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

14th General Report on the CPT's activities

covering the period 1 August 2003 to 31 July 2004

Strasbourg, 21 September 2004

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The CPT is required to draw up every year a general report on its activities, which is published. This 14th General Report, as well as previous general reports and other information about the work of the CPT, may be obtained from the Committee's Secretariat or from its website:

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PREFACE

The current climate of anxiety in the global arena generated by the very real threat of terrorism makes it difficult to maintain momentum for the protection of human rights. At such times, there is a tendency to allow security considerations to predominate over all else. Voices have been raised, memoranda written, and in some exalted and unexpected places, which appear to manifest a willingness to undermine – if not directly challenge – the absolute nature of the prohibition of torture and inhuman or degrading treatment. There is also a growing body of evidence that the methods of detention and interrogation employed in various locations, in the context of the fight against terrorism and of military operations it has spawned, have on occasion violated that prohibition. The treatment meted out to some persons detained by Coalition forces in Iraq, revealed in a graphic manner by material placed in the public domain earlier this year, is but one illustration.

States are not merely entitled, they are under the obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts; this was emphatically reaffirmed in the guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers of the Council of Europe on 11 July 2002. However, as those same guidelines also make clear, the fight against terrorism must never be allowed to degenerate into acts of torture or inhuman or degrading treatment. Such an abandonment of universally recognised basic values could only undermine the foundations of democratic societies committed to the rule of law. To refrain from resorting to such acts – and to take active steps to stamp them out when they emerge – is one of the hallmarks of a democratic State.

Any State that authorises or condones acts, by its officials, which amount to either “torture” or “inhuman or degrading treatment” diminishes its standing in the eyes of the international community. The same can be said of a State that makes use of statements which officials of another country have obtained through resort to such acts.

Constant vigilance will be required if the absolute prohibition of torture and inhuman or degrading treatment is to be upheld; this is true for every country in every region, without exception. Those who wish to ensure the effectiveness of that prohibition throughout the world must lead this fight by example.

ACTIVITIES DURING THE PERIOD 1 AUGUST 2003 TO 31 JULY 2004

Visits

1. The CPT organised twenty-two visits totalling 169 days during the twelve-month period covered by this General Report¹. Pending further reinforcement of its Secretariat, the Committee has been obliged for the time being to maintain its annual visit programme at the 170-day level; however, an increase in the number of visit days will soon be possible (cf. paragraph 24).

Of the twenty-two visits, ten (totalling 100 days) formed part of the CPT's annual programme of periodic visits and twelve (69 days) were ad hoc visits which the Committee considered were required by the circumstances.

2. The following countries received periodic visits during the period 1 August 2003 to 31 July 2004: Andorra, Austria, Croatia, Estonia, Finland, Georgia, Iceland, Lithuania, Portugal and Turkey.

During the remaining months of 2004, five more periodic visits will be organised – to Cyprus, Italy, Moldova, Poland and, for the first time, to Serbia and Montenegro.

3. Specific reference should be made to the **periodic visit to Georgia**, which had to be organised in two stages, in November 2003 and May 2004.

At the time of the outset of the visit (the dates of which had been fixed several months beforehand), a political crisis had developed in the aftermath of the parliamentary elections of 2 November 2003 and the country was in turmoil due to almost daily demonstrations. The CPT nevertheless decided to maintain the visit; indeed, it was felt that given the nature of the Committee's mandate, the presence of the delegation at that moment would be particularly appropriate. However, in the light of the situation, the delegation had to adapt its programme, in particular as regards travel outside Tbilisi. Consequently, a continuation of the visit was planned for May 2004, the main objective being to examine the treatment of persons detained in Adjara.

Once again, the visit coincided with important events, namely a critical political and security situation which had arisen following the destruction of bridges connecting Adjara with other parts of the country.

Despite this, and for the same reasons as in November 2003, the visit was maintained, and the delegation arrived in Batumi the day after the introduction of direct Presidential rule.

Notwithstanding inevitable complications caused by the above-mentioned events, the delegation was able to carry out the visit according to the CPT's mandate and its consultations with the competent national authorities took place in a spirit of close cooperation.

4. The twelve ad hoc visits carried out by the CPT during the period covered by this General Report concerned the following countries: Armenia, Azerbaijan, Bulgaria, Latvia, Malta, Moldova (two visits), Romania, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom.

The circumstances which led to the organisation of these visits varied considerably. Some of them were carried out in order to verify the implementation in practice of recommendations previously made by the CPT concerning issues of particular importance. Others were triggered by recent reports concerning the situation of persons deprived of their liberty. In one case, namely the visits to Moldova, the CPT's intervention took place very much at the instigation of the national authorities, which requested the Committee's assistance in attempts to break a long-running deadlock concerning Prison No. 8 in Bender.

5. Prison No. 8 in Bender forms part of the penitentiary system of the Republic of Moldova, but is located in an area under the control of the Transnistrian region (which unilaterally declared itself an independent republic in 1991). In July 2003 the Bender municipal authorities cut off the supply of running water and electricity to the prison; they claimed that the establishment represented a significant tuberculosis risk to the surrounding Bender community and wished to see it vacated. During **ad hoc visits to Moldova in November 2003 and February 2004**, the CPT's delegation examined the situation in Prison No. 8 and held talks with all relevant authorities, in order to explore ways of ending the impasse which had arisen. In this context it was emphasised that any attempt to impose a settlement of differences by bringing about hardship to prisoners deserves unqualified condemnation.

¹ The countries and places of detention visited are set out in Appendix 7.

6. The main purpose of the **ad hoc visit to Azerbaijan in January 2004** was to examine the treatment of persons who had been detained in relation to events which followed the Presidential election of mid-October 2003. According to reports received by the CPT, a large number of persons were arrested and it was alleged that many of them had been ill-treated.

Similarly, the **ad hoc visit to Armenia in April 2004** was prompted by reports concerning the treatment of persons detained in the course of or following demonstrations organised earlier that month in Yerevan by opposition parties.

7. Several of the visits focused on the situation of "immigration detainees". This was the case, for example, of the **ad hoc visit to Malta in January 2004**, organised following the receipt of several critical reports during the second half of 2003. Malta had since 2001 experienced a sharp and unprecedented increase in the number of irregular migrants, who were systematically detained when caught. The CPT's delegation examined the manner in which these persons were treated by custodial staff as well as their conditions of detention.

Reference should also be made to the **ad hoc visit to Switzerland in October 2003**. The CPT's delegation examined the measures taken in response to the recommendations concerning immigration detainees made by the Committee after its periodic visit in 2001, particular attention being given to the procedures and means of restraint applied in the context of forcible removals by air.

The **March 2004 ad hoc visit to the United Kingdom** focused on persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001; this Act provides for the administrative detention (by Ministerial decision), for an indefinite period, of foreigners believed to pose a risk to national security and suspected of being international terrorists who, for legal or practical reasons, cannot be removed from the country. The treatment of such persons, who are considered as immigration detainees, had already been the subject of an ad hoc visit in February 2002. The CPT's delegation interviewed each of the twelve persons being detained exclusively under the 2001 Act, six of whom had been deprived of their liberty since December 2001. Particular attention was paid to the impact of the conditions of detention on the mental and physical well-being of the detainees.

8. The main purpose of the **ad hoc visit to Bulgaria in December 2003** was to review the situation of persons placed in homes for adults with mental disorders. The CPT has visited establishments of this kind in Bulgaria in the past, and the conditions observed were of deep concern to the Committee. The report on the December 2003 visit and the response of the Bulgarian authorities were published in June 2004. Replying to the CPT's criticism of the very poor conditions observed at the home for men in the village of Pastra, the Bulgarian authorities highlight plans for the transfer of the residents to new facilities in Kachulka.

The **ad hoc visit to Romania in June 2004** focused on the situation of patients at Poiana Mare Psychiatric Hospital, an establishment already visited by the CPT in 1995 and 1999. The Committee had received alarming reports in the course of 2004, according to which a considerable number of patients had recently died at the hospital as a result of hypothermia and/or malnutrition.

9. The primary aims of the **ad hoc visit to Turkey in September 2003** were to examine current treatment of persons in the custody of law enforcement agencies and assess the extent to which the safeguards recommended by the CPT in previous reports, and incorporated in recent legislative reforms, were being implemented in practice. The report on that visit and the Turkish authorities' response were published in June 2004. The above-mentioned issues were further explored during the Committee's periodic visit to Turkey in March 2004.

