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

# **7th General Report on the CPT's activities**

**covering the period 1 January to 31 December 1996**

Strasbourg, 22 August 1997

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## **Preface**

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 mechanisms of the European Commission and 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: unlimited access to the territory of the State concerned and the right to travel without restriction; unlimited access to any place where people are deprived of their liberty, including the right to move inside such places without restriction; access to full information on places where people 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.

Visits may be carried out to any place "where persons are deprived of their liberty by a public authority". The CPT's mandate thus extends beyond prisons and police stations, to encompass psychiatric institutions, detention areas at military barracks, holding centres for asylum seekers or other categories of foreigners, and places in which young or old persons may be deprived of their liberty by judicial or administrative order.

Two fundamental principles govern relations between the CPT and the 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.

## I. ACTIVITIES IN 1996

### A. Visits

1. The CPT carried out six **periodic visits** during 1996, in chronological order to Switzerland (11 to 23 February), Germany (14 to 26 April), Cyprus (12 to 21 May), Poland (30 June to 12 July), Denmark (29 September to 9 October) and France (6 to 18 October). With the exception of Poland, this was the second occasion on which the countries concerned had been visited on a periodic basis.

2. In addition, a number of **ad hoc visits** were organised in the second half of the year: to Turkey (19 to 23 August and 18 to 20 September), Portugal (20 to 24 October), Greece (4 to 6 November) and Italy (25 to 28 November).

The visit to Turkey in August 1996 was organised following an invitation from the Turkish Government, which requested that the CPT visit Eski\_ehir Special Type Prison. That establishment had been the target of much criticism in the course of the hunger strikes which affected the Turkish prison system during the first half of 1996. It is noteworthy that this was the first occasion on which a Party to the Convention had taken the initiative of inviting the CPT to carry out a visit.

The second ad hoc visit to Turkey, in September 1996, was organised at the Committee's own initiative, the purpose of the visit being to obtain up-to-date information about the treatment of persons taken into police custody.

The other ad hoc visits were targeted at places which had previously been visited by the CPT and had been the subject of recommendations designed to improve the situation of persons deprived of their liberty:- the Attica State Mental Hospital for Children (Greece); Milan Remand Prison - San Vittore (Italy); and Oporto Prison (Portugal).

3. A list of all of the places of detention visited by CPT delegations in 1996 is set out in Appendix 3.

4. In addition to "visits" within the meaning of Article 7 of the Convention, in May 1996 the Bureau of the CPT held talks in Turkey with the Prime Minister, other members of the Government and senior officials. Those talks formed part of the on-going dialogue between the Turkish authorities and the Committee.

The Bureau also went to the Police Headquarters in four Turkish cities, in order to evaluate the implementation in practice of instructions designed to prevent torture and ill-treatment which were issued by the Prime Minister and the Minister of the Interior in February 1995.

5. The degree of cooperation displayed towards CPT delegations was satisfactory, both at national and local level, during practically all of the visits carried out in the course of 1996; on many occasions it was excellent. The few difficulties which were encountered were due almost exclusively to a lack of knowledge at local level of the Committee's task and powers.

In previous General Reports, the CPT has emphasised the importance of Parties to the Convention ensuring that detailed information on the Committee's mandate and on the obligations of Parties vis-à-vis the Committee reaches the authorities concerned (cf, for example, paragraph 5 of the 5th General Report; CPT/Inf (95) 10). Many Governments have made efforts to raise awareness about the CPT, and the Committee hopes that all Parties to the Convention shall take appropriate steps in this respect. Experience has shown that, in so doing, care should be taken to include relevant health, judicial and prosecuting authorities. Similarly, information on the CPT should be provided to municipal and regional authorities whenever they have responsibility for places where persons are deprived of their liberty.

The CPT itself strives to familiarise the relevant services in a country with the Committee's mandate and working methods, in particular through promoting the organisation of information seminars in States which have recently become Parties to the Convention. Such a seminar was held in Popowo in February 1996<sup>1</sup>, and helped to ensure that a very good level of cooperation was enjoyed by the CPT's delegation during the periodic visit to Poland carried out later that year.

B. Meetings and follow-up of visits

6. The CPT held four plenary sessions during 1996, in the course of which seven visit reports were adopted: on visits to Italy and Romania in 1995 and to Cyprus, Germany, Poland, Switzerland and Turkey in 1996. On the whole, the Committee has continued to meet its objective of transmitting to Governments the reports on periodic visits within half a year, and reports on short ad hoc visits are sometimes transmitted within less than three months.

7. It should be noted that the CPT is increasingly working in smaller groups. In addition to meetings of the Bureau and visiting delegations, two working groups (the first to prepare the CPT's activities in the Russian Federation and Ukraine, the second to examine issues related to medical confidentiality and solitary confinement) began to operate in 1996, and the establishment of a third working group (to monitor the Committee's "jurisprudence") is currently under consideration. Further, the Committee's medical members meet on a regular basis.

The activities of these different sub-groups - which as far as possible meet during plenary session weeks - should considerably enrich the CPT's work.

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<sup>1</sup> A similar information meeting was held in Prague in January 1997, shortly before the CPT's first visit to the Czech Republic.

8. The process of on-going dialogue between the CPT and Parties to the Convention is, on the whole, operating satisfactorily. In particular, the great majority of States are forwarding their interim and follow-up responses to visit reports broadly within the time-limit set by the CPT. Further, the Committee has improved somewhat its own record as regards providing replies to interim and follow-up responses from Governments.

