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## I. PRELIMINARY REMARKS

1. At the outset it might be useful to recall the essence of the CPT's mandate. The Committee's task is to examine the treatment of persons deprived of their liberty, with a view to strengthening, if necessary, the protection of such persons from torture and inhuman or degrading treatment or punishment. For this purpose it is entitled to visit any place within the jurisdiction of Parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "the Convention") where persons are held by a public authority. The CPT organises periodic visits as well as any other visits which appear to it to be required in the circumstances (so-called "ad hoc" visits). The CPT's activities are based on the concept of co-operation (Article 3 of the Convention). The Committee's role is not to publicly criticise States, but rather to assist them in finding ways of enhancing the protection of persons deprived of their liberty from ill-treatment.

2. The CPT has now completed the first, preparatory, phase of its activities (adoption and refinement of the Committee's Rules of Procedure, elaboration of common working tools, establishment of relations with other international bodies, training of members, working out of methods for the conduct of visits and their follow up). As a result, it has been able during 1991 to concentrate more on its principal activity, namely the carrying out of visits and related tasks i.e. preparation of visits, drawing up of visit reports, consideration of interim and follow-up reports from States in response to the CPT's reports, etc.

3. In the first General Report (CPT (91) 3), the CPT set out in detail the procedural and organisational framework devised for the proper conduct of its visits, described the Committee's main features and the preventive nature of its functions, and provided some indications as regards the mechanics of the visiting process. These areas shall not be dealt with in depth again in the present report, though significant developments concerning the "organisation and internal workings" of the Committee and "its activities proper"<sup>1</sup> shall be highlighted.

4. On the other hand, the CPT considers that it would be appropriate - while fully respecting the rule of confidentiality laid down in Article 11 of the Convention - to set out in its general reports certain substantive matters to which it pays attention when carrying out visits. In this report, brief reference shall be made to some issues related to police custody of criminal suspects and imprisonment. The CPT intends to explore several of these issues in greater depth in future reports as well as to examine matters of interest concerning other forms of deprivation of liberty (eg. administrative detention of aliens; confinement of the mentally ill; confinement of the elderly; detention of minors; etc.). The Committee hopes in this way to give a clear advance indication to national authorities of its views on different matters falling within its mandate and more generally to stimulate discussion on issues concerning the treatment of persons deprived of their liberty. In the long term, the compilation of a corpus of standards on the treatment of persons deprived of their liberty might be envisaged (cf. the 1st General Report, *op. cit.* paragraphs 95 and 96).

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<sup>1</sup> cf. paragraph 79 of the Explanatory Report on the Convention.

## II. INTERNAL ORGANISATION AND ACTIVITIES OF THE CPT

### a. 1991 in brief

5. In the course of 1991, the Convention was ratified by three additional States (Belgium, Greece and Liechtenstein), bringing the total number of Parties to twenty-three. The state of signatures and ratifications of the Convention is set out in Appendix 1.

6. The CPT is composed in principle of one member from each Party. Two new members were elected by the Committee of Ministers during 1991: Mr Constantin Economides (in respect of Greece) and Mrs Pirkko Lahti (in respect of Finland). Further, the three members of the Committee whose terms of office expired on 19 September 1991 (i.e. Messrs Antonio Cassese, Michael Mellett and Petros Michaelides) were all re-elected. However, the CPT lost the services of Mr Manuel Antonio Lopes Rocha (elected in respect of Portugal), who resigned from the Committee on 27 September 1991 following his election as a member of the European Court of Human Rights. At the end of 1991 the CPT had eighteen members<sup>2</sup> (see Appendix 2 A for the full list of members).

7. As regards the Bureau, the current members - Mr Antonio Cassese (President), Mr Bent Sørensen (First Vice-President) and Mr Jacques Bernheim (Second Vice-President) - were each re-elected by the CPT for a second term of two years (i.e. until November 1993).

8. The CPT met in plenary session on five occasions during the year. In addition, there were numerous meetings of visiting delegations and of the Bureau.

9. The CPT carried out six visits in 1991, five periodic (to France, Germany, Spain, Sweden and Switzerland) and one ad hoc (to Turkey). Moreover, it adopted five visit reports during the year, on the periodic visits to Denmark and the United Kingdom in 1990 and to Spain in 1991, and on the two ad hoc visits to Turkey in respectively 1990 and 1991<sup>3</sup>.

10. The President of the CPT attended a hearing with the Ministers' Deputies on 22 May 1991, in the course of which he was able to elaborate upon various issues raised in the Committee's 1st General Report.

Moreover, contacts between the CPT and non governmental organisations multiplied during the year. In particular, individual CPT members were invited to numerous seminars and symposia in order to speak about the Committee's work.

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<sup>2</sup> Two additional members of the CPT have subsequently been elected: Mr Jón Bjarman, in respect of Iceland, and Mrs Nora Staels-Dompas, in respect of Belgium.

<sup>3</sup> Further, at its plenary meeting held in February 1992, the CPT adopted its reports on the visits carried out to Sweden and Switzerland in 1991.