The **May 2004 ad hoc visit to Latvia** was organised in order to review the measures taken by the national authorities to implement recommendations made by the CPT after its periodic visit in 2002. Particular attention was paid to the treatment of persons detained by the police and to conditions of detention in police and prison establishments. The regime and security measures applied to life-sentenced prisoners were also examined.

Similarly, the main purpose of the CPT's most recent **ad hoc visit, to "the former Yugoslav Republic of Macedonia" in July 2004**, was to review measures taken following findings made by the Committee during previous visits. The delegation focused on the treatment of persons detained by the law enforcement agencies (and the related issue of accountability) and the situation in remand prisons.

10. The general trend of good cooperation between CPT visiting delegations and State authorities, at both national and local level, continued throughout the twelve months covered by this General Report. Among the rare exceptions, reference might be made to the subsequent questioning of detained persons by custodial staff about matters they had discussed during interviews with members of a CPT delegation. This is not in line with either the general principle of cooperation (cf. Article 3 of the Convention) or the confidential nature of the CPT's interviews with persons deprived of their liberty (cf. Article 8, paragraph 3).

In the light of the facts found during several visits this last year, the CPT must also reiterate that the scope of the principle of cooperation is not limited to ensuring that its delegations have rapid access to all places they wish to visit and are provided promptly with all information requested. Meeting the principle of cooperation also entails taking effective measures to implement the Committee's key recommendations.

Meetings and working methods

11. The CPT held three one-week plenary sessions during the twelve months covered by this General Report – in November 2003, March 2004 and end June/early July 2004. A total of 24 visit reports (covering 25 visits) were adopted by the Committee during this period, twelve of them according to the expedited procedure (under which draft visit reports circulated at least two weeks before a plenary session are adopted without debate, save for paragraphs in respect of which a discussion has been specifically requested in advance).

12. In addition to meetings of the CPT as a whole, part of every plenary session (at present the Monday and Wednesday afternoons, as well as increasingly the weekend preceding the session) is devoted to meetings of various subdivisions of the Committee, such as delegations preparing future visits, the medical group and the working group on the CPT's jurisprudence.

It remains the case that practically the only internal CPT meetings held outside the framework of plenary sessions are those of visiting delegations to examine draft visit reports and the regular inter-plenary Bureau meeting.

The CPT is confident that it will be possible to absorb within the existing number of plenary sessions the extra workload generated by a further increase in the number of visit days, provided the best possible use continues to be made of the expedited adoption procedure and a given plenary session can when necessary be spread over seven days.

13. The CPT has continued to explore the possibility of adopting a more proactive approach vis-à-vis the implementation of the Committee's recommendations, in particular those with substantial financial implications. In this connection, reference was made in the 13th General Report to voluntary contributions totalling 90,000 Euros made to the Council of Europe by the Luxembourg authorities. Following extensive discussions with all parties concerned, the decision has now been taken to offer these funds to Caritas Luxembourg. They will be used to finance a project to improve living conditions for inmates in prison establishments in the Transnistrian region of the Republic of Moldova where this NGO has begun to implement WHO-recommended measures to fight tuberculosis.

Ensuring adequate living conditions is a *sine qua non* for effectively combating tuberculosis; consequently, supporting the above-mentioned project will be an excellent means of promoting the implementation of recommendations already made by the CPT aimed at improving the situation of prisoners suffering from tuberculosis in the Transnistrian region.

Another idea currently under consideration is to organise a pilot project in three countries amongst those experiencing problems with the implementation of CPT recommendations. The objective would be to conduct a study in each of those countries in order to assess their needs in this regard and identify concrete proposals for outside assistance. The outcome of the studies would then be presented to potential donors.

Mention should also be made of meetings which the CPT's President had in Brussels in January 2004 with senior officials of European Union institutions. One of the principal objectives was to ensure that the fruit of the CPT's work is exploited in the context of the EU programme of project funding in third countries.

14. More generally, the CPT is keen to explore possibilities for synergy with other bodies, both within and outside the Council of Europe. In this context, useful contacts have been established during the last year with Council of Europe committees working on issues related to the CPT's mandate, such as expulsion procedures, pre-trial detention and the protection of persons with mental disorder. As regards this last-mentioned subject, the CPT is also grateful to the Committee of Ministers for having invited it to make comments on the draft recommendation approved by the Steering Committee on Bioethics. Further, on 24 June 2004, the President of the CPT had a fruitful exchange of views with members of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly.

The CPT also stays in regular contact with a host of other organisations, in order to spread knowledge about the Committee's work and ensure a good coordination of activities. For example, the CPT took an active part in the OSCE's Supplementary Human Dimension Meeting on the prevention of torture, held in November 2003. The Final Report on this meeting includes recommendations that the ODIHR and OSCE field operations should continue to strengthen cooperation with CPT visiting delegations and that the OSCE should actively assist participating States in the implementation of recommendations made by the Committee.

Publications and media relations

15. The already well-established trend towards publication of CPT material was confirmed during the period covered by this General Report. At the request of the governments concerned, reports on 16 visits were published by the Committee during the last twelve months together with a similar number of government responses. These publications include, for the first time, a report on a visit to Armenia (in October 2002). Reference should also be made to the decision of the Romanian authorities to publish simultaneously, in April 2004, the reports concerning their country not yet in the public domain (on visits in 2001, 2002 and 2003).

More than ever, publication is the norm, non-publication the exception. At the time of writing, 134 of the 169 CPT visit reports so far drawn up have been placed in the public domain. A State-by State table showing the current situation is set out in Appendix 4.

16. The CPT has compiled an "information pack", containing various materials describing in detail the Committee's modus operandi and the standards it has developed. Further translations of the pack have been produced during the last twelve months, and it is currently available in the following languages: Albanian, Croatian, English, Estonian, French, German, Italian, Lithuanian, Macedonian, Polish, Romanian, Russian, Serbian, Spanish, Turkish and Ukrainian. The pack is posted in all these languages on the CPT's website, and printed copies can be obtained from the Committee's Secretariat.

A CD-ROM containing the whole of the website is also produced once per year (latest edition: July 2004).

17. The CPT's work can on occasion generate considerable interest among the media. In the early years of the Committee's activities, the rule of confidentiality laid down in the Convention often placed obstacles in the way of responding in a meaningful way to requests for information from journalists. Those obstacles have to a considerable extent been removed, now that so many of the CPT's reports and government responses have been placed in the public domain.

The CPT and its Secretariat strive to offer as much assistance to the media as possible having regard to the principles governing its work. In this spirit, a videokit showing the full range of the Committee's activities is currently in preparation.

ORGANISATIONAL ISSUES

The Convention establishing the CPT

18. On 3 March 2004, the Convention was signed and ratified by Serbia and Montenegro, thereby bringing the number of Parties to 45. In other words, the CPT's field of operations once again encompasses all member States of the Council of Europe.

The Convention entered into force in respect of Serbia and Montenegro on 1 July 2004 and, as already indicated, the CPT's first periodic visit to this new Party will take place in the near future.

19. In anticipation of the above-mentioned ratification, consultations took place with a view to ensuring the application of the Convention throughout the territory of Serbia and Montenegro, including Kosovo (which currently is under interim international administration). The CPT made clear its wish to pursue its mandate in Kosovo. However, the Committee also stressed that it must enjoy there – as elsewhere – all the rights and powers it holds under the Convention, including access to all places of deprivation of liberty; on this issue there can be no compromise.

On 30 June 2004, the Committee of Ministers approved the text of an Agreement between the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Council of Europe on technical arrangements related to the Convention, and the Agreement was signed in Pristina on 23 August 2004 by the Head of UNMIK and the Secretary General of the Council of Europe. The text of the Agreement is reproduced in Appendix 8.

Under the Agreement, the CPT enjoys access to any place within Kosovo where persons are deprived of their liberty by an authority of UNMIK, under exactly the same conditions as those laid down in the Convention. Before the CPT can commence its activities in Kosovo, similar arrangements of a binding nature must be concluded with the North Atlantic Treaty Organisation (NATO) on the subject of places of detention in Kosovo administered by KFOR. Consultations are currently underway with NATO authorities on this subject.

CPT membership

20. Six new CPT members took up office during the twelve months covered by this General Report: Mr Zbigniew HOLDA (in respect of Poland), Mr Lätif HÜSEYNOV (Azerbaijan), Ms Asya KHACHATRYAN (Armenia), Mr Vladimir ORTAKOV ("the former Yugoslav Republic of Macedonia"), Mr Joan-Miquel RASCAGNÈRES (Andorra) and Mr Stanislav VALKO (Slovakia).

Further, the following members were re-elected: Mr Mario FELICE (Malta), Mr Petros MICHAELIDES (Cyprus), Mr Marc NÈVE (Belgium) and Mr Florin STĂNESCU (Romania).