However, the CPT would like to give more life to this process. Relations between the CPT and Parties to the Convention during the interval separating visits should not be limited to exchanging paper but should also encompass regular face-to-face discussions on matters of concern between State authorities and representatives of the Committee. Such discussions do take place on occasion (cf, for example, paragraph 4), but there is certainly scope for developing this method.

9. The trend in favour of publication of the CPT's visit reports and Government responses continued during 1996. In the course of the year, the Committee's reports on visits to Aruba<sup>2</sup>, Austria, France, Hungary, Malta, the Netherlands Antilles, Portugal, Slovenia, Spain and the United Kingdom were published at the request of the Governments concerned, as were a host of interim and follow-up responses from Governments<sup>3</sup>.

At the time of writing, 44 of the 60 visit reports so far drawn up by the CPT have been published. Many of the remaining sixteen reports have only recently been forwarded to Governments and will in all likelihood be published in due course.

#### C. Other questions

10. On 6 December 1996 the CPT had recourse to the power granted to it by Article 10, paragraph 2, of the Convention<sup>4</sup> and made a **public statement on Turkey**.

The decision to set in motion the Article 10 (2) procedure was taken at the CPT's 23rd meeting, held from 28 November to 2 December 1994. That decision was a consequence of the facts found during the Committee's visit to Turkey from 16 to 28 October 1994, concerning the treatment of persons in the custody of the law enforcement agencies. In accordance with the Convention, the Turkish authorities were invited to make known their views on this subject.

There followed a period of intensive dialogue between the Turkish authorities and the CPT. However, in the light of all the information at its disposal, the Committee finally decided at its 31st meeting, held from 2 to 6 December 1996, that the Article 10 (2) procedure should be allowed to run its course.

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<sup>2</sup> Which forms part of the Kingdom of the Netherlands

<sup>3</sup> Moreover, to date in 1997 seven additional visit reports have been published (concerning visits to Bulgaria, Cyprus (two visits), Denmark, Germany, Slovakia and Switzerland).

<sup>4</sup> Article 10, paragraph 2, provides as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party 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."

11. The decision to make the public statement was taken only after considerable reflection. As with the earlier public statement of 15 December 1992, the statement of 6 December 1996 was issued in a constructive spirit. The CPT hopes that it will motivate the Turkish authorities to take decisive action to stamp out the practice of torture and other forms of severe ill-treatment by the police. In pursuit of that objective and in furtherance of its mandate, the CPT is fully committed to continuing its dialogue with the Turkish authorities.

12. In the course of several of its visits during 1996, the CPT once again encountered the evils of **prison overcrowding**, a phenomenon which blights penitentiary systems across Europe. Overcrowding is often particularly acute in prisons used to accommodate remand prisoners (i.e. persons awaiting trial); however, the CPT has found that in some countries the problem has spread throughout the prison system.

13. As the CPT pointed out in its 2nd General Report, prison overcrowding is an issue of direct relevance to the Committee's mandate (cf. CPT/Inf (92) 3, paragraph 46).

An overcrowded prison entails cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff. This list is far from exhaustive.

The CPT has been led to conclude on more than one occasion that the adverse effects of overcrowding have resulted in inhuman and degrading conditions of detention.

14. To address the problem of overcrowding, some countries have taken the route of increasing the number of prison places. For its part, the CPT is far from convinced that providing additional accommodation will alone offer a lasting solution. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, the existence of policies to limit or modulate the number of persons being sent to prison has in certain States made an important contribution to maintaining the prison population at a manageable level.

15. The problem of prison overcrowding is sufficiently serious as to call for cooperation at European level, with a view to devising counter strategies. Consequently, the CPT was most pleased to learn that work on this subject has recently begun within the framework of the European Committee on Crime Problems (CDPC). The CPT hopes that the successful conclusion of that work will be treated as a priority.

## II. ORGANISATIONAL ISSUES

### A. The Convention and its Protocols

16. In the course of 1996, the Convention was ratified by Albania and Estonia, and signed by Andorra, Croatia, Moldova, the Russian Federation, "The Former Yugoslav Republic of Macedonia" and Ukraine.

Taking into account subsequent ratifications in 1997<sup>5</sup>, the Convention has to date been ratified by 35 of the 40 member States of the Council of Europe and signed by the other member States with the exception of Latvia<sup>6</sup>.

17. The two Protocols amending the Convention<sup>7</sup> were also signed and/or ratified by a number of States during 1996<sup>8</sup>. However, neither of the Protocols has yet entered into force; in the case of each Protocol, entry into force requires ratification (or signature without reservation as to ratification) by all Parties to the Convention.

The fact that some Parties to the Convention have not yet consented to be bound by Protocol No. 1 is not of particular concern to the CPT. The intrinsic value of this Protocol has been significantly diminished by virtue of the expanding membership of the Council of Europe. Further, the Committee has always recognised that certain States may not consider it expedient to ratify this instrument.

The situation is quite different as regards Protocol No. 2. This instrument provides for amendments of a purely technical nature which would greatly facilitate the Committee's work. The CPT must make known its profound disappointment that almost four years after Protocol No. 2 was opened for signature - and despite repeated requests by the Committee - seven Parties to the Convention have still not given their consent to be bound by the text.

The Committee wishes to add its voice to that of the Parliamentary Assembly, which recently recommended that the Committee of Ministers "urge the States Parties to the Convention which have not yet done so to ratify its Protocols and, in particular, Protocol No. 2 without delay, thus allowing its entry into force" and "invite the authorities of States considering ratification of the Convention to ratify its Protocol No. 2 at the same time".<sup>9</sup>

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<sup>5</sup> Andorra (16 January 1997), "The Former Yugoslav Republic of Macedonia" (6 June 1997), Ukraine (5 May 1997).