**b. Procedural, budgetary and legal matters**

11. The key elements of the CPT's Rules of Procedure were summarised in the 1st General Report (op. cit. paragraph 12). After a spate of changes during the first year of the Committee's existence, the provisions of the Rules are now quite stable. Since the 1st General Report (which reflected the situation as at 31 January 1991), the only amendment made concerns Rule 42, which deals with the confidential nature of the CPT's visit reports.

12. In principle, of course, the report drawn up after each visit is confidential. However, the State concerned may request the CPT to publish the report or itself proceed to publication. If, in the latter case, the report is not published in its entirety, the Committee may decide to publish the whole report (Rule 42, paragraph 2). In the light of experience, the CPT decided in September 1991 that this rule should be supplemented by another provision (paragraph 3) empowering the Committee to publish the whole report if the State concerned makes a public statement summarising the report or commenting upon its contents.

13. Now that the Committee's Rules of Procedure and general working methods are reasonably well-established, it can focus its attention fully on operational activities i.e. the carrying out of visits and related tasks. For CPT members this will involve a certain decrease in their work at plenary session level (it has been decided to reduce the number of Committee meetings in 1992 to four) to be counterbalanced by an increase in work within visiting delegations. As far as possible, meetings of visiting delegations will be clustered around plenary sessions. However, as the number of visits increases, it will become more and more frequent for meetings of visiting delegations (and in particular post-visit meetings to discuss the draft visit report) to be held independently of plenary sessions.

14. The CPT wishes to record its gratitude to the Secretary General and the Committee of Ministers for having accepted its budgetary requests for 1991 and, more recently, 1992. The Committee has a firm financial basis upon which to carry out its activities. Moreover, the Committee's Secretariat is gradually being strengthened. Two A grade officials joined the Secretariat during 1991, bringing the total number of staff to eight (see Appendix 2, Part B), and it is due to be reinforced in 1992 by the arrival of a documentalist/research assistant.

The CPT very much hopes that it will be possible for an additional A grade official to be appointed to its Secretariat as from 1 January 1993. This will enable the Committee to envisage a further increase in its activities during that year (see also paragraph 28). In this connection, the CPT must reiterate that the Secretariat has an essential role to play in the preparation and carrying out of visits and the subsequent drawing up of visit reports, as well as in the pursuance of the ongoing dialogue with States visited.

15. In its 1st General Report (op. cit. paragraphs 74 to 77), the CPT drew attention to certain legal issues which had arisen concerning the interpretation of the Convention i.e. the application of visa requirements to members of CPT visiting delegations, the giving of reasons when Article 14 (3) of the Convention is invoked (objections to an expert, or other person assisting the Committee, taking part in a visit), and the legal status of the Explanatory Report on the Convention. These different questions were subsequently the subject of a report drawn up by the Ministers Deputies' Rapporteur Group on Legal Co-operation, which was forwarded to the CPT by the Committee of Ministers.

The views expressed by the Rapporteur Group were not entirely in line with those advanced (and still held) by the CPT. Nevertheless, a *modus vivendi* has now been reached which, for the present, should make it possible to resolve satisfactorily any difficulties that might arise in relation to the questions of visa requirements and the application of Article 14 (3) of the Convention.

16. The CPT wishes to take this opportunity to raise the question of the expiry dates of its members' terms of office. As is clear from Appendix 2 A, there are already several different expiry dates, and the situation will inevitably become more complicated as new members join the Committee as a result either of further ratifications of the Convention or of existing members not completing their terms of office. In due course, the multiplicity of expiry dates could cause significant organisational difficulties.

Consequently, the CPT believes that consideration might usefully be given to drawing up a Protocol to the Convention containing provisions similar to those found in Article 22, paragraph 3, of the European Convention on Human Rights, the aim being to place each member in one of two groups, thereby ensuring an orderly renewal of one half of the Committee's membership every two years. The CPT would like to be consulted at an appropriate stage during the drafting of such a Protocol.

### **c. Visits in 1991**

17. As already indicated, the CPT carried out five periodic visits in 1991: in chronological order, to Spain (1 to 12 April 1991), Sweden (5 to 14 May 1991), Switzerland (21 to 29 July 1991), France (27 October to 8 November 1991) and Germany (8 to 20 December 1991). In accordance with the Committee's current practice, these countries were chosen by lot. The CPT had planned to carry out a sixth periodic visit, to Portugal, during 1991. However, due to workload difficulties within the Secretariat, it was decided to postpone the visit to 1992<sup>4</sup>.

In addition, the CPT decided to carry out a second ad hoc visit to Turkey. This visit took place from 29 September to 7 October 1991 (the Committee's first visit to Turkey was carried out from 9 to 21 September 1990).

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<sup>4</sup> The visit to Portugal took place from 19 to 27 January 1992.

18. The composition of visiting delegations<sup>5</sup> has scarcely changed as compared to 1990. A typical delegation consists of four or five CPT members, two experts and two members of the Secretariat. The number of interpreters has varied quite considerably, according to the knowledge possessed by delegation members of the language(s) of the State visited.

19. A list of the places of detention visited by CPT delegations in 1991 is set out in Appendix 3. The emphasis has remained very much on police stations and prisons, though visiting delegations are gradually extending their activities to mental institutions and detention centres for foreigners. Of course, various other types of places fall within the CPT's mandate (for example, institutions in which the elderly or minors are confined, and places where persons are deprived of their liberty by military authorities), and the Committee has every intention to look into these areas in due course.

