



The Prevention of Torture in Europe

CPT Standards regarding Prisoners

by Rod Morgan and
Malcolm D. Evans

Brochure no 6

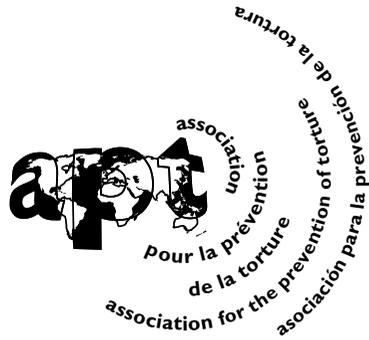


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The European Convention for the Prevention of Torture and its practical arm the European Committee for the Prevention of Torture (CPT) together form a unique international system. The Committee's independent experts can go at any time to any country that has ratified the Convention and visit any place of detention there such as prisons, police stations and psychiatric hospitals. The CPT then reports its findings and makes concrete recommendations for preventing torture and ill-treatment.

This unique approach makes the system worthy of study by everyone concerned with or interested in the treatment of persons deprived of liberty and the conditions in which they are detained. The Association for the Prevention of Torture has therefore decided to publish a handbook on the CPT comprising about ten brochures giving a simple practical account of the Committee's work, mandate and operation, the standards it has built up and the prospects for its co-operation with NGOs.



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FOREWORD

The Association for the Prevention of Torture (APT) is a non-governmental organisation based in Geneva, whose mandate is to prevent torture and ill-treatment. The APT seeks to ensure that norms forbidding torture are respected and to reinforce means for the prevention of torture, such as visits to places of detention. Thus, the APT is at the origin of the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (ECPT) which was adopted by the Council of Europe in 1987 and entered into force in 1989. This Convention establishes the *European Committee for the Prevention of Torture* (CPT), an expert committee which can visit prisons, police stations, psychiatric hospitals etc., in different European countries and, on the basis of what it sees, make recommendations to the authorities so as to diminish the risks of torture and ill-treatment.

Since 1990, the CPT has visited places of detention in about forty countries in Europe, but its work remains relatively unknown and poorly publicised. This is the reason why the APT is elaborating a practical handbook on the CPT. This handbook deals with the mandate and functioning of the CPT, the standards it has developed concerning the treatment of persons deprived of liberty and conditions of detention. It is supposed to be useful to persons interested in or concerned by the questions of detention conditions and treatment of persons deprived of their liberty: policemen, prison personnel, NGOs, lawyers, chaplains, detainees and their families...

This handbook will be composed of about ten brochures, which can be used separately or as a whole, for example in the context of NGO seminars or training sessions for persons concerned. The brochures will be published gradually during the next three years and cover the following aspects of the CPT's activities:

- Brochure 1: Collected texts
- Brochure 2: International and national framework for the combat against torture
- Brochure 3: Mandate and composition of the CPT
- Brochure 4: *Modus operandi* of the CPT
- Brochure 5: CPT standards on police and pre-trial custody
- Brochure 6: CPT standards regarding prisoners
- Brochure 7: CPT standards regarding specific categories of detainees
- Brochure 8: Co-operation between NGOs and the CPT
- Brochure 9: Practical Guide: Visits to places of detention
- Brochure 10: Country by country: a comparative analysis of the CPT's recommendations

The present brochure aims at giving an overview of the standards regarding prisoners and prison conditions developed by the CPT over the years. The first part of the brochure describes standards relating to physical conditions generally. The brochure then continues to consider regimes and accountability mechanisms within prisons.

AUTHORS' NOTE

The primary purpose of this brochure is to describe the standards relating to procedures and conditions developed by the European Committee for the Prevention of Torture (CPT) to safeguard prisoners and make less likely their ill-treatment. The principal source of these standards is the CPT's 2nd annual General Report paras. 44 to 60, but this initial statement has been developed in many subsequent country inspection reports, references to many of which are cited in the endnotes.

The standards set out in this brochure are of general application. However, the CPT has expanded upon their applicability in the context of particular categories of detainees and this will form the subject matter of Brochure Seven. It should also be noted that issues concerning pre-trial detainees are considered in Brochure Five, alongside matters concerning policing. There are clear overlaps between all these, but it is hoped that this division of material best reflects the needs of the users of these brochures.

The content of this booklet has been adapted from the Council of Europe publication "Combating torture in Europe: the work and standards of the European Committee for the Prevention of Torture" (ISBN 92-871-4614-4). We are extremely grateful to the Council of Europe for permitting us to incorporate major elements of that work into our own.