<sup>6</sup> See Appendix 1A for the state of signatures and ratifications of the Convention.

<sup>7</sup> Protocol No. 1 "opens" the Convention by providing that the Committee of Ministers may invite any non-member State of the Council of Europe to accede to it; Protocol No. 2 introduces amendments regarding the renewal of the CPT's membership and provides that members may be re-elected twice.

<sup>8</sup> See Appendix 1 B and 1 C for the state of signatures and ratifications of the Protocols.

<sup>9</sup> See paragraph 10 (ii and iii) of Recommendation 1323 (1997), adopted by the Parliamentary Assembly on 21 April 1997.

B. CPT membership

18. Four new CPT members were elected by the Committee of Ministers in the course of 1996: Mr Zdeněk Hájek (in respect of the Czech Republic), Mr Lambert Kelchtermans (in respect of Belgium), Mr Miklós Magyar (in respect of Hungary) and Mrs Maria Sciberras (in respect of Malta). Further, since the beginning of 1997, Mrs Emilia Drumeva has been elected to the CPT in respect of Bulgaria.

During the same period, Mr Bjarman (Iceland), Mr Oehry (Liechtenstein) and Mr Torres Boursault (Spain) have been re-elected. Mr Vieira Mesquita (Portugal) left the CPT on the expiry of his term of office in September 1996, and the seat vacated by him remains unfilled.

As a result, the CPT presently has 28 members<sup>10</sup>. The seats in respect of Andorra, Albania, Estonia, Portugal and Slovenia are vacant, and seats in respect of Ukraine and "The Former Yugoslav Republic of Macedonia" shall have to be filled as from respectively 1 September and 1 October 1997.

19. Much has already been written on the subject of the qualities and professional experience required of CPT members. The Committee shall refrain from going over this ground once again. However, it wishes to place on record its appreciation of the close scrutiny of lists of candidates now being exercised by the Bureau of the Parliamentary Assembly and at the level of the Committee of Ministers. The CPT also greatly welcomes the recommendations and measures concerning the election of its members set out in Recommendation 1323 (1997) and Order n° 530 (1997) of the Parliamentary Assembly. Indeed, for the CPT to be fully effective, it is essential to ensure that its members meet the criteria set out in Article 4 (paragraphs 2 and 4) of the Convention and that all relevant professions are adequately represented within the Committee.

C. Meeting the challenge of the widening circle of Parties to the Convention

20. The number of Parties to the Convention continues to rise. As already indicated, the last few months have seen ratifications by Ukraine and "The Former Yugoslav Republic of Macedonia". Other ratifications are on the horizon, most significantly that of the Russian Federation. It is reasonable to assume that by the year 2000, the number of Parties to the Convention will peak at between 40 to 45 States.

21. In order to cope successfully with these developments, it will be necessary to gradually increase the number of visiting days carried out by the CPT. Failing this, the Committee will not be in a position to absorb the impact of the huge expansion of its field of operations; the interval between visits to a considerable number of Parties to the Convention shall become unacceptably long, thereby fatally undermining the effectiveness of the Committee's work in those countries.

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See Appendix 2A for the full list of CPT members. Abridged curriculum vitae of the members can be obtained from the Committee's Secretariat.

The CPT wishes to be in a position to organise 200 days of visits per year as from the year 2000 (as compared to 100 days in 1996 and 120 days in the current year). This would represent approximately twelve periodic visits totalling 140 to 150 days, the remaining visit days being earmarked for ad hoc and follow-up visits.

The CPT is working on the assumption of an average period of four years between periodic visits. This is a somewhat longer period than that envisaged by the Committee at the outset of its activities (at which time it had in mind an interval of two to three years). However, through the process of "on-going dialogue" and judicious recourse to ad hoc and follow-up visits, it should be possible to maintain the momentum for change between periodic visits, despite a four year interlude. Of course, more frequent periodic visits will have to be organised in certain States, in view of their size and the number of places of deprivation of liberty.

22. This substantial increase in the number of visit days will in turn render it essential to rationalise the CPT's working methods. The Committee has already taken certain steps in 1996 which should considerably enhance its effectiveness.

Firstly, the CPT has introduced an accelerated procedure for the examination of its visit reports, based on the transmission of draft visit reports to Committee members well in advance of plenary meetings and their adoption without debate, save for those sections in respect of which a discussion has been specifically requested. A similar procedure has been introduced in respect of adoption of the replies which the CPT sends to States in the context of the ongoing dialogue. These procedures are now operational and are proving a success.

Secondly, the CPT has decided to reduce the number of its plenary meetings from four to three. Indeed, the new accelerated procedures have made it possible to condense work at plenary level without affecting the quality of that work. Reducing the number of plenary meetings allows more resources - both human and financial - to be devoted to the CPT's principal task, namely carrying out visits.

The CPT's structures and working methods will remain under review. In particular, the Committee shall seek to work increasingly in smaller groups.

23. Further, in order to sustain the above-mentioned increase in visiting days and to exploit fully the new procedures, it will be imperative to reinforce and reorganise the CPT's Secretariat. The Committee has formulated detailed proposals in this regard and it very much hopes that they will enjoy the understanding and support of the Secretary General and the Committee of Ministers.