20. Co-operation between national authorities at ministerial level and visiting delegations has invariably been very good. Further, visiting delegations have generally speaking been received in a satisfactory manner by the authorities in charge of the places visited. Often, the degree of co-operation has been extremely high. To provide a concrete illustration, it is not uncommon for the authorities in charge at a given place spontaneously to draw the attention of the visiting delegation to particular failings or problems.

21. In 1991 there were some isolated examples (in both police and prison establishments) of access to a place that a delegation wished to visit being delayed. As far as the delegations concerned could ascertain, this was simply due to inadequate knowledge about the CPT on the part of the authorities in question.

In this regard, the Committee would stress once again the importance of States disseminating information about the CPT's existence, powers and objectives to relevant authorities and staff. Preferably, all Parties to the Convention should circulate such information as a matter of course, and then issue a reminder when the CPT notifies its intention to carry out a visit. It should be added that in some States visited, information about the Committee had clearly been disseminated in an effective manner (see also paragraphs 30 and 31).

22. In addition to gaining ready access to places of detention, the CPT's delegations wish to find within them a real-life situation. The Committee is not unduly concerned by the tendency in some countries to refurbish places that are notified in advance of the delegation's visit; on the contrary, such action might even be regarded as positive, although **every** place of detention should be kept in good repair. However, the CPT is very disturbed by a few clear instances of the movement of persons deprived of their liberty just prior to a delegation's visit, leaving normally busy places of detention empty. Such action - fortunately encountered rarely - is a negation of true co-operation.

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<sup>5</sup> The press releases issued after each visit set out the membership of the visiting delegations as well as the places visited.

**d. Follow up of visits**

23. As mentioned in the 1st General Report (op. cit. paragraph 71), the CPT's objective is to have its report sent to the Party in question not later than six months after the end of each visit.

Insofar as periodic visits are concerned, it has not always proved possible to meet this objective. In one or two instances, the CPT has transmitted its report some eight to nine months after the visit. The CPT is striving to remedy this situation. However, it should also be recalled in this context that a visiting delegation invariably meets the national authorities at the end of its visit, and gives some tentative first impressions of the places of detention seen. Moreover, during 1991 certain visiting delegations invoked Article 8 (5) of the Convention and immediately communicated formal observations to the competent authorities. The Parties concerned have reacted favourably to these observations; desirable steps have been taken rapidly, without awaiting the transmission of the CPT's report.

As regards the two ad hoc visits carried out by the CPT, the Committee's reports have been drawn up and transmitted expeditiously. For example, the report drawn up following the visit to Turkey from 29 September to 7 October 1991 was transmitted to the Turkish authorities at the beginning of December 1991.

24. In the course of 1991, the CPT has received the first interim reports from States visited, in response to its visit reports. The Committee is very grateful for the substantive replies given and encouraged by the willingness to co-operate which they demonstrate. It trusts that States will continue to comply (and without undue delay) with the requests for interim and follow-up reports; this is essential to the establishment of an ongoing dialogue, to which the Committee attaches the utmost importance.

The basic components of the above-mentioned dialogue are the CPT's visit reports, the interim and follow-up reports from the national authorities in response (cf. also the 1st General Report; op. cit. paragraph 32), and the CPT's reactions to each of those latter reports. Once national authorities and the Committee have become fully acquainted with this procedure, it should enable an in depth exchange of views to be sustained between visits.

25. During 1991, three of the CPT's visit reports - concerning Austria, Denmark and the United Kingdom - have been published, pursuant to Article 11 (2) of the Convention<sup>6</sup>. In the case of Austria and the United Kingdom, the report was published together with the comments of the national authorities. The CPT welcomes the attitude adopted by the Austrian, Danish and United Kingdom Governments on this matter.

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<sup>6</sup> Further, on 2 March 1992, the Swedish authorities informed the CPT that they had no objection to the report drawn up following the visit to Sweden in 1991 being made public.

**e. Future developments**

- increasing the number of CPT members with relevant professional experience

26. The CPT must emphasise once again the importance of increasing the number of its members who possess specialist practical knowledge of penitentiary systems or are medical doctors with relevant experience (see also the 1st General Report, op. cit. paragraphs 87 and 88). In this regard, the Committee wishes to refer to and strongly endorse certain of the observations on Article 4 (2) of the Convention made in paragraph 36 of the Explanatory Report: "It would be desirable that the Committee should include members who have experience in matters such as prison administration and the various medical fields relevant to the treatment of persons deprived of their liberty. This will make the dialogue between the Committee and the States more effective and facilitate concrete suggestions from the Committee".

27. Unless more members are elected with professional experience in the above-mentioned areas, there is a risk that the influence of assisting "experts" (cf. Article 7 (2) of the Convention) over the CPT's activities will become greater than that envisaged by the authors of the Convention.