■ INTRODUCTION

Assuming that prisoners, whether on remand, convicted and awaiting sentence, or sentenced, should normally be held within a prison, the CPT has laid down certain standards which apply to all prisoners in all prisons. These range from basic physical conditions of detention, to aspects of regimes, to accountability mechanisms. In this brochure each of these aspects will be considered in turn. It must be highlighted at the outset that the CPT takes the view that “the decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention” and, in this context, “the standard of accommodation is central to the quality of life within a prison.¹”

I PHYSICAL CONDITIONS

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It is useful at this point to recall the essence of the CPT's approach, which is reflected in the following propositions:

"cells should offer sufficient living space for the prisoners they are used to accommodate, should benefit from good access to natural light and ventilation, and should be equipped with adequate artificial lighting and heating. Sanitary arrangements should permit inmates to comply with the needs of nature when necessary, in clean and decent conditions; either a lavatory should be located in cellular accommodation (preferably in a sanitary annex) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times, including at night. It is desirable for running water to be available within cellular accommodation, and prisoners should have adequate access to shower or bathing facilities. Cells should be suitably furnished (bed, table, chair/stool, storage space), all facilities/equipment should be in a good state of repair, and prisoners should be placed in a position to keep their accommodation in an adequate state of cleanliness.²"

1. Living accommodation and crowding

The CPT attaches particular importance to cell size and occupancy rates and, as has been seen, takes the view that certain levels of overcrowding can amount to *inhuman or degrading* treatment either in its own right or in combination with other oppressive aspects of custody. The basic guidance for prison cell space is the same as that for police cells. The CPT has recommended that the basic standard for prisoners, male and female, should not be less than 6 square metres per prisoner.³ Single cells of 6 square metres have been described as "rather small," but acceptable if their occupant can spend a significant portion of the day out of them and has recommended that cells measuring less than 6 square metres be taken out of service as prisoner accommodation.

In its 2nd General Report the CPT offered no guidance regarding multiply occupied cells, rooms or dormitories but has since done so in individual country reports. The Committee appears to have adopted a toleration threshold of approximately 9 square metres for two-person cells. Below this size two-person cells are considered "cramped"⁴ and cells of 7 square metres are said not to be suitable for more than one prisoner. Cells of 8.5 square metres are said, in principle, to be suitable only for sole occupancy, a formulation which suggests that the Committee recognizes that this is more of an aspiration than a "measuring rod" and it has since described cells measuring 8 to 8.5 square metres as providing "cramped accommodation for two."⁵ In relation to Turkey, the Committee recommended that cells of 7.7 square metres should never be used to hold more than two prisoners and "serious efforts" be made to reduce such cells to single occupancy.⁶

Further guidance on multiple occupation is available in the report on Slovakia where cells of 9-10 square metres contained two prisoners, cells of about 12 square metres three prisoners and cells of 16-17 square metres four prisoners. These cellular arrangements were judged “restrictive” but acceptable; their more intensive use was considered “unacceptable.”⁷ Likewise, the report on Romania indicated, with reference to police gaols, that cells of 10 square metres should not be used for more than two persons,⁸ and cells of 16 square metres should be used for no more than four persons for prolonged periods.⁹

Because of the lack of privacy and the increased risk of inter-prisoner predatory behaviour, the CPT generally considers large-scale dormitory accommodation unsatisfactory in prisons, whether overcrowded or not. Nevertheless, rooms of 21 square metres have been found acceptable for five prisoners (though four would have been preferable), the Committee has said that rooms of 25 square metres should accommodate no more than six prisoners,¹⁰ and rooms of 35 and 60 square metres have been said to be suitable for no more than seven and twelve prisoners respectively. The Committee has been prepared to tolerate somewhat lower thresholds, at least as an interim measure. The official occupancy levels at a Slovakian prison were,

“cells measuring 11-22 square metres – up to three prisoners; cells measuring 21-29 square metres – six or seven prisoners; cells measuring 25-38 square metres – eight or nine prisoners; cells measuring 31-35 square metres – ten prisoners; cells measuring approximately 40 square metres – twelve prisoners; and cells measuring 51 square metres – sixteen prisoners.”¹¹

Even these levels were not being met and the CPT accepted that they represented “a limited amount of living space.” Nevertheless, the Committee recommended that “the official occupancy rates... be not exceeded and steps be taken to reduce those rates,”¹² thus encouraging the Slovakian authorities to make progress towards acceptable levels over a course of time.

Thus, in spite of the Committee’s general reservations, large rooms may be considered acceptable if they provide at least 3 to 3.5 square metres per person, although even less space might be tolerable: the Committee said that a juvenile facility in Turkey in which 28 inmates were housed in a dormitory of 76 square metres “could hardly be described as generous” and expressed the view that “it would be desirable to reduce [this] somewhat.”¹³ However, these dormitories were used for sleeping only and would probably not have been considered acceptable had they been used for purposes other than sleeping.

■ 2. Hygiene

The CPT pays particular attention to hygiene and argues that “regular access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a human environment.”¹⁴

The Committee “disapproves” of “slopping out” and considers the need to discharge human waste without privacy in front of cell-mates into a pot or bucket (which invariably precedes “slopping out”) to be *degrading*. The Committee takes the view that “Sanitary arrangements should permit inmates to comply with the needs of nature when necessary in clean and decent conditions; either a toilet facility should be located in cellular accommodation (preferably in a sanitary annex) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times, including at night.¹⁵” If there is not a sanitary annex, lavatories should be fully partitioned from the rest of the cell,¹⁶ for otherwise prisoners “could be said to be living in a lavatory.¹⁷” On these grounds the CPT prefers integral sanitation to be provided in cell blocks where it is currently lacking by means of the “‘three cells into two’ system of sanitation” (by which the middle cell is in effect converted into two sanitary annexes for the cells on either side) as opposed to the “so-called ‘simple sanitation’” solution (whereby lavatories are placed in each cell).¹⁸ Where there are no lavatories in cells prisoners should not have to wait for more than ten to twenty minutes to gain access to a lavatory elsewhere.¹⁹