At the time of publication of this General Report, the CPT has 36 members². The seats in respect of Albania, Bosnia-Herzegovina, Iceland, Ireland, Lithuania, Portugal, the Russian Federation, Serbia and Montenegro, and Ukraine are vacant. Certain of these seats have been empty for a considerable time; the CPT trusts that a solution to this problem will be found.

21. The following members of the CPT left the Committee during the last twelve months, on the expiry of their terms of office: Mr Antoni ALEIX CAMP (elected in respect of Andorra), Mr Eugenijus GEFENAS (Lithuania), Mr Pétur HAUKSSON (Iceland), Mr Adam ŁAPTAŚ (Poland) and Mr Nikola MATOVSKI ("the former Yugoslav Republic of Macedonia"). Further, the CPT learned with sadness of the death in May 2004 of Mr Volodymyr YEVINTOV; he had been the member in respect of Ukraine since November 1998 and served for two years as the Committee's Second Vice-President.

The CPT wishes to place on record its gratitude to the above persons for their contributions to the Committee's work.

² See Appendix 5 for the list of CPT members. Abridged curricula vitae of the members can be obtained from the Committee's Secretariat and are posted on the CPT's website (www.cpt.coe.int).

22. During its March 2004 meeting, the CPT elected a new Bureau for a period of two years. Ms Silvia CASALE, a British criminologist, was re-elected for a third term of office as President of the Committee. Mr Andres LEHTMETS, an Estonian psychiatrist, was re-elected for a second term of office as First Vice-President and Mr Marc NÈVE, a Belgian lawyer, was elected as Second Vice-President.

23. As regards professional expertise within the CPT, the number of members with a medical background remains not quite on a par with that of lawyers in the Committee. Further, there are still not enough members with practical experience of prison work or with expertise in child psychiatry, and it would be desirable to have more members with first-hand knowledge of the work of law enforcement agencies and of immigration issues. One or more members with extensive nursing experience would also be a considerable asset to the Committee.

The CPT hopes that these remarks will be kept in mind in the process of filling vacant seats in the Committee.

Administrative and budgetary questions

24. In previous General Reports, the CPT has emphasised the need for the considerable expansion of its field of operations in recent years to be matched by a corresponding increase in its human and financial resources. There have been positive developments in this regard in recent months.

Following decisions taken in the context of the adoption of the Council of Europe's 2004 Budget, two vacant posts (one B2 and one A2/A3) were redeployed to the CPT's Secretariat in the first half of the year. The B2 post was filled in mid-July 2004 and it is expected that the additional A2/A3 official will take up his/her duties on 1 November. Further, another A-grade post, vacant for some months within the CPT's Secretariat, will also be filled in the autumn of 2004. This will make it possible to increase the number of visit days in 2005 to 185, and the CPT hopes that the long-standing target of 200 visit days per year will finally be reached in 2006. This is the volume of visit days required to cope effectively with the workload generated by 45 Parties to the Convention.

In his memorandum "Priorities for 2005 – Budgetary implications" of 1 April 2004, the Secretary General proposed that the CPT be allocated appropriations for 185 visit days in 2005 as well as an additional B4 post. The Committee very much hopes that those proposals will be accepted.

COMBATING IMPUNITY

25. The *raison d'être* of the CPT is the "prevention" of torture and inhuman or degrading treatment or punishment; it has its eyes on the future rather than the past. However, assessing the effectiveness of action taken when ill-treatment has occurred constitutes an integral part of the Committee's preventive mandate, given the implications that such action has for future conduct.

The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity. All efforts to promote human rights principles through strict recruitment policies and professional training will be sabotaged. In failing to take effective action, the persons concerned – colleagues, senior managers, investigating authorities – will ultimately contribute to the corrosion of the values which constitute the very foundations of a democratic society.

Conversely, when officials who order, authorise, condone or perpetrate torture and ill-treatment are brought to justice for their acts or omissions, an unequivocal message is delivered that such conduct will not be tolerated. Apart from its considerable deterrent value, this message will reassure the general public that no one is above the law, not even those responsible for upholding it. The knowledge that those responsible for ill-treatment have been brought to justice will also have a beneficial effect for the victims.

26. Combating impunity must start at home, that is within the agency (police or prison service, military authority, etc.) concerned. Too often the esprit de corps leads to a willingness to stick together and help each other when allegations of ill-treatment are made, to even cover up the illegal acts of colleagues. Positive action is required, through training and by example, to **promote a culture** where it is regarded as unprofessional – and unsafe from a career path standpoint – to work and associate with colleagues who have resort to ill-treatment, where it is considered as correct and professionally rewarding to belong to a team which abstains from such acts.

An atmosphere must be created in which the right thing to do is to report ill-treatment by colleagues; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures.

27. In many States visited by the CPT, torture and acts such as ill-treatment in the performance of a duty, coercion to obtain a statement, abuse of authority, etc. constitute specific criminal offences which are prosecuted *ex officio*. The CPT welcomes the existence of legal provisions of this kind.

Nevertheless, the CPT has found that, in certain countries, prosecutorial authorities have considerable discretion with regard to the opening of a preliminary investigation when information related to possible ill-treatment of persons deprived of their liberty comes to light. In the Committee's view, even in the absence of a formal complaint, such authorities should be under a **legal obligation to undertake an investigation** whenever they receive credible information, from any source, that ill-treatment of persons deprived of their liberty may have occurred. In this connection, the legal framework for accountability will be strengthened if public officials (police officers, prison directors, etc.) are formally required to notify the relevant authorities immediately whenever they become aware of any information indicative of ill-treatment.

28. The existence of a suitable legal framework is not of itself sufficient to guarantee that appropriate action will be taken in respect of cases of possible ill-treatment. Due attention must be given to **sensitising the relevant authorities** to the important obligations which are incumbent upon them.

When persons detained by law enforcement agencies are brought before prosecutorial and judicial authorities, this provides a valuable opportunity for such persons to indicate whether or not they have been ill-treated. Further, even in the absence of an express complaint, these authorities will be in a position to take action in good time if there are other indicia (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred.

However, in the course of its visits, the CPT frequently meets persons who allege that they had complained of ill-treatment to prosecutors and/or judges, but that their interlocutors had shown little interest in the matter, even when they had displayed injuries on visible parts of the body. The existence of such a scenario has on occasion been borne out by the CPT's findings. By way of example, the Committee recently examined a judicial case file which, in addition to recording allegations of ill-treatment, also took note of various bruises and swellings on the face, legs and back of the person concerned. Despite the fact that the information recorded in the file could be said to amount to *prima-facie* evidence of ill-treatment, the relevant authorities did not institute an investigation and were not able to give a plausible explanation for their inaction.

It is also not uncommon for persons to allege that they had been frightened to complain about ill-treatment, because of the presence at the hearing with the prosecutor or judge of the very same law enforcement officials who had interrogated them, or that they had been expressly discouraged from doing so, on the grounds that it would not be in their best interests.

It is imperative that prosecutorial and judicial authorities take resolute action when any information indicative of ill-treatment emerges. Similarly, they must conduct the proceedings in such a way that the persons concerned have a real opportunity to make a statement about the manner in which they have been treated.

29. **Adequately assessing allegations of ill-treatment** will often be a far from straightforward matter. Certain types of ill-treatment (such as asphyxiation or electric shocks) do not leave obvious marks, or will not, if carried out with a degree of proficiency. Similarly, making persons stand, kneel or crouch in an uncomfortable position for hours on end, or depriving them of sleep, is unlikely to leave clearly identifiable traces. Even blows to the body may leave only slight physical marks, difficult to observe and quick to fade. Consequently, when allegations of such forms of ill-treatment come to the notice of prosecutorial or judicial authorities, they should be especially careful not to accord undue importance to the absence of physical marks. The same applies *a fortiori* when the ill-treatment alleged is predominantly of a psychological nature (sexual humiliation, threats to the life or physical integrity of the person detained and/or his family, etc.). Adequately assessing the veracity of allegations of ill-treatment may well require taking evidence from all persons concerned and arranging in good time for on-site inspections and/or specialist medical examinations.

Whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination (including, if appropriate, by a forensic psychiatrist) should be immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment.

30. It is also important that no barriers should be placed between persons who allege ill-treatment (who may well have been released without being brought before a prosecutor or judge) and doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities. For example, access to such a doctor should not be made subject to prior authorisation by an investigating authority.

