



POLICE INTERVIEWING

RESOURCE MANUAL FOR APPLYING SPOP METHOD

Strengthening justice

Further strengthening the treatment of
detained and sentenced persons in line
with European standards in Bosnia and
Herzegovina

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POLICE INTERVIEWING:

*RESOURCE MANUAL FOR
APPLYING SPOP METHOD*

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Notes

This material is part of the overall programme of professional skills' development with the emphasis on the human rights module. It is partly based on

- *Guidelines for the treatment of persons deprived of liberty in closed environment*
- resource manual *Human rights of persons deprived of liberty in police custody*

developed earlier within the joint programme between European Union and Council of Europe Horizontal Facility for the Western Balkans and Türkiye.

The languages in which the material is drafted are Bosnian, Serbian and Croatian, in accordance with individual preference of the authors. The script in which contributions were written – Latin and Cyrillic are also individual preference of the authors.

All references to officials or persons deprived of liberty in this material equally apply to women and men.

The definitions used in this material are not definitions from the pieces of legislation but aware jointly agreed by the authors for the purpose of this material.

For the purpose of this material, operational procedure/protocol means a series of steps undertaken in sequential order with the purpose of responding to a particular situation prone to human rights violations.

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Mistakes happen. When we learn of a mistake, we acknowledge it with a correction. If you spot an error, please let us know.

The original text was drafted in Serbian/Bosnian/Croatian, English translation is unofficial.

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Preface, purpose and aim

This material was prepared for the officers of the law enforcement agencies and prosecutors in Bosnia and Herzegovina within the joint programme between European Union and Council of Europe Horizontal Facility for the Western Balkans and Türkiye “Further strengthening the treatment of detained and sentenced persons in line with European standards in Bosnia and Herzegovina”.

Its purpose is to:

- record the good practice and emphasize professionalism of the local officials
- support the networking of the law enforcement in Bosnia and harmonise the ways in which they apply international standards in daily practices further
- further enrich institutional training programmes with recommendations of the European Committee for prevention of torture, inhuman and degrading treatment or punishment (CPT)
- assist law enforcement officials to, in their capacity of public officials, understand their legal authorities and obligations and to respond preventively to possible human rights violations.

If torture and other forms of ill-treatment of persons deprived of liberty allegedly committed by public officials are not investigated within the criminal justice system, such (un)professional conduct can easily become the usual practice in that country. Sincere efforts to meet standards, established through the jurisprudence of the European Court for Human Rights and visits of the CPT will have a deterring effect on those who willingly or unwillingly intend to ill-treat persons deprived of liberty.

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Who?

The authors of this resource manual are police officers from Bosnia and Herzegovina's law enforcement agencies who are accredited to design, develop, deliver and evaluate training programmes based on human rights modules. As a result of the quality of their materials, this team has established and proven itself as a centre of excellence and a reference for good practice, as well as the leading provider of high-quality training and professional development focusing on human rights.

The advantage of designing and conducting training under the auspices of an inter-governmental agency such as the Council of Europe lends legitimacy to safeguards designed to protect from allegations of ill-treatment allegedly committed by police officers.

Thanks to the training delivery standards previously defined under the Council of Europe projects and the accreditation of the training team, the training programme would focus on practical work. The fact that there is a thin line between failing to perform an official duty and misconduct means that the only way to recognize and know this line before experiencing it in practice is through practical training.

Trainers are experienced senior police officers well-versed in operational procedures based on local legislation and existing good practice, but their knowledge is also enriched by international human rights standards and communication skills required for modern forms of knowledge transfer.

Cultural change is the most difficult to achieve - if activities on the strategic level are not accompanied by activities on the operational level, and especially by a proactive training programme.

In this case, the accredited training team can reliably translate challenges identified in practice and addressed in law into understandable and applicable operational procedures.

Why is this important?

A comprehensively designed and transparent interview methodology in police agencies provides a credible system of incentives and rewards for solving criminal offenses based on the collection of evidence, and on the other hand, purposeful sanctions for perpetrators of ill-treatment and other serious violations of human rights in the ranks of police agencies, as well as securing admissibility of evidence and adequate performance of the police and criminal justice in general.

Curricula of most of the police academies in the region include a course on “criminological tactics” with a special chapter on “questioning suspects and detainees”. However, currently only a small portion of the course (approximately 1/30) is dedicated to this topic and it is not given the proper importance it deserves. Based on the content of the curricula, it seems that secondary police schools and police academies believe that not all police officers will need this course, but only inspectors who are expected to acquire or improve the necessary knowledge in this field through experience or intuitively.

At police academies, this course is usually taught by:

- graduates or often post-graduates who do not have special degrees in psychology or similar studies, they are mostly police officers who start teaching in mature and late stages of their careers (mainly management staff).
- university lecturers who generally have no practical police experience and are not authorised officials.

Literature used for preparation of exams in this field is mainly outdated, lectures are mostly lecture-style, learning content is mastered through theoretical work with little demonstration exercises or practical work. This field is formally covered in the curriculum, but there is no active learning (practical work, knowledge tests, situational exercises, etc.). It is taught at police academies based on the recommended and common “hot-cold” approach whereby a pair of inspectors play previously agreed roles. The reason for predominant use of this approach might lie in the lack of systematic training and influence of popular culture.

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What is the result?

Secure integrity of the process, fair and well-balanced performance of the police investigation, operational functions, preservation of public order and rule of law - duly reconciled with meticulous observation of human rights and standards.

Difference in approaches to informative talks, hearings, questionings depending on the nature of the offence and psychological status of the person deprived of liberty are documented. Interviewing, hearing, questioning a suspect in a murder case or a suspect in an economic crime case is not the same.

Engagement of consultants with specific knowledge in combination with local police experts who know the local legal framework and current good practice provides the most optimal combination of local knowledge and good international practice.

Key terms

Interview (formal police interview)

Police interview in the context of this resource manual encompasses all types of conversations – informative talk, hearing, questioning and collecting pieces of information from individuals, official conversation – which police officers conduct in their official capacity with the individuals in the official premises or in other places, whenever there are legal grounds for it.

Collecting information and informal conversations

Informal talks with any person having information about the particular event (for ex. during communication with the person while collecting evidence or while the person enters police premises).

Police officer (male or female)

An authorised official whose official capacity of a police officer implies that this person in certain proceedings undertake measures for which a prosecutor is authorised and conducts interview on the prosecutor's authorisation.

European Convention on Human Rights (ECHR)

International convention to protect human rights and political freedoms in Europe, drafted in 1950 by the Council of Europe. The convention entered into force on 3 September 1953. Bosnia and Herzegovina ratified it on 12 July 2002 and from November the same year it supersedes even the Constitution.

The convention established the European Court of Human Rights. Any person who feels their rights were violated under the convention by a state party can take a case to the court, after having explored all local legal remedies. Judgments finding violations are binding on the states concerned and they are obliged to execute them.

Ill-treatment

It is a term that is often used to embrace, substitute the composite wording, notions used for outlining the human right concerned with its prohibition. 'Torture', 'inhuman' and 'degrading' are the three interrelated, but distinct elements that delineate the scope of the prohibition and differentiate it from treatment and punishment that do not amount to ill-treatment. The word 'cruel' incorporated in the UN and some other texts denotes the level of suffering, which is implied by ill-treatment and in all the three definitive constituents. The European instruments opted for not spelling it out, accordingly.

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Torture

Severe mental or physical pain or suffering of particular intensity and cruelty implied by the word torture intentionally inflicted in pursuit of a specific purpose, such as gaining information, punishment or intimidation that is attributable to a state, its agents ranging from immediate infliction to acquiescence including with regard to infliction of severe physical or mental suffering by private individuals.

Inhuman treatment or punishment

Action (inaction) resulting in severe mental or physical pain or suffering of uncivilized, cruel nature that exceeds the minimum level of severity, but does not reach the relevant threshold of torture, which is primarily concerned with recourse to physical force that has not been made strictly necessary by victim's own conduct.

Degrading treatment or punishment

Action (inaction) resulting in severe predominantly mental suffering concerned with debasing, humiliating feelings, and anguish or physical suffering, which could be combined with or originate from instigation of a person to act contrary to his/her will or conscience, that the minimum level of severity, but not reaching the relevant threshold of torture. It may well suffice that the victim is humiliated in own eyes, even if not in the eyes of others.

Inadmissible evidence

Evidence assembled, including by means of interview(s) about violation of human rights which undermine the general principle of fairness enshrined in paragraph 1 of Article 6 of the ECHR.¹ When such violations involve ill-treatment or disregard of access to a lawyer, they automatically and absolutely render the whole criminal procedure (trial) unfair and should be excluded, including due to undermining the perspectives of adequate performance of police and criminal justice in general².

European Code of Police Ethics

Recommendation Rec (2001)10 on the European Code of Police Ethics adopted by the Council of Ministers of the Council of Europe addresses issues such

1 Gafgen v. Germany, Judgment [GC] of 1 June 2010, application no. 22978/05, paras. 162-168. <http://hudoc.echr.coe.int/eng?i=001-99015>.

2 As to other fair trial guarantees and human rights violations (concerned with the respect of private and family life, equality of arms and other fair trial guarantees in criminal matters) that occur with regard to procedural administration of evidence, they should be also avoided since it is difficult to counterbalance them so that they remain admissible. See Khodorkovskiy and Lebedev v. Russia, Judgment [GC] of 25 July 2013, applications nos. 11082/06 13772/05, paras. 699-705 <https://hudoc.echr.coe.int/eng?i=001-122697>

as the objectives of the police, the legal basis of the police under the rule of law, the relationship between the police and the criminal justice system, the organizational structures of the police, police action and intervention, police accountability and control, and research and international cooperation.

Deprivation of liberty

means a situation that occurs when a person is made aware that s/he must remain with police (not free to leave), i.e., the situation which occurs with the moment of the restriction of movement (as per CPT definition)

Vulnerable categories

Persons who are the minority in terms of their numbers or needs different from the needs of the rest of the population (minors, women or pregnant women, new mothers, elderly persons, persons with special physical and mental needs, foreigners, migrants, illiterate persons, chronic patients, etc).

Interview room

any room used for this purpose free of illicit items. It may, but does not have to be, a dedicated room adequately prepared to the extent reasonably possible (ventilation, lighting, etc.).

Impunity

Exemption from accountability and responsibility which encompass punishment.

Accountability (personal) and responsibility (collective)

An obligation to do a task or comply with a rule.

Liability

Conditions needs to be met for a person to be considered accountable or responsible.

A complaint (or allegation)

An allegation, other indication (information) that serious (deliberate) ill-treatment or other serious human rights violation has occurred.

Serious human rights violation(s)

Acts (inaction) in respect of which states have an obligation under the ECHR, and in the light of the ECtHR case-law.

Dynamic security

Implies maintenance of efficient communication and relations between the officials and persons in their charge. Both (communication and relations) empower the role and the authority of the official.

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Table with CPT recommendations regarding interviewing, methodology and training thereof