As far as washing is concerned, “prisoners should have adequate access to shower or bathing facilities. It is desirable for running water to be available within cellular accommodation.²⁰” Moreover the Committee has endorsed the European Prison Rules²¹ by stating that “access to bathing facilities at least once a week is an absolute minimum requirement” and in “an establishment where prisoners do not have ready access to either toilet facilities or running water, a shower once a week cannot be considered sufficient.²²” Nor, in especially warm weather, may twice-weekly access to a shower be sufficient, particularly for prisoners engaged in work. The Committee has also expressed the view that particular efforts should be made to ensure that prisoners who are about to appear before a magistrate, or court, are able to present themselves “in a manner which respects their human dignity”²³ – that is, clean and tidy. In some establishments the Committee has drawn attention to the inadequacy of bathing facilities by pointing to the poor ratio of showers to prisoners. In general, it appears that twice-weekly access for non-working prisoners and daily access for those who are working is considered satisfactory.

Prisoners should be provided with clean bed linen (sheets and blankets) and with soap and the regular supply of other personal hygiene products (for example, toothbrushes and toothpaste) should be given a high priority. This means that prisoners’ bed linen should regularly be changed and laundered. The Committee has said that a change of bed linen once a fortnight is inadequate and that if the prison does not launder prisoners’ clothes then facilities should be provided to enable prisoners to launder their own clothes and dry them. All newly arrived prisoners should be provided with a clean set of blankets and thereafter “provided with two clean sheets and one or more clean towels each week.²⁴” Materials should also be provided to enable prisoners to clean their cells. Oversight of general standards of prison hygiene should lie with prison health care services as part of their preventive health care responsibilities.

■ 3. Lighting, heating, ventilation and cell facilities

All cells should be equipped with a call system “preferably linked to a permanently staffed central monitoring point.”²⁵ It is not sufficient that prisoners be able to attract the attention of staff by calling or banging on their cell doors. In addition to beds and bedding, prisoners should be equipped with “appropriate furnishings (table, chair and cupboard)”²⁶ which should be in a good state of repair: in many countries the CPT has found this not to be the case.

The CPT has not stipulated an ideal temperature or temperature range for prisoner accommodation. However, the Committee has made it clear that there should be heating able to cope with wintry conditions and that excessive heating, whether artificial or natural, is also to be avoided. Further, all cells must be adequately ventilated. Thus in Linhó Prison, Sintra, Portugal, in January 1992 the delegation observed that the cells in two accommodation blocks had no means of being heated, the glass was missing from 50 percent of the windows and the cell temperature in the middle of the day was below 9°C. The Committee recommended that a high priority be given to re-glazing the windows and installing a heating system for use in the winter months.²⁷ At Basauri Prison, Spain, in April 1991 the visiting delegation considered that temperatures of 14°C and 16°C in the admissions and accommodation areas respectively were too low and recommended that heating facilities be either reviewed or installed.²⁸ At Sploeto Prison, Italy in October/November 1995, temperatures of 16°C in cells in the middle of the day were considered inadequate.²⁹

All prisoner accommodation should have access to natural light and prisoners should have some control over lighting and ventilation: light switches should be inside cells and prisoners should be able to open and close windows and shutters.³⁰ Indeed, the Swedish prison authorities were criticised because prisoners in the Stockholm Remand Prison did not have control over the Venetian blinds which screened their windows and “which added to the sense of oppressiveness” in them. In Iceland the Committee expressed concern that prisoners “had been obliged to cover ventilation grills” to prevent wind and sand from entering cells. Responsibility for the adequacy of the lighting, heating and ventilation of prison accommodation should lie with the prison health care services as an important aspect of preventive health care.³¹

■ 4. Food and drink

The CPT pays close attention to the quantity and quality of prisoners’ food. Although it has not stipulated, in the manner of 19th century prison administrators, precise calorific measures of dietary adequacy, it has sometimes commented on the measures laid down by local prison systems and on several occasions has found the quantity of food given to prisoners to be inadequate. The Committee is also concerned with the question of whether food is distributed to prisoners at “appropriate” times of the day. There should not be too long an interval between meals or

drinks. For example, a last meal at 16.00 with nothing further to eat or drink until 07.30 the following day has been judged "inappropriate"³² and the CPT has recommended that those in police custody have access to drinking water at all times.³³ It is not clear why the same standard has not been applied in prisons.

The Committee is also concerned with the manner in which the food is prepared and served. Prison kitchens should be properly ventilated and have separate cooking and storage facilities so as to safeguard culinary hygiene and prevent infestation. Hot food needs to be delivered to accommodation areas in insulated containers which ensure that it arrives hot and distribution needs to be properly supervised by staff to ensure that all prisoners obtain their fair share and that they have adequate time to eat. In those prisons where cells lack integral sanitation and where the practice still exists, the CPT considers it "both unhygienic and uncivilised" that "slopping out" should take place at the same time as food is distributed. Prisoners should also be provided with plates, cutlery and cups, since it is not considered ideal that they should eat from the containers used to keep their food hot or have to use their fingers. The Committee also considers that prisoners should be able to wash and dry their eating utensils without using the facilities and equipment used for their personal hygiene and should be provided with bowls and towels to enable them to do so.