### III. FOREIGN NATIONALS DETAINED UNDER ALIENS LEGISLATION

#### A. Preliminary remarks

24. CPT visiting delegations frequently encounter foreign nationals deprived of their liberty under aliens legislation (hereafter "immigration detainees"): persons refused entry to the country concerned; persons who have entered the country illegally and have subsequently been identified by the authorities; persons whose authorisation to stay in the country has expired; asylum-seekers whose detention is considered necessary by the authorities; etc.

In the following paragraphs, some of the main issues pursued by the CPT in relation to such persons are described. The CPT hopes in this way to give a clear advance indication to national authorities of its views concerning the treatment of immigration detainees and, more generally, to stimulate discussion in relation to this category of persons deprived of their liberty. The Committee would welcome comments on this section of its General Report.

#### B. Detention facilities

25. CPT visiting delegations have met immigration detainees in a variety of custodial settings, ranging from holding facilities at points of entry to police stations, prisons and specialised detention centres. As regards more particularly transit and "international" zones at airports, the precise legal position of persons refused entry to a country and placed in such zones has been the subject of some controversy. On more than one occasion, the CPT has been confronted with the argument that such persons are not "deprived of their liberty" as they are free to leave the zone at any moment by taking any international flight of their choice.

For its part, the CPT has always maintained that a stay in a transit or "international" zone can, depending on the circumstances, amount to a deprivation of liberty within the meaning of Article 5 (1)(f) of the European Convention on Human Rights, and that consequently such zones fall within the Committee's mandate. The judgement delivered on 25 June 1996 by the European Court of Human Rights in the case of Amuur against France can be considered as vindicating this view. In that case, which concerned four asylum seekers held in the transit zone at Paris-Orly Airport for 20 days, the Court stated that "The mere fact that it is possible for asylum seekers to leave voluntarily the country where they wish to take refuge cannot exclude a restriction ("atteinte") on liberty ...." and held that "holding the applicants in the transit zone .... was equivalent in practice, in view of the restrictions suffered, to a deprivation of liberty".

26. **Point of entry holding facilities** have often been found to be inadequate, in particular for extended stays. More specifically, CPT delegations have on several occasions met persons held for days under makeshift conditions in airport lounges. It is axiomatic that such persons should be provided with suitable means for sleeping, granted access to their luggage and to suitably-equipped sanitary and washing facilities, and allowed to exercise in the open air on a daily basis. Further, access to food and, if necessary, medical care should be guaranteed.

27. In certain countries, CPT delegations have found immigration detainees held in **police stations** for prolonged periods (for weeks and, in certain cases, months), subject to mediocre material conditions of detention, deprived of any form of activity and on occasion obliged to share cells with criminal suspects. Such a situation is indefensible.

The CPT recognises that, in the very nature of things, immigration detainees may have to spend some time in an ordinary police detention facility. However, conditions in police stations will frequently - if not invariably - be inadequate for prolonged periods of detention. Consequently, the period of time spent by immigration detainees in such establishments should be kept to the absolute minimum.

28. On occasion, CPT delegations have found immigration detainees held in **prisons**. Even if the actual conditions of detention for these persons in the establishments concerned are adequate -which has not always been the case - the CPT considers such an approach to be fundamentally flawed. A prison is by definition not a suitable place in which to detain someone who is neither convicted nor suspected of a criminal offence.

Admittedly, in certain exceptional cases, it might be appropriate to hold an immigration detainee in a prison, because of a known potential for violence. Further, an immigration detainee in need of in-patient treatment might have to be accommodated temporarily in a prison health-care facility, in the event of no other secure hospital facility being available. However, such detainees should be held quite separately from prisoners, whether on remand or convicted.

29. In the view of the CPT, in those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in **centres specifically designed for that purpose**, offering material conditions and a regime appropriate to their legal situation and staffed by suitably-qualified personnel. The Committee is pleased to note that such an approach is increasingly being followed in Parties to the Convention.

Obviously, such centres should provide accommodation which is adequately-furnished, clean and in a good state of repair, and which offers sufficient living space for the numbers involved. Further, care should be taken in the design and layout of the premises to avoid as far as possible any impression of a carceral environment. As regards regime activities, they should include outdoor exercise, access to a day room and to radio/television and newspapers/magazines, as well as other appropriate means of recreation (e.g. board games, table tennis). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.

The staff of centres for immigration detainees have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups. Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

C. Safeguards during detention

30. Immigration detainees should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedure applicable to them.

The CPT has observed that these requirements are met in some countries, but not in others. In particular, visiting delegations have on many occasions met immigration detainees who manifestly had not been fully informed in a language they understood of their legal position. In order to overcome such difficulties, immigration detainees should be systematically provided with a document explaining the procedure applicable to them and setting out their rights. This document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of an interpreter.

31. The right of access to a lawyer should apply throughout the detention period and include both the right to speak with the lawyer in private and to have him present during interviews with the authorities concerned.

All detention facilities for immigration detainees should provide access to medical care. Particular attention should be paid to the physical and psychological state of asylum seekers, some of whom may have been tortured or otherwise ill-treated in the countries from which they have come. The right of access to a doctor should include the right - if a detainee so wishes - to be examined by a doctor of his choice; however, the detainee might be expected to cover the cost of such a second examination.

More generally, immigration detainees should be entitled to maintain contact with the outside world during their detention, and in particular to have access to a telephone and to receive visits from relatives and representatives of relevant organisations.

D. Risk of ill-treatment after expulsion

32. The prohibition of torture and inhuman or degrading treatment or punishment englobes the obligation not to send a person to a country where there are substantial grounds for believing that he would run a real risk of being subjected to torture or ill-treatment. Whether Parties to the Convention are fulfilling this obligation is obviously a matter of considerable interest to the CPT. What is the precise role that the Committee should seek to play in relation to that question?