<p>Ad hoc visit 17-09/2021-27/09/2021 [CPT/Inf (2023) 08]</p>	<ul style="list-style-type: none">• The CPT calls upon the BiH authorities and in particular the Ministries of the Interior at the FBiH, RS, Cantonal levels as well as the State Ministry of Security to adopt a Strategy on the Eradication of Police Ill-treatment taking due account of the detailed remarks set out in paragraph 22 above, and notably the necessity to:• deliver a clear statement at the highest political level to police officers from all police agencies nationwide that there is zero tolerance of torture and other forms of ill-treatment, and that such acts will be investigated and those responsible will be prosecuted and where appropriate sanctioned accordingly;• integrate professional interviewing techniques into the basic training curricula for all police officers and into the advanced training curricula for all crime inspectors and operational police officers charged with interviewing suspects;• introduce systematic audio-video electronic recording of all police interviews, including initial questioning by operative officers in police stations;• adopt mandatory instructions at the level of each police agency on the use of force and means of restraint, on the treatment and fundamental safeguards of persons in police custody and on professional interviewing techniques, all in accordance with "Guidelines on the Treatment of Persons Deprived of their Liberty" developed by the CoE Office in Sarajevo.• The CPT reiterates its recommendation that the authorities draw up an instruction for police interviews of criminal suspects in the line with the provisions of Article 92 of the CCP of FBiH. The instruction should deal, inter alia, with the following aspects: systematic notification to the detainee of the identity of the persons present during the interview (name and/or number) as well as of the right of the detainee to remain silent during the interview; questioning of persons under the influence of drugs, alcohol or medicines. The instruction should also indicate the systematic audio and/or video recording of the time each interview begins and ends, the identity of every person present during the interview, any request made during it by the person detained and questions asked during the interview. The situation of particularly vulnerable persons (e.g. with mental disorders) should carry specific safeguards.
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<p>Periodic visit 11/06/2019-21/06/2019 [CPT/Inf (2021) 21]</p>	<ul style="list-style-type: none"> • The CPT recommends that the authorities of Bosnia and Herzegovina and, in particular, the Ministries of the Interior of the Federation of Bosnia and Herzegovina, Sarajevo and Neretva-Herzegovina Cantons act to ensure that crime inspectors carry out their duties in accordance with the relevant provisions of the relevant Criminal Procedure Codes. To this end, professional training for these officials should be provided regularly, which should cover appropriate interview and investigation techniques, as well as the prevention of ill-treatment. Such targeted activities should be included in the regular training modules of police inspectors. • Further, the CPT recommends that all 16 police agencies within the country establish dedicated interview rooms with audio and video equipment for recording police interviews as required by the domestic legislation. • The CPT recommends that the Ministers of the Interior and the Directors of Police of FBiH and the Cantons of Sarajevo and Neretva-Herzegovina actively promote a culture change within the ranks of the law enforcement agencies. As regards the RS, the Committee notes the progress achieved in particular in the urban centres of this Entity. However, it recommends that the Ministry of the Interior of the Republika Srpska reiterate a message of zero tolerance of physical and psychological ill-treatment of detainees by police officers. • Moreover, it is essential that effective investigations into allegations of ill-treatment are undertaken to demonstrate that criminal acts by the police will be punished and to counter the current culture of impunity that pervades parts of the various police forces within the country. This will also reinforce any message of zero tolerance. • The CPT calls upon the authorities of Bosnia and Herzegovina (including the Entities and Cantons) to establish fully independent police complaints bodies which are adequately resourced and will ensure that allegations of police ill-treatment are investigated effectively. Until this is achieved, the Committee recommends that prosecutors who require operational support for the investigation of cases of possible police ill-treatment seek that support from the police internal control units. Such units should not be under the responsibility of the Director of Police or housed within a police building but rather directly linked to the cabinet of the Minister of the Interior or included, as special sections, within the competent state prosecutor's office. Further, such units should be appropriately staffed with qualified persons. The CPT would also like to receive the comments of the authorities of Bosnia and Herzegovina on the composition of the Bureau of Citizens' Complaints of the Sarajevo Cantonal Assembly and its perceived lack of independence in guaranteeing efficient oversight of the work of the Internal Control Unit of the Sarajevo Cantonal Police. • The CPT calls upon the authorities of Bosnia and Herzegovina to take the necessary measures to ensure that:
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	<ol style="list-style-type: none">1. prosecutors investigating cases of alleged torture and ill-treatment always conduct investigative actions themselves, especially as regards interviews of relevant witnesses, injured parties and police officers; in such cases, they should also always order a forensic medical examination;2. prosecutorial investigations into allegations of ill-treatment of detained persons are conducted in a comprehensive manner, i.e. by ensuring that significant episodes and surrounding circumstances indicative of ill-treatment are not disregarded, and in a prompt and reasonably expeditious manner;3. prosecutors and judges take appropriate action when there are indications that ill-treatment by the police may have occurred. In this regard, whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination should be immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. <ul style="list-style-type: none">• Further, the Committee considers that the practice of prosecutors responding only via a trilateral correspondence with the Human Rights Ombudsman of Bosnia and Herzegovina to requests on the status of criminal investigations filed by the legal representatives of the alleged victims does not satisfy the requirement that investigations be reasonably transparent. In this respect, the CPT would like to receive the comments of the High Judicial and Prosecutorial Council on this matter.• The CPT reiterates its recommendation that the authorities draw up a code of conduct for police interviews. The code should deal, inter alia, with the following aspects: systematic notification to the detainee of the identity of the persons present during the interview (name and/or number) as well as of the right of the detainee to remain silent during the interview; the place(s) where an interview can be conducted; questioning of persons under the influence of drugs, alcohol or medicines or affected by recent concussion. The code should also indicate the systematic audio and video recording of the time each interview begins and ends, the identity of every person present during the interview, any request made during it by the person detained and questions asked during the interview. The situation of particularly vulnerable persons (e.g. with mental disorders) should carry specific safeguards. Finally, persons interviewed should not be forced to stand for prolonged periods or placed in stress positions and must have ready access to water and be offered food (i.e. something more substantial than a sandwich) at appropriate stages of the interview.• As stated above and as required by domestic law, interviews should be conducted in dedicated interview rooms which are suitably equipped and have the necessary audio and video equipment installed.
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<p>Periodic visit 29/09/2015-09/10/2015 [CPT/Inf (2016) 17]</p>	<ul style="list-style-type: none"> • The CPT recommends that the authorities of the RS, FBiH and its Cantons as well as the State Ministry of Security and the Brčko District act to ensure that police operational officers and crime inspectors carry out their duties in accordance with the relevant provisions of the Criminal Procedure Code. To this end, professional training for these officials should be provided regularly, which should cover appropriate interview and investigation techniques, as well as the prevention of ill-treatment. Greater emphasis should be given to modern, scientific methods of criminal investigation, through appropriate investment in equipment and skilled human resources, so as to reduce the reliance on confessions to secure convictions. Further, it recommends that steps should be taken to monitor police interviewing standards and procedures and introduce electronic video recording of police interviews. • The CPT recommends that the Ministers of Interior and Police Commissioners actively promote a culture change within the ranks of the law enforcement agencies. It also reiterates its recommendation that specific “whistle-blower” protective measures be adopted. Moreover, it is essential that effective investigations into allegations of ill-treatment must be undertaken to demonstrate that criminal acts by the police will be punished and to counter the current culture of impunity that pervades parts of the various police forces within the country. This will also back up any message or zero tolerance. • To avoid any perception of impunity, it is crucial that effective action is taken whenever any information indicative of possible ill-treatment comes to light in line with the procedural obligations under Article 3 of the European Convention on Human Rights. • The CPT recommends that these obligations be strictly observed by the authorities. It would like to be informed of the steps taken to ensure that this is the case. • The CPT recommends that the Chief Prosecutors and the Presidents of the Supreme Courts of both Entities and of the Cantons recall firmly that prosecutors and judges should act in accordance with the above principles. • The CPT recommends that the authorities of Bosnia and Herzegovina (including the Entities and Cantons) establish fully independent police complaints bodies which are adequately resourced and would ensure that allegations of police ill-treatment being investigated effectively. Until this occurs, the Committee recommends that prosecutors who require operational support for the investigation of cases of possible police ill-treatment seek that support from the police internal control units. It goes without saying that such units should not be under the responsibility of the Director of Police or housed within a police building. Further, such units should be appropriately staffed with qualified persons.
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<p>Ad hoc visit 05/12/2012-11/12/2012 [CPT/Inf (2013) 25]</p>	<ul style="list-style-type: none">• that the Minister of Interior of the Republika Srpska deliver a strong message that all forms of illtreatment of detained persons, whether at the time of apprehension or transportation or during subsequent questioning, are illegal and unprofessional and will be the subject of severe sanctions. This message should be repeated at appropriate intervals by the Director of Police (paragraph 15);• that an independent professional assessment be carried out of the working methods used by crime inspectors at Banja Luka Central Police Station when detaining and interviewing suspects. The Committee would like to be informed of the outcome of that assessment. It would also like to be informed of the outcome of the three above-mentioned cases referred to by the Bureau for Appeals and Complaints of Citizens (paragraph 16);• that the recommendation made in paragraph 15 should be read as also applying, mutatis mutandis, to the Brčko District and other relevant authorities of Bosnia and Herzegovina (paragraph 17);• that the authorities pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies (paragraph 18);• that the whistle-blower protection legislation be adopted (paragraph 19).• that the Chief Prosecutor and the President of the Supreme Court of the Republika Srpska recall firmly that prosecutors and judges should act in accordance with the principles referred to in paragraph 21 (paragraph 21);• that, for the time being, prosecutors who require operational support for the investigation of cases of possible police ill-treatment seek that support from the Internal Control Unit (paragraph 22).
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<p>Periodic visit 05/04/2011-14/04/2011 [CPT/Inf (2012) 15]</p>	<ul style="list-style-type: none"> • The CPT recommends that the Ministers of Interior and Police Commissioners deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions. This message should be reiterated at appropriate intervals by the Chiefs of Police. Further, the relevant authorities should ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities (paragraph 10); • that an independent inquiry be carried out into the methods used by crime inspectors at Banja Luka Central Police Station when detaining and interviewing suspects (paragraph 10); • that the authorities pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies (paragraph 11); • that the whistle-blower protection legislation be adopted (paragraph 12); • whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment. (paragraph 14); • The Chief Prosecutors in both Entities should recall firmly that prosecutors should act in accordance with the above principles (paragraph 14);
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<p>Periodic visit 19/03/2007-30/03/2007 [CPT/Inf (2007) 34]</p>	<ul style="list-style-type: none"> • that the Ministers of Interior and Police Commissioners deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of severe sanctions (paragraph 13.); • that the authorities pursue a multifaceted approach, comprising: a competitive recruitment process based upon strict selection criteria; an educational training course for all new recruits; and the provision of specific competency courses, on a regular basis, for serving police officers, both to update their skills and knowledge and to provide them with new competencies (paragraph 15.); • that the Chief Prosecutors in both Entities recall firmly that prosecutors are under a legal obligation to investigate all cases of alleged ill-treatment (paragraph 16.); • whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.
<p>Periodic visit 27/04/2003-09/05/2003 [CPT/Inf (2004) 40]</p>	<ul style="list-style-type: none"> • that relevant authorities of the Federation of Bosnia and Herzegovina and Republika Srpska, as well as senior police officers regularly instruct police officers that: • ill-treatment will not be tolerated; • all relevant information regarding alleged ill-treatment will be investigated; and • perpetrators of such treatment will be subject to severe sanctions (paragraph 20.); • that a very high priority be given to professional training for police officers of all ranks and categories, taking into account the remarks made in paragraph 23. Experts not belonging to the police should be involved in this training (paragraph 24.); • that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that, during the training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills (paragraph 24.); • whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 25.).

<p>Police custody</p> <p>Extract from the 2nd General Report, published in 1992</p> <p>CPT/Inf(92)3-part1</p>	<p>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).</p>
<p>Report to the Government of Montenegro on the ad hoc visit from 7 to 13 June 2022</p> <p>CPT/Inf (2023) 10</p> <p>Preventing police torture and other forms of ill-treatment – reflections on good practices and emerging approaches</p>	<p>The CPT believes that the informative talks represent a vacuum insofar as the legal safeguards applicable to formal suspects have obviously not been applied during the initial 6-hour de facto deprivation of liberty, which is e.g. the duration of the informative talk. As regards the practice of initial informative talks with police officers, the CPT believes that the content of the police summons includes a note advising that if the summoned person refuses to participate in the informative talk at the police station, they must respond to the summons subsequently. The CPT has been informed that no one has ever refused to appear for an informative talk with crime inspectors.</p> <p>The CPT believes that these talks currently represent a hybrid, grey zone, and can very quickly turn into a formal interview if, at any time during the informative talk, commission of a criminal offence is suspected. These informative talks carry a risk of de facto informal questioning by the police, with fewer safeguards against ill-treatment.</p> <p>The CPT has long noted that the possibility for police officers of inviting or summoning persons for “informal talks”, “collecting information” or “explanations” is provided for in a number of countries under a simplified procedure. The CPT has on numerous occasions noted that the risk of ill-treatment was higher precisely in situations of this kind and that informal questioning of “persons of interest” was abused in order, inter alia, to deny procedural safeguards that would apply to persons formally considered as criminal suspects.</p>

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Types of interviews conducted by police officers (an example)

An interview is a two-way communication between two or more people during which data or information is exchanged. In this process, one person asks questions and the other gives answers, which are being duly recorded.

Whether this two-way communication will be structured or not, to what extent it will be structured - depends on how questions are asked.

POLICE INTERVIEWS			
Type	Police procedure	Recommended for	Interview characteristics
structured	questioning – collecting information in order to gain an insight and document a criminal offence	suspect – person suspected of having committed a criminal offence	planned and specifically formulated questions answers to specific questions asked in a specific order
semi-structured	hearing - collecting information from persons who have direct or indirect knowledge of an event.	witness – a person who has heard or seen or has direct or indirect knowledge of a criminal offence	an interview where the interviewer allows the interviewee to deviate slightly from the questions asked a two-way dialogue in which the interviewer must balance between flexibility and implementation of the interview plan
unstructured	informative talk - gathering information that is important, but not necessarily related to the investigation from individuals.	Individual - a person who was in the immediate vicinity of the commission of a criminal offence or who were indirect witnesses	without a predetermined plan or agreed questions a wide range of answers is possible, in a free style and own vocabulary the interviewer conducts the interview consciously and consistently to ensure that the interviewee's answers do not deviate from the topic

The methods of police interviewing

According to the findings and recommendations of the monitoring bodies, the method of conducting police interviews (informative talks, hearings, questioning and collecting information from citizens, other types of conversations in official capacity) at Bosnia and Herzegovina police agencies is outdated and does not provide sufficient evidence in favour of police officers in case of ill-treatment allegations.

Cognitive³ interviews are increasingly used in police investigations. Many European jurisdictions consider cognitive interviewing as a method of examining the circumstances surrounding the specific event.

Several European jurisdictions use PEACE model of police interviewing recommended by the CPT in its report to BiH authorities. According to this model, the interview is organised in several phases.

Planning and preparation:

This requires investigators to gather as much information as possible about the incident under investigation, including who to interview and why.

Engage and explain:

The purpose of this phase is to establish rapport with the interviewee based on which the success of the interview is assessed.

This includes showing care for the interviewee's well-being, asking them how they wish to be addressed, much time is available for the interview and calming the interviewee down if they are anxious or nervous.

Account clarification and challenge:

In this phase, the interviewer tries to obtain a complete account of the incidents from the interviewee, without interruption.

Once when the interviewee has finished their account, the interviewer may ask questions to expand on the account. If necessary, this may also include challenging some parts of the account if the information is contradictory.

Closure:

This phase involves summarizing the interviewee's account of what happened and aims to ensure mutual understanding between the interviewer and the interviewee about what happened. It also includes confirmation that everything that needed to be discussed was covered in the interview.

Evaluation:

This phase requires the interviewer to evaluate whether the objectives set for the interview have been met, to reassess the investigation status in the light of the information obtained and reflect on his/her performance and what, if anything, could have been done differently.

³ Mental process during which information and knowledge is collected and the process related with understanding of information and knowledge collected.

The cognitive interviewing method adjusted to the police interviewing needs in Bosnia and Herzegovina – SPOP (in local languages: snimanje, planiranje, obavještavanje, pojašnjavanje)

Cognitive interviewing by definition is a method of interviewing witnesses and victims about what they remember from the scene of an event or incident. Relying on the four stages in recalling the events, the primary focus of cognitive interviewing is to help witnesses and victims of an event to recall the situation and all its details.

Interviews help minimize any misinterpretation and uncertainty – which is generally common in traditional police interviews.

Cognitive interviews reliably help present one's view of events according to memory and stimulate memory without creating inaccurate testimony or confabulation (author's note: confabulation occurs due to confusing imagination with memory and/or confusing real memories with things that have been imagined. In case of confabulation, gaps in a person's memory are filled with fabricated memory.)

Cognitive interview is conducted in a series of several phases:

Phase one

The interview starts with introduction during which rapport is established with the interviewee.

The interviewer can say: *"You are here because you have witnessed an incident..."* or *"You are here because you have been suspected of having..."*

The interviewee is told that s/he is expected to have the lead and active role in the interviewing process and that s/he can choose herself or himself in which order s/he remember the events.

At this point, the interviewer presents the **four instructions/rules** to the interviewee and asks the interviewee to use those techniques.

The first instruction refers to remembering the context in which the event took place. People can usually remember more information when they are physically in the place in which they have learned or created the memory.

The interviewer can take the interviewee to the scene of the crime, show her/him photos from the scene and ask her/him to remember the context in which the event took place.

The interviewer can say: *"Make yourself comfortable. Imagine you are going to the place where the event took place".*

Now ask the interviewee to describe that place with as many details as possible.

The interviewer can say: *“try to go back in your thought to the time when the vent took place. Describe to me precisely how did the place look like. Try to remember whether there was anyone else. Did you hear sounds, did you smell something...think what you have then felt and what you wore”*.

If we encourage the interviewee to think about everything that took place during the event, the more details the interviewee will be able to recall.

The second instruction that the interviewee receives refers to the comprehensiveness of her/his memory. Often the interviewee gives only the information of which s/he is absolutely certain. The interviewer should explain that some people withhold information because they do not know what is important and what could be useful.

In this phase we ask as many questions as possible about the event itself, the environment in which it took place, psychological status of the interviewee (whether s/he was scared, tired, deprived of sleep, angry).

The interviewer can say: *“Please tell me everything you can remember, including what you believe to be not important because it can be important to us. Tell me everything you can remember, do not leave anything out”*.

In this way we learn information from the interviewee that s/he thinks may not be important but can be of use to the interviewer. At the same time, by presenting details that are not important, the interviewee remembers also some important details.

Therefore, the interviewer tells the interviewee: *“I was not there and I know nothing about it. You were there. Tell me everything”*.

The third instruction that the interviewer gives is for the interviewee to tell the event backwards. In this way we minimise the possibility that the interviewee would fill in the gaps in her/his memory in a way that does not seem logical to the interviewer.

The interviewer can say: *“We will now try a new technique with which you can remember some new details. I will ask you to start telling me about the vent from the last moment you can remember. What is the last thing that you remember? What has happened before that? And even before that?”*

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The fourth instruction is for the interviewee to do a role play of the event. The interview walks to the door and tells us what happened, who was where, what everyone did. The interviewee can be asked to think in terms of the five senses: hearing, sight, touch, smell and taste.

One of the techniques that can be used is to ask the interviewee to draw a sketch of the place where the event took place.

Table overview of the 1st phase of the SPOP cognitive interview

instruction	aim	example
1 st inst.	to establish rapport with the interviewee	<i>"You are here because you witnessed the incident ..."</i> <i>"You are here because you have been suspected of ..."</i>
2 nd inst.	to learn all info about the event, including details that the interviewee believes to be not important	<i>"Please tell me everything that you can remember, including what might not be important to you, it may be important to us. Tell us everything you remember, do not leave anything out."</i> <i>"I was not there and I do not know anything. You were there, tell me everything."</i>
3 rd inst.	to reduce the possibility of filling gaps in the memory with imagined details	<i>"We will now try a new technique with which people may remember new details. I will ask you to tell me about the event but start from the last thing you remember."</i> <i>„What is the last thing you remember? What happened before that? And even before?"</i>
4 th inst.	to confirm the credibility of the memory (role play the event)	<i>„Please think in terms of the five senses: hearing, sight, touch, smell and taste."</i> <i>„Please draw me the place of the event as you remember it."</i>

Phase two

The interviewer then gives the interviewee the opportunity to present their own view of events without interruption.



During this account, the interviewer can adjust the strategy for the rest of the interview.

Independent recollection of an event happens when the interviewee is encouraged to recount the information without interruptions.

The interviewer:

- should not interrupt the interviewee for any reason
- must apply the active listening skills, including non-verbal encouragement
- must not tell the interviewee to recount the event chronologically because the chronological order is not important. The interviewee should be encouraged to speak as s/he remembers and what s/he remembers.