The Committee considers dietary matters to be an important aspect of preventive health care. In consequence, it believes that responsibility for the adequacy of prisoners' diets should rest with the prison health care services. This perception has a bearing on the Committee's approach to the provision of special diets for prisoners. Although it has raised this issue from time to time, it is not clear whether the Committee's concern is limited to those who have special *needs* on medical grounds, or whether it also extends to those who have dietary preferences, such as vegetarianism, or whose special needs are based on their religious affiliation.

II REGIMES

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1. Activities

In its 2nd General Report the CPT stated that: “A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments....³⁴” The Committee, as has been seen, is particularly concerned about the generally impoverished conditions in which pre-trial prisoners are often held and recommended that such prisoners should spend at least eight hours each day out of their cells “engaged in purposeful activity of a varied nature.” The Committee added that “regimes in establishments for sentenced prisoners should be even more favourable,”³⁵ an expectation which could be described as ambitious. This means that there must be sufficient places for all prisoners in workshops or educational programmes. The Committee frequently finds that this is not the case and recommends that provision be enhanced.

Where prisoners are serving long-term sentences the regime facilities should be linked to “individualised custody plans” in order to assist prisoners “to come to terms with their period of incarceration and to prepare for release.³⁶” This is interpreted to mean that educational programmes for long-term prisoners should comprise more than elementary courses: they should cater to both the “initial and developmental needs” of long-term sentenced prisoners.

Finally, as was seen in relation to pre-trial prisoners, the Committee stresses the importance of exercise: all prisoners, including those undergoing cellular confinement as a punishment, should have “at least one hour of exercise in the open air every day” in spacious conditions where they can “exert themselves physically.³⁷”

2. Controls and restraints

All places of custody, whether police or penal, are by definition intrinsically coercive and the CPT acknowledged from the outset that: “prison staff will on occasion have to use force to control violent prisoners and, exceptionally, may even need to resort to instruments of physical restraint.³⁸” The Committee might, though it did not, have made the same point vis á vis the police, both with regard to police actions at the point of apprehension or arrest or subsequently. The Committee did not, however, initially specify what forms of force and restraint were acceptable or unacceptable. Rather, the Committee underlined its view that the best guarantee against the ill-treatment of prisoners was the presence of a properly trained and thoroughly professional staff whose inter-personal skills were such that they would be able successfully to carry out their duties “without having recourse to ill-treatment.³⁹” The possession of such skills would enable staff “to defuse a situation which might otherwise turn into violence”⁴⁰ and should

also ensure that where use of force is justified, it is not more than is reasonably necessary to safeguard the physical integrity of staff or other prisoners or to prevent serious damage to property.

In a number of countries the CPT has found that prison staff do unprofessionally resort to violence and has recommended remedies, including training in “control and restraint techniques.” These techniques enhance staff confidence, enable them “to choose the most appropriate response when confronted by difficult situations” and have “an important part to play in minimising the risk of injury to prisoners,⁴¹ particularly in situations where it may be necessary for inmates to be moved by force from one area of an establishment to another.⁴²”

However, the CPT has expressed doubts about, and in a few cases unequivocally condemned, the employment of certain control techniques or devices. In the Czech Republic, for example, the CPT noted that Czech law permits the use of the following to coerce prisoners: batons, self-defence techniques, wrist escort chains and handcuffs, restraint belts with or without handcuffs, incapacitating gas, electric shock devices, dogs, water cannons, guns, explosive devices causing temporary blindness, hitting with the butt of a weapon, threat of the use of firearms, and warning shots. The Committee’s view is that hitting with the butt of a weapon and electric shock devices “should never be used in a prison” and use of incapacitating gas and explosive devices can only be justified in “very exceptional circumstances.” Handcuffs can legitimately be resorted to in many situations, but these do not include attaching prisoners to their beds or to wall rings when confined in a cell – an “unacceptable practice”⁴³ – nor handcuffing female prisoners to their hospital beds preparatory to or during childbirth – a “flagrantly inhuman and degrading” practice. Further, when the CPT encountered aggressive prisoners being “hosed” with water the Committee took the view that this is not justified where the “recalcitrant prisoner... is not acting in concert with others.”⁴⁴

These formulations illustrate a general point. A control technique which may be judged permissible in certain circumstances may not be in other circumstances. Moreover, a device may be deemed acceptable when used exceptionally, but indefensible when used routinely. It is for this reason that the CPT tends, when faced with dubious control techniques or equipment, to ask the relevant prison authorities to clarify the circumstances under which prison staff are authorised to use the technique or equipment and explain what training they are given in its use.