31. The CPT has had occasion, in a number of its visit reports, to assess the activities of the authorities empowered to conduct official investigations and bring criminal or disciplinary charges in cases involving allegations of ill-treatment. In so doing, the Committee takes account of the case law of the European Court of Human Rights as well as the standards contained in a panoply of international instruments. It is now a well established principle that **effective investigations**, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment or punishment.

Complying with this principle implies that the authorities responsible for investigations are provided with all the necessary resources, both human and material. Further, investigations must meet certain basic criteria.

32. For an investigation into possible ill-treatment to be effective, it is essential that the persons responsible for carrying it out are independent from those implicated in the events. In certain jurisdictions, all complaints of ill-treatment against the police or other public officials must be submitted to a prosecutor, and it is the latter – not the police – who determines whether a preliminary investigation should be opened into a complaint; the CPT welcomes such an approach. However, it is not unusual for the day-to-day responsibility for the operational conduct of an investigation to revert to serving law enforcement officials. The involvement of the prosecutor is then limited to instructing those officials to carry out inquiries, acknowledging receipt of the result, and deciding whether or not criminal charges should be brought. It is important to ensure that the officials concerned are not from the same service as those who are the subject of the investigation. Ideally, those entrusted with the operational conduct of the investigation should be completely independent from the agency implicated. Further, prosecutorial authorities must exercise close and effective supervision of the operational conduct of an investigation into possible ill-treatment by public officials. They should be provided with clear guidance as to the manner in which they are expected to supervise such investigations.

33. An investigation into possible ill-treatment by public officials must comply with the criterion of thoroughness. It must be capable of leading to a determination of whether force or other methods used were or were not justified under the circumstances, and to the identification and, if appropriate, the punishment of those concerned. This is not an obligation of result, but of means. It requires that all reasonable steps be taken to secure evidence concerning the incident, including, inter alia, to identify and interview the alleged victims, suspects and eyewitnesses (e.g. police officers on duty, other detainees), to seize instruments which may have been used in ill-treatment, and to gather forensic evidence. Where applicable, there should be an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death.

The investigation must also be conducted in a comprehensive manner. The CPT has come across cases when, in spite of numerous alleged incidents and facts related to possible ill-treatment, the scope of the investigation was unduly circumscribed, significant episodes and surrounding circumstances indicative of ill-treatment being disregarded.

34. In this context, the CPT wishes to make clear that it has strong misgivings regarding the practice observed in many countries of law enforcement officials or prison officers wearing masks or balaclavas when performing arrests, carrying out interrogations, or dealing with prison disturbances; this will clearly hamper the identification of potential suspects if and when allegations of ill-treatment arise. This practice should be strictly controlled and only used in exceptional cases which are duly justified; it will rarely, if ever, be justified in a prison context.

Similarly, the practice found in certain countries of blindfolding persons in police custody should be expressly prohibited; it can severely hamper the bringing of criminal proceedings against those who torture or ill-treat, and has done so in some cases known to the CPT.

35. To be effective, the investigation must also be conducted in a prompt and reasonably expeditious manner. The CPT has found cases where the necessary investigative activities were unjustifiably delayed, or where prosecutorial or judicial authorities demonstrably lacked the requisite will to use the legal means at their disposal to react to allegations or other relevant information indicative of ill-treatment. The investigations concerned were suspended indefinitely or dismissed, and the law enforcement officials implicated in ill-treatment managed to avoid criminal responsibility altogether. In other words, the response to compelling evidence of serious misconduct had amounted to an “investigation” unworthy of the name.

36. In addition to the above-mentioned criteria for an effective investigation, there should be a sufficient element of public scrutiny of the investigation or its results, to secure accountability in practice as well as in theory. The degree of scrutiny required may well vary from case to case. In particularly serious cases, a public inquiry might be appropriate. In all cases, the victim (or, as the case may be, the victim's next-of-kin) must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests.

37. **Disciplinary proceedings** provide an additional type of redress against ill-treatment, and may take place in parallel to criminal proceedings. Disciplinary culpability of the officials concerned should be systematically examined, irrespective of whether the misconduct in question is found to constitute a criminal offence. The CPT has recommended a number of procedural safeguards to be followed in this context; for example, adjudication panels for police disciplinary proceedings should include at least one independent member.

38. Inquiries into possible disciplinary offences by public officials may be performed by a separate internal investigations department within the structures of the agencies concerned. Nevertheless, the CPT strongly encourages the creation of a fully-fledged independent investigation body. Such a body should have the power to direct that disciplinary proceedings be instigated.

Regardless of the formal structure of the investigation agency, the CPT considers that its functions should be properly publicised. Apart from the possibility for persons to lodge complaints directly with the agency, it should be mandatory for public authorities such as the police to register all representations which could constitute a complaint; to this end, appropriate forms should be introduced for acknowledging receipt of a complaint and confirming that the matter will be pursued.

If, in a given case, it is found that the conduct of the officials concerned may be criminal in nature, the investigation agency should always notify directly – without delay – the competent prosecutorial authorities.

39. Great care should be taken to ensure that persons who may have been the victims of ill-treatment by public officials are not dissuaded from lodging a complaint. For example, the potential negative effects of a possibility for such officials to bring proceedings for defamation against a person who wrongly accuses them of ill-treatment should be kept under review. The balance between competing legitimate interests must be evenly established. Reference should also be made in this context to certain points already made in paragraph 28.

40. Any evidence of ill-treatment by public officials which emerges during **civil proceedings** also merits close scrutiny. For example, in cases in which there have been successful claims for damages or out-of-court settlements on grounds including assault by police officers, the CPT has recommended that an independent review be carried out. Such a review should seek to identify whether, having regard to the nature and gravity of the allegations against the police officers concerned, the question of criminal and/or disciplinary proceedings should be (re)considered.

41. It is axiomatic that no matter how effective an investigation may be, it will be of little avail if the **sanctions imposed for ill-treatment** are inadequate. When ill-treatment has been proven, the imposition of a suitable penalty should follow. This will have a very strong dissuasive effect. Conversely, the imposition of light sentences can only engender a climate of impunity.

Of course, judicial authorities are independent, and hence free to fix, within the parameters set by law, the sentence in any given case. However, via those parameters, the intent of the legislator must be clear: that the criminal justice system should adopt a firm attitude with regard to torture and other forms of ill-treatment. Similarly, sanctions imposed following the determination of disciplinary culpability should be commensurate to the gravity of the case.

42. Finally, no one must be left in any doubt concerning the **commitment of the State authorities** to combating impunity. This will underpin the action being taken at all other levels. When necessary, those authorities should not hesitate to deliver, through a formal statement at the highest political level, the clear message that there must be “zero tolerance” of torture and other forms of ill-treatment.

APPENDICES

APPENDIX 1

The CPT's mandate and modus operandi

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was set up under the 1987 Council of Europe Convention of the same name (hereinafter "the Convention"). According to Article 1 of the Convention:

"There shall be established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment... The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment."

The work of the CPT is designed to be an integrated part of the Council of Europe system for the protection of human rights, placing a proactive non-judicial mechanism alongside the existing reactive judicial mechanism of the European Court of Human Rights.

The CPT implements its essentially preventive function through two kinds of visits – periodic and ad hoc. Periodic visits are carried out to all Parties to the Convention on a regular basis. Ad hoc visits are organised in these States when they appear to the Committee "to be required in the circumstances".

When carrying out a visit, the CPT enjoys extensive powers under the Convention: access to the territory of the State concerned and the right to travel without restriction; unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction; access to full information on places where persons deprived of their liberty are being held, as well as to other information available to the State which is necessary for the Committee to carry out its task.

The Committee is also entitled to interview in private persons deprived of their liberty and to communicate freely with anyone whom it believes can supply relevant information.

Each Party to the Convention must permit visits to any place within its jurisdiction "where persons are deprived of their liberty by a public authority". The CPT's mandate thus extends beyond prisons and police stations to encompass, for example, psychiatric institutions, detention areas at military barracks, holding centres for asylum seekers or other categories of foreigners, and places in which young persons may be deprived of their liberty by judicial or administrative order.

Two fundamental principles govern relations between the CPT and Parties to the Convention – co-operation and confidentiality. In this respect, it should be emphasised that the role of the Committee is not to condemn States, but rather to assist them to prevent the ill-treatment of persons deprived of their liberty.

After each visit, the CPT draws up a report which sets out its findings and includes, if necessary, recommendations and other advice, on the basis of which a dialogue is developed with the State concerned. The Committee's visit report is, in principle, confidential; however, almost all States have chosen to waive the rule of confidentiality and publish the report.