33. Any communications addressed to the CPT in Strasbourg by persons alleging that they are to be sent to a country where they run a risk of being subjected to torture or ill-treatment are immediately brought to the attention of the European Commission of Human Rights. The Commission is better placed than the CPT to examine such allegations and, if appropriate, take preventive action.

If an immigration detainee (or any other person deprived of his liberty) interviewed in the course of a visit alleges that he is to be sent to a country where he runs a risk of being subjected to torture or ill-treatment, the CPT's visiting delegation will verify that this assertion has been brought to the attention of the relevant national authorities and is being given due consideration. Depending on the circumstances, the delegation might request to be kept informed of the detainee's position and/or inform the detainee of the possibility of raising the issue with the European Commission of Human Rights (and, in the latter case, verify that he is in a position to submit a petition to the Commission).

34. However, in view of the CPT's essentially preventive function, the Committee is inclined to focus its attention on the question of whether the decision-making process as a whole offers suitable guarantees against persons being sent to countries where they run a risk of torture or ill-treatment. In this connection, the CPT will wish to explore whether the applicable procedure offers the persons concerned a real opportunity to present their cases, and whether officials entrusted with handling such cases have been provided with appropriate training and have access to objective and independent information about the human rights situation in other countries. Further, in view of the potential gravity of the interests at stake, the Committee considers that a decision involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to its implementation.

E. Means of coercion in the context of expulsion procedures

35. Finally, the CPT must point out that it has received disturbing reports from several countries about the means of coercion employed in the course of expelling immigration detainees. Those reports have contained in particular allegations of beating, binding and gagging, and the administration of tranquillizers against the will of the persons concerned.

36. The CPT recognises that it will often be a difficult task to enforce an expulsion order in respect of a foreign national who is determined to stay on a State's territory. Law enforcement officials may on occasion have to use force in order to effect such a removal. However, the force used should be no more than is reasonably necessary. It would, in particular, be entirely unacceptable for persons subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further, the Committee must emphasise that to gag a person is a highly dangerous measure.

The CPT also wishes to stress that any provision of medication to persons subject to an expulsion order must only be done on the basis of a medical decision and in accordance with medical ethics.

**APPENDIX 1**

**A. Signatures and ratifications of the  
European Convention for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment (\*)  
(as at 1 July 1997)**

<b>MEMBER STATES</b>	<b>Date of signature</b>	<b>Date of ratification</b>	<b>Date of entry into force</b>
<b>ALBANIA</b>	02.10.96	02.10.96	01.02.97
<b>ANDORRA</b>	10.09.96	06.01.97	01.05.97
<b>AUSTRIA</b>	26.11.87	06.01.89	01.05.89
<b>BELGIUM</b>	26.11.87	23.07.91	01.11.91
<b>BULGARIA</b>	30.09.93	03.05.94	01.09.94
<b>CROATIA</b>	06.11.96		
<b>CYPRUS</b>	26.11.87	03.04.89	01.08.89
<b>CZECH REPUBLIC</b>	23.12.92	07.09.95	01.01.96
<b>DENMARK</b>	26.11.87	02.05.89	01.09.89
<b>ESTONIA</b>	28.06.96	06.11.96	01.03.97
<b>FINLAND</b>	16.11.89	20.12.90	01.04.91
<b>FRANCE</b>	26.11.87	09.01.89	01.05.89
<b>GERMANY</b>	26.11.87	21.02.90	01.06.90
<b>GREECE</b>	26.11.87	02.08.91	01.12.91
<b>HUNGARY</b>	09.02.93	04.11.93	01.03.94
<b>ICELAND</b>	26.11.87	19.06.90	01.10.90
<b>IRELAND</b>	14.03.88	14.03.88	01.02.89
<b>ITALY</b>	26.11.87	29.12.88	01.04.89
<b>LATVIA</b>			
<b>LIECHTENSTEIN</b>	26.11.87	12.09.91	01.01.92
<b>LITHUANIA</b>	14.09.95		
<b>LUXEMBOURG</b>	26.11.87	06.09.88	01.02.89
<b>MALTA</b>	26.11.87	07.03.88	01.02.89

<b>MOLDOVA</b>	02.05.96		
<b>NETHERLANDS</b>	26.11.87	12.10.88	01.02.89
<b>NORWAY</b>	26.11.87	21.04.89	01.08.89
<b>POLAND</b>	11.07.94	10.10.94	01.02.95
<b>PORTUGAL</b>	26.11.87	29.03.90	01.07.90
<b>ROMANIA</b>	04.11.93	04.10.94	01.02.95
<b>RUSSIA</b>	28.02.96		
<b>SAN MARINO</b>	16.11.89	31.01.90	01.05.90
<b>SLOVAK REPUBLIC</b>	23.12.92	11.05.94	01.09.94
<b>SLOVENIA</b>	04.11.93	02.02.94	01.06.94
<b>SPAIN</b>	26.11.87	02.05.89	01.09.89
<b>SWEDEN</b>	26.11.87	21.06.88	01.02.89
<b>SWITZERLAND</b>	26.11.87	07.10.88	01.02.89
<b>"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"</b>	14.06.96	06.06.97	01.10.97
<b>TURKEY</b>	11.01.88	26.02.88	01.02.89
<b>UKRAINE</b>	02.05.96	05.05.97	01.09.97
<b>UNITED KINGDOM</b>	26.11.87	24.06.88	01.02.89