The CPT has on several occasions expressed concern about the safety of certain restraint techniques, particularly those it has found used by some police. In Denmark in 1996, for example, the Committee was exercised by the reported use by the police of various “leg locks” capable of being used in an “over-zealous fashion leading, allegedly, to serious injury.” The CPT also received complaints that Danish police officers occasionally dragged arrestees by their handcuffed wrists without “providing any support to their arms and shoulders” a method of suspending someone which “can – if prolonged – cause peripheral nerve damage of a potentially serious nature.”⁴⁵ Likewise in the UK in 1997 the Committee expressed concern about the reported use

by the Metropolitan Police in London of neckholds leading in certain cases to death by asphyxiation. The Committee noted that Metropolitan Police training did not include neckholds, that use of such restraints was not encouraged because of their “inherent dangers” but were nevertheless not ruled out: officers were given the discretion to decide whether use of this type of force was “reasonable in the circumstances.” The Committee did not consider this advice well-framed: they asked to see copies of revised guidance and training programmes on restraint techniques.⁴⁶

All occasions when force is used are clearly high-risk situations regarding the possible ill-treatment of prisoners, and as such call for specific safeguards.

“A prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. This examination should be conducted out of the hearing and preferably out of the sight of non-medical staff, and the results of the examination (including any relevant statements by the prisoner and the doctor’s conclusions) should be formally recorded and made available to the prisoner. In those rare cases when resort to instruments of physical restraint is required, the prisoner should be kept under constant and adequate supervision. Further, instruments of restraint should be removed at the earliest possible opportunity: they should never be applied, or their application prolonged, as a punishment. Finally, a record should be kept of every instance of the use of force against prisoners.⁴⁷”

Clearly this injunction would likely be regarded as unrealistic by the police: the CPT has applied it only to prisons. The application of these standards to prisoners subject to disciplinary or high security measures is discussed in Brochure 7.

■ 3. Prisoners’ contact with the outside world, privacy and confidentiality

The CPT accepts that all contacts between prisoners and the outside world must be controlled. However, the controls should not be disproportionate and arrangements for visits should generally be as “open” and relaxed as possible.⁴⁸ The Committee takes the view that prisoners must be able to safeguard their relationships with their families and close friends and that the guiding principle for prison authorities should be that prisoners’ outside contacts are to be promoted and that “limitations upon such contact [are to be] based exclusively on security concerns of an appreciable nature or resource considerations.⁴⁹” Further, where prisoners are denied visits from certain individuals on security grounds, those prohibitions should be reviewed from time to time in order to assess the continued validity of the prohibition.

The following examples provide some indication of what the CPT considers appropriate. As far as correspondence is concerned, in Aruba the CPT criticised the failure of the prison authorities to provide notepaper, pencils and stamps so that prisoners could write letters, and elsewhere the Committee has emphasised that

prisoners' correspondence should be dispatched or distributed promptly. The Committee also considers it preferable that prisoners' letters should "be examined, rather than read, by prison staff" and, if it is necessary to read a prisoner's letter, it "should be done in the presence of the inmate concerned."⁵⁰

As regards the use of a telephone, in Spain in 1991 and in Malta in 1995 an allowance of one telephone call per month for foreign prisoners was considered inadequate and the authorities were asked to consider increasing the entitlement. In Spain the Committee criticised the inflexibility of a rule that newly admitted prisoners could not make their first telephone call to their family for a period of 15 days and recommended that they be allowed to call "as soon as possible after their admission to the establishment."⁵¹ Where telephone facilities are lacking the Committee has recommended that provision be made for prisoners to receive and send telephone calls. As has already been mentioned, a total ban on the use of telephones by remand prisoners has been the subject of reported criticism by the CPT.

As far as visits are concerned, in France in 1991 the Committee considered the practice of permitting sentenced prisoners to receive one 30-minute visit each week, and remand prisoners three 30-minute visits each week, to be adequate.⁵² Elsewhere, visits of half an hour per month for pre-trial prisoners have been judged "not sufficient to maintain good relations with family and friends" and a recommendation made that the allowance be increased. In Slovakia in 1995 a minimum entitlement, which was largely adhered to, of adult remand prisoners receiving a visit of 30 minutes every month, and of juvenile remand prisoners receiving a visit of 30 minutes every fortnight, was considered inadequate and it was recommended that the entitlement "be increased substantially." In Slovenia the entitlement of remand prisoners to a visit of only 15 minutes every week was considered insufficient.

Rules regarding visits and the use of telephones should be applied flexibly in cases where a prisoner's family lives some distance away: such prisoners should be able to accumulate visiting entitlements or have the opportunity of using the telephone as a substitute for visits.⁵³ The CPT has also commended the practice of making special arrangements to assist visitors to travel to the prisons under such circumstances.

Prisoners' visiting rooms should be welcoming and sufficiently quiet and well organised for prisoners to be able to converse with their visitors without having to shout to them (this applies particularly to "closed" visiting booths, these being rooms in which the prisoner is physically separated from his or her visitor by a glass or plastic screen), there should be seats for everyone taking part and there should be areas or rooms where prisoners can talk confidentially with their lawyers. It is not considered appropriate to install listening devices in rooms intended for the use of prisoners to meet with their lawyers.