- increasing the number of visits

28. In 1992 the CPT plans to carry out periodic visits to eight Parties to the Convention - Cyprus, Finland, Italy, Luxembourg, the Netherlands, Portugal, San Marino and Turkey (the visits to Italy and San Marino to take place concurrently), to which must be added any ad hoc visits that might appear to the Committee to be required. Looking further ahead, the CPT hopes to organise nine periodic visits in 1993 i.e. to approximately one third of the States Parties to the Convention (which can be expected to number 25 or more by that time).

29. The CPT's objective remains a rhythm of visits ensuring that each Party is visited on a periodic basis every two years, though the gap between visits might be somewhat longer in the case of countries with very small populations. In this connection, it should be recalled that in most Parties to the Convention there are many places of various types falling within the CPT's mandate, and that in the course of a given visit the Committee is only in a position to go to a very limited number of those places.

- increasing knowledge of the CPT's activities

30. In its 1st General Report (op. cit. paragraphs 91 to 94), the CPT stressed the importance of increasing knowledge of the CPT's activities. The Committee is most grateful to the Committee of Ministers for having endorsed, in June 1991, its requests to States Parties to inform by appropriate means the relevant national authorities and staff of the existence, powers and role of the Committee, and to include information on the Convention in the training of law enforcement personnel and other staff working with persons deprived of their liberty.

31. Knowledge of the CPT is clearly growing, but remains very scanty in a large number of Parties to the Convention. The remarks made in paragraph 21 of this report should be recalled here. Further, in addition to action at national level, the CPT believes that there are fora within the Council of Europe (for example, certain intergovernmental committees and regular information meetings for non governmental organisations) which could be exploited for the purposes of spreading information about the Convention and the activities of the CPT.

- geographical extension of the CPT's activities

32. The Convention has to date been ratified by twenty-three of the twenty-six member States of the Council of Europe. Additional ratifications are likely in 1992 and 1993; in particular, the CPT will probably soon be called upon to extend its activities to new Council of Europe member States from Central and Eastern Europe. By the end of 1993, there might be up to 30 Parties to the Convention.

33. Looking beyond the framework of the Council of Europe's membership, the CPT is aware that the possibility of opening the Convention to non-member States, and in particular to States members of the Conference on Security and Co-operation in Europe which are not members of the Council of Europe, is still under consideration. The CPT has already written to the Committee of Ministers informing it that it would be in favour of such an initiative (see also the 1st General Report; op. cit. paragraph 86). Further, the CPT has taken note with interest of the suggestion put forward in certain quarters that the Committee might in one way or another offer its assistance to certain CSCE States under ad hoc arrangements outside the framework of the Convention.

34. The prospect of these different developments is both exciting and daunting. On the one hand, the CPT relishes the challenge that they represent; on the other hand, it is fully aware of the heavy responsibilities involved. In the interests of coherence and credibility, such additional tasks must be matched by additional means. In this regard, arrangements might have to be made in due course to enable at least some CPT members to devote most of their professional activity to the Committee's work. Further, it is evident that the resources of the CPT's Secretariat will have to continue to be reinforced if the above-mentioned developments are to be handled successfully.

### **III. SOME SUBSTANTIVE ISSUES PURSUED BY THE CPT DURING VISITS**

35. The CPT's role is essentially preventive in nature; its main purpose is to forestall torture or inhuman or degrading treatment or punishment rather than to establish that it has actually occurred (see further the 1st General Report, *op. cit.* Part IV). To fulfil that role, the Committee must explore a wide range of issues - rights possessed by persons deprived of their liberty; custody and interrogation procedures; disciplinary procedures; avenues of complaint; physical conditions of detention; regime activities; health care and standards of hygiene; etc. - in order to assess not only whether there is an imminent risk of ill-treatment but also whether conditions or circumstances exist which could degenerate into ill-treatment. Further, these issues must be viewed both individually and cumulatively.

#### **a. Police custody**

36. The CPT attaches particular importance to three rights for persons detained by the police: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer, and the right to request a medical examination by a doctor of his choice (in addition to any medical examination carried out by a doctor called by the police authorities). They are, in the CPT's opinion, three fundamental safeguards against the ill-treatment of detained persons which should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system concerned (apprehension, arrest, etc).

37. Persons taken into police custody should be expressly informed without delay of all their rights, including those referred to in paragraph 36. Further, any possibilities offered to the authorities to delay the exercise of one or other of the latter rights in order to protect the interests of justice should be clearly defined and their application strictly limited in time. As regards more particularly the rights of access to a lawyer and to request a medical examination by a doctor other than one called by the police, systems whereby, exceptionally, lawyers and doctors can be chosen from pre-established lists drawn up in agreement with the relevant professional organisations should remove any need to delay the exercise of these rights.

38. Access to a lawyer for persons in police custody should include the right to contact and to be visited by the lawyer (in both cases under conditions guaranteeing the confidentiality of their discussions) as well as, in principle, the right for the person concerned to have the lawyer present during interrogation.

As regards the medical examination of persons in police custody, all such examinations should be conducted out of the hearing, and preferably out of the sight, of police officers. Further, the results of every examination as well as relevant statements by the detainee and the doctor's conclusions should be formally recorded by the doctor and made available to the detainee and his lawyer.