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

**B. Signatures and ratifications of Protocol No. 1  
to the European Convention for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment  
(as at 1 July 1997)**

<b>MEMBER STATES</b>	<b>Date of signature</b>	<b>Date of ratification</b>	<b>Date of entry into force</b>
<b>ALBANIA</b>	02.10.96	02.10.96	
<b>ANDORRA</b>		***	
<b>AUSTRIA</b>	04.11.93	30.04.96	
<b>BELGIUM</b>	04.11.93	12.09.96	
<b>BULGARIA</b>	04.03.97	***	
<b>CROATIA</b>			
<b>CYPRUS</b>	02.02.94	***	
<b>CZECH REPUBLIC</b>	28.04.95	07.09.95	
<b>DENMARK</b>	04.11.93	26.04.94	
<b>ESTONIA</b>	28.06.96	06.11.96	
<b>FINLAND</b>	04.11.93(*)	04.11.93(*)	
<b>FRANCE</b>	04.11.93	***	
<b>GERMANY</b>	04.11.93	13.12.96	
<b>GREECE</b>	04.11.93	29.06.94	
<b>HUNGARY</b>	04.11.93(*)	04.11.93(*)	
<b>ICELAND</b>	08.09.94	29.06.95	
<b>IRELAND</b>	10.04.96(*)	10.04.96(*)	
<b>ITALY</b>	30.10.96	***	
<b>LATVIA</b>			
<b>LIECHTENSTEIN</b>	04.11.93	05.05.95	
<b>LITHUANIA</b>	14.09.95		
<b>LUXEMBOURG</b>	04.11.93	20.07.95	
<b>MALTA</b>	04.11.93(*)	04.11.93(*)	

<b>MOLDOVA</b>			
<b>NETHERLANDS</b>	05.05.94	23.02.95	
<b>NORWAY</b>	04.11.93(*)	04.11.93(*)	
<b>POLAND</b>	11.01.95	24.03.95	
<b>PORTUGAL</b>	03.06.94	***	
<b>ROMANIA</b>	04.11.93	04.10.94	
<b>RUSSIA</b>	28.02.96		
<b>SAN MARINO</b>	04.11.93	05.12.96	
<b>SLOVAK REPUBLIC</b>	07.03.94	11.05.94	
<b>SLOVENIA</b>	31.03.94	16.02.95	
<b>SPAIN</b>	21.02.95	08.06.95	
<b>SWEDEN</b>	07.03.94(*)	07.03.94(*)	
<b>SWITZERLAND</b>	09.03.94(*)	09.03.94(*)	
<b>"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"</b>	14.06.96	06.06.97	
<b>TURKEY</b>	10.05.95	***	
<b>UKRAINE</b>		***	
<b>UNITED KINGDOM</b>	09.12.93	11.04.96	

(\*) Signature without reservation as to ratification

\*\*\* State whose ratification is necessary for the entry into force of the Protocol

**C. Signatures and ratifications of Protocol No. 2  
to the European Convention for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment  
(as at 1 July 1997)**

<b>MEMBER STATES</b>	<b>Date of signature</b>	<b>Date of ratification</b>	<b>Date of entry into force</b>
<b>ALBANIA</b>	02.10.96	02.10.96	
<b>ANDORRA</b>		***	
<b>AUSTRIA</b>	04.11.93	30.04.96	
<b>BELGIUM</b>	04.11.93	12.09.96	
<b>BULGARIA</b>	04.03.97	***	
<b>CROATIA</b>			
<b>CYPRUS</b>	02.02.94	***	
<b>CZECH REPUBLIC</b>	28.04.95	07.09.95	
<b>DENMARK</b>	04.11.93	26.04.94	
<b>ESTONIA</b>	28.06.96	06.11.96	
<b>FINLAND</b>	04.11.93(*)	04.11.93(*)	
<b>FRANCE</b>	04.11.93	14.08.96	
<b>GERMANY</b>	04.11.93	13.12.96	
<b>GREECE</b>	04.11.93	29.06.94	
<b>HUNGARY</b>	04.11.93(*)	04.11.93(*)	
<b>ICELAND</b>	08.09.94	29.06.95	
<b>IRELAND</b>	10.04.96(*)	10.04.96(*)	
<b>ITALY</b>	30.10.96	***	
<b>LATVIA</b>			
<b>LIECHTENSTEIN</b>	04.11.93	05.05.95	
<b>LITHUANIA</b>	14.09.95		
<b>LUXEMBOURG</b>	04.11.93	20.07.95	
<b>MALTA</b>	04.11.93(*)	04.11.93(*)	

<b>MOLDOVA</b>			
<b>NETHERLANDS</b>	05.05.94	23.02.95	
<b>NORWAY</b>	04.11.93(*)	04.11.93(*)	
<b>POLAND</b>	11.01.95	24.03.95	
<b>PORTUGAL</b>	03.06.94	***	
<b>ROMANIA</b>	04.11.93	04.10.94	
<b>RUSSIA</b>	28.02.96		
<b>SAN MARINO</b>	04.11.93	05.12.96	
<b>SLOVAK REPUBLIC</b>	07.03.94	11.05.94	
<b>SLOVENIA</b>	31.03.94	16.02.95	
<b>SPAIN</b>	21.02.95	08.06.95	
<b>SWEDEN</b>	07.03.94(*)	07.03.94(*)	
<b>SWITZERLAND</b>	09.03.94(*)	09.03.94(*)	
<b>"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"</b>	14.06.96	06.06.97	
<b>TURKEY</b>	10.05.95	***	
<b>UKRAINE</b>		***	
<b>UNITED KINGDOM</b>	09.12.93	11.04.96	