Table overview of the 2nd phase of the SPOP cognitive interview

	
<ul style="list-style-type: none"> • consciously decide that you will listen to the interviewee and tell that to yourself at the beginning of the interview • look into the eyes of your interviewee, nod your head, confirm that you're listening by gesturing • ask for clarifications if you do not understand something • paraphrase: „If I understood well,..“, „Does it mean that ...“ • benefit from the silence. Periods of silence are not bad because they can help you to think things over or give another chance to the interviewee to say something for which s/he needs more time • encourage the interviewee to recount the events as s/he recalls them 	<ul style="list-style-type: none"> • do not interrupt the interviewee while s/he speaks for any reason. This is usually seen as a put-down and personal attack • do not talk too much yourself. If you aim to listen, do not speak because it is impossible to do both at the same time • avoid gestures that can be interpreted as an interruption • do not ask the interviewee to recount the event chronologically

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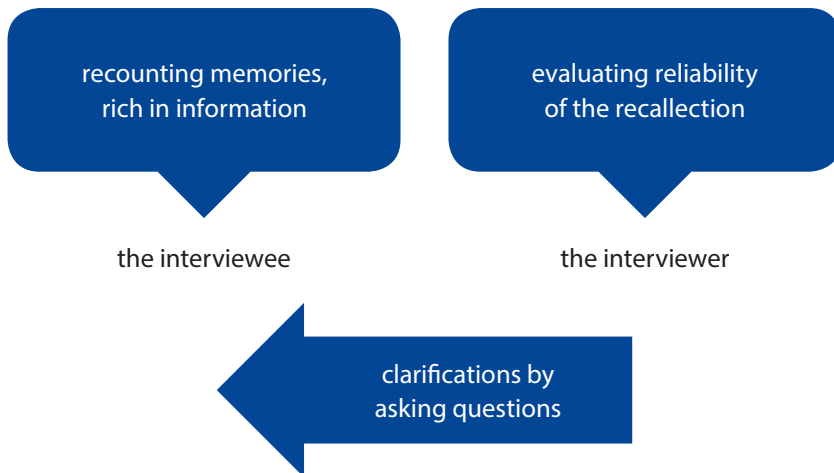
Phase three

The interviewer then:

1. takes the interviewee through several previously recounted memories, rich in information
2. evaluates what the interviewee said, if necessary and appropriate.

This phase provides an opportunity to get all the necessary clarifications. This is the time to ask questions important for the investigation and to which the interviewee has not provided a response until that moment.

An overview of the 3rd phase of the SPOP cognitive interview



Phase four

Completion of this phase leads to the formal closure of the interview.

At the end of the interview the interviewer makes a summary of the main points. This gives the interviewee the opportunity to confirm or deny any of the earlier points.

When closing an interview, it is extremely important to leave the possibility of further information gathering and also to give a brief account of what happens next and the opportunity to the interviewee to ask any questions.

An overview of the 4th phase of the SPOP cognitive interview



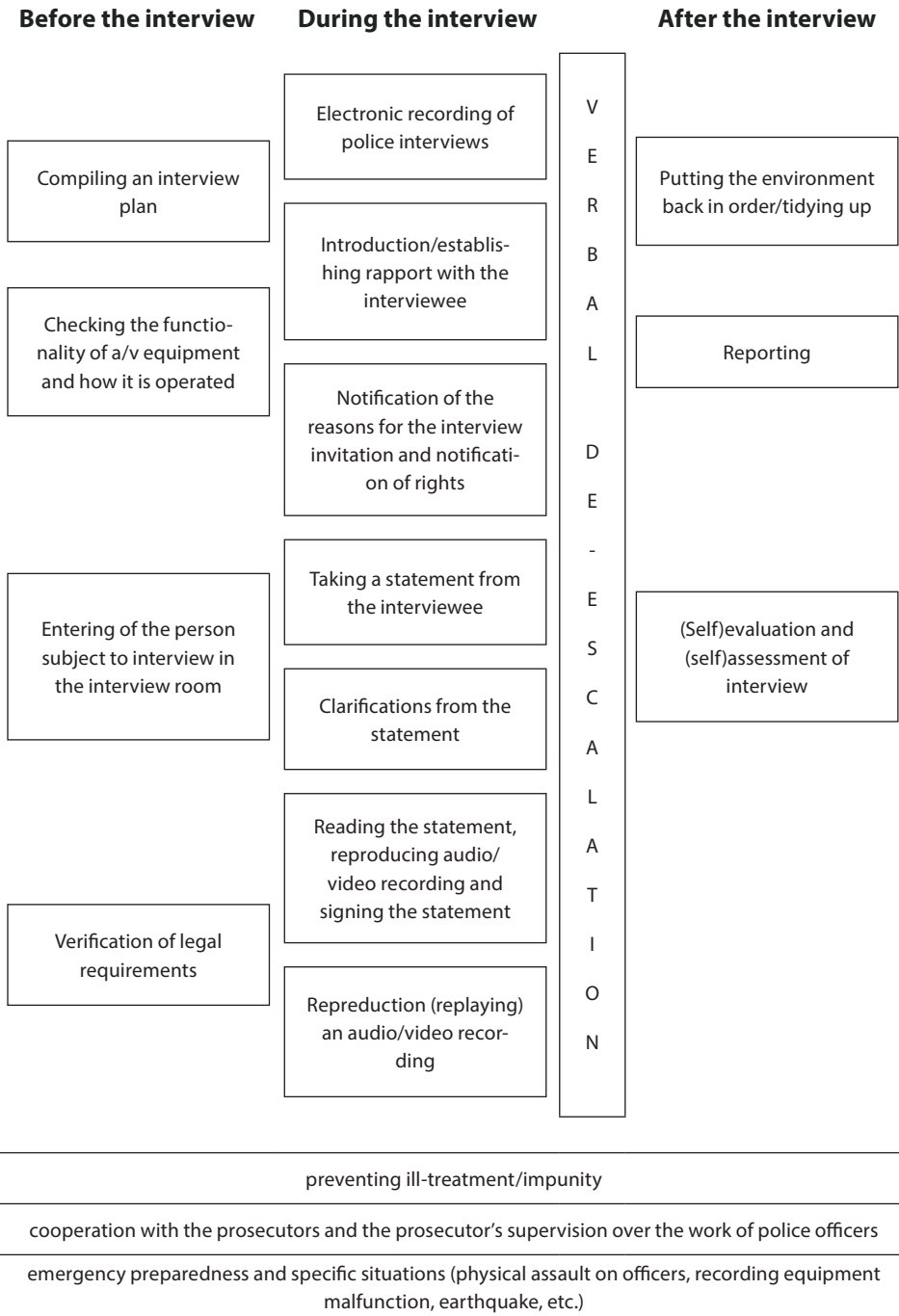
- Although the recommended duration of cognitive interviews is two hours, optimum duration of such interviews is approximately one hour.
- Throughout the course of the interview, two-way communication is maintained, as well as the dynamic security.
- Throughout the course of the interview, interviewee is allowed short periods of rest at regular intervals.

The objective of police work is to base the results of an investigation on legal and legitimate obtaining of evidence resulting from the information presented during interviews, and not to base the results of an investigation on forced confession or undermine it by other human rights violations rendering evidence inadmissible.

In the context of police interviewing, cognitive interviewing or its elements can also be applied or used for suspects.

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The SPOP police interviewing concept overview



Before the interview

Compiling an interview plan before asking the questions

1. The recommendation for the police officer conducting the interview is to compile the interview plan at least an hour before the interview starts or as soon as possible. It comprises to the extent possible key questions, tactics and objectives of the interview.
2. The interview plan is brought to the attention of the direct manager and in some cases, the prosecutor.
3. If a plan cannot be compiled due to objective reasons, a brief ad hoc note replaces the proper plan.
4. The interview plan can contain the intention to use the recording equipment, polygraph, etc. It is important to inform the person being interviewed that the use of a polygraph requires her or his agreement.

Such manner of work encourages the police agency to maintain professional standards. Besides, it can also serve as an informal piece of evidence in case of later investigation of ill-treatment allegations, while the use of a polygraph can infringe upon the right to family life, free and informed consent, etc.

5. Officer conducting the interview adjusts, when compiling the interview plan, her/his communication skills with the person being interviewed. The adjustments are made based on the characteristics anticipated in the person being interviewed, her/his educational background, level of understanding and comprehension, level of expertise, etc.

These adjustments are a reflection of professionalism in the work of a police officer, they evidence her/his professional competence and skills and they are an evidence of her/his reactions and responses to different needs that the person being interviewed could have (learning difficulties, difficulties with communicating, understanding, exposure to stress, PTSD, gender sensitivity, etc).

Technical preparation of the environment for police interviewing

Checking the functionality of a/v equipment and how it is operated

1. Interviewer, or a colleague designated for this task, checks the functionality of the interview audio and video recording equipment immediately before the start of the interview.
2. If the audio and video recording is not possible, the checking consists of whether the alternative necessary resources are available (a notepad, pen, etc.).
3. Audio/video equipment the check-up and its functionality are recorded in a written note which is filed in accordance with the law enforcement agency's protocols.

An audio/video recording of the police interview is a critical piece of evidence protecting against false ill-treatment allegations and a valuable safeguard for police officers in the potential subsequent disciplinary proceedings.

Entering of the person subject to interview in the interview room

1. The person being interviewed, if possible, is escorted to the interview room by the police officer conducting the interview. Identity of the person is not disclosed to any officers who are not part of that case/investigation.

This is important to protect identity of the person being interviewed, the right to privacy and the presumption of innocence.
2. If the person shows visible signs of physical injuries, signs of anxiety or significant psychological disturbances during the interview or before its beginning, the first police officer who notices the signs consults a medical professional by phoning in the emergency services and securing conditions for an appropriate medical examination.⁴
3. If initiated already, the interview is suspended until further notice or is not even started if the signs have been detected before the start.

⁴ For detailed procedures see the manual Human rights of persons deprived of liberty in police custody prepared within the Joint EU/CoE Programme Horizontal Facility for the Western Balkans and Turkey (2019-2022).

Check list for recognising the symptoms of anxiety, psychological disturbances and suicide

- Changes in behaviour (depression, withdrawal, inertia, aggression, helplessness)
- Verbalisation of suicide intentions and ideations, suicidal activities, self-harm (the person threatens to kill itself)
- Signs of withdrawal crisis (sweating, shaking, etc.)
- Sudden mood changes to better (euphoric happiness, etc.)
- Positive medical history – information of earlier tendencies to show these symptoms or to the use of medicines and drugs, dependencies, etc.
- Record of being subjected to ill-treatment.

These symptoms are checked if they are of such intensity that the interview cannot start or continue. This is important to protect the right to life and health.

4. The interview continues upon return of the person from the medical facility to the police premises.

Verification of legal requirements

1. The interview room does not have any illicit items (baseball bats, handcuffs attached to radiators, etc). The police officer conducting the interview checks the room for absence of illicit items.
2. The interview room is ventilated/aired, with the inside temperature matching the weather conditions outside, if possible with natural light.
3. There is a table and some chairs in the interview room, placed so that the interviewer and the interviewee face each other, with the table between them. The interviewee has her/his back against the wall, i.e. faces the door exiting the room, if possible.
4. A glass of water is placed on the table, in front of the person being interviewed.

These safeguards for the persons being interviewed and protection of their core rights, as well as meeting of their primary/physiological/basic needs (toilet, food, water), enable creation of a positive atmosphere that supports two-sided communication.

5. At least one, and two at most, police officers or interviewers and one note taker are present in the interview room.

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6. If the person being interviewed is in a vulnerable position (juvenile, elderly, foreigner, person with physical disabilities, etc), the police officer ensures, in accordance with the agency's protocols, the presence of an interpreter, consular representative, guardian, person of trust, etc.
7. The person is being offered an opportunity to consult with her or his lawyer before proceeding with the interview.

In this case the role of the lawyer is the preventive one, her/his presence has the deterring effect on the possible human rights violations during the interview. The risk of human rights violations is the highest during the first hours of custody, temporary holding or bringing in for and informative talk. The human rights mechanisms can most easily be circumvented if the status of the person being interviewed is not of a formal suspect. Also, financially unviable individuals are in a more vulnerable position than the persons who can afford a lawyer.

8. The police officer conducting the interview considers any grounds for his own exclusion from the interview process, before its start (family/blood relations, police officer's psychological and physical fitness, infringed relations between persons in the process of interview, etc.) and if necessary excludes herself/himself with the direct manager's approval.

These principles are important to protect the impartiality and transparency of the interviewing process, but also for the protection of police officers from ill-treatment allegations.

The CPT's recommendation to the BiH authorities is to include informative talks in the training module on police interviewing, with a specifically designed methodology.

During the interview

Electronic recording of the police interviews

1. The audio-visual recording of the interview starts at the exact moment when the interviewee is escorted into the room designated for those purposes, before the introduction and identification of the police officer.
2. Each interview is accurately documented, preferably using audio-visual technology that protects against possible allegations of ill-treatment or other violations and increases reliability of evidence assembled.
3. The interviewee is appropriately informed about it and this notification is recorded accordingly (and noted in the minutes).
4. The right of a person being interviewed or heard and whose hearing is recorded is to request a reproduction of the recording to check her/his statement. The interviewee is notified about this right before the recording starts.
5. Electronic records (relevant data-storing equipment/tools) are properly protected and technically treated, including for the purposes of compliance with the personal data protection and other relevant rules.

These records are of critical importance for both parties - the person making the allegations and the officer against whom the allegations are made.

Introduction/establishing rapport with the interviewee

1. The police officer conducting the interview enters the room designated for that purpose. The assumption is that the person has already been escorted to the room or is accompanied by the police officer conducting the interview and s/he is in the presence of another police officer responsible for visual surveillance of the room and participates in the interview.
2. The police officer greets the person using one of the internationally accepted greetings (good morning, etc) in the languages spoken in BiH. Then the officer introduces himself/herself stating his/her full name and function at the police agency.
3. The police officer informs the person being interviewed that s/he will have sufficient time to think about the answer and reply to the questions.
4. The police officer establishes the identity of the interviewee by asking the interviewee to state his/her full name and by having an insight into the personal identification document. The person being interviewed (suspect or a witness) can refuse to provide any information that would expose him or her to prosecution, but s/he cannot refuse to provide personal data if that piece of information would expose her/him to criminal prosecution or if such information incriminates a close relative, as well as based on other legally prescribed privileges. This protects the person from the possibility of extortion of the statement/account, which represents violation of human rights.

This type of introduction to police interviewing allows for the full respect of the interviewees' rights, regardless of whether they have been deprived of liberty and taken to the police agency or summoned for an informative talk and have appeared voluntarily. This is extremely important as the criminal law system in Bosnia and Herzegovina is based on the presumption of innocence.

5. Communication with the person being interviewed is, from the beginning of this process, efficient so to ensure protection of the principle of presumption of innocence.

Notification of the reasons for the interview invitation and notification of rights

1. A person deprived of liberty subject to any type of police interview is informed of her/his rights and reasons for being invited to be interviewed without delay after her/his identity was established. The person can also be brought to the police premises to be interviewed. This notice is given in a language they understand and preferably also in writing.

This notification is not a guarantee of a fair trial, as it is usually considered in police practice, but a safeguard against ill-treatment.

2. In practice, citizens who are summoned for an informative talk are informed of their rights at exactly the moment when the police officer assesses that a person could be considered a suspect. However, person subject to an informative talk is informed of their right to notify a family member or a third party of their choice about their status even at the outset of the informative talk.

Otherwise, police officers are at risk of failing to perform their task related to protection of fundamental rights of persons deprived of liberty.

3. The interviewee is informed, in the languages s/he understands, about her/his right of access to:
 - health care,
 - lawyer (if the person explicitly refuses to engage a lawyer, third person of her/his own choice or a close relative can do so - engage a lawyer),
 - interpreter,
 - consular representative,
 - inform a close relative or a third person of her/his own choice,
 - the possibility to file a complaint against police conduct.

This manner of introduction to the police interviewing enables more respect for human rights of interviewees, regardless of if they are deprived of liberty and escorted to police premises or were invited for an informative talk or have arrived at police premises voluntarily. This is extremely important because the criminal justice system in BiH relies on the presumption of innocence.

Taking a statement from the interviewee

Throughout the interview, the police officer exercises efficient communication with the interviewee and applies non-verbal de-escalation methods, if needed (detailed procedures explained later).