APPENDIX 2

**Signatures and ratifications of the European Convention for the
Prevention of Torture and Inhuman or Degrading Treatment or
Punishment
(as at 31 July 2004) ***

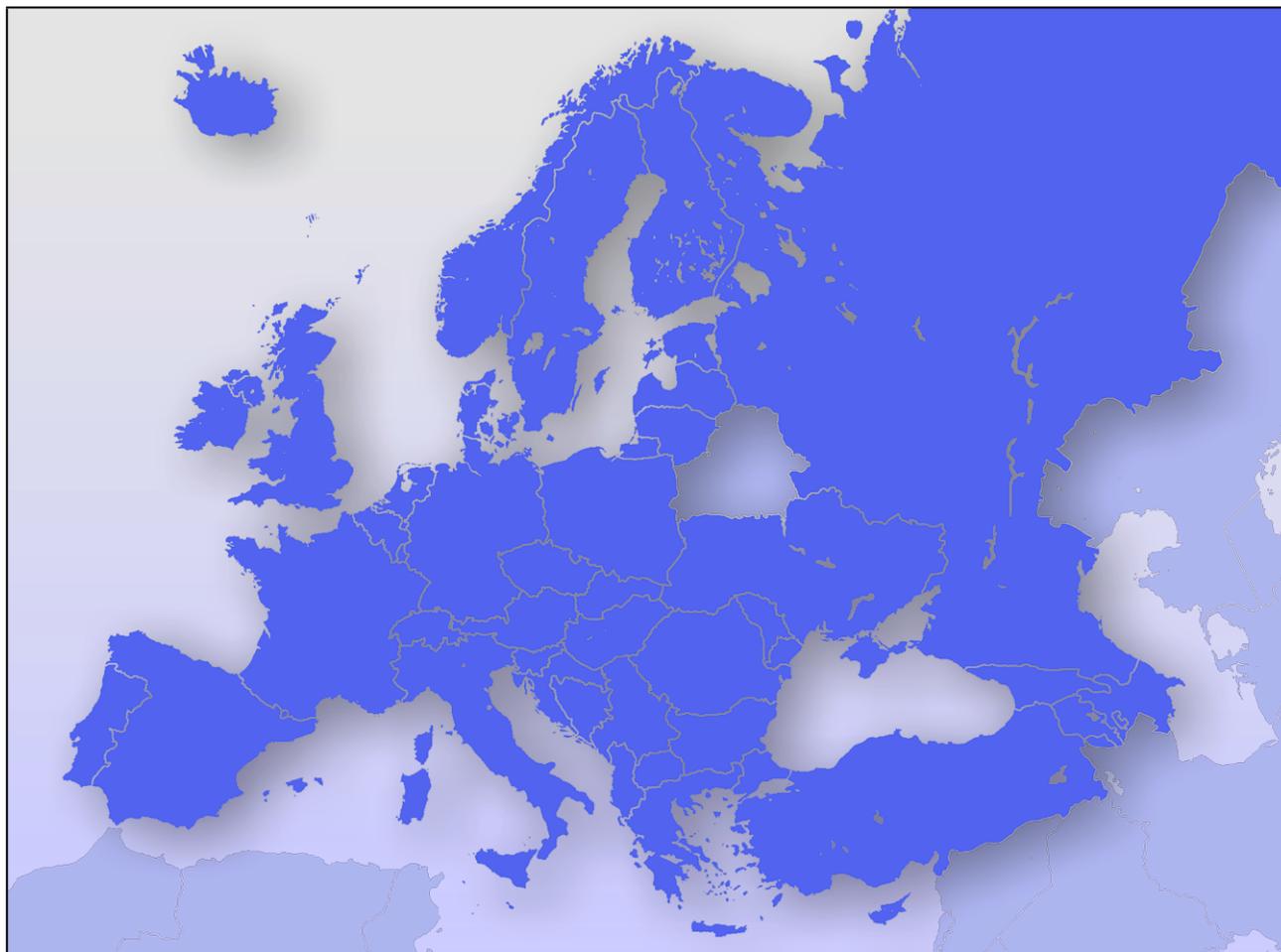
Member States of the Council of Europe	Date of signature	Date of ratification	Date of entry into force
Albania	02.10.1996	02.10.1996	01.02.1997
Andorra	10.09.1996	06.01.1997	01.05.1997
Armenia	11.05.2001	18.06.2002	01.10.2002
Austria	26.11.1987	06.01.1989	01.05.1989
Azerbaijan	21.12.2001	15.04.2002	01.08.2002
Belgium	26.11.1987	23.07.1991	01.11.1991
Bosnia and Herzegovina	12.07.2002	12.07.2002	01.11.2002
Bulgaria	30.09.1993	03.05.1994	01.09.1994
Croatia	06.11.1996	11.10.1997	01.02.1998
Cyprus	26.11.1987	03.04.1989	01.08.1989
Czech Republic	23.12.1992	07.09.1995	01.01.1996
Denmark	26.11.1987	02.05.1989	01.09.1989
Estonia	28.06.1996	06.11.1996	01.03.1997
Finland	16.11.1989	20.12.1990	01.04.1991
France	26.11.1987	09.01.1989	01.05.1989
Georgia	16.02.2000	20.06.2000	01.10.2000
Germany	26.11.1987	21.02.1990	01.06.1990
Greece	26.11.1987	02.08.1991	01.12.1991
Hungary	09.02.1993	04.11.1993	01.03.1994
Iceland	26.11.1987	19.06.1990	01.10.1990
Ireland	14.03.1988	14.03.1988	01.02.1989
Italy	26.11.1987	29.12.1988	01.04.1989
Latvia	11.09.1997	10.02.1998	01.06.1998
Liechtenstein	26.11.1987	12.09.1991	01.01.1992
Lithuania	14.09.1995	26.11.1998	01.03.1999
Luxembourg	26.11.1987	06.09.1988	01.02.1989
Malta	26.11.1987	07.03.1988	01.02.1989
Moldova	02.05.1996	02.10.1997	01.02.1998
Netherlands	26.11.1987	12.10.1988	01.02.1989
Norway	26.11.1987	21.04.1989	01.08.1989
Poland	11.07.1994	10.10.1994	01.02.1995
Portugal	26.11.1987	29.03.1990	01.07.1990
Romania	04.11.1993	04.10.1994	01.02.1995
Russian Federation	28.02.1996	05.05.1998	01.09.1998
San Marino	16.11.1989	31.01.1990	01.05.1990
Serbia and Montenegro	03.03.2004	03.03.2004	01.07.2004
Slovakia	23.12.1992	11.05.1994	01.09.1994
Slovenia	04.11.1993	02.02.1994	01.06.1994
Spain	26.11.1987	02.05.1989	01.09.1989
Sweden	26.11.1987	21.06.1988	01.02.1989
Switzerland	26.11.1987	07.10.1988	01.02.1989
“the former Yugoslav Republic of Macedonia”	14.06.1996	06.06.1997	01.10.1997
Turkey	11.01.1988	26.02.1988	01.02.1989
Ukraine	02.05.1996	05.05.1997	01.09.1997
United Kingdom	26.11.1987	24.06.1988	01.02.1989

* The Convention is open for signature by the member States of the Council of Europe.
Since 1 March 2002, the Committee of Ministers of the Council of Europe may also invite any non-member State of the Council of Europe to accede to the Convention.

APPENDIX 3

The CPT's field of operations

(situation as at 31 July 2004)



Note: This is an unofficial representation of States bound by the Convention.
For technical reasons it has not been possible to show the entire territory of certain of the States concerned.

States bound by the Convention	Prison population *
45 States	1 794 697 prisoners
<ul style="list-style-type: none"> - Albania - Andorra - Armenia - Austria - Azerbaijan - Belgium - Bosnia and Herzegovina - Bulgaria - Croatia - Cyprus - Czech Republic - Denmark - Estonia - Finland - France - Georgia - Germany - Greece - Hungary - Iceland - Ireland - Italy - Latvia - Liechtenstein - Lithuania - Luxembourg - Malta - Moldova - Netherlands - Norway - Poland - Portugal - Romania - Russian Federation - San Marino - Serbia and Montenegro - Slovakia - Slovenia - Spain - Sweden - Switzerland - "the former Yugoslav Republic of Macedonia" - Turkey - Ukraine - United Kingdom 	<p>(Main source: Council of Europe Annual Penal Statistics (SPACE I, Survey 2003); data as at 1 September 2003)</p> <p>* It should be noted that the CPT's mandate covers also all other categories of places where persons are deprived of their liberty:</p> <ul style="list-style-type: none"> - police establishments - detention centres for juveniles - military detention facilities - holding centres for aliens - psychiatric hospitals - homes for the elderly etc.