(\*) Signature without reservation as to ratification

\*\*\* State whose ratification is necessary for the entry into force of the Protocol

## APPENDIX 2

### A. Members of the CPT listed in order of precedence (as at 1 July 1997)\*

Name	Nationality	Term of office expires
Mr Claude NICOLAY, President	Luxemburger	19.09.1997
Mrs Ingrid LYCKE ELLINGSEN, 1st Vice-President	Norwegian	19.09.1997
Mr Leopoldo TORRES BOURSAULT, 2nd Vice-President	Spanish	03.05.2001
Mr Bent SØRENSEN,	Danish	19.09.1997
Mr Stefan TERLEZKI	British	19.09.1997
Mr Rudolf MACHACEK	Austrian	19.09.1997
Mrs Nadia GEVERS LEUVEN-LACHINSKY	Dutch	19.09.1997
Mr Günther KAISER	German	21.06.1998
Mrs Pirkko LAHTI	Finnish	20.06.1999
Mr Constantin ECONOMIDES	Greek	30.11.1999
Mr Jón BJARMAN	Icelandic	26.03.2000
Mr Arnold OEHRY	Liechtensteiner	13.01.2001
Mr Safa REISOĞLU	Turkish	19.09.1997
Mr Ivan ZAKINE	French	19.09.1997
Mrs Gisela PERREN-KLINGLER	Swiss	19.09.1997
Mr John OLDEN	Irish	21.03.1999
Mr Florin STĂNESCU	Romanian	21.03.1999
Mr Mario BENEDETTINI	San Marinese	21.03.1999
Mr Vitaliano ESPOSITO	Italian	21.06.1999
Mrs Jagoda POLONCOVÁ	Slovakian	21.06.1999
Mrs Christina DOCTARE	Swedish	19.09.1999
Mr Demetrios STYLIANIDES	Cypriot	30.11.1999
Mr Adam LAPTAŠ	Polish	30.11.1999
Mr Lambert KELCHTERMANS	Belgian	08.01.2000
Mrs Maria SCIBERRAS	Maltese	09.01.2000
Mr Miklós MAGYAR	Hungarian	03.04.2000
Mr Zdeněk HÁJEK	Czech	11.09.2000
Mrs Emilia DRUMEVA	Bulgarian	17.03.2001

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(\*) At this date, the seats in respect of Andorra, Albania, Estonia, Portugal and Slovenia were vacant.

**B. Secretariat of the CPT  
(as at 1 July 1997)**

Mr Trevor STEVENS,	Committee Secretary
Mrs Geneviève MAYER,	Deputy Secretary
Mr Mark KELLY,	Administrative Officer
Mr Fabrice KELLENS,	Administrative Officer
Mr Jan MALINOWSKI,	Administrative Officer
Ms Petya NESTOROVA,	Administrative Officer
Mr Borys WÒDZ,	Administrative Officer
Ms Bojana URUMOVA,	Administrative Officer
Mrs Florence CALLOT-DURING,	Administrative Officer (administrative and budgetary questions)
Mr Patrick MÜLLER,	Principal Administrative Assistant (documentation and information)
Ms Mireille MONTI,	Senior Clerk (archives, publications)
Ms Yvonne GORMAN,	Secretary
Ms Susan BRADBURY-KIN	Secretary

## APPENDIX 3

### Places of detention visited by CPT delegations in 1996

#### I. PERIODIC VISITS

##### A. Cyprus

###### Police establishments:

- Police Prison, Nicosia (Block 10 of the Central Prisons)
- Central Police Stations at Larnaca, Limassol and Paphos
- Ayios Ioannis Police Station, Limassol
- Lykavitos and Omorfitas Police Stations, Nicosia
- Police Stations at Oroklini, Paralimni and Xylotimbou
- Holding facilities for foreigners at Larnaca Airport

###### Prisons:

- Nicosia Central Prisons

###### Military detention facilities:

- Tasou Markou Barracks, Klirou
- A Panagidis Military Police Barracks, Nicosia

###### Psychiatric hospitals:

- Athalassa Psychiatric Hospital

##### B. Denmark

###### Police establishments:

- Police Headquarters at Århus, Copenhagen, Esbjerg and Horsens
- Police Stations 1, 2, 3 and 6 at Copenhagen
- Mobile Squad (Uropatroljen), Copenhagen

###### Prisons:

- Herstedvester Institution, Copenhagen
- Police Headquarters Prison, Copenhagen
- Western Prison, Copenhagen
- Esbjerg Local Jail (Arresthus)
- Horsens State Prison

## C. France

### Police establishments:

- Police Headquarters, rue du Commissaire Antoine Becker, 2nd arrondissement, Marseille
- Police Station, rue Félix Pyat, 3rd arrondissement, Marseille
- Arenc Administrative Detention Centre, Marseille
- Police Headquarters, avenue du Professeur Grasset, Montpellier
- "Dépôt" of the Police Prefecture (including the Administrative Detention Centre), quai de l'Horloge, 1st arrondissement, Paris
- Minors Protection Unit, Quai de Gesvres, 4th arrondissement, Paris
- Police Stations at the Gare du Nord, 10th arrondissement, Paris
- Goutte d'Or Police Station (rue de la Goutte d'Or), 18th arrondissement, Paris
- Public Security and Central Police Stations of the 19th (rue André Dubois) and 20th (avenue Gambetta) arrondissements, Paris