1. During the making of the statement, the police officer takes a neutral body posture and the position of her/his body is not threatening. The officer must not invade anyone's personal space, make verbal threats, speak loudly or yell, blackmail, lace the gun on the table, wear a baton visibly on herself/himself, or in any way provoke the fear, humiliation, discomfort or anxiety and the sense of inferiority.
2. In case of a lawyer being involved, the lawyer is given an opportunity to actively assist the interviewee, including for the purposes of securing a compliance with the admissibility of evidence.
3. If the interviewee is a vulnerable category (victim of sexual abuse or trafficking in human beings, domestic violence, mobbing, etc), one of the officers conducting the interview is the same sex as the interviewee.
4. Persons showing challenges to being interviewed have different safeguards deriving from the specific pieces of legislation. In general, their respective safeguards include specific medical attention, or presence of a parent, social workers, guardian, etc.

This is important in terms of sustainability of the information gathered through the interview process and securing a compliance with the admissibility of evidence.

5. The police officer does not have a judgemental stance about the person being interviewed. The environment and the atmosphere in which the statement is made/given must be supportive.
6. While the person is making the statement, s/he is sitting at the table, opposite to the police officer. Police officer cannot be standing up in a threatening position, acting superior, over the person giving a statement. There must neither be nervous moving around nor hastening the person to make the statement in the premises in which the statement is being given.

The police officers refrains from interrupting the person being interviewed.

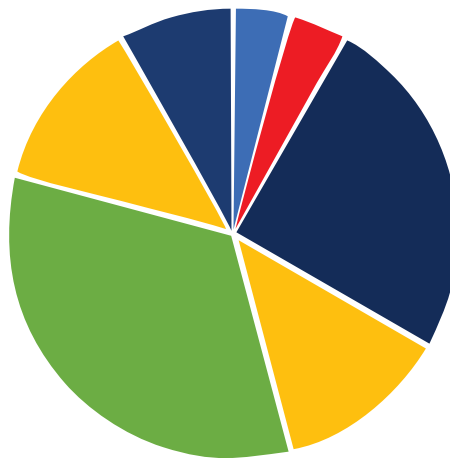
This can represent or constitute physical endangering of the freedom of liberty.

7. The police officer, throughout the statement-making phase, does not make inappropriate comments to the person making the statement or shows any discrimination regarding the cultural background, educational, religious, political, ethnic, background, race or skin colour, sexual preferences, etc.

8. The police officer informs and assures the person that her/his statement can be freely given and that the statement-maker can say whatever s/he wants about the event with reference to which the interview is being conducted. Making of the statement comprises only one part of the overall process of interviewing and the approximate timeframe may resemble the following:

introduction	rights	statement	PAUSE	clarification	PAUSE	statement
5 мин	5 мин	30 мин	15 мин	30-60 мин	15 мин	10 мин

Parts of a 120 min long interview



■ introduction ■ rights ■ statement ■ pause ■ clarification ■ pause ■ statement

9. If some of the central phases of the statement-making, such as freely made account⁵ of the events, last longer than 30-60 min, pauses/breaks are offered every 45 - 60 min. During these breaks, the person being interviewed is offered the use of a toilet, drinking water, food, coffee, tea, etc.
10. As a rule of thumb, the statement-making can only be done in the period between 6,00 am and 9,00 pm. Night hours are intended for the night rest, during which the person is provided with a bed or another piece of furniture with bedding appropriate for uninterrupted 8-hrs rest. Exceptions to this rule must be in accordance with the legally prescribed provisions.
11. The police officer carefully listens, monitors and makes notes of the parts of the statement while it is being made, and in particular notes the parts thereof which need further clarifications. The breaks can also be used for this purpose.

⁵ Freely-made account means enabling persons being interviewed to express themselves in their own words which are recorded in their original form.

Clarifications from the statement

Additional clarifications from the statement are obtained by asking targeted open or closed questions in chronological order.

What type of questions will be asked at what stage depends on the context of the case, interviewer's experience and interviewing skills. A combination of open-ended and closed questions is commonly used at different stages of the interview.

Open-ended questions are used at the very beginning, while closed questions are better used in the later phases- when we wish to clarify certain points of interest.

Open-ended questions

Why? How?

Closed questions

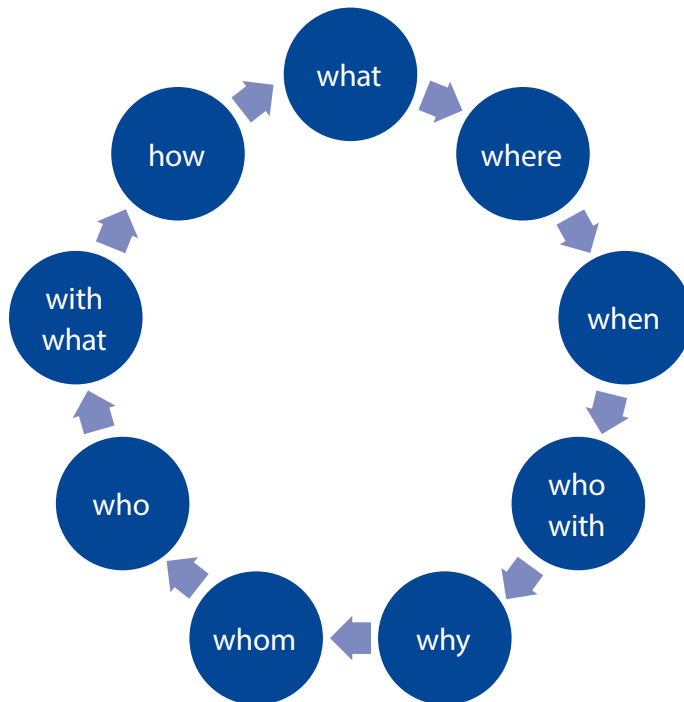
What? Who?

Open-ended questions

require more detailed responses instead of brief "yes" or "no". They are used to elicit more information, opinions or recollections from the person they are posed to.

- How are you feeling today?
- What did you do..... (on such and such date)?
- What else do you think I should know before we move forward with the interview?
- How did you find yourself in all this, how did it happen?
- What were you thinking at that moment?
- What did you want to achieve with that? Why?
- Tell me what you know about
- Why do you think that
- How did you do
- What happened when
- What else can be done about
- What would happen if
- How can you take advantage of
- I wonder if
- Tell me more about your relationship with

- Tell me what we see in this photo ...
- What was the purpose of
- Why did you choose that particular answer
- Can you describe for me the suspect's clothes?
- Can you describe for me what was happening during ...
- Tell me something about your experience with drugs ...
- Can you describe for me what you have felt during ...theft...
- Which sounds have you heard while ...
- How did you feel when you realised what was going on?
- Can you remember some specific detail about the suspect?



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Closed questions

allow only one type of response. They are used to confirm whether you understood your interlocutor correctly.

- Were you born in 1970? What is the year of your birth?
- Were you born in Banja Luka? Where were you born?
- Did you steal that money? Whom did you steal that money from?
- Did you say you were next to the car when that happened? Where were you?

Complex closed questions

There are also closed questions that cannot be answered with “yes” or “no” without creating confusion.

For example:

- “When did you stop taking heroin?” (if the person has never taken it)
- “Who told you to take heroin?”

Questions that include an assumption or presumption of guilt are called “leading/suggestive questions” or “biased questions”. These questions are asked to induce the person to give a particular reply or imply guilt. In the legal context, such questions are often not allowed because they compromise fairness and may lead to distorted testimony.

Common example of a leading question includes: “Have you stopped beating your wife/child?”

Regardless of whether the person who was asked the question answers “yes” or “no”, just by giving the answer the person admits that he used to beat his wife or child in the past. This is a type of self-incrimination which is in contravention to the intention of the legislator to secure the right to any person not to reply to a question that could expose her or him to the criminal prosecution.

Therefore, such facts are already assumed in the question and, in this case, this is a kind of a trap. This kind of questions limits the interlocutor to only one answer. The questions mislead the person. Confusion relies on the context to achieve its effect: the fact that the question assumes the existence or non-existence of a fact does not by itself make the question incorrect or wrong.

Only when the person to whom the question is asked disagrees with some of these assumptions does the argument become incorrect or wrong. Therefore, one and the same question can be leading and biased in one context, but not in. For example, the question given above would not be leading or biased if asked during a trial where the husband has already admitted to beating his wife.

Reading the statement, reproducing audio/video recording and signing the statement

1. The police officer evaluates the interview (reads it, thinks whether s/he has forgotten to do something, to ask a question or to ask for a clarification) in this sense simultaneously while the person being interviewed is reading her/his statement.

It is important to do these two actions at the same time to protect the rights of the interviewee, i.e. so that the person would not be held longer than absolutely necessary.

2. On completion of the statement-giving and after gathering all necessary clarifications, the police officer offers the statement to the person being interviewed the written statement to be read and signed. The interviewee can accept or refuse to read and sign the statement.

In both cases the signature of the person and of the officer, note taker or other persons present is a guarantee of the accuracy of the statement given. This is an exercise of the right to protection from ill-treatment as there was no coercion to sign the statement.

3. On completion of the interview, the police officer amends and complements the subsequent interview plan with the information collected by conducting the past interviews if these pertain to the same case or event.

Information collected during the same case or event are compiled and used in the most efficient manner to avoid prolonged stays in the police premises, unnecessary deprivations of liberty or submitting persons to unnecessary interviews.

Reproduction (replaying) an audio/video recording

1. Audio and video recording of the interview finishes with the end of the interview and a clear statement that the interview has been terminated (hour and minute). Any continuation of an official talks or interviews is considered as a new audio/video recording.
2. The police officer or the officer tasked for this, checks the quality of the recording without delay. It must be clearly identifiable from the recording who has given the statement.

It is important to check the quality of the audio/video recording in order to protect the person being interviewed and in particular her/his right to fair trial. No information obtained unofficially or in an illegitimate manner can be used in further proceedings against the interviewed person.

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3. The police officer conducting the interview reproduces/replays the recording and re-records possible corrections and amendments on the request of the person being interviewed: the same applies in case when the police officer notices technical issues in the recording.
4. The recording contains information on who has been interviewed, who conducted the interview, what was the reason for it, whether there were any corrections of the recording made and where the recording is kept if it is not attached to the file.

These pieces of information are important to record in case of possible later investigation of allegations of violations of the right to be informed about the recording and the legality of the recording.

After the interview

Putting the environment back in order/tidying up

1. The police officers' professional code of conduct requires from the officers to leave the official premises in the condition in which they were found, tidy, without unnecessary documentation lying around, ventilated, clean, free from unnecessary items and in general – ready for its next use.

It is particularly important for the police officer who conducts the interview not to leave in the interview room any documentation related to that interview in order to protect personal and confidential data of the interviewee.

Reporting

1. Written and electronic records are kept on the course and results of the interview as prescribed by the protocols of the law enforcement agency. The records are prepared without delay or as soon as possible, having in mind the ongoing priorities of the police service.

This is important in case of possible allegations of ill-treatment which may arise in the course of the interview, to enable timely investigation of the allegations. This protects the rights of the interviewee and the police officer conducting the interview.

2. In case of an investigation of the ill-treatment allegations, the police officer has a duty to keep and hand over to the Professional standards unit all operational material (unofficial, informal notes kept during the interview) which will be submitted to the competent prosecutor's office if the criminal investigation is to be launched.

This is important to enable the right to fair trial and prevention of torture.

(Self)evaluation and (self)assessment of the interview

1. The police officer conducting the interview evaluates the interview only in the sense of the check list of the tasks met as stated in the interview plan.

This is important to maintain the professional integrity and transparency of the process.

2. The police officer also checks the quality of the minutes in the sense of whether it contains all the necessary legal measures and notifications/warnings in the minutes of the interview itself. It applies to both statements, statement on hearing or questioning the suspect.

In order to protect the human rights as best as possible, it is important for the police officer to satisfy herself/himself that statement of a witness or suspect has been signed and that s/he has been informed about her/his rights. It is also important to check whether the minutes, i.e. statement of the witness or suspect has been read to her/him or that they have read it themselves or have been listening when it was being made/drafted and in any case – before having it signed.

3. The proactive role of the police officer conducting the interview reflects in that, if after the evaluation of the interview s/he assesses that more persons need to be interviewed, this proposal is orally communicated to the senior police officer or to ask more questions to the person being interviewed, i.e. to propose undertaking of additional measures or activities (searches, etc).

4. If the selfassessment concludes that a measure or an activity has gone amiss and that has resulted with a violation of a human right of the interviewee - albeit not leading to a form of ill-treatment, the police officer records such occurrence and undertakes urgent measures to remedy this omission.

This is important in case of possible later allegations of ill-treatment. With the record thereof the police officer can respond to allegations in a precise manner, should the allegations be raised. The written record also protects the officer from negative comments on her/his work coming from the senior officers, even from the prosecutor herself/himself.

Throughout the interview

Handling interviewees' complaints as to / indications of ill-treatment (other serious human rights violations)

This resource manual has been developed as an element of a set of other regulatory and methodological instruments on treatment of persons deprived of their liberty, subjected to other coercive measures by the police, or concerned by its intrusive activities. It focuses on interviewing and summoning, preparations and other related activities. The section on complaints procedures is limited to handling them in this context accordingly and do not extend over the entire range of safeguards against and standards of investigation of ill-treatment or other serious human rights violations.⁶

The key standards applicable in this regard⁷ envisage that:

- The procedures applied in the context of police interviews should secure that the complaints or other indications of ill-treatment and other serious human right violations are immediately communicated to the competent bodies in charge of their consideration and/or other procedures, so that required investigations **commence without delay**.
- Officials/ structures dealing with complaints, further investigation(s)/procedures and taking substantive decisions, should be **independent**, i.e. neither from the same police (law-enforcement) subdivisions or otherwise closely linked (professionally and individually interrelated, subordinated) to those implicated in the events nor accountable for prosecuting the complainant; moreover, the advanced standards and practices are suggesting that an investigation is to be handled by fully independent mechanisms or institutions; it relates to the personal and functional impartiality, including non-involvement in investigations or decisions regarding the alleged victims.
- There should be legally ensured and **practically available opportunities for communicating allegations**, sending without delay uncensored written correspondence to the competent authorities and designated bodies, as well as a secure and confidential access of detainees to superior officers and governmental institutions, judicial or prosecutorial authorities, and specialized

⁶ Complaints or allegations as to corruption, other abuses, irregularities are to be handled in line with relevant standards and regulations, which are not covered by this Practitioners Guide.

⁷ See 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 27; Istanbul Protocol, para. 100; Guidelines on eradicating impunity for serious human rights violations. The standards concern thoroughness, victim involvement and other requirements, which, however, apply to further consideration of complaints / investigations and fall outside the scope of this Practitioner's Guide.

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complaints bodies, as well as inspection and monitoring mechanisms on domestic and international levels.⁸

The CPT recommends that all allegations involving suspicious police conduct in terms of torture and ill-treatment must be subject of criminal proceedings directly, without internal processing of the police officer suspected of ill-treatment.

Processing the interviewee's complaint

1. A person summoned for an interview to or present in police premises (or otherwise concerned by relevant official police measures and activities in the field) may, at any moment, make a formal oral or written complaint or request to submit it.
2. The relevant police measure or activity can be search or check-up, collecting information from citizens held on the spot, identity check, restriction of movement, securing crime scene, deprivation of liberty, etc. which the police officer conducts based on her/his decision in accordance with the law or lawful order given by the senior officer.
3. The police officer who receives or is informed about a complaint makes sure that the interviewee is given an immediate opportunity to formulate or/and channel it, including by making relevant note in the minutes (if processed), or providing the complainant with a form prescribed for this purpose or a pen and paper to write down a complaint.
4. The police officer informs the person who wishes to complain also about possible formal avenues for submitting it to the prosecutor, Ombudsperson or other competent state institution. The police officer formally introduces the complaint in the Complaints Log, sends it out in a sealed envelope to the Professional standards unit or informs the duty prosecutor.
5. If and whenever a police officer identifies indications of ill-treatment or other serious human rights violations (as appropriate) and the person concerned does not opt to submit a formal complaint, the police officer informs without delay the competent prosecutor (police senior officer).
6. The senior police officer submits the request to initiate an internal procedure to the Professional standards unit, and the officer herself/himself directly also submits the request to the PSU.
7. The interview is postponed or discontinued pending arrival of the prosecutor/designated official, unless it is undelayable/necessary due to the legitimate

⁸ *Ibid*, see also 27th General Report on the CPT's activities, CPT/Inf (2018)4.

interests of investigations / procedures under which the interview is (to be) conducted with the medical (including) psychological conditions being taken into account;⁹

8. The police officer should keep the interviewee in the secure premise, preferably the interview room, pending arrival or instructions from the prosecutor (competent official) as well as refrain from proceeding with further verification of allegations or assembling evidence in this regard.