The Committee has commended the provision of extended "family" or "conjugal visits," provided that "such visits take place in conditions which respect human dignity,"⁵⁴ something the Committee has not always found to be the case. Such visits should take place in "home-like conditions, thereby favouring the

maintenance of stable relationships between prisoners and their parents, spouse or partner and children.⁵⁵”

Finally, the CPT pays close attention to reception facilities and particularly to the confidentiality of a prisoner’s personal information. Reception interviews often concern the nature of the prisoner’s offence, possible fears of the prisoner regarding other prisoners, or information concerning medical conditions or medical histories, some aspects of which may be sensitive. Such interviews should be conducted out of the sight and hearing of other prisoners, including not only other new arrivals but other prisoners working as reception orderlies. In addition, staff notes and prisoner files, including medical files, should not be seen by other prisoners. The CPT has found reception arrangements wanting in these respects on a number of occasions. The Committee has also found shortcomings regarding the degree of privacy afforded prisoners during staff searches of their persons or property.

■ 4. Staffing

The CPT attaches great importance to the training of prison staff in human rights awareness and staff being able to carry out their difficult duties without recourse to ill-treatment. The Committee believes that an aptitude for interpersonal communication should be a major factor in staff recruitment.⁵⁶ Thus in a number of country reports the CPT has commented critically on: the absence of commitment by staff to entering into “a constructive dialogue” with prisoners; provocative behaviour by staff towards prisoners; a “minimalist” approach by staff to their work; the adoption by staff of a “militaristic” or “defiant” attitude towards prisoners; and the use of prisoner “trusties” as a buffer between prisoners and staff. Any behaviour indicating disrespect for prisoners should be avoided, and on at least one occasion the CPT has recommended that drawings or signs in staff offices or general areas connoting disrespect should be removed. Further, the Committee has repeatedly indicated that it favours the employment of female staff in male prisons on the grounds that it “can improve the general atmosphere in detention areas.⁵⁷”

The CPT sets great store by prison governors or directors regularly visiting all parts of the institutions for which they are responsible, and making themselves available to prisoners in such a manner that prisoners are able to speak in confidence to them. Moreover, because some prison officers ill-treat their charges – something which some prison governors readily acknowledge, but sometimes contend they are not empowered to resolve – the Committee considers that prison governors must have the “necessary means to enable them effectively to manage the prisons of which they have charge.” This may mean delegating to them greater powers to discipline staff.

One aspect of the duty of care owed by prison authorities to prisoners that has concerned the Committee during the course of visits of inspection is the adequacy of staffing levels. The Committee has not set out either an ideal or a minimum staff prisoner ratio but it has on several occasions criticised staff prisoner

ratios which it considers to be unacceptably low or dangerously inadequate. For example, in Korydallos Prison for Men, Greece, in 1993, the CPT could not see how prisoner control could satisfactorily be assured with three or four officers to a wing which accommodated 350 freely circulating prisoners for most of the day.⁵⁸ At Linhó Prison, Portugal, in 1992, the CPT could not see how three officers on duty at night could adequately respond to the needs of 500 prisoners and recommended that staffing provision be reviewed.⁵⁹ In Spain in 1994 the Committee considered inadequate the provision of four prison officers to a wing at the Madrid 1 Prison containing 600 prisoners: it made "the provision of an acceptable regime of activities well-nigh impossible."⁶⁰ Again in Portugal, on this occasion at Oporto Prison in 1996, the CPT did not think that the provision of three prison officers to a wing housing 400 prisoners during the day, when the prisoners were free to circulate, was sufficient to exert control.⁶¹ The Committee was particularly disturbed by the (arguably understandable) behaviour of the officers, who seldom entered the wing, failed to intervene when trouble erupted and who employed privileged prisoners to exert authority over fellow prisoners. The arrangements gave strong prisoners a virtually free hand to exploit their fellow prisoners. In Aruba in 1994 the CPT was concerned by the level of prison officer absenteeism and recommended that a plan be forged to combat it. Concerns were also expressed regarding staffing levels at Gherla Prison in Romania in 1995, where, in a prison housing a total of 2,672 prisoners, the full staff complement amounted to only 252 uniformed officers and 14 civilian personnel.

It is impossible to distill from these varied statements any CPT guidelines for staff/prisoner ratios comparable to, for example, prisoner/space ratios. This is not an issue in which the CPT has shown any sign of wishing to get involved. Further, it is not a policy issue about which one can draw deductions from the limited observations which the CPT has made because the examples cited above include two very different statistics. In the case of Gherla Prison, Romania, the CPT expressed concern about an overall staffing complement, whereas in the other cases it was a staff/prisoner ratio in a particular location at a particular period during the day or night which caused concern. Neither form can easily be converted to the other. A rough rule of thumb is that whatever the overall complement of prison staff for an institution, or police officers for an area, at most a quarter of the staff can be expected to be on duty at any one time. This is because the staff typically have to be assigned to four shifts, three to cover the 24-hour clock, and one of which is on leave, or different groups of staff work almost continuously for several days and then have time off, to much the same effect. Sickness, training and other abstractions have also to be provided for. This means that, at Gherla Prison, the overall staff complement likely provides for approximately 63 staff to be on duty to supervise 2,672 at any one time, a staff/prisoner presence of 1/42.4. This *appears* to provide for a greater staff presence than is implied in the other cases cited, where the officers on duty had anything between 87 and 167 prisoners each to supervise. In fact, however, the overall staff/prisoner ratio at Gherla is at 1/10 an astonishingly low ratio by international standards (in most institutions in Western Europe figures between 1/1 and 1/3 would, depending on the security status of the prison, be typical). It is probable that, had the CPT given

the overall staff complements in the institutions concerned, they would have been very much more favourable than at Gherla. What is at issue, therefore, is *either* the overall staffing complement, *or* the allocation of staff to particular locations, *or* both the overall complement and the operational allocation of staff, the latter ultimately being constrained by the former.