### Gendarmerie establishments:

- Territorial Brigades at Berre-l'Etang, Marignane and Montpellier

### Prisons:

- Fleury-Mérogis Young Offenders Detention Centre
- Marseille Prison ("Les Baumettes")
- Paris Remand Prison ("La Santé") (including the holding facilities of the Palais de Justice, Paris)
- Villeneuve-les-Maguelonne Remand Prison

### Health establishments:

- Unit for Difficult Patients at the Montfavet Special Hospital Centre
- Emergency Service and Cusco Ward at the Hôtel-Dieu Hospital, Paris
- Psychiatric Infirmary of the Paris Police Prefecture

## D. Germany

### Police establishments:

Berlin:

- Schöneberg Police Detention Centre, Gothaerstraße 19
- Police Detention Centre, Directorate 2, Charlottenburger Chaussee 75
- Police Detention Centre, Directorate 5, Friesenstraße 16
- Police Station 53, Friederichstraße 219
- Federal Border Police Station at the Berlin-Tegel Airport,  
Kurt-Schumacher Damm

Hamburg:

- Police Station 11, St. Georg, Kirchenallee 47
- Police Station 15, St. Pauli, Spielbudenplatz 31

Mecklenburg-Western Pomerania:

- Police Detention Centre, Ulmenstraße 54, Rostock
- Police Station at August Bebel Straße 6/7, Rostock

Schleswig-Holstein:

- Pinneberg Police Station

### Prisons:

Berlin:

- Moabit Prison
- Tegel Prison
- Köpenick Detention Centre for Foreigners, Grünauerstraße 140

Hamburg:

- Hamburg Remand Prison and Central Prison Hospital

Mecklenburg-Western Pomerania:

- Bützow Prison

## E. Poland

### Police and Border Guard establishments:

- Provincial Police Commands in Opole, Wałbrzych and Wrocław
- District Police Commands in Bydgoszcz-Wyżyny, Grudziądz, Opole, Toruń, Wałbrzych, Warsaw-Praga Południe, Warsaw-Praga Północ, Warsaw-Śródmieście and Wrocław-Śródmieście
- Local Police Station Warsaw-Praga Północ, Targówek I
- Local Police Station Warsaw-Praga Północ, ul. Motycka 15
- 4th Local Police Station in Toruń
- 1st Local Police Station in Wałbrzych
- Police establishments for children in Bydgoszcz, Toruń, Wałbrzych and Warsaw
- Police detention facilities in Warsaw and Wrocław for foreigners awaiting deportation
- Border Guard detention facilities at Warsaw International Airport

### Prison establishments:

- Grudziądz Prison No 1
- Strzelce Opolskie Prison No 2
- Warszawa-Białołęka Remand Prison
- Psychiatric Hospital at Wrocław Remand Prison

### Juvenile establishments:

- Correctional Establishment and Home for Detained Juveniles in Świdnica
- Correctional Establishment in Trzemeszno

### Military detention facilities:

- Arrest facilities at the Garrison Commands in Bydgoszcz and Toruń

### Other establishments:

- Sobering-up centres in Grudziądz, Opole, Toruń, Wałbrzych and Warsaw

## F. Switzerland

### Police and gendarmerie establishments:

Canton of Bern:

- Central Station of the Bern Municipal Police

Canton of Geneva:

- Central Station of the Geneva Police, Boulevard Carl-Vogt
- New Police Headquarters, Chemin de la Gravière
- Pécolat Gendarmerie Brigade
- Police Station and transit area at Geneva-Cointrin Airport

Canton of Tessin:

- Lugano Cantonal Police Detention Unit

Canton of Valais:

- Cantonal Police Stations, Brig and Sion
- Premises of the Criminal Police, Sion
- Municipal Police Station, Sion

Canton of Vaud:

- Lausanne Police Headquarters
- Yverdon Municipal Police Station

Canton of Zürich:

- Central Station of the Zürich Municipal Police
- Cantonal Police Station, Zürich Railway Station
- Police Station n° 5, Zürich
- Police Station and transit area at Zürich-Kloten Airport

### Prisons

Canton of Bern:

- Bern Regional Prison
- Schwarzenburg District Prison
- Prison ward at the Hospital de l'Ile, Bern

Canton of Geneva:

- Favra Remand Prison

Canton of Tessin:

- "La Stampa" State Prison, Lugano
- Mendrisio District Prison

Canton of Valais:

- Brig and Martigny Remand Prisons
- Sion Cantonal Prison

Canton of Vaud:

- Plaine de l'Orbe Prisons  
("Division d'attente" at Bochuz Prison)

Canton of Zürich:

- Zürich Cantonal Police Prisons
- Zürich District Prison

Health establishments:

Canton of Tessin:

- Secure Ward, Cantonal General Hospital, Lugano
- Cantonal Neuropsychiatric Hospital, Mendrisio

Other establishments:

Canton of Geneva:

- Asylum Seekers' Registration Centre (CERA), La Praille

## **II. AD HOC VISITS**

### **A. Greece**

- Attica State Mental Hospital for Children

### **B. Italy**

- Milan Remand Prison (San Vittore)

### **C. Portugal**

- Oporto Prison

### **D. Turkey (August 1996)**

- Eskişehir Special Type Prison

### **E. Turkey (September 1996)**

#### Police establishments:

- Police Headquarters at Adana, Bursa and Istanbul
- Central Police stations of the Beyoğlu and Eminönü Districts, Istanbul

#### Prisons:

- Adana E-type Prison
- Metris Closed Prison, Istanbul
- Sakarya E-type Prison