Emergency preparedness, situations that can arise unexpectedly during the interview

Regardless of the type of police interview (structured, unstructured, semi-structured), unexpected situations are always possible. The protocols laid out further in the text are not exhaustive, therefore detailed planning of the course of the interview is one of its key do-s.

Verbal or physical assault on the police officer¹⁰

1. The police officer's response to a verbal or physical assault is always: lawful, proportionate, of absolutely necessary duration and respects the pain threshold. When possible, the use of force starts with the verbal de-escalation techniques.

This is important because of the right to life and protection from ill-treatment for persons to whom police officers have temporarily restricted some of the rights, based on the legal provisions. Hence the need for police officers to pay due attention in the legal proceedings to the exercise of rights of other rights that in a legal proceeding should not be restricted. These are primarily the right to life and the right to be protected from ill-treatment.

Positive obligation of the state requires from its officials, imposes an obligation on them, to do something, take measures to protect rights of individuals, its citizens.

Negative obligation of the state requires from the state and its officials to refrain from doing something, from infringing upon the exercise of rights of individuals or its citizens.

For more detailed procedures refer to the manual on Human rights of persons deprived of liberty in police custody.

⁹ See para. above on the medical assessment/treatment of the interviewee.

¹⁰ For more detailed procedures refer to the manual Human rights of persons deprived of liberty in police custody.

Harm/self-harm, sudden illness or death of a police officer or the person being interviewed

1. In all cases of harm or self-harm, the police officer suspends or does not even start the interview. S/he offers/administers or calls for the provision of first aid without delay. The first police officer who finds himself/herself on the spot starts administering first aid, until the arrival of the professional medical team.

This is important to protect the life and right to health care.

2. In case of death, protection of the site where the unfortunate event took place prevents unauthorised persons from accessing it and destroying the evidence.

It also protects personal information and data of the person who dies, as well as the privacy of members of her or his family. Also, securing the spot where the event took place is necessary to preserve pieces of evidence of what actually happened and prevents possible allegations of ill-treatment as the cause of death.

Flight/escape/absconding from the police premises during the interview

1. The police officer from whose custody the interviewee has escaped never participates in the chase. This ensures impartiality, fairness and professionalism and lawfulness of police actions.

This is important as protection from allegations of possible ill-treatment that the person who has escaped can file against the said police officer from whose custody the person has escaped.

2. The community is notified about the escape to protect the rest of the community and its citizens, to raise awareness about the event and by that also the level of safety and security, notwithstanding a more efficient cooperation with the community.

This is important to protect the right to safety and security of an individual.

3. Organisation of and carrying out of a police chase implies involvement of many police officers. This complicates the police work and consequences are possible both for the safety and security of the community. Accurate and timely information provided to the community facilitate efficient information management, thereby preventing the atmosphere of uncertainty and fear.

Otherwise, the situation becomes subject to mass violations of human rights due to uncertainty and fewer opportunities to provide human rights safeguards to individuals.

4. If the immediate chase failed to yield results, a warrant is issued. The police officer participating in the search protects the rights of other citizens by strictly observing the agreed warrant terms/search plan (verbal and written).

This reduces the possibility of acting arbitrarily and by that also voluntarily or non-voluntarily violating human rights to the best possible extent.
5. The post-incident investigation is based on the transparent and detailed documentation of the event and in the final instance on the debriefing and evaluation. Evaluation includes internal and external mechanisms as needed.

All of this contributes to fewer possibilities to repeat mistakes and by those also fewer possibilities for human rights violations in future.

In case of human rights violations, external mechanisms are a must.

Inclement/unforeseen circumstances¹¹

1. It is absolutely necessary to honour the agreed action plan in case of emergencies.

By doing so the opportunities for arbitrary measures and activities and by that also violations of human rights, are reduced to the extent possible.

The priority in such cases is to protect the life and health of any person found in this situation or who have been affected by it.
2. The communication is two-way throughout, accurate and timely to ensure equal access to all involved to relevant information in real time and through established management mechanisms.

Such policing protects the right to life and safety and security of all citizens and their community.
3. Debriefing and review as well as evaluation of the actions taken in response to emergencies relies on the transparent and detailed documentation of the event and in the final instance on the debriefing and evaluation. Evaluation includes internal and external mechanisms as needed.

All of this contributes to fewer possibilities to repeat mistakes and by those also fewer possibilities for human rights violations in future.

In case of human rights violations, external mechanisms are a must.

¹¹ (for ex., earthquake, electricity outages, fire, floods, major failures of audio or video equipment, sudden transfer to other posts as a consequence of the said circumstances, etc)

Terrorist attack on the police premises or public gathering in front of it, introduction of fire arms or explosive devices in the police premises, explosive devices' threats

1. The mere threat as much as the full-scale terrorist attack have the same consequences on the safety and security of citizens and their community. The only difference lies in their scope and intensity.

In both cases, the policing measures lay out the specific actors and stakeholders, resources and scope of tasks to be carried out with the aim of protecting lives and safety of the citizens.

2. Verbal de-escalation applies only in case of a terrorist attack threat.

Verbal de-escalation ensures the life protection safeguards.

3. The single system of command over the event is established at the very beginning of the threat or terrorist attack. Information is shared with police officers in hierarchical order. Decisions are made by one and only one senior officer. Police officers have an obligation to apply the rules prescribed in the Law on protection of secret data and the Law on protection of personal data.

Disorderly and improvised conduct carries the biggest risk of violation of the right to life and personal freedom for persons involved in this situation/crisis, as well as any observers.

4. The crisis management plan foresees engagement and involvement of other emergency services in the community (fire brigade, ambulance, etc) to offer medical assistance to anyone in need of it.

5. Reporting, statement-making, debriefing and evaluating measures undertaken in response to terrorist situations are based on the transparent and detailed documentation of the event and in the final instance on the debriefing and evaluation. Evaluation includes internal and external mechanisms as needed.

In case of human rights violations, external mechanisms are a must.

Permanent training is the precondition for police officers to be able to apply the lessons learnt and practice the skills acquired. By doing so, police officers become fully equipped to adopt best practices thereby also improving the human rights safeguards.

Hostage situations/crisis

1. When dealing with a hostage situation (of shorter duration) or hostage crisis (of longer duration), policing thereof is based on the earlier agreed action plan.
Of absolute necessity is to engage the specialised/skilled/authorised negotiators to protect the lives and health of citizens and in the community.
2. Verbal de-escalation is applied from the start of the situation through negotiation mechanisms applied by the chief negotiator. Other police officers present on the spot apply the principle of non-interference with the negotiations and they secure the site, i.e. act on the instructions of the senior.
Verbal de-escalation of possible conflicts ensures protection mechanisms against ill-treatment allegations.
3. The single system of command over the event is established at the very beginning of the threat or terrorist attack. Information is shared with police officers in hierarchical order. Decisions are made by one and only one senior officer. Police officers have an obligation to apply the rules prescribed in the Law on protection of secret data and the Law on protection of personal data.
Disorderly and improvised conduct carries the biggest risk of violation of the right to life and personal freedom for persons involved in this situation/crisis, as well as any observers.
4. The crisis management plan foresees engagement and involvement of other emergency services in the community (fire brigade, ambulance, etc) to offer medical assistance to anyone in need of it.
5. Reporting, statement-making, debriefing and evaluating measures undertaken in response to terrorist situations are based on the transparent and detailed documentation of the event and in the final instance on the debriefing and evaluation. Evaluation includes internal and external mechanisms as needed.

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All of this contributes to fewer possibilities to repeat mistakes and by those also fewer possibilities for human rights violations in future.

In case of human rights violations, external mechanisms are a must.

Permanent training is the precondition for police officers to be able to apply the lessons learnt and practice the skills acquired. By doing so, police officers become fully equipped to adopt the best practices thereby also improving the human rights safeguards.

The primary principle in preventing any physical confrontation is verbal de-escalation of conflict, in situations when possible. This is the first and core measure in maintaining dynamic security in the police premises, i.e., in the interaction between police officers and citizens subject to their policing.

Annexes

Annex 1: Verbal de-escalation of a heated discussion or other forms of unacceptable official communication

Annex 2: Outline of international standards and best practices on cooperation with prosecutors' offices in investigating ill-treatment

Annex 3: Outline of international standards and best practices on preventing ill-treatment during police interviews

Annex 1: Verbal de-escalation of a heated discussion or other forms of unacceptable official communication

Verbal de-escalation tactics are not physical skills by communication skills used to prevent the escalation of a potentially dangerous situation that may lead to a physical confrontation or conflict.

De-escalation means a set of non-violent measures and procedures directed at an individual or a group of persons in a potentially conflicting situation with a view to preventing violence and protecting civil and human rights.

Verbal de-escalation, therefore, involves preventing or de-escalating a potential conflict by using appropriate vocabulary, manner of speech and physical gestures.

Communication, not confrontation is the key.

Communication is a social skill and implies transmission and understanding of information and messages, ideas and feelings, and exchange of experience through interaction with one or more persons. To communicate means to mutually understand each other in a spoken, written manner, or by signs, with or without the use of technical means and methods of communication (telephone, fax, internet, etc.).

Communication usually gives answers to the questions: who, what, where, when, how, whom and why. The basic elements of communication are speech, tone of voice, body language, observation, and listening.

The communication can be:

Verbal communication that includes not only speech but active listening as well.

Nonverbal communication that implies observation, interpretation, and response to emotional and interpersonal signals, and includes a series of means such as: facial expression, way of looking, position of the body and arms.

Communication environment significantly affects communication processes. It is common that people often adapt their attitudes and opinions and assume the attitudes and opinions of others under the influence of the environment and adopt the ways of communication and behavioural models of the environment in which they find themselves.

Active listening as part of verbal communication

Active listening helps you hear and detect warning signals while they are still in the verbal stage, where necessary preventive measures can be taken before the situation escalates. Listening helps the police officer to hear and accurately recall all important words uttered by the interlocutor (protester or demonstrator).

1. If you actively listen to someone, it means that **you hear and understand what the other person is saying**. At the same time, you listen with interest and attention and **are not showing signs of boredom or repulsion**. You keep your **facial expression as neutral as possible**.
2. You allow the interlocutor to express his/her emotions. Meanwhile, **you think how to respond** to what the interlocutor is saying **in a calm and composed manner**.
3. You give your interlocutor sufficient time; **you do not interrupt him/her and do no emphasize your opinion or your experiences**. This is not the time for “I” messages because they can further irritate the interlocutor. Considering that it is a public gathering and that many people are present, by doing that you show your professionalism.
4. During the conversation, always have in mind that **your role is to listen and solve the problem** or to forward it to the ones that can solve it. **Look the interlocutor in the eyes** to show that you are listening and paying attention to the said.
5. **Confirm that you are listening** by occasional nodding, mimic, or **simple words like “I understand”, “yes”**. If the interlocutor is very agitated, advise him/her to take a deep breath and count to 10 and back to calm down if he/she has not been able to talk.
6. **Ask for feedback to gain time**. repeat or rephrase occasionally what you have heard and ask questions to clarify to yourself, it shows that you understand what was said and helps a person explain the situation to himself/herself, so that that the conversation could go in the right direction. Clarify your communication with corresponding examples, comparisons, and explanations, without superfluous statements. **Repeat the messages in other words** to be understandable, **if the interlocutor does not understand or respond to what you are saying**.

The skill of active listening is achieved using the “step by step” technique, where it is important to:

- a. Leave your prejudice aside: Active listening means to set your own prejudice aside to be able to hear what is really being said. Although it can be difficult to set aside prejudice about protestors/demonstrators, especially since police officers may personally agree or disagree with the purpose of the public gathering, police officers as public officials must be able to judge a person by

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his/her current behaviour, not by the type of public gathering they are participating in. Also, it is sometimes difficult to set prejudice aside in routine, daily situations in which it is usual that in most cases the participants of public gatherings complain about something and express their disagreement.

If you, as a police officer, do not set aside your preconceptions and prejudice, you will never be able to “hear” the actual, verbal signals that you need to hear to prevent danger or help someone.

- b.** Pay attention to keywords: There are some keywords that you should always pay attention to such as “knife”, “will see”, “stay away from me”, “will pay for this”, etc. Of course, you should always consider everything that is seen and heard, and the context in which something is said.

Never ignore statements such as: “I’m ready to make someone pay for this”, “I’ll show everyone”, “depressing” or derogatory words directed at someone saying that they are an “insidious element”.

- c.** Determine the intensity of the statement, i.e., what is being said: the intensity, i.e., the tone of the voice used to say something can be high, moderate or low. The more emotional and loud the statement, the greater the intensity. At the same time, emotions are not the same as the loudness of the statement. Variation in the tone of voice, for example, suggests intense emotions although it doesn’t have to be said very loudly. In general, if the statement is loud or emotional, but not at the same time, the intensity is moderate. A statement that is not loud and has no emotion is generally of low intensity.

If someone makes threats even in a very calm voice and without emotion, they should be taken seriously. Generally speaking, high intensity statements are warning signs.

- d.** Pay attention to interlocutor’s mood (positive, negative, normal, usual, abnormal, unusual) and the reasons for such mood: mood in this context simply means how the interlocutor is feeling. You can determine the mood if you ask yourself the question: What feelings did the interlocutor express or hint at? Is his mood common or not for the given time and place? etc. While listening, it is important to notice any deviations in interlocutor’s mood or any other signs.

Experienced police officer always listens to objections and complaints and recognizes when there is an indication of a new tone in the usual complaints or when the objection comes from a seemingly quiet interlocutor.

Non-verbal communication

The table below provides a rough overview of positive and negative reactions to non-verbal elements of communication: facial expression, body posture, eye contact and tone of voice.

	Defensive body language	Aggressiveness	Impatience, boredom or discomfort	Not understanding interlocutor	Openness	Enthusiasm
Facial expression	lips tight	teeth clenched, neck veins bulged	foot tapping, knuckle cracking	forehead wrinkled, eyebrow raised, forced nod	smile	smile
Eye contact and gaze	looking away with minimal contact, eyes narrowed	intense eye contact	eye rolling	expressionless look, with unstable eye contact	direct eye contact, but without staring, and head nodding	eyes wide open
Distance, orientation and body posture	body stiffness, arms and legs tightly crossed, fists clenched	approaching and entering intimate space (approx. 30 cm) sudden and threatening leaning towards the interlocutor shoulder shrugging, hand gestures - inappropriate, rude or humiliating gestures	finger tapping, foot swinging, body directed towards the exit, looking at the clock and objects in the environment hand gestures - inappropriate, rude or humiliating gestures		flexible open attitude, arms open, moving closer to the interlocutor, arms and legs uncrossed	upright body posture
Tone of voice	flat tone of voice	raised tone of voice	even tone of voice, accelerated speech		even tone of voice	well-modulated tone of voice

Principles of verbal de-escalation of conflicts¹²

- **Personal response**

Self-calming to keep your fight-or-flight response at bay:

- Focus on the breathing for 3 breaths
- Relax body
- Soften gaze

Body language:

- Relaxed, open stance
- Body turned slightly
- Hands open
- Good eye contact
- Concerned look

Self-talk about this being an escalating situation:

- You have the skills to manage this
- The person is obviously feeling scared, out of control, powerless, or disrespected and you have the ability to help

- **Personal Space**

Anxiety increases a person's personal space bubble:

- Move slowly and ask to enter space, even if you think it is assumed, (e.g. a patient who you have been caring for)
- Steer clear of legs and arms
- Sometimes the distance of 1 m (average length of personal space, outstretched arm's length) is close enough
- Ask permission before touching personal belongings

- **Establish Verbal Contact**

Pleasant greeting to everyone:

- Address individuals, not the group

- **Be Concise**

Because the tensions are high, it may take extra time and effort for the person to process information:

- Use few words and repeat the same words; do not change your words

¹² Adapted from the original version of Vanderbilt University Medical Centre, <https://www.vumc.org/wpvp/11-steps-verbal-de-escalation>

- **Identify Wants & Feelings**

Sometimes the story a person tells us has little to do with the emotion they're feeling:

- Really listen for the emotion, not the story
- Listen for fear, disrespect, or loss of control

- **Active Listening**

Allow silence:

- Let the person vent
- Ask clarification questions
- Give validation surrounding the emotion

- **Set Limits**

State the inappropriate behaviour that is occurring:

- Be direct and firm but unemotional – tell the person to stop the behaviour if it is dangerous or inappropriate
- It is important that you appear very indifferent
- Maintain a quiet voice and calm demeanour

When-then statements:

"When [positive behaviour change happens], then [positive outcome] can happen"

Example: "When you stop yelling, then you can leave this place."