39. Turning to the interrogation process, the CPT considers that clear rules or guidelines should exist on the way in which police interviews are to be conducted. They should address inter alia the following matters: the informing of the detainee of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the detainee may be required to stand while being questioned; the interviewing of persons who are under the influence of drugs, alcohol, etc. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detainee during an interview, and of the persons present during each interview.

The CPT would add that the electronic recording of police interviews is another useful safeguard against the ill-treatment of detainees (as well as having significant advantages for the police).

40. The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.). For various matters (for example, items in the person's possession, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. Further, the detainee's lawyer should have access to such a custody record.

41. Further, the existence of an independent mechanism for examining complaints about treatment whilst in police custody is an essential safeguard.

42. Custody by the police is in principle of relatively short duration. Consequently, physical conditions of detention cannot be expected to be as good in police establishments as in other places of detention where persons may be held for lengthy periods. However, certain elementary material requirements should be met.

All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (eg. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.

43. The issue of what is a reasonable size for a police cell (or any other type of detainee/prisoner accommodation) is a difficult question. Many factors have to be taken into account when making such an assessment. However, CPT delegations felt the need for a rough guideline in this area. The following criterion (seen as a desirable level rather than a minimum standard) is currently being used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7 square metres, 2 metres or more between walls, 2.5 metres between floor and ceiling.

#### **b. Imprisonment**

44. In introduction, it should be emphasised that the CPT must examine many questions when visiting a prison. Of course, it pays special attention to any allegations of ill-treatment of prisoners by staff. However, all aspects of the conditions of detention in a prison are of relevance to the CPT's mandate. Ill-treatment can take numerous forms, many of which may not be deliberate but rather the result of organisational failings or inadequate resources. The overall quality of life in an establishment is therefore of considerable importance to the CPT. That quality of life will depend to a very large extent upon the activities offered to prisoners and the general state of relations between prisoners and staff.

45. The CPT observes carefully the prevailing climate within an establishment. The promotion of constructive as opposed to confrontational relations between prisoners and staff will serve to lower the tension inherent in any prison environment and by the same token significantly reduce the likelihood of violent incidents and associated ill-treatment. In short, the CPT wishes to see a spirit of communication and care accompany measures of control and containment. Such an approach, far from undermining security in the establishment, might well enhance it.

46. Overcrowding is an issue of direct relevance to the CPT's mandate. All the services and activities within a prison will be adversely affected if it is required to cater for more prisoners than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. Moreover, the level of overcrowding in a prison, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint.

47. A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The CPT has observed that activities in many remand prisons are extremely limited. The organisation of regime activities in such establishments - which have a fairly rapid turnover of inmates - is not a straightforward matter. Clearly, there can be no question of individualised treatment programmes of the sort which might be aspired to in an establishment for sentenced prisoners. However, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.

48. Specific mention should be made of outdoor exercise. The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard (preferably it should form part of a broader programme of activities). The CPT wishes to emphasise that **all prisoners without exception** (including those undergoing cellular confinement as a punishment) should be offered the possibility to take outdoor exercise daily. It is also axiomatic that outdoor exercise facilities should be reasonably spacious and whenever possible offer shelter from inclement weather.

49. Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment.

In this connection, the CPT must state that it does not like the practice found in certain countries of prisoners discharging human waste in buckets in their cells (which are subsequently "slopped out" at appointed times). Either a toilet facility should be located in cellular accommodation (preferably in a sanitary annex) or means should exist enabling prisoners who need to use a toilet facility to be released from their cells without undue delay at all times (including at night).

Further, prisoners should have adequate access to shower or bathing facilities. It is also desirable for running water to be available within cellular accommodation.

50. The CPT would add that it is particularly concerned when it finds a combination of overcrowding, poor regime activities and inadequate access to toilet/washing facilities in the same establishment. The cumulative effect of such conditions can prove extremely detrimental to prisoners.

51. It is also very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.

The CPT wishes to emphasise in this context the need for some flexibility as regards the application of rules on visits and telephone contacts vis-à-vis prisoners whose families live far away (thereby rendering regular visits impracticable). For example, such prisoners could be allowed to accumulate visiting time and/or be offered improved possibilities for telephone contacts with their families.

52. Naturally, the CPT is also attentive to the particular problems that might be encountered by certain specific categories of prisoners, for example: women, juveniles and foreigners.

53. Prison staff will on occasion have to use force to control violent prisoners and, exceptionally, may even need to resort to instruments of physical restraint. These are clearly high risk situations insofar as the possible ill-treatment of prisoners is concerned, and as such call for specific safeguards.

A prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. This examination should be conducted out of the hearing and preferably out of the sight of non-medical staff, and the results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be formally recorded and made available to the prisoner. In those rare cases when resort to instruments of physical restraint is required, the prisoner concerned should be kept under constant and adequate supervision. Further, instruments of restraint should be removed at the earliest possible opportunity; they should never be applied, or their application prolonged, as a punishment. Finally, a record should be kept of every instance of the use of force against prisoners.

54. Effective grievance and inspection procedures are fundamental safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility to have confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to each prison establishment by an independent body (eg. a Board of visitors or supervisory judge) possessing powers to hear (and if necessary take action upon) complaints from prisoners and to inspect the establishment's premises. Such bodies can *inter alia* play an important role in bridging differences that arise between prison management and a given prisoner or prisoners in general.