It would appear that the CPT is reluctant to comment on an overall staff/prisoner ratio unless it is so poor that there are manifestly insufficient staff to maintain a secure presence in all situations. The Committee is willing to comment on whether adequate numbers of staff are allocated to particular situations where the safety of prisoners is threatened. The remedy thereafter lies with policy-makers: either more staff may be recruited or prisoner numbers reduced, or staff can be more effectively allocated.

Finally, the CPT has on several occasions encountered custodial centres, including prisons, where, contrary to the guidance contained in the European Prison Rules, prison staff have worn firearms while in the presence of prisoners. The Committee considers this practice to be dangerous and undesirable. Finally, the Committee has encountered prisons – in Bulgaria, for example – where the staff had a tendency to “brandish truncheons in the detention areas.” The CPT does not consider this practice to be conducive to positive prisoner staff relations and recommends that “if it is considered necessary for [staff] to carry truncheons, these should be hidden from view.⁶²”

■ 5. Medical Care

The CPT has always devoted a substantial portion of its inspection reports to questions of medical care and in its 3rd General Report the Committee went into some considerable detail regarding its general expectations regarding medical care. Because the general principles which the Committee has set out overlap with the provisions which the Committee considers should be made for vulnerable prisoners with medical or psychiatric ailments or illnesses, these issues are covered in Brochure 7.

III ACCOUNTABILITY MECHANISMS

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The CPT recommends that, in addition to the keeping of records concerning the use of force, all prisons should have “effective grievance and inspection procedures.” Grievance ventilation systems should have two aspects, one within the prison system and one outside of it. Moreover, the CPT favours systems of independent inspection of prisons by authorities, whether supervisory penal judges or lay bodies like the English Boards of Visitors, which possess “powers to hear (and if necessary to act on) complaints from prisoners and to inspect the establishment’s premises.⁶³”

Where lay visiting bodies exist, the CPT considers it desirable that they should receive appropriate training and that they should be recruited so as to “reflect the different elements in the community.⁶⁴” In order to enhance and emphasise their independence and impartiality, they should ideally be appointed by an authority other than the prison administration. It appears to be assumed that such an outside authority would never appoint members of the prison administration to visiting bodies: of course, were they to do so, the visiting body would cease to be “lay.” Members should also serve for more than a year in order to provide for some continuity of membership. Such bodies should publish an annual report on their activities and the CPT considers that their independence is compromised by having prison staff as their secretaries.

Those responsible for undertaking inspection and grievance-ventilation visits should visit regularly – “preferably weekly or at least monthly.⁶⁵” It follows that they must have sufficient resources to enable them to do that. They should also make themselves “visible,” that is, they “must not restrict their contacts to persons who have expressly requested to meet them, but should take the initiative by visiting the prison’s detention areas and entering into contact with inmates.⁶⁶” Moreover, prisoners should be able to have confidential access to them. The CPT also considers it essential that such persons be “authorised to have direct contact with governmental and/or parliamentary authorities. In certain situations, to fulfil [their] functions effectively, [they] must be able to address [themselves] to someone other than just the head of the establishment concerned.⁶⁷”

The CPT has on several occasions found wanting the performance of officials responsible for inspecting prisoners and listening to prisoners, in which circumstances the Committee recommends that the authorities consider establishing an independent body to undertake the task.