- *State as if you are on the person's side and you know how they are feeling and you know they will be able to change. You are rooting for their outcome. The "then" has to be beneficial to the person; the change must be good for the person.*

If-then statements:

- *If [negative behaviour does not change], then [negative outcome] will occur*

Example: "If you don't stop yelling and cursing, then we can't continue the conversation and will deprive you of liberty."

- *This is a statement of consequence*
- *Consequences must be clearly stated*
- *There can be no tone of authority or control when making this statement.*

Remember, this is a verbal de-escalation of the conflict where you are trying to prevent a situation where you will have to use force and the tone of authority.

- **Agree or Agree to Disagree**
 - Agree with the emotion
 - Give information, answer questions if related to that particular situation or event
 - Do not reinforce negative or potentially false statements
 - Do not argue or defend
 - Disregard lewd comments or cursing – continue setting limits to control situation
- **TAKE ALL THREATS SERIOUSLY** – if threatened, follow protocols

Relaxation techniques¹³

Relaxation techniques are a great way to help with stress management. Relaxation isn't only about peace of mind or enjoying a hobby. It's a process that decreases the stress effects on your mind and body. Relaxation techniques can help you cope with everyday stress, but also with various diseases. Proposed quick relaxation techniques are free, not time consuming, pose little risk of injury, and can be done nearly anywhere.

These skills won't have a long-lasting effect, but they are a great way to lift your mood in stressful times.

Repeating a prayer or a mantra

Slowly or quietly repeat a short prayer, affirmation while practicing breathing. This method is especially suitable for people who value spirituality or religion.

Focusing on breathing

In this simple but powerful technique, you take long, slow and deep breaths. The technique is also known as belly breathing or abdominal breathing. As you breathe, you gently separate your mind from thoughts and feelings that disturb you.

Mona Lisa smile

Slightly turn up the corners of your mouth - as if you about to smile, but it's not a full smile.

How can half-smiling help?

Emotions are partly controlled by facial expressions. Emotions are partially controlled by facial expressions. By adopting a half-smile – a serene, accepting face - people can control their emotions somewhat. They can feel more accepting if their faces express acceptance.

Remember that relaxation techniques are skills. As with any or most of the skills, your ability to relax improves with practice.

Be patient with yourself. Don't let your effort to practice relaxation techniques become yet another stressor.

13 According to the manual "Comprehensive planning of care for forensic patients - from admission to discharge: Guide for forensic practitioners", first edition, 2021, Joint European Union and Council of Europe programme "Horizontal Facility for the Western Balkans and Türkiye"

Annex 2: Outline of international standards and best practices on cooperation with prosecutors' offices in investigating ill-treatment

Introduction

The Outline complements the draft Resource Manual on Police Interviewing (the Manual) that, upon the international consultant's inputs¹⁴, has already included a set of points and a specific section as to handling interviewees' serious human rights violations-related complaints or other relevant indications that occur during or in the context, including preparation, of the investigative activity concerned (interview). In this vein, in addition to the section in issue (that is attached), the Outline invokes international standards and some best (national) practices concerned with the entire framework of investigation of deliberate ill-treatment and other serious human rights violations.

Moreover, the Outline is to be read with another similar deliverable produced in the framework of the Consultant's assignment, namely the Outline of international standards and best practices on preventing ill-treatment during police interviews.

Key overall standards and considerations

The range of the human rights furnished with the relevant procedural and related obligations is defined by the European Convention for Human Rights (ECHR), as elaborated on in the case law of the European Court of Human Rights (ECtHR) and summarised in Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies (the Guidelines).¹⁵ The Guidelines (their Section II, para. 3) suggest that the duty to investigate is related to and primarily concern "serious human rights violations", i.e. those acts in respect of which states have an obligation under the Convention, and in the light of the Court's case-law, to enact criminal law provisions.

Such obligations arise in the context of the right to life (Article 2 of the Convention), the prohibition of torture and inhuman or degrading treatment or punishment (Article

14 The author of the Outline acted as an international consultant supporting the development of the Draft Manual. Erik Svanidze is a former prosecutor/head of department at the Prosecutor General's Office of Georgia, deputy Minister of Justice of Georgia, member/expert of the European Committee for the Prevention of Torture, leading a number of Council of Europe, EU-funded country-specific and regional projects in Turkey, Moldova, Armenia, Ukraine, and Balkans, author of relevant CoE publications concerned with effective investigation of ill-treatment, as well as of the CoE HELP Course of the Prohibition of Ill-Treatment. He holds LLM in International Human Rights from the University of Lund, Sweden.

15 Available at: <https://rm.coe.int/1680695d6e>

3 of the Convention), the prohibition of forced labour and slavery (Article 4 of the Convention) and with regard to certain aspects of the right to liberty and security (Article 5, paragraph 1, of the Convention) and of the right to respect for private and family life (Article 8 of the Convention).¹⁶

In view of the overall similarity of the standards, required institutional and procedural arrangements of cooperation of the police (other law-enforcement and related agencies) with the prosecution, other bodies comprising a system responsible for investigation of relevant violations under national jurisdiction, they can and could be addressed by the same system and measures. The specifics of incidents, factual and evidential particularities are and could be addressed by methodological and capacity building instruments and interventions.

Addressing complaints or other indications of ill-treatment and other human rights violations revealed during or in the context of police interviews is one of the segments of a system that should be introduced for combatting them in general. Appropriate interaction, cooperation of police, law-enforcement agencies with prosecution or other designated body/ies ('interaction between the police and prosecution) is a key prerequisite for securing compliance with their effective investigation and related positive procedural duties.

When proceeding with integration of the Manual into the existing system, its advancement in Bosnia and Herzegovina¹⁷, it would be advisable to keep in mind the following standards and considerations.

Independence

- Officials responsible for the investigation, including key operative activities, and taking substantive decisions, should be neither from the same police (law-enforcement) subdivisions or otherwise closely linked (professionally and individually interrelated, subordinated) to those implicated in the events.¹⁸
- The independence requirement extends over practical terms, by banning a heavy reliance on information/materials provided by those implicated,¹⁹

16 See the Guidelines.

17 The discussions held at the Sixth drafting session of the Manual, held on 5-6 December 2023 in Banja Luka, in particular, the interventions of the representative of the public prosecution, has suggested that there had been some controversial developments, including introduction and subsequent disapproval of a Memorandum of Understanding developed on cantonal level, concerned with improvements of the system of investigation of ill-treatment. The current assignment and the Outline do not extend over their assessment.

18 See *Rehbock v. Slovenia*, ECtHR Judgment of 28 November 2000, application no. 29462/95, para. 74; *Mikheev v. Russia*, ECtHR Judgment of 26 January 2006, application no. 77617/01, para. 115.

19 *Gharibashvili v. Georgia*, ECtHR judgment of 29 July 2008, application no. 11830/03, para. 73.

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- It also relates to the personal and functional impartiality, including non-involvement in investigations or decisions regarding the alleged victims.²⁰
- It is crucial, that the independence standards are observed from the very initial stages, i.e. crime scene investigation, questioning of eye-witnesses, alleged victims and those implicated etc., that are crucial for their outcome, and gaining complainants/victims' and overall public confidence in this regard.²¹
- The advanced standards and practices are suggesting that an investigation is to be handled by sufficiently independent mechanisms or institutions.²²

Thoroughness

- Investigations should involve 'all reasonable steps' and genuine efforts for establishing the circumstances of and violation(s), if committed, identification of those responsible (if any) and securing that they are held liable.
- Due to the diversity of particular circumstances of even similar violations (e.g. torture/deliberate ill-treatment, use of lethal force etc.), same contexts, procedural, timing and other factors, no exhaustive or template lists of required investigative activities, interventions, decisions could be developed. In its judgments, it often sets out an illustrative and non-exhaustive inventory of measures expected to be carried out.²³ Other international instruments comment generally on the measures that are usually expected.²⁴

20 *Toteva v. Bulgaria*, ECtHR Judgment of 19 May 2004, application no. 42027/98, para. 63; *Siništaj and Others v. Montenegro*, Judgment of 24 November 2015, (Application nos. 1451/10, 7260/10 and 7382/10, paras 146-149. CPT's Report on the visit to Albania carried out from 23 May to 3 June 2005, CPT/Inf (2006) 24, para. 50.

21 *Ramsahai and Others v. the Netherlands*, ECtHR [GC] Judgment of 15 May 2007, application no. 52391/99, paras. 333-341

21 *Najafli v. Azerbaijan*, ECtHR judgment of 2 October 2012, app. no. 2594/07 para. 52 See also *Cestaro v. Italy* no. 6884/11, 7 April 2015 with further references.

23 *Bati and Others v. Turkey*, Judgment of 3 June 2004, applications nos. 33097/96 and 57834/00, para. 134. "The authorities must take whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia, a detailed statement concerning the allegations from the alleged victim, eyewitness testimony, forensic evidence and, where appropriate, additional medical certificates apt to provide a full and accurate record of the injuries and an objective analysis of the medical findings, in particular as regards the cause of the injuries. Any deficiency in the investigation which undermines its ability to establish the cause of injury or the person responsible will risk falling foul of this standard".

24 Istanbul Protocol, paras. 88-106; the CEHRC's Opinion, para. 69; 14th General Report on the CPT's activities, CPT/Inf (2004) 28 para. 33.

- The duty to investigate is seen as an obligation of means (carrying out all reasonably necessary investigative and procedural activities, taking relevant decisions) and not result in this regard.²⁵
- At the same time, procedural inadequacies or mistakes that contribute to the collapse of subsequent legal proceedings constitute failures to take all reasonable steps to secure evidence concerning the incident and a breach of the standards concerned.²⁶
- Moreover, lines of investigation should be pursued on grounds of reasonable suspicion and not disregarding evidence in support of an account of the crime/violation concerned or uncritically accepting evidence, particularly police testimonies, against such account.²⁷

Promptness

- It is required in terms of securing necessary evidence including those that might be lost or become degraded or compromised
- It also concerns the duty of timely accomplishment of procedures needed for taking a final decision or punishment of those implicated.²⁸
- As it is the case with other standards, it is crucial for securing public confidence in the maintenance of the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.

Sufficient Competence

- There should be no formal legal or practical obstacles impeding the procedure, including in terms of administrative avenues, or procedural and other formats and powers of the investigative authorities.

25 *Armani Da Silva v. the United Kingdom*, ECtHR [GC] judgment of 30 March 2016, application no. 5878/08, para. 257.

26 *Maslova and Nalbandov v. Russia*, ECtHR judgment of 24 January 2008, application no. 839/02, para. 92-96.

27 See *Khadisov and Tsechoyev v. Russia*, ECtHR judgment of 5 February 2009, application no. 21519/02, para. 114; *Bati and Others v. Turkey*, ECtHR judgment of 3 June 2004, applications nos. 33097/96 and 57834/00, para. 134; *Barabanshchikov v. Russia*, ECtHR Judgment of 8 January 2009, application no. 36220/02, para. 54; Istanbul Protocol, paras. 88-106; the CoEHR's Opinion, para. 69; 14th General Report on the CPT's activities, CPT/Inf (2004) 28 para. 33. Particular investigations might require some additional or specific investigative actions and procedures.

28 See *Mikheev v. Russia*, ECtHR's Judgment of 26 January 2006, application no. 77617/01, para. 109; *Yaman v. Turkey*, ECtHR Judgment of 2 November 2004, application no. 32446/96, paras. 57, 59.

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- The procedures should comprise the prerogatives and actual suspension from duty of persons under investigation, and application of protective measures to ensure that alleged victims and other persons contributing to the procedures are not intimidated or otherwise dissuaded from participating in them.²⁹

Deterrence and Adequacy of Punishment

- Although the deterrence and adequacy of punishment-related requirements primarily concern the legislative framework and sanctioning, there are elements that are immediately relevant for the interaction of the police and prosecution.
They comprise the obligation to classify the findings in accordance with the specifically enacted legislation.³⁰
- In order to lead to appropriate criminal, administrative, and disciplinary penalties, and securing that none of violations and guilty go unpunished, the system(s) in issue should comprise processing relevant coordinated/parallel procedures.³¹

There are further standards related with *Public Scrutiny*, including by the victim and his or her lawyer,³² and, a parliamentary or other public inquiry, accountability arrangements, in particularly serious and high-profile cases.³³ The related requirements are highly important, however, they are not of immediate relevance for the interaction between the police and prosecution, apart from the public inquiry arrangements.

29 *Hugh Jordan v. the UK*, Judgment of 4 May 2001, application no. 24746/94, paras.125-135; CPT's Report on the visit to Albania carried out from 13 to 18 July 2003, CPT/Inf (2006) 22, para. 44; 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 34; *Yaman v. Turkey*, Judgment of 2 November 2004, application no. 32446/96, para. 55. See also *Bekos and Koutropoulos v. Greece*, Judgment of 13 December 2005, application no. 15250/02, para. 54; *Chitayev and Chitayev v. Russia*, Judgment of 18 January 2007, application no. 59334/00, para. 164.

30 *Valeriu and Nicolae Rosca v. Moldova*, ECtHR judgment of 20 October 2009, paras. 71-75.

31 *Ali and Ayşe Duran v. Turkey*, Judgment of 8 April 2008, application no. 42942/02, para. 70. See also *Okkali v. Turkey*, Judgment of 16 October 2006, application no. 52067/99, para. 71. CPT's Report on the visit to Albania carried out from 13 to 18 July 2003, CPT/Inf (2006) 22, para. 38. This resulted in the recommendation that "disciplinary culpability of law enforcement officials involved in instances of ill-treatment should be systematically examined, irrespective of whether the misconduct of the officers concerned constitutes a criminal offence" Ibid, para. 41. See also para. 27 of the 14th General Report on the CPT's activities.

32 They should be consistently informed of the progress of the investigation and principal decisions taken, entitled to request investigating actions, and allowed to challenge its omissions or conclusions by means of an appropriate judicial review. See *Valeriu and Nicolae Rosca v. Moldova*, ECtHR judgment of 20 October 2009, paras. 71-75; *Abdülsamet Yaman v. Turkey*, ECtHR judgment of 2 November 2004, application no. 32446/96, para. 55; *Öneryıldız v. Turkey*, ECtHR [GC] judgment of 30 November 2004, application no. 48939/99, paras. 111-118, <https://hudoc.echr.coe.int/eng?i=001-67614>

33 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 36.

The outlined standards comprise and suggest further considerations that are to be taken into account for the purposes of interaction between the police and prosecution.

- Preliminary inquiries or other forms of determination of grounds for initiation of fully fledged investigations must also be viewed as part of the overall investigation and must therefore attain the relevant standards of effectiveness.³⁴
- The obligation to initiate an investigation arises when the competent authorities receive a plausible allegation or other sufficiently clear indications that serious violation might have occurred. An investigation should be undertaken in these circumstances even in the absence of an express complaint.³⁵

Some models and specific solutions applied

The independence, competence-related criteria are primarily concerned with institutional, legal parameters and considerations, which, as a rule, require legislative or other composite measures and solutions. At the same time, they incorporate and are developed with due considerations given to the requirements of thoroughness and promptness. Although they are concerned with carrying out immediate investigative activities (and taking specific procedural decisions), they are secured through some regulatory, methodological, practical, capacity building measures and by allocating necessary human, financial and other resources.