APPENDIX 4

**State-by-State table showing the number of visits by the CPT,
visit reports sent to Governments and reports published
(as at 21 September 2004)**

States	Number of visits	Number of reports sent	Number of reports published
Albania	5	5	4
Andorra	2	2	1
Armenia	2	2	1
Austria	4	3	3
Azerbaijan	2	2	0
Belgium	3	3	3
Bosnia and Herzegovina	1	1	0
Bulgaria	4	4	4
Croatia	2	2	1
Cyprus	3	3	3
Czech Republic	2	2	2
Denmark	3	3	3
Estonia	3	3	2
Finland	3	3	3
France	7	7	7
Georgia	2	2	1
Germany	4	4	4
Greece	5	5	5
Hungary	3	3	3
Iceland	3	2	2
Ireland	3	3	3
Italy	4	4	4
Latvia	3	2	1
Liechtenstein	2	2	2
Lithuania	2	2	1
Luxembourg	3	3	3
Malta	4	4	3
Moldova	6	5 (a)	3
Netherlands	6	6	6
Norway	3	3	3
Poland	2	2	2
Portugal	6	6	4
Romania	6	4 (b)	4 (b)
Russian Federation	11	9 (c)	1
San Marino	2	2	2
Serbia and Montenegro	0	0	0
Slovakia	2	2	2
Slovenia	2	2	2
Spain	8	8	7
Sweden	4	4	3
Switzerland	4	4	3
“the former Yugoslav Republic of Macedonia”	5	4	4
Turkey	17	15 (d)	9 (e)
Ukraine	4	4	3
United Kingdom	9	9	7

(a) Covering the six visits.

(b) Covering five visits.

(c) Covering the eleven visits.

(d) Covering the seventeen visits.

(e) The Turkish authorities have also authorised the publication of five reports which relate to visits from 1990 to 1996. These reports will be published as soon as possible.

APPENDIX 5

Members of the CPT

(listed in order of precedence – as at 31 July 2004) *

Name		Term of office expires
Ms Silvia CASALE, President	British	18.12.2005
Mr Andres LEHTMETS, 1st Vice-President	Estonian	29.01.2006
Mr Marc NÈVE, 2nd Vice-President	Belgian	19.12.2007
Ms Ingrid LYCKE ELLINGSEN	Norwegian	19.12.2005
Mr Florin STĂNESCU	Romanian	19.12.2007
Mr Mario BENEDETTINI	San Marinese	19.12.2007
Mr Zdeněk HÁJEK	Czech	12.09.2004
Ms Emilia DRUMEVA	Bulgarian	07.06.2005
Mr Pieter Reinhard STOFFELEN	Dutch	19.09.2005
Mr Pierre SCHMIT	Luxemburger	19.09.2005
Mr Ole Vedel RASMUSSEN	Danish	03.10.2005
Ms Renate KICKER	Austrian	03.10.2005
Mr Aleš BUTALA	Slovenian	19.12.2005
Ms Veronica PIMENOFF	Finnish	19.12.2007
Mr Petros MICHAELIDES	Cypriot	19.12.2007
Mr Mario FELICE	Maltese	19.12.2007
Ms Ioanna BABASSIKA	Greek	12.09.2004
Mr Mauro PALMA	Italian	19.12.2004
Ms Anhelita KAMENSKA	Latvian	19.12.2004
Mr Eric SVANIDZE	Georgian	17.07.2005
Mr Jean-Pierre RESTELLINI	Swiss	19.09.2005
Mr Laszlo CSETNEKY	Hungarian	30.10.2005
Ms Günsel KOPTAGEL-İLAL	Turkish	29.01.2006
Mr Roger BEAUVOIS	French	19.12.2005
Ms Hildburg KINDT	German	19.12.2005
Ms Tatiana RĂDUCANU	Moldovan	19.12.2005
Ms Marija DEFINIS GOJANOVIĆ	Croatian	19.12.2005
Mr Esteban MESTRE DELGADO	Spanish	19.12.2005
Ms Isolde KIEBER	Liechtensteiner	19.12.2005
Ms Ann-Marie ORLER	Swedish	19.12.2005
Mr Zbigniew HOLDA	Polish	19.12.2007
Mr Stanislav VALKO	Slovakian	19.12.2007
Mr Vladimir ORTAKOV	citizen of “the former Yugoslav Republic of Macedonia”	19.12.2007
Mr Lätif HÜSEYNOV	Azerbaijani	19.12.2007
Mr Joan-Miquel RASCAGNÈRES	Andorran	19.12.2007
Ms Asya KHACHATRYAN	Armenian	19.12.2007

* At this date, the seats in respect of Albania, Bosnia-Herzegovina, Iceland, Ireland, Lithuania, Portugal, the Russian Federation, Serbia and Montenegro and Ukraine were vacant.

APPENDIX 6

Secretariat of the CPT

Mr Trevor STEVENS	Executive Secretary
Ms Geneviève MAYER	Deputy Executive Secretary
Secretariat:	Ms Janey MASLEN Ms Antonella NASTASIE

Central section

Ms Florence CALLOT	Administrative, budgetary and staff questions
Mr Patrick MÜLLER	Documentary research, information strategies and media contacts
Ms Mireille MONTI	Archives and publications

Units responsible for visits ***Unit 1**

Mr Fabrice KELLENS, Head of Unit	<ul style="list-style-type: none"> • Albania • Austria • Belgium • Czech Republic • Estonia • France • Germany • Italy 	<ul style="list-style-type: none"> • Latvia • Lithuania • Luxembourg • Malta • Netherlands • Romania • San Marino • Switzerland
Mr Michael NEURAUTER		
Mr Cyrille ORIZET		
Ms Caterina BOLOGNESE (as of 1 October 2004)		
Ms Yvonne HARTLAND, Administrative assistant		
Secretariat: Ms Nadine SCHAEFFER		

Unit 2

Mr Jan MALINOWSKI, Head of Unit	<ul style="list-style-type: none"> • Andorra • Bosnia and Herzegovina • Croatia • Cyprus • Denmark • Greece • Ireland • Liechtenstein • Norway 	<ul style="list-style-type: none"> • Portugal • Serbia and Montenegro • Slovakia • Spain • “the former Yugoslav Republic of Macedonia” • Turkey • United Kingdom 		
Mr Edo KORLJAN				
Ms Bojana URUMOVA				
Ms Muriel ISELI				
Secretariat: Ms Morag YOUNG				

Unit 3

Ms Petya NESTOROVA, Head of Unit	<ul style="list-style-type: none"> • Armenia • Azerbaijan • Bulgaria • Finland • Georgia • Hungary • Iceland 	<ul style="list-style-type: none"> • Moldova • Poland • Russian Federation • Slovenia • Sweden • Ukraine 		
Mr Borys WÓDZ				
Mr Johan FRIESTEDT (as of 1 November 2004)				
Secretariat: Ms Maia MAMULASHVILI				

* The Executive Secretary and his Deputy are directly involved in the operational activities of the Units concerning certain countries.

APPENDIX 7

Countries and places of detention visited by CPT delegations during the period 1 August 2003 to 31 July 2004

I. Periodic visits

A. Andorra (03/02/2004 - 06/02/2004)

Police establishments

- Police Headquarters in Escaldes-Engordany

Prisons

- Casa de la Vall Prison
- La Comella Prison

Other places of deprivation of liberty

- Secure rooms for health care to prisoners at Meritxell Nostra Senyora Hospital in Andorra-la-Vella

B. Austria (14/04/2004 - 23/04/2004)

Police establishments

- Police detention centre (PAZ), Innsbruck
- PAZ Linz
- PAZ Vienna, Hernalser Gürtel
- PAZ Wels
- Police station, Maximilianstrasse 4, Innsbruck
- District police headquarters (KK OST), Leopoldgasse 18, Vienna
- Police station, Tannengasse 8-10, Vienna
- District police headquarters (KK WEST), Wattgasse 15, Vienna
- Police station, Westbahnhof, Vienna
- Police station, Eferdinger Strasse 12, Wels
- Police station, Linzer Strasse 155b, Wels

Prisons

- Linz Prison
- Vienna-Josefstadt Prison
- Vienna-Mittersteig Prison (including the detached unit at Floridsdorf)

Psychiatric hospitals

- Secure wards at Wagner-Jauregg Psychiatric Hospital, Linz

C. Croatia (01/12/2003 - 09/12/2003)

Police establishments

Split Police Administration

- Police Station No.1, Split
- Trogir Police Station

Zagreb Police Administration

- Črnomerec Police Station
- Immigration Police, Zagreb International Airport
- Unit for detention, escort and security, Đorđićeva Street 4
- Ježevo Detention Centre for Illegal Immigrants