55. It is also in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice; any grey zones in this area involve the risk of seeing unofficial (and uncontrolled) systems developing. Disciplinary procedures should provide prisoners with a right to be heard on the subject of the offences it is alleged they have committed, and to appeal to a higher authority against any sanctions imposed.

Other procedures often exist, alongside the formal disciplinary procedure, under which a prisoner may be involuntarily separated from other inmates for discipline-related/security reasons (eg. in the interests of "good order" within an establishment). These procedures should also be accompanied by effective safeguards. The prisoner should be informed of the reasons for the measure taken against him, unless security requirements dictate otherwise, be given an opportunity to present his views on the matter, and be able to contest the measure before an appropriate authority.

56. The CPT pays particular attention to prisoners held, for whatever reason (for disciplinary purposes; as a result of their "dangerousness" or their "troublesome" behaviour; in the interests of a criminal investigation; at their own request), under conditions akin to solitary confinement.

The principle of proportionality requires that a balance be struck between the requirements of the case and the application of a solitary confinement-type regime, which is a step that can have very harmful consequences for the person concerned. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible.

In the event of such a regime being imposed or applied on request, an essential safeguard is that whenever the prisoner concerned, or a prison officer on the prisoner's behalf, requests a medical doctor, such a doctor should be called without delay with a view to carrying out a medical examination of the prisoner. The results of this examination, including an account of the prisoner's physical and mental condition as well as, if need be, the foreseeable consequences of continued isolation, should be set out in a written statement to be forwarded to the competent authorities.

57. The transfer of troublesome prisoners is another practice of interest to the CPT. Certain prisoners are extremely difficult to handle, and the transfer of such a prisoner to another establishment can sometimes prove necessary. However, the continuous moving of a prisoner from one establishment to another can have very harmful effects on his psychological and physical well being. Moreover, a prisoner in such a position will have difficulty in maintaining appropriate contacts with his family and lawyer. The overall effect on the prisoner of successive transfers could under certain circumstances amount to inhuman and degrading treatment.

58. Health care services within prisons (including dietary matters and food in general) is, of course, an additional matter to which the CPT pays the closest attention. This is a vast subject, which the Committee hopes to explore in depth in a future general report. However, persons particularly interested in this subject can already refer to the relevant sections of the reports drawn up by the CPT following its visits to Austria, Denmark and the United Kingdom (as regards the publication of these reports, see paragraph 25). In this report, the CPT would only stress that it is highly desirable for prison medical services to be closely aligned with the mainstream of health care provision in the community as a whole.

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59. Finally, the CPT wishes to emphasise the great importance it attaches to the training of law enforcement personnel<sup>7</sup> (which should include education on human rights matters - cf. also Article 10 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). There is arguably no better guarantee against the ill-treatment of a person deprived of his liberty than a properly trained police or prison officer. Skilled officers will be able to carry out successfully their duties without having recourse to ill-treatment and to cope with the presence of fundamental safeguards for detainees and prisoners.

60. In this connection, the CPT believes that aptitude for interpersonal communication should be a major factor in the process of recruiting law enforcement personnel and that, during training, considerable emphasis should be placed on developing interpersonal communication skills, based on respect for human dignity. The possession of such skills will often enable a police or prison officer to defuse a situation which could otherwise turn into violence, and more generally, will lead to a lowering of tension, and raising of the quality of life, in police and prison establishments, to the benefit of all concerned.

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<sup>7</sup> The expression "law enforcement personnel" in this report includes both police and prison officers.

#### IV. CONCLUDING REMARKS

61. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was opened for signature on 26 November 1987. Some four years later it has been ratified by all the member States of the Council of Europe save Czechoslovakia, Hungary and Poland, which only joined the Council of Europe very recently. This bears witness to the commitment of the member States to the eradication of torture and inhuman or degrading treatment or punishment and to their belief in the value of the body set up under the Convention, namely the CPT. The fact that the CPT has benefitted from the full co-operation of the national authorities at ministerial level in every State visited to date, is another illustration of the support enjoyed by the Committee.

62. Following the establishment of the procedural and organisational framework for the proper conduct of visits, the CPT can be considered as fully operational. The core of the Committee's activities now consists of the actual carrying out of visits and associated tasks.

It should be emphasised that the CPT's visits form part of a continuing process. The Committee intends to organise periodic visits to each Party to the Convention at regular intervals, aside from any ad hoc visits that might prove necessary. Further, an ongoing dialogue shall take place between visits to a given country, on the basis of the Committee's visit report and the interim and follow-up reports from the authorities in response. Sustaining such a dialogue will be onerous and time-consuming for the CPT and national authorities alike, and its fruits will often be neither immediate nor spectacular. However, the Committee is convinced that it is the only valid method of bringing about significant and durable improvements in the treatment of persons deprived of their liberty.

63. Finally, it is noteworthy that in some countries visited by the CPT, police and prison officers have expressed surprise that an "anti-torture" Committee should consider it necessary to examine the way in which they treat persons in their custody. This is perhaps an unfortunate result of the CPT's rather long title, attention inevitably focussing on the term "torture" to the detriment of that of "inhuman or degrading treatment".