Whilst the Strasbourg Court has not gone as far as to support the creation of special and independent investigative bodies into police conduct, several international instruments have done so. An example is the Istanbul Protocol.³⁶ Such bodies are expected to be independent and equipped with adequate technical and administrative personnel. They should also have access to impartial legal advice to ensure that the investigation produces admissible evidence that can be used in criminal proceedings. The full range of the Member State's resources and authority must therefore be extended to such bodies, which must also be able to seek assistance from international legal and medical experts.³⁷ Independent commissions can help ensure that investigations are effective from the start. They are also well-placed to ensure that disciplinary, administrative and/or criminal measures are initiated on the basis of their findings, if appropriate.³⁸

34 *Gharibashvili v. Georgia*, Judgment of 29 July 2008, application no. 11830/03, paras. 70-71.

35 *Bati and Others v. Turkey*, Judgment of 3 June 2004, applications nos. 33097/96 and 57834/00, para. 100; 97 members of the Gldani Congregation of *Jehovah's Witnesses and 4 Others v. Georgia*, Judgment of 3 May 2007, application no. 71156/01, para. 97. 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 27.

36 Istanbul Protocol, para. 85.

37 *Ibid*, para. 87.

38 *Ibid*, para. 119. See also CEHRC's Opinion, para. 83.

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Such an arrangement receives some support from the CPT, which takes into account the predominantly leading role of prosecution in the criminal justice and, in the context of interaction of an independent police complaints authority, stated :

"[I]n the interests of bolstering public confidence, it might also be thought appropriate that such a body be invested with the power to remit a case directly to the CPS [Crown Prosecution Service] for consideration of whether or not criminal proceedings should be brought."³⁹

The standards on arrangements designed to avert doubts in independence of investigation of ill-treatment, other serious human rights violations or abuse attributable to law-enforcement agencies is corroborated by the corresponding domestic developments of introducing special, primarily institutionally independent, distinct from the police/law-enforcement agencies, investigation mechanisms or systems. The European jurisdictions proceed with introducing and developing various authorities/institutions that mirror the specifics of legal and other domestic frameworks, their traditions and other factors. Their range includes the Office for Police Conduct (Independent Office for Police Conduct, IOPC/ formerly the Independent Complaints Commission on police),⁴⁰ Police Ombudsman for Northern Ireland,⁴¹ Independent Police Complaints Board in Hungary,⁴² Norwegian Bureau for the Investigation of Police Affairs,⁴³ Committee P in Belgium,⁴⁴ Special Investigative Service of Georgia⁴⁵ and other similar bodies in many jurisdictions are based on the rationale of having particular institutional guarantees of reinforced autonomy or independence from the police or even the executive in general.

There are many jurisdictions that opt for a prosecution-based approach to investigation of serious human rights and related violations attributable to the police/law-enforcement. The basic arrangements include initial, however, still specific regulations, procedures, practical arrangements, methodological instruments that aim at securing their early involvement, including specific notification avenues and obligations of the police and all other actors, exclusive prerogative as to carrying out the

39 The CPT's report on the visit to the United Kingdom and the Isle of Man from 8 to 17 September 1999, CPT/Inf (2001) 6, para. 55.

40 See www.policeconduct.gov.uk

41 See www.policeombudsman.org, accessed on 05.12.2013.

42 See www.panasztestulet.hu/index.php?link=en_main.htm, accessed on 05.12.2013.

43 See www.spesialenheten.no/Mainpage/tabid/5240/language/en-GB/Default.aspx, accessed on 05.12.2013.

44 See <https://comitep.be/index.html>

45 See <https://sis.gov.ge/en/>

investigating activities and/or directing them and taking relevant decisions.⁴⁶ The majority of prosecution-specific systems, at the same time, in due course, are further advanced up to introducing specialization, and, even designated subdivisions or prosecutor's offices that deal with the cases concerned.⁴⁷

At the same time, with the decisive overarching goal for designing and opting for a model of investigation serious human rights violations attributable to the police, other law-enforcement agencies or their other abuses being sufficiency (in the country-specific circumstances) to avert appearance of collusion in or tolerance of unlawful acts and gaining public confidence in this regard, some of jurisdictions proceed with the ministry of internal affairs-based arrangements. They however, comprise separation from the police hierarchy, high degree of institutional autonomy, including with regard to budgetary and career development and other considerations.⁴⁸

In general, the models of the institutional and related arrangements for investigating serious human rights violations attributable to the police (other law-enforcement agencies), can be classified as follows.

46 See Communication from Montenegro concerning the case of SINISTAJ AND OTHERS v. Montenegro (Application No. 1451/10) [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)667E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)667E). It is to be mentioned, however, that under a relevant Council of Europe assignment, the Consultant was involved in assessing the adequacy of the measures concerned, and contributed to developing the relevant report, which has stated: "On 27 June 2019 the Supreme State Prosecutor issued a binding Instructions of general character to all prosecutors obliging prosecutors to report to the Supreme State Prosecutor cases in which there is a reasonable doubt that there has been violation of Article 3 of the Convention, especially criminal offences of violence, torture and serious bodily injuries, committed by police officers or officers of the Directorate for Execution of Criminal Sanctions. At the same time, it has a very general indication that each state prosecutor's office shall perform detailed individual analysis of the cases within their actual and territorial jurisdiction, depending on the stage of the procedure, measures undertaken to find the criminal offenders, ensuring that 'the offender does not hide and escape, discovering and providing trails of the criminal offense and cases that could serve as a proof, as well as analysis of the already collected notices that could be of use for a successful conduct of a criminal procedure.' Thus, this in effect gives little specific instruction or guidance other than to record allegations, get medical examination and to 'undertake measures and actions for the purpose of reaching urgent, independent and effective investigation'. There is little direction as to what those measures and actions should be other than measures should be taken to identify the suspect and prevent any concealment or escape....and a duty to report to the Supreme State Prosecutor's Office within a prescribed time period."

47 With examples being the Prosecution system of Moldova <https://procuratura.md/index.php/de-spre-noi/structura.html> (in Romanian), and Slovenia <https://www.dt-rs.si/about-specialized>

48 Latvian Bureau of Internal Security, https://www.idb.gov.lv/lv/informativi-materiali/informativie_materiali_internal-security-bureay.pdf

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BASIC MODELS

ATTACHED to the line ministry POLICE	UNCONNECTED to the line ministry POLICE	SEPARATED From EXECUTIVE	JUDICIARY
+ REINFORCED GUARANTEES (appointed, budget)	PLACED under EXECUTIVE	PLACED beyond EXECUTIVE	Where not under MoJ
LATVIA (internal security)	NORWAY (BIPA)	COMMITTEE „P“ and its INVESTIGATIVE DEPARTMENT GEORGIA SIS	PROSECUTION MOLDOVA SLOVENIA
PROSECUTION	PROSECUTION	PROSECUTION	

Further Interaction and Cooperation/ Role of the Police Structures

There should be a strict differentiation between the investigations to be carried out under the criminal procedural framework, i.e. with regard to criminally punishable serious human rights violations, and disciplinary and administrative/management proceedings/interventions. With due regard to the international standards, in particular, their limbs concerned with independence and impartiality of investigations, specialised police structures (professional standards/internal control and other similar units) should be entitled and required to carry out a very limited range of actions at the preparatory stage of CPC-based investigation and prosecution of serious ill-treatment. If the remit of such cases, engagement of prosecutors is not immediate, i.e. secured upon receiving an indication that ill-treatment might have occurred, this would amount to the breach of the standards in issue and all the procedural and other actions, endeavours will be carried out in vain. For these and related purposes, for example, some jurisdictions introduce strict distribution of responsibilities with the police representatives' obligations and prerogatives with regard to indications of the crimes in issue being limited to:

- recording indication(s) and notification of the prosecutor and police leadership;
- identification of whereabouts of the (alleged/assumed) victim(s) and taking care of his/her/their protection measures;
- securing appropriate medical assistance/initial medical screening of victim(s)/ other persons concerned or securing documentation as to medical and forensic assessments;
- securing (crime) scene or location of the incident and real evidence, including implements used in ill-treatment, fingerprints, body fluids and fibres documentation/registers etc.

With regard to criminal investigations, in some jurisdictions, the specialised / attached police officers are (could be) involved in particular investigative / intelligence activities.

However, they, relevant disciplinary mechanisms (commissions) and other police authorities are carrying out disciplinary and administrative/management proceedings, which are synchronised with the criminal investigations/procedures (where appropriate/initiated).

Guaranteeing effectiveness

Investigative systems should be provided with adequate financial and technical resources and appropriately trained legal, medical and other specialists. The need for investigative systems to be adequately funded and resourced. The Istanbul Protocol emphasises that: "The persons conducting the investigation must have at their disposal all the necessary budgetary and technical resources for effective investigation."⁴⁹

Members of investigation teams and the experts who assist them must be adequately trained and be proficient in their respective fields. The Istanbul Protocol therefore points to the need for "specific essential training".⁵⁰

The CPT has also stressed the importance of adequate training and expertise in its visit reports.⁵¹

The ECtHR has pointed to the importance of appropriate training of the specialists involved in investigations, such as forensic doctors.⁵²

Furthermore, the category of investigations in issue should be evaluated by a coherent, uniform, nationwide system based on accurate statistical data relating to the complaints made, investigations performed, judicial procedures held and punishments administered.

The competent authorities should continually keep the public and law enforcement personnel informed with regard to ill-treatment investigations that are taking place, the levels of ill-treatment being detected, and the action taken as a result.⁵³

49 Istanbul Protocol, para. 80.

50 *Ibid*, paras. 89, 90, 131, 162, 305.

51 CPT Public statement concerning the Chechen Republic of the Russian Federation of 10 July 2003.

52 See *Barabanshchikov v. Russia*, Judgment of 8 January 2009, application no. 36220/02, para. 59.

53 See E. Svanidze, *Effective investigation of ill-treatment. Guidelines on European standards*, 2nd edition Council of Europe, Strasbourg, 2013, p.p. 64-65.

Annex N1

Draft Manual on Addressing the Complaints

Handling interviewees' complaints as to / indications of ill-treatment (other serious human rights violations)

This resource manual has been developed as an element of a set of other regulatory and methodological instruments on treatment of persons deprived of their liberty, subjected to other coercive measures by the police, or concerned by its intrusive activities. It focuses on interviewing and summoning, preparations and other related activities. The section on complaints procedures is limited to handling them in this context accordingly and do not extend over the entire range of safeguards against and standards of investigation of ill-treatment or other serious human rights violations.⁵⁴

The key standards applicable in this regard⁵⁵ envisage that:

- The procedures applied in the context of police interviews should secure that the complaints or other indications of ill-treatment and other serious human right violations are immediately communicated to the competent bodies in charge of their consideration and/or other procedures, so that required investigations **commence without delay**.
- Officials/ structures dealing with complaints, further investigation(s)/procedures and taking substantive decisions, should be **independent**, i.e. neither from the same police (law-enforcement) subdivisions or otherwise closely linked (professionally and individually interrelated, subordinated) to those implicated in the events nor accountable for prosecuting the complainant; moreover, the advanced standards and practices are suggesting that an investigation is to be handled by fully independent mechanisms or institutions; it relates to the personal and functional impartiality, including non-involvement in investigations or decisions regarding the alleged victims.

54 Complaints or allegations as to corruption, other abuses, irregularities are to be handled in line with relevant standards and regulations, which are not covered by this Practitioners Guide.

55 See 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 27; Istanbul Protocol, para. 100; Guidelines on eradicating impunity for serious human rights violations. The standards concern thoroughness, victim involvement and other requirements, which, however, apply to further consideration of complaints / investigations and fall outside the scope of this Practitioner's Guide.

- There should be legally ensured and **practically available opportunities for communicating allegations**, sending without delay uncensored written correspondence to the competent authorities and designated bodies, as well as a secure and confidential access of detainees to superior officers and governmental institutions, judicial or prosecutorial authorities, and specialized complaints bodies, as well as inspection and monitoring mechanisms on domestic and international levels.⁵⁶

The CPT recommends that all allegations involving suspicious police conduct in terms of torture and ill-treatment must be subject of criminal proceedings directly, without internal processing of the police officer suspected of ill-treatment.

Processing interviewee's complaint

- A person summoned for an interview to or present in police premises (or otherwise concerned by relevant official police measures and activities in the field) may, at any moment, make a formal oral or written complaint or request to submit it.
- The relevant police measure or activity can be search or check-up, collecting information from citizens held on the spot, identity check, restriction of movement, securing crime scene, deprivation of liberty, etc. which the police officer conducts based on her/his decision in accordance with the law or lawful order given by the senior officer.
- The police officer who receives or is informed about a complaint makes sure that the interviewee is given an immediate opportunity to formulate or/and channel it, including by making relevant note in the minutes (if processed), or providing the complainant with a form prescribed for this purpose or a pen and paper to write down a complaint.
- The police officer informs the person who wishes to complain also about possible formal avenues for submitting it to the prosecutor, ombudsperson or other competent state institution. The police officer formally introduces the complaint in the Complaints Log, sends it out in a sealed envelope to the Professional standards unit or informs the duty prosecutor.
- If and whenever a police officer identifies indications of ill-treatment or other serious human rights violations (as appropriate) and the person concerned does not opt to submit a formal complaint, the police officer informs without delay the competent prosecutor (police senior officer).

⁵⁶ *Ibid*, see also 27th General Report on the CPT's activities, CPT/Inf(2018)4.

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- The senior police officer submits the request to initiate an internal procedure to the Professional standards unit, and the officer herself/himself directly also submits the request to the PSU.
- The interview is postponed or discontinued pending arrival of the prosecutor/designated official, unless it is undelayable/necessary due to the legitimate interests of investigations / procedures under which the interview is (to be) conducted with the medical (including) psychological conditions being taken into account,⁵⁷
- The police officer should keep the interviewee in the secure premise, preferably the interview room, pending arrival or instructions from the prosecutor (competent official) as well as refrain from proceeding with further verification of allegations or assembling evidence in this regard.

57 See para. above on the medical assessment/treatment of the interviewee.

Annex 3: Outline of international standards and best practices on preventing ill-treatment during police interviews

Introduction

The Outline complements the draft Resource Manual on Police Interviewing (the Manual) that, upon the international consultant's inputs,⁵⁸ has been developed with major focus on the prohibition of ill-treatment standards, incorporates some relevant basic norms and standards suggested by the European Convention for Human Rights (ECHR), has elaborated on in the case law of the European Court of Human Rights (ECtHR), jurisprudence and country-specific recommendations of the European Committee for the Prevention of Torture (CPT), some derivative international text,⁵⁹ as well as addressed them in its provisions accordingly.

In this vein, in addition to the key elements recapped in this Outline, it invokes international standards and some best (national) practices concerned with the prevention of ill-treatment during and in the context of interviews. The latter term is understood and used as in the Manual.

Moreover, the Outline is to be read with another similar deliverable produced in the framework of the Consultant's assignment, namely the Outline of international standards and best practices on cooperation with prosecutors' offices in investigating ill-treatment.

The prohibition of ill-treatment, its prevention, constitutes the core of the human rights relevant for and applicable during and in the context of police interviews. However, their range also includes the right to liberty and security, in particular, the ECHR Article 5 requirements as to sufficiency of information regarding the reasons for detention and questioning, implications of the period of police custody and other timing-related standards with regard to questioning of suspects; the right to fair trial, with the ECHR Article 6 standards as to the privilege against self-incrimination and the effective exercise of the right to remain silent, presumption of innocence, the right to defence, ensu-

58 The author of the Outline acted as an international consultant supporting the development of the Draft Manual. Erik Svanidze is a former prosecutor/head of department at the Prosecutor General's Office of Georgia, deputy Minister of Justice of Georgia, member/expert of the European Committee for the Prevention of Torture, leading a number of Council of Europe, EU-funded country-specific and regional projects in Turkey, Moldova, Armenia, Ukraine, and Balkans, author of relevant CoE publications concerned with effective investigation of ill-treatment, as well as of the CoE HELP Course of the Prohibition of Ill-Treatment. He holds LLM in International Human Rights from the University of Lund, Sweden.