Prisons

- Lepoglava State Prison
- Split County Prison

Health establishments

- Vrapče Psychiatric Hospital
- Nuštar Social Care Home for the Mentally Ill

Other places of deprivation of liberty

- Temporary holding cells, Zagreb County Court

D. Estonia (23/09/2003 - 30/09/2003)Police establishments

- Harju Arrest House, Saue
- Jõgeva Arrest House
- Kohtla-Järve Arrest House
- Narva Arrest House
- Tallinn Arrest House
- Tartu Arrest House
- Harju Police Headquarters, Saue
- Kohtla-Järve Police Station
- Narva Police Headquarters
- Põhja Police Department, Tallinn

Prisons

- Tallinn Prison
- Tartu Prison

Health establishments

- Central Prison Hospital, Tallinn
- Ahtme Psychiatric Hospital
- Kernu Social Welfare Home

E. Finland (07/09/2003 - 17/09/2003)Police establishments

- Helsinki Police Department
- Helsinki Mobile Police Airport Unit
- Kuopio District Police Station
- Lahti District Police Station
- Porvoo District Police Station
- Tampere District Police Station
- Turku District Police Station
- Ylä-Savo District Police Station, Iisalmi

Border Guard establishments

- Helsinki West Harbour Crossing Point

Establishments for persons detained under aliens legislation

- Helsinki Custody Unit

Prisons

- Kuopio Prison
- Prison of South-Western Finland, Turku (former Turku Remand Prison)
- Sukeva Prison

Psychiatric establishments

- Niuvanniemi State Mental Hospital, Kuopio

F. Georgia (18/11/2003 - 28/11/2003)Police establishments

- Temporary detention isolator of the Ministry of Internal Affairs, Tbilisi
- Temporary detention isolator of the Main City Department of Internal Affairs, Tbilisi
- Didube-Chughureti District Division of Internal Affairs, Tbilisi
- Gldani-Nadzeladevi District Division of Internal Affairs, Tbilisi
- Isani-Samgori District Division of Internal Affairs, Tbilisi
- Vake-Saburtalo District Division of Internal Affairs, Tbilisi
- Temporary detention isolator of the Office of Internal Affairs, Rustavi

Penitentiary establishments

- Prison No. 5, Tbilisi
- Penitentiary establishment for women No. 5, Tbilisi
- Central prison hospital, Tbilisi
- Juvenile institution, Avchala
- Strict regime penitentiary establishment No. 2, Rustavi

G. Georgia (07/05/2004 - 15/05/2004)**(Continuation of November 2003 visit)**Police establishments

- Temporary detention isolator of the Ministry of Internal Affairs, Batumi
- Temporary detention isolator of the City Department of Internal Affairs, Batumi
- Sobering-up and administrative detention centre, Batumi
- 5th District Division of Internal Affairs, Batumi
- 8th District Division of Internal Affairs, Batumi
- Department of Internal Affairs, Keda

Prisons

- Prison No. 3, Batumi
- Prison No. 5, Tbilisi

Ministry of Security establishments

- Temporary detention isolator of the Ministry of Security, Batumi

H. Iceland (03/06/2004 - 10/06/2004)Police establishments

- Reykjavik Police Headquarters
- Budardalur Police Station
- Grundarfjordur Police Station
- Keflavik Airport Police
- Keflavik Police Station
- Olafsvik Police Station
- Selfoss Police Station
- Stykkisholmur Police Station

Prisons

- Kopavogur Prison
- Kviabryggja Prison
- Litla-Hraun Prison
- Reykjavik (Skolavordustigur) Prison

Psychiatric establishments

- Psychiatric Department of Reykjavik National (University) Hospital

I. Lithuania (17/02/2004 - 24/02/2004)Police establishments

- Alytus Police Detention Centre
- Kaunas Police Detention Centre
- Marijampolė Police Detention Centre
- Vilnius Police Detention Centre, Kosciuškos Street 1
- Alytus Police Station
- Kaunas Centre Police Station
- Marijampolė Police Station

Prisons

- Kaunas Juvenile Remand Prison and Correction Home
- Lukiškės Remand Prison, Vilnius
- Marijampolė Correction Home

Health establishments

- Prison Hospital, Vilnius
- Kaunas Psychiatric Hospital

J. Portugal (18/11/2003 - 26/11/2003)Law enforcement establishments

- Faro, Lisbon and Porto Public Security Police Headquarters
- Almada/Pragal, Queluz-Massamá and Sintra Public Security Police Stations
- Facilities of the Public Security Police at Lisbon Airport
- Holding Centre of the Borders and Aliens Service, Lisbon Airport
- Facilities of the Customs Service, Lisbon Airport

Penitentiary establishments

- Porto and Tirès Central Prisons
- Faro, Leiria and Olhão Regional Prisons
- Judicial Police Prison, Porto
- The Psychiatric and Mental Health Clinic of the Central Prison of Santa Cruz Do Bispo, Porto

K. Turkey (16/03/2004 - 29/03/2004)Law enforcement establishments

- Aydin, Gaziantep, Izmir, Kahraman Maras, Kilis and Manisa Police Headquarters (Anti-Terror, Juvenile, Law and Order, and Smuggling, Trafficking and Organised Crime Departments)
- Dörtyol, Menemen and Türkoglu District Police Headquarters
- Karsiyaka Police Station (Gaziantep); Basmane, Bogaziçi, Gümüşpala and Kantar Police Stations (Izmir); Asarlık Police Station (Menemen)
- Gaziantep, Kahraman Maras and Kilis Provincial Gendarmerie Headquarters
- Armutlu, Ortaklar and Türkoglu Gendarmerie Posts

Prisons

- Aydin E-type Prison
- Gaziantep E-type Prison
- Izmir (Buca) Closed Prison
- Izmir F-type Prison No. 1

II. Ad hoc visits

A. Armenia (20/04/2004 - 22/04/2004)

Police establishments

- Erebuni District Division of Internal Affairs, Yerevan
- Temporary detention centre of the Department of Internal Affairs, Yerevan

Prisons

- Kentron penitentiary establishment
- Nubarashen Prison

B. Azerbaijan (12/01/2004 - 14/01/2004)

- Temporary detention centre of the Department for combating organised crime in Baku
- Investigative isolator No. 1 (Bayil) in Baku

C. Bulgaria (16/12/2003 - 22/12/2003)

- Home for women with mental disorders in the village of Razdol, Strumyani municipality
- Home for men with mental disorders in the village of Pastra, Rila municipality
- Home for children and juveniles with mental retardation in the village of Vidrare, Pravets municipality

D. Latvia (05/05/2004 - 12/05/2004)

Police establishments

- Daugavpils Police Headquarters
- Liepāja Police Headquarters
- Pre-Trial Investigation Centre and Short-Term Isolator (ISO), Rīga
- Ventspils Police Headquarters

Penitentiary establishments

- Daugavpils Prison
- Jelgava Prison
- Rīga Central Prison (including the Prison Hospital)

E. Malta (18/01/2004 - 22/01/2004)

Police establishments

- Police Headquarters, Floriana
- Ta'kandja Police Complex, Siggiewi
- Malta International Airport Custody Centre, Luqa
- Immigration Reception Centre, Hal Far

Military establishments

- Lyster Barracks, 1st Regiment of the Armed Forces, Hal Far
- Safi Barracks, 3rd Regiment of the Armed Forces, Safi

F. Moldova (17/11/2003 - 21/11/2003)

- Prison No. 8, Bender

G. Moldova (03/02/2004 - 05/02/2004)

- Prison No. 8, Bender

H. Romania (15/06/2004 - 21/06/2004)

- Poiana Mare Psychiatric Hospital for the Implementation of Security Measures
- Craiova Recovery and Rehabilitation Centre for Disabled Persons

I. Switzerland (20/10/2003 - 24/10/2003)

- Transit zone at Zürich International Airport (including the holding facilities for asylum seekers and the Centre for inadmissible passengers - INADS)
- Various facilities of the cantonal police at Zürich International Airport
- Airport Prison No. 2, Kloten

J. “the former Yugoslav Republic of Macedonia” (12/07/2004 – 19/07/2004)Police establishments

- Gevgelija Police Station
- Premises of the Directorate for Security and Counterintelligence (UBK), Gevgelija
- Kumanovo Police Station
- Premises of the UBK, Kumanovo
- Bit Pazar Police Station (Skopje)
- Čair Police Station (Skopje)
- Veles Police Station

Prisons

- Gevgelija Prison
- Skopje Prison
- Štip Prison

K. Turkey (07/09/2003 - 15/09/2003)Law enforcement establishments

- Various police and gendarmerie establishments in Adana, Bismil, Çınar, Diyarbakır and Mersin