- 1 CPT/Inf (2000) 11 (Andorra), para. 39.
- 2 *Idem*.
- 3 CPT/Inf (98) 13 (Poland), para. 70. This is the standard for ordinary prison cells. A rather less demanding standard appears to be applied to dormitories as opposed to cells (see below).
- 4 CPT/Inf (94) 17 (UK), para. 119. But cf. CPT/Inf (96) 18 (Slovenia), para. 63, where the dual occupancy of such cells was considered "cramped" rather than unacceptable.
- 5 CPT/Inf (2000) 1 (UK), para. 73, although since this also included an unpartitioned toilet facility, the Committee concluded that such cells were suitable only for single occupancy.
- 6 CPT/Inf (99) 2 (Turkey), para. 97.
- 7 CPT/Inf (97) 2 (Slovakia), para. 75. But cf. CPT/Inf (2000) 1 (UK), para. 111 where 11.5 square metres was described as offering only "mediocre" living space for three prisoners.
- 8 Thus in CPT/Inf (99) 5 (Ireland), para. 61 the CPT expressed its concern that plans for new accommodation included cells of 10.65 square metres which were intended to house three persons.
- 9 CPT/Inf (98) 5 (Romania), para. 55. See also CPT/Inf (98) 11 (Belgium), para. 116, where 9 square metres for two persons and 14 square metres for three persons were on the threshold of acceptability. See also CPT/Inf (2000) 5 (Spain), para. 72, where holding three of four persons in cells of 10 square metres was considered "unacceptable." In CPT/Inf (98) 7 (France), para. 102, 13 square metres were said to be adequate for three but not four prisoners.
- 10 CPT/Inf (91) 10 (Austria), para. 66.
- 11 CPT/Inf (97) 2 (Slovakia), para. 86. Cf. CPT/Inf (98) 5 (Romania), para. 56, where 14 female prisoners in 36 square metres were considered less than satisfactory and CPT/Inf (99) 2 (Turkey), para. 107, where 24 women and 5 children in 55 square metres was "overcrowded."
- 12 CPT/Inf (97) 2 (Slovakia), para. 90.
- 13 CPT/Inf (99) 3 (Turkey), para. 127.
- 14 CPT 2nd General Report, CPT/Inf (92) 3, para. 49.
- 15 CPT 2nd General Report CPT/Inf (92) 3, para. 49 and, for example, CPT/Inf (2000) 11 (Andorra), para. 39; CPT/Inf (99) 9 (Finland), para. 73.
- 16 CPT/Inf (2000) 1 (UK), para. 115; in CPT/Inf (98) 13 (Poland), para. 7, "suitably partitioned."
- 17 CPT/Inf (96) 11 (UK), para. 80; CPT/Inf (96) 31 (Portugal), para. 99.
- 18 CPT/Inf (97) 4 (Denmark), para. 88; CPT/Inf (96) 11 (UK), para. 398.
- 19 CPT/Inf (92) 4 (Sweden), para. 47; CPT/Inf (93) 15 (Netherlands), para. 39.
- 20 CPT 2nd General Report, CPT/Inf (92) 3, para. 49
- 21 Rule 18.
- 22 CPT/Inf (91) 16 (UK), para. 74.
- 23 CPT/Inf (98) 7 (France), paras. 105 and 107.
- 24 CPT/Inf (96) 9 (Spain), para. 181.
- 25 CPT/Inf (97) 5 (Cyprus), para. 78; see also CPT/Inf (94) 13 (San Marino), para. 43.
- 26 CPT/Inf (96) 1 (Netherlands Antilles), para. 96.
- 27 CPT/Inf (94) 9 (Portugal), para. 81.
- 28 CPT/Inf (96) 9 (Spain), para. 183.
- 29 CPT/Inf (97) 12 (Italy), para. 118.
- 30 CPT/Inf (91) 12 (Denmark), paras. 40 and 83.
- 31 CPT 3rd General Report, CPT/Inf (93) 12, para. 53.
- 32 CPT/Inf (96) 1 (Netherlands Antilles), para. 87.
- 33 CPT/Inf (97) 7 (Switzerland), para. 32.
- 34 CPT 2nd General Report, CPT/Inf (92) 3, para. 47.
- 35 *Idem*.
- 36 CPT/Inf (97) 4 (Denmark), para. 91.
- 37 The CPT has on several occasions found that prisoners subject to disciplinary or security considerations are required to exercise in cages, pens or yards too small for this criterion to be satisfied and on occasion has found that there is no provision for exercise. See, for example, CPT/Inf (96) 31 (Portugal), para. 35.
- 38 CPT 2nd General Report, CPT/Inf (92) 3, para. 53
- 39 *Ibid*, para. 59.
- 40 *Ibid*, para. 60.
- 41 And staff – see *Ibid*.
- 42 CPT/Inf (95) 14 (Ireland), paras. 75-76; CPT/Inf (99) 15 (Ireland), paras. 41-2.
- 43 CPT/Inf (98) 9 (Spain), paras. 53 and 60.
- 44 CPT/Inf (99) 9 (Finland), para. 53.

- 45 CPT/Inf (97) 4 (Denmark), paras. 13 and 14.
- 46 CPT/Inf (2000) 1 (UK), paras. 64-66.
- 47 CPT 2nd General Report, CPT/Inf (92) 3, para. 53.
- 48 See, for example, CPT/Inf (96) 9 (Spain), para. 169; CPT/Inf (97) 2 (Slovakia), para. 129.
- 49 See, for example, CPT/Inf (93) 2 (France), para. 130
- 50 *Ibid*, para 75.
- 51 CPT/Inf (96) 9 (Spain), para. 175-6.
- 52 CPT/Inf ((93) 2 (France), para. 131.
- 53 CPT 2nd General Report, CPT/Inf (93) 2, para. 51.
- 54 CPT/Inf (94) 9 (Portugal), para. 149.
- 55 CPT/Inf (91) 10 (Austria), para. 134; CPT/Inf (98) 11 (Belgium), para. 185.
- 56 CPT 2nd General Report, CPT/Inf (93) 2, paras. 59-60.
- 57 CPT/Inf (97) 1 (Bulgaria), para. 155.
- 58 CPT/Inf (94) 20 (Greece), para. 107.
- 59 CPT/Inf (94) 9 (Portugal), para. 100.
- 60 CPT/Inf (96) 9 (Spain), para. 181.
- 61 CPT/Inf (98) 1 (Portugal), para. 13.
- 62 CPT/Inf (97) 1 (Bulgaria), para. 108.
- 63 CPT 2nd General Report, CPT/