59 Including Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies (the Guidelines).

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ring adequate facilities (confidentiality, setting) for interaction with a lawyer, securing other fair trial guarantees interpretation admissibility of evidence under the overall fairness principle and relevant tests, actual procedural status of the person making statement (suspect/witness) with regard to questioning of criminal suspects, accused, defendants, as well as dictation and content of the statements (reliability), immunity provided to witnesses, handling hearsay statements, procedural treatment of interviewing anonymous and other witnesses benefitting from the specific protection or other procedural measures. Moreover, there are considerations concerned with other rights, in particular to respect for private and family life (Article 8 of the ECHR), that are of relevance to police interviews. They have been followed by the Manual, however, they fall outside the scope of the current outline and the assignment.

Article 3
No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Substantial Standards on the Prohibition of ill-treatment and Police Interviews

Notwithstanding the scarcity of the prohibition of ill-treatment-related norms in the ECHR, which comprise of just one sentence-long Article 3, its scope and related set of standards that are itemised in the ECtHR case-law, relevant derivative instruments and workings of the CPT, its jurisprudence, covers a wide range of issues, which, in addition, is permanently expanding.

The police interviews-related and applicable requirements stem out from the notions of torture, inhuman, degrading, treatment, and punishment, and their definitional elements; including the minimum level of severity of suffering and the relevant 'threshold' distinguishing them from acceptable treatment and torture from other forms of the violations concerned. In view of these considerations the Manual has suggested their expanded definitions that are recapped below for the purposes of facilitating its further use and implementation.

The prohibition of ill-treatment is an absolute right, since Article 3 of the ECHR and other international instruments do not provide for exceptions and derogations to it.

Ill-treatment

It is a term that is often used to embrace, substitute the composite wording, notions used for outlining the human right concerned with its prohibition. 'Torture', 'inhuman' and 'degrading' are the three interrelated, but distinct elements that delineate the scope of the prohibition and differentiate it from treatment and punishment that do not amount to ill-treatment. The word 'cruel' incorporated in the UN and some other texts denotes the level of suffering, which is implied by ill-treatment and in all the three definitive constituents. The European instruments opted for not spelling it out, accordingly.

Torture

Severe mental or physical pain or suffering of particular intensity and cruelty implied by the word torture intentionally inflicted in pursuit of a specific purpose, such as gaining information, punishment or intimidation that is attributable to a state, its agents ranging from immediate infliction to acquiescence including with regard to infliction of severe physical or mental suffering by private individuals.

Inhuman treatment or punishment

Action (inaction) resulting in severe mental or physical pain or suffering of uncivilized, cruel nature that exceeds the minimum level of severity, but does not reach the relevant threshold of torture, which is primarily concerned with recourse to physical force that has not been made strictly necessary by victim's own conduct.

Degrading treatment or punishment

Action (inaction) resulting in severe predominantly mental suffering concerned with debasing, humiliating feelings, and anguish or physical suffering, which could be combined with or originate from instigation of a person to act contrary to his/her will or conscience, that the minimum level of severity, but not reaching the relevant threshold of torture. It may well suffice that the victim is humiliated in own eyes, even if not in the eyes of others.

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Despite invoking the hurdles of combating terrorism, organized crime or other similar challenges and other attempts to question the absolute character of the prohibition, it has retained its supremacy and status of a peremptory international norm. Neither the conduct of the individual, the nature of the offence, nor a need to protect life or other values can be used as a justification, and nor may the motivation for torture or any other form of ill-treatment. Moreover, there is no consistent prove of effectiveness of ill-treatment for combating or overcoming these challenges.

In *Gafgen v. Germany*, which concerned the use of deliberate ill-treatment, the ECtHR (its Grand Chamber) confirmed that an exception from the prohibition is not permissible even for the purpose of saving an individual's life.⁶⁰ In particular, the applicant, suspected of an abduction of a child, in order to detect the latter's whereabouts was threatened by torture, including by considerable pain at the hands of a person specially trained for such purposes (and sexual abuse by another detainee).

The ECtHR has dealt with specific interviewing techniques including against suspected terrorists. In *Ireland v. the United Kingdom* it found that the so called 'five techniques' involving 'wall standing' (forcing detainees to remain in a stress position for hours at a time), 'hooding' (keeping a bag over detainees' heads at all times, except during interrogation), subjection to continuous loud noise, deprivation of sleep, deprivation of food and drink, had violated the prohibition of ill-treatment (Article 3 of the ECHR)⁶¹.

The absolute ban on use of torture, other forms of ill-treatment, including and, in particular, in the context of police interviews, other formats of obtaining information, assembling evidence is primarily prevented through the appropriate substantial criminal legislation (it is to be noted that some jurisdictions, in addition, even specifically criminalise a threat by torture⁶²) and rigorously complying with the duty of effective investigation of ill-treatment.⁶³

In general, in combination with the privilege against self-incrimination and other guarantees in criminal proceedings envisaged by the right to fair trial standards,⁶⁴ the techniques and methodologies applied in the course of interviewing should be carefully designed and applied, even in the context of combatting organised crime, terrorist

60 *Gafgen v. Germany*, ECtHR [GC] judgment of 1 June 2010, application no. 22978/05, para 107.

61 *Ireland v. the United Kingdom*, ECtHR judgment of 18 January 1978, application no. 5310/70, para. 163.

62 In addition to Articles 144¹ 'Torture' and 144³ 'Humiliation and Inhuman Treatment', the Criminal Code of Georgia has incorporated Articles 144² 'Threat of Torture'. <https://matsne.gov.ge/en/document/view/16426?publication=252>

63 See the Outline of international standards and best practices on cooperation with prosecutors' offices in investigating ill-treatment (developed by the Consultant under this assignment).

64 See *Ibrahim and Others v. the United Kingdom*, ECtHR [GC] judgment of 13 September 2013, applications nos. 50541/08, 50571/08, 50573/08 and 40351/09, paras 249-311 (with further references).

activities and other contemporary and most dangerous criminal activities. As far as the prohibition of ill-treatment is concerned, they should fall (far) short of the minimum level of severity.

There are different approaches to police (procedural) interviewing that mirror the rationale and key characteristics of the system prevailing in the jurisdiction concerned. They include the PEACE and similar methods (primarily followed in the Manual) that largely refrain from an accusatory stance, as well as REID and analogous techniques suggesting applying more rigid and invasive interrogation approaches.⁶⁵ When necessary and against further safeguards, the latter are more elaborated in terms of actively squeezing / confronting an interviewee with arguments etc. To a limited degree, the Manual has rightly included some indications in this regard.

In terms of balanced and well-developed (including in terms of its permanent updates) the Police and Criminal Evidence Act (PACE)-based Codes of Practice applied in the UK (Home Office).⁶⁶

With regard to the modification of the approach and legislative regulations the introduction of a voluntary interview of a witness (contrary to the preceding mandatory interrogation solely by an investigator) by prosecution/investigation or defence at the pre-trial stage, with possible participation of a lawyer (if opted by the witness concerned) and other safeguards applicable, as well as detailed legislative (primary law-based) regulation of the interview procedure. In relevant exceptional cases already at the pre-trial stage a witness can be examined in a court a magistrate judge upon a motion of the prosecution or defence⁶⁷. It is to be noted that the change has been prompted by the wide-spread violations and abuse of interviewing prerogatives practiced by the investigative authorities in Georgia. There were some attempts to design and implement some advanced invasive methodologies. For example, in 1990-ies in Netherlands a methodology called '*Zaanse verhoormethode*', which concerned lengthy interrogations, use of the advanced specifically designed methodology and

65 See <https://reid.com/>

66 See in particular, 2019 Code C on Detention, Treatment and Questioning of Persons by Police Officers. <https://www.gov.uk/government/publications/pace-code-c-2019/pace-code-c-2019-accessible#bookmark33>

67 See Articles 113-114 of the Code of Criminal Procedure of Georgia. <https://matsne.gov.ge/en/document/view/90034?publication=151>

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applied with the support of a team of specialists⁶⁸, which had been found by the domestic judiciary incompatible with the requirements of a fair trial. It was subsequently prohibited by the Dutch authorities.⁶⁹ The substantial standards under the prohibition of ill-treatment require provision of appropriate conditions, including application of stringent and oppressive measures etc., which could amount, even if not secured for short periods of time, to its violation.⁷⁰ Moreover, the contemporary police ethics and overall approaches to interaction with the members of public, individuals concerned by its interventions and activities, including interviewing, demand that they carried out in adequate, well-equipped conditions and relevant safeguards being applied.⁷¹

Furthermore, one of the best preventive guarantees consistently supported and required by the CPT standards⁷², as well as many domestic jurisdictions, which extend it over interviewing any person, not only suspects or other persons deprived of their liberty,⁷³ concerns electronic recording of interviews.

In exceptional instances, when it could be necessary to resort to coercive means during police interviews, the police officer(s) in charge and their colleagues should be guided by the prohibition of ill-treatment-driven standards on the use of non-lethal force, special means, arms or equipment.⁷⁴ The ECtHR has reinforced its interpretation of the definitional elements of the prohibition of ill-treatment with regard to use of force re-confirmed that any recourse to physical force, which has not been made strictly necessary by the conduct of the person confronted with law-enforcement of-

68 It was based on Neuro Linguistic Programming (NLP); originally a form of psychotherapy, including allocation of individual roles (father figure, specialist, analyst, person of confidence) to each member of the interrogation team, identifications patterns of thought, demonstrating of photographs connected to the offence and linked to the suspect's person, like photographs of his spouse or children. The interrogation team leader and the external communication expert watched and listened to the interrogation in another room. There were four hidden cameras covering the entire interrogation room and one hidden camera aimed at the suspect's face. The interrogators received instructions via earphones from the team leader or the external communication expert during the interrogation. Other features of this interrogation technique were following suspect's body language in conformity with his verbal expressions, copying of a suspect's physical behaviour intended to reassure the suspect and the so-called "pushing in" etc. Interrogations could be conducted within a couple of days, lasting on average ten hours per day depending on how the interrogation proceeded.

69 It was assessed by the ECtHR under Article 3 of the Convention. The application was found inadmissible. See *Jager v. the Netherlands*, ECtHR decision of 14 March 2000, application no. 39195/98. Taking into account further advancement of the ECtHR case law, it could be expected that currently it would be found in breach of the prohibition of ill-treatment too.

70 See *mutatis mutandis Ramishvili and Kokhreizze v. Georgia*, ECtHR judgment of 27 January 2009, application no. 1704/06, paras. 97-102.

71 See the subsequent Section of this Outline.

72 See the CPT recommendations quoted in the Manual.

73 See UK regulations in this regard, *supra* note 9.

74 Standards concerning use of lethal force are based on ECHR Article 2 / the right to life.

ficers, diminishes human dignity and constitutes a violation of Article 3 of the ECHR.⁷⁵ In view of the specifics of the context of police interviews, where the interviewee is under control, the strict necessity is particularly relevant and demanding. The range of measures that would meet it for preventing an escape or violent acts, including application of handcuffs and other immobilizing means, should be limited. The additional prevention in case of use of force is provided by the obligation to report it.

Safeguards against ill-treatment

The set of safeguards specifically crystallised as international standards for preventing ill-treatment of persons deprived of liberty or otherwise being under control of law-enforcement authorities (their representatives) are applicable and should be secured in the context and including during a police interview. It is to be noted that the majority of them are envisaged by the relevant European Union regulatory instrument, in particular Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.⁷⁶

They have been taken into account when developing the Manual and adjusted to the specifics of police interviews. The following elaboration on the rationale and some details, immediate references to the international standards (their sources) is suggested for facilitating its better implementation and related capacity building activities.

The preventive measures and requirements under consideration comprise of fundamental legal and related (other) safeguards. The former are of the immediate relevance and interviewing police officer(s) are obliged to secure their observance with regard to the interviewed suspect or other person, who is deprived of his/her liberty.

The interviewing officer is to verify whether has benefitted from and, if necessary, ensure that the category of interviewees in issue effectively benefit from the rights to:

- *notify detention* to a relative or other third party of the detainee's choice;⁷⁷
- *access to a lawyer*, that should include a scheme of effective legal aid for persons who are not in a position to pay for it, the right to talk to the lawyer in private and benefit from his presence at interrogations;⁷⁸
- *access to a doctor*, which in addition to any medical examination carried out by a doctor called by the police authorities should embrace the right to be examined by a doctor of the detainee's own choice and forensic doctors;

75 See *Bouyid v. Belgium*, ECtHR [GC] judgment of 28 May 2015, application no. 23380/09, paras. 88-112.

76 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0013>

77 For foreign citizens it includes a notification of consulates.

78 12th General Report on the CPT's activities, CPT/Inf (2002) 15, para. 41. See also 21st General Report of the CPT CPT/Inf (2011)28-part1.

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all medical examinations should be conducted out of the hearing and - unless the doctor expressly requests otherwise in a given case - out of the sight of police or other non-medical staff; their results should be properly recorded and handed over (available) to the detainee and lawyer;⁷⁹

- *be informed about the rights* concerned in a language understood by or otherwise explained, where necessary, to the detainee and provided with a form setting them straightforwardly out; detainees should be asked to sign a statement attesting that they have been informed of their rights.⁸⁰

As to other safeguards, those immediately relevant for and to be secured during police interviews⁸¹ are concerned with:

- *custody records*⁸² (including electronic, video/mobile surveillance/recording) providing information on all aspects of apprehension, custody and action taken regarding inmates (specifying when they were deprived of liberty; reasons for that; signs of injury, mental illness, etc.);⁸³
- *obligation of the public officials* (including police officers) to report to the relevant authorities immediately whenever they become aware of any information indicative of serious human right violation;⁸⁴
- *communicating allegations*, sending without delay uncensored written correspondence to the competent authorities and designated bodies, as well as a secure and confidential access of detainees/(alleged) victims to superior officers and governmental institutions.⁸⁵

79 See *Mammadov (Jalaloglu) v. Azerbaijan*, ECtHR judgment of 11 January 2007, application no. 34445/04, para. 74. *Mehmet Eren v. Turkey*, ECtHR judgment of 6 April 2004, application no. 21689/93, para. 355. See also the CPT's Report on the visit to Albania carried out from 23 May to 3 June 2005, CPT/Inf (2006) 24, para. 49; CPT's Report on the visit to Georgia carried out from 6 to 18 May 2001, CPT/Inf (2002) 14, para. 30; para. 123 of the Istanbul Protocol.

80 See 12th General Report on the CPT's activities, CPT/Inf (2002) 15, para. 44.

81 The safeguard concerned with screening on admission to prisons followed by systematic recording of allegations and injuries of newly arrived prisoners, if any, and transmission of information to the relevant authorities, when appropriate, is not applicable in the context of interviews.

82 See *Khadisov and Tsechoyev v. Russia*, ECtHR judgment of 5 February 2009, application no. 21519/02, para. 148; *Menesheva v. Russia*, ECtHR Judgment of 9 March 2006, application no. 59261/00, para. 87.

83 2nd General Report on the CPT's activities, CPT/Inf (92) 3, para. 41.

84 See 14th General Report on the CPT's activities, CPT/Inf (2004) 28, para. 27; *Ahmet Özkan and Others v. Turkey*, ECtHR judgment of 6 April 2004, application no. 21689/93, para. 359.

85 See *Niedbala v. Poland*, ECtHR judgment of 4 July 2000, application no. 27915/95, para. 81; 27th General Report on the CPT's activities, CPT/Inf(2018)4-part.

At the same time, the safeguards and the latter two obligations, in particular, comprise measures directly facilitating the duty of effective investigation.⁸⁶

There are good national practices as to the safeguards under consideration, there are good examples of addressing them in the primary legislation, including the Codes of Criminal Procedure (e.g. Ukrainian CCP in its Articles 207-213 elaborated on the actual apprehension, provides for custody officers' functions etc.).⁸⁷ The Police and Criminal Evidence Act (PACE)-based Codes of Practice applied in the UK are worth following in terms of the secondary regulatory basis and the practice followed, including with regard to the immediate access of the persons concerned to the custody records, notification of the rights, custody officer's prerogative etc. (in addition addressing the requirements under the rights to liberty and security of person and fair trial).⁸⁸

86 Outline of international standards and best practices on cooperation with prosecutors' offices in investigating ill-treatment (developed by the Consultant under this assignment).

87 See <https://rm.coe.int/16802f6016>.

88 See in particular, 2019 Code C on Detention, Treatment and Questioning of Persons by Police Officers. <https://www.gov.uk/government/publications/pace-code-c-2019/pace-code-c-2019-accessible#bookmark33>

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