Of course, the subject of torture is central to the CPT's mandate. However, as is clear from the issues referred to in Part III of this report, the concerns of the Committee are not restricted to preventing that particularly atrocious form of human rights violation: they extend to any form of ill-treatment of persons deprived of their liberty. Hopefully, as knowledge of the CPT's activities spreads, this will become apparent to all.

**APPENDIX 1**

**Signatures and ratifications of the  
European Convention for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment (\*)**

<b>MEMBER STATES</b>	<b>Date of signature</b>	<b>Date of ratification</b>	<b>Date of entry into force</b>
<b>AUSTRIA</b>	26.11.87	06.01.89	01.05.89
<b>BELGIUM</b>	26.11.87	23.07.91	01.11.91
<b>CYPRUS</b>	26.11.87	03.04.89	01.08.89
<b>CZECHOSLOVAKIA</b>			
<b>DENMARK</b>	26.11.87	02.05.89	01.09.89
<b>FINLAND</b>	16.11.89	20.12.90	01.04.91
<b>FRANCE</b>	26.11.87	09.01.89	01.05.89
<b>GERMANY</b>	26.11.87	21.02.90	01.06.90
<b>GREECE</b>	26.11.87	02.08.91	01.12.91
<b>HUNGARY</b>			
<b>ICELAND</b>	26.11.87	19.06.90	01.10.90
<b>IRELAND</b>	14.03.88	14.03.88	01.02.89
<b>ITALY</b>	26.11.87	29.12.88	01.04.89
<b>LIECHTENSTEIN</b>	26.11.87	12.09.91	01.01.92
<b>LUXEMBOURG</b>	26.11.87	06.09.88	01.02.89
<b>MALTA</b>	26.11.87	07.03.88	01.02.89
<b>NETHERLANDS</b>	26.11.87	12.10.88	01.02.89
<b>NORWAY</b>	26.11.87	21.04.89	01.08.89
<b>POLAND</b>			
<b>PORTUGAL</b>	26.11.87	29.03.90	01.07.90
<b>SAN-MARINO</b>	16.11.89	31.01.90	01.05.90
<b>SPAIN</b>	26.11.87	02.05.89	01.09.89
<b>SWEDEN</b>	26.11.87	21.06.88	01.02.89
<b>SWITZERLAND</b>	26.11.87	07.10.88	01.02.89
<b>TURKEY</b>	11.01.88	26.02.88	01.02.89
<b>UNITED KINGDOM</b>	26.11.87	24.06.88	01.02.89

\*) N.B. The Convention is open for signature by the member States of the Council of Europe.

**APPENDIX 2****A. Members of the CPT listed in order of precedence  
(as at 31 March 1992\*)**

<b>Name</b>	<b>Nationality</b>	<b>Term of office expires</b>
Mr Antonio CASSESE, President	Italian	19.9.1995
Mr Bent SØRENSEN, 1st Vice-President	Danish	19.9.1993
Mr Jacques BERNHEIM, 2nd Vice-President	Swiss	19.9.1993
Mr Love KELLBERG	Swedish	19.9.1993
Mrs Lydie DUPUY	French	19.9.1993
Mr Stefan TERLEZKI	British	19.9.1993
Mr Rudolf MACHACEK	Austrian	19.9.1993
Ms Astrid HEIBERG	Norwegian	19.9.1993
Mr Ergun ÖZBUDUN	Turkish	19.9.1993
Mr Petros MICHAELIDES	Cypriot	19.9.1995
Mr Michael MELLETT	Irish	19.9.1995
Mrs Nadia GEVERS LEUVEN-LACHINSKY	Dutch	19.9.1993
Mr Claude NICOLAY	Luxemburger	19.9.1993
Mr José Maria MOHEDANO	Spanish	19.4.1994
Mr Günther KAISER	German	21.6.1994
Mr Tonio BORG	Maltese	21.6.1994
Mrs Pirkko LAHTI	Finnish	20.6.1995
Mr Constantin ECONOMIDES	Greek	1.12.1995
Mrs Nora STAELS-DOMPAS	Belgian	8.1.1996
Mr Jón BJARMAN	Icelandic	26.3.1996

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\* At this date, the seats in respect of Liechtenstein, Portugal and San Marino were vacant.

<b>B. Secretariat of the CPT</b>
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Mr Trevor STEVENS,	Committee Secretary
Mrs Geneviève MAYER,	Administrative Officer
Mr Fabrice KELLENS,	Administrative Officer
Mr Mark KELLY,	Administrative Officer
Mrs Florence DURING,	Principal Administrative Assistant
Miss Mireille MONTI,	Senior Clerk
Miss Gráinne GALVIN,	Secretary
Miss Susie MORGAN,	Secretary

## APPENDIX 3

### Places of detention visited by delegations of the CPT in 1991

#### A. FRANCE

##### AUBAGNE

- Command Group - Departmental Gendarmerie Company of Aubagne

##### AVIGNON

- Special Hospital Centre of "Les Pins" at Montfavet

##### CLAIRVAUX

- Clairvaux Prison

##### MARSEILLE

- Administrative Detention Centre at Marseille-Arenc
- Police Headquarters (Place de la Major) and Drug and Vice Squads
- Marseille-Baumettes Remand Prison and Regional Medical Psychiatric Service
- Detained persons' Ward at Ste. Marguerite Hospital

##### NICE

- Administrative Detention Centre at Nice-Auvare
- Nice Remand Prison

##### PARIS AND PARIS REGION

- Préfecture de Police at Paris: "Dépôt", various branches of the Judicial Police Directorate (Crime and Drug Squads, 2nd and 5th divisions), 12th section of the General Intelligence Service, Police Centre of the 13th arrondissement, Central Police Station of the 1st arrondissement
- Psychiatric infirmary of the Préfecture de Police
- Emergency Forensic Medicine Service and the detained persons' Ward (CUSCO Ward) at the Hotel-Dieu Hospital
- Emergency Psychiatric Centre at the Ste. Anne Hospital
- "Dépôt" of the Palais de Justice at Paris
- Roissy-Charles de Gaulle Airport: premises of the Air and Border Police, Arcade Hotel and Administrative Detention Centre at Le Mesnil-Amelot
- Central Commissariat of the Urban Police at La Courneuve

## B. GERMANY

### BAVARIA

#### Munich

- Criminal Investigation Department, Munich-North, Johann-Fichtestr. 6 IV
- Police Station 13 (Schwabing), Johann-Fichtestr. 6
- Police Station 41 (Central Station), Arnulfstr. 1
- Munich Police Prison at the "Polizeipräsidium", Löwengrube 3

#### Straubing

- Straubing Prison
- Straubing Police Station, Theresienplatz 1

### BERLIN

- Moabit Prison
- Tegel Prison
- Detention Centre (GESA) at Police Directorate 3, Kruppstr. 2
- Detention Centre at Tiergarten Police Station, Kruppstr. 15
- Detention Centre (GESA) at Police Directorate 5, Friesenstr. 16
- Police Station at Prenzlauer Berg II, Directorate 1, Immanuelkirchstr. 13

### SAXONY

#### Leipzig

- Police Directorate, Dimitroffstr. 3 - 5
- Police Station, Ritterstr. 17-21

#### Waldheim

- Waldheim Prison
- Waldheim Psychiatric Institution, Hainicherstr. 4

#### Westewitz

- Hochweitzschen Mental Clinic

## C. SPAIN

### ALGECIRAS

- Algeciras Prison
- National Police station (Avda. Fuerzas Armadas)

### BILBAO

- Bilbao Prison (Basauri)
- Barracks of the "Guardia Civil", La Salve
- National Police station (c/Gordoniz)
- Headquarters of the Municipal Police

### CADIZ

- Cadiz Prison (Puerto de Santa María II)
- National Police station (Avda. de Andalucía)

### EL PUERTO DE SANTA MARÍA

- Puerto de Santa María I Prison

### MADRID

- Madrid II Prison (Alcalá-Meco)
- Detention Centre for foreigners (Morataláz)
- Headquarters of the "Guardia Civil"
- National Police station, Barajas Airport
- National Police station, Entrevías District
- National Police station, Puerta del Sol
- Detention area at the "Audiencia Nacional"

## D. SWEDEN

### COUNTY OF STOCKHOLM

- Stockholm Remand Prison (Kronoberg)
- Norrmalm District Police Station, Stockholm
- Central Police Station, Stockholm
- Central Police Station, Nacka
- Arlanda Airport Police Station
- Beckomberga Hospital, Bromma
- Closed Unit, Carlslund Refugee Centre, Upplands Väsby

### COUNTY OF ÖREBRO

- Hinseberg Prison, Frövi
- Kumla Prison
- Örebro Police Station

## E. SWITZERLAND

### CANTON OF BERN:

- Bern Regional Prison
- Central Station of the Municipal Police (Waisenhausplatz), Bern
- Thorberg Prison (Krauchthal)

### CANTON OF ZÜRICH:

- Cantonal Police Prisons (Kasernenstraße), Zürich
- Central Station of the Municipal Police (Lindenhofstraße), Zürich
- Police Post of the Lake Police (Mythenquai), Zürich
- Cantonal Psychiatric Clinic, Rheinau

### CANTON OF VAUD:

- Plaine de l'Orbe Prisons
- Yverdon Police Station

### CANTON OF GENEVA:

- Asylum Seekers' Registration Centre (CERA), Geneva-Cointrin Airport
- Airport Police Station, Geneva-Cointrin
- Central Police Station (Boulevard Carl-Vogt), Geneva
- Urban and suburban Gendarmerie Brigades: Pécolat, Carouge and Onex.

## F. TURKEY

### ANKARA:

- Police Headquarters
- Yenimahalle Police Station
- Esenboga Airport Police Station
- Ankara Central Closed Prison

### DIYARBAKIR:

- Police Headquarters
- Interrogation Centre of the 1st Section of the Diyarbakir Police
- Central Interrogation Centre of the Departmental Command of the Diyarbakir Gendarmerie Regiment
- Çarşı Police Station
- Diyarbakir 1 Prison

### ISTANBUL:

- Police Headquarters
- Beyoğlu Central Police Station
- Bayrampaşa Prison