Prisons

- Adana E-type prison
- Diyarbakır I and II prisons
- Mersin E-type prison

L. United Kingdom (14/03/2004 - 19/03/2004)Prisons

- Belmarsh Prison
- Woodhill Prison

Psychiatric establishments

- Broadmoor Special Hospital

APPENDIX 8

Agreement

between the

United Nations Interim Administration Mission in Kosovo

and the

Council of Europe

on

**technical arrangements related to the European Convention for the
Prevention of Torture and Inhuman or Degrading Treatment or
Punishment**

The United Nations Interim Administration Mission in Kosovo (“UNMIK”) and the Council of Europe, collectively referred to as the “Parties”,

Recalling the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“the Convention”) of 26 November 1987,

Noting that the Convention has been ratified by 45 States, including Serbia and Montenegro,

Considering United Nations Security Council resolution 1244 (1999) of 10 June 1999, which, recognising the sovereignty and territorial integrity of the Federal Republic of Yugoslavia (now Serbia and Montenegro), establishes the authority of UNMIK, as the international civil presence, to provide an interim administration for Kosovo,

Taking account of UNMIK Regulation No. 2001/9 of 15 May 2001 on a Constitutional Framework for Provisional Self-Government in Kosovo, which provides for the responsibilities of the Provisional Institutions of Self-Government,

Having regard to the decision adopted on 30 June 2004 by the Committee of Ministers of the Council of Europe,

Emphasising that the present Agreement does not make UNMIK a Party to the Convention and that it is without prejudice to the future status of Kosovo to be determined in accordance with Security Council resolution 1244 (1999),

With a view to promoting technical cooperation between the Parties and facilitating the functions of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“the Committee”), including providing access to any place within Kosovo where persons are deprived of their liberty by UNMIK,

Have agreed as follows:

Article 1Visits by the Committee to Kosovo

1.1 The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty in Kosovo with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment.

1.2 UNMIK shall permit visits, in accordance with the present Agreement, to any place in Kosovo where persons are deprived of their liberty by an authority of UNMIK.

1.3 The Committee shall not visit places which representatives or delegates of Protecting Powers or the International Committee of the Red Cross effectively visit on a regular basis by virtue of the Geneva Conventions of 12 August 1949 and the Additional Protocols of 8 June 1977 thereto.

Article 2Co-operation

In the application of the present Agreement, the Committee and UNMIK shall co-operate with each other.

Article 3Organisation of Visits of the Committee

3.1 The Committee shall organise visits to places referred to in Article 1.2. Apart from periodic visits, the Committee may organise such other visits as appear to it to be required in the circumstances.

3.2 As a general rule, the visits shall be carried out by at least two members of the Committee. The Committee may, if it considers it necessary, be assisted by experts and interpreters.

Article 4Notification and Modalities of Visits

4.1 The Committee shall notify UNMIK of its intention to carry out a visit and forward a copy of this notification to the Chairperson of the Committee of Ministers of the Council of Europe. After such notification, it may at any time visit any place referred to in Article 1.2.

4.2 UNMIK shall provide the Committee with the following facilities to carry out its task:

- (a) Access to Kosovo and the right to travel without restriction;
- (b) Full information on the places where persons deprived of their liberty are being held by an authority of UNMIK;
- (c) Unlimited access to any place where persons are deprived of their liberty by an authority of UNMIK, including the right to move inside such places without restriction;
- (d) Other information available to UNMIK which is necessary for the Committee to carry out its task. In seeking such information, the Committee shall have regard to applicable rules of law and professional ethics.

4.3 The Committee may interview in private persons deprived of their liberty.

4.4 The Committee may communicate freely with any person whom it believes can supply relevant information.

4.5 If necessary, the Committee may immediately communicate observations to the competent authorities of UNMIK.

Article 5
Representations against Visits

5.1 In exceptional circumstances, UNMIK may make representations to the Committee against a visit at the time or to the particular place proposed by the Committee. Such representations may only be made on grounds of security in Kosovo, public safety, serious disorder in places where persons are deprived of their liberty, the medical condition of a person or that an urgent interrogation relating to a serious crime is in progress.

5.2 Following such representations, the Committee and UNMIK shall immediately enter into consultations in order to clarify the situation and seek agreement on arrangements to enable the Committee to exercise its functions expeditiously. Such arrangements may include the transfer to another place of any person whom the Committee proposed to visit. Until the visit takes place, UNMIK shall provide information to the Committee about any person concerned.

Article 6
Visit Reports

6.1 After each visit, the Committee shall draw up a report on the facts found during the visit, taking account of any observations which may have been submitted by UNMIK. It shall transmit to the latter its report containing any recommendations it considers necessary and shall forward a copy of the report to the Chairperson of the Committee of Ministers of the Council of Europe. The Committee may consult with UNMIK with a view to suggesting, if necessary, improvements in the protection of persons deprived of their liberty.

6.2 If UNMIK fail to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after UNMIK has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter.

Article 7
Confidentiality

7.1 The information gathered by the Committee in relation to a visit, its report and its consultations with UNMIK shall be confidential.

7.2 The Committee shall publish its report, together with any comments of UNMIK, whenever requested to do so by UNMIK.

7.3 However, no personal data shall be published without the express consent of the person concerned.

Article 8
Experts and Other Persons Assisting the Committee

8.1 The names of persons assisting the Committee shall be specified in the notification under Article 4.1.

8.2 Experts shall act on the instructions and under the authority of the Committee. They shall have particular knowledge and experience in the areas covered by this Agreement and shall be bound by the same duties of independence, impartiality and availability as the members of the Committee.

8.3 UNMIK may exceptionally declare that an expert or other person assisting the Committee may not be allowed to take part in a visit to a place where persons are deprived of their liberty by an authority of UNMIK.

Article 9
Appointment of Points of Contact

UNMIK shall inform the Committee of the name and address of the authority competent to receive notifications, and of any liaison officer they may appoint.

Article 10
Privileges and Immunities

The Committee, its members and experts referred to in Articles 3.2 and 8 shall enjoy the privileges and immunities set out in the Annex to the present Agreement.

Article 11
Amendment

The present Agreement may only be amended by written agreement of the Parties.

Article 12
Settlement of disputes

Any disputes or disagreements with respect to the interpretation or implementation of the present Agreement shall be resolved amicably through co-operation between the Committee and UNMIK and, if necessary, by good faith negotiations between the Parties.

Article 13
Entry into force

The present Agreement shall enter into force upon signature by the duly authorised representatives of the Parties and shall remain in force for the duration of UNMIK's mandate as interim administration in Kosovo under the authority of the United Nations, unless terminated in accordance with Article 14.

Article 14
Termination

Either Party may at any time terminate the present Agreement by means of a notification addressed to the other Party. The termination shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of the notification, unless otherwise agreed to by the Parties in writing.

IN WITNESS WHEREOF, the undersigned, being fully authorised thereto, have on behalf of the Parties signed the present Agreement.

Done at Pristina, this 23 August 2004, in English and in French, the English text being authentic, in two copies, one of which shall be deposited in the archives of the Council of Europe and the other transmitted to UNMIK.

FOR THE UNITED NATIONS
INTERIM ADMINISTRATION
MISSION IN KOSOVO

FOR THE COUNCIL OF EUROPE

Special Representative of the Secretary-General

Secretary General

Annex to the Agreement: Privileges and Immunities

1. For the purpose of this annex, references to members of the Committee shall be deemed to include references to experts mentioned in Articles 3, paragraph 2, and 8 of the present Agreement.
2. The members of the Committee shall, while exercising their functions and during journeys made in the exercise of their functions, enjoy the following privileges and immunities:
 - (a) Immunity from personal arrest or detention and from seizure of their personal baggage and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;
 - (b) Exemption from any restrictions on their freedom of movement in Kosovo and on entry into and exit from Kosovo and from related registration requirements in Kosovo.
3. In the course of journeys undertaken in the exercise of their functions, the members of the Committee shall, in the matter of customs and exchange control, be accorded by UNMIK the same facilities as those accorded to representatives of foreign Governments on temporary official duty in Kosovo.
4. Documents and papers of the Committee, in so far as they relate to the business of the Committee, shall be inviolable. The official correspondence and other official communications of the Committee may not be held up or subjected to censorship.
5. In order to secure for the members of the Committee complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.
6. Privileges and immunities are accorded to the members of the Committee, not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions. The Committee alone shall be competent to waive the immunity of its members; it has not only the right, but is under a duty, to waive the immunity of one of its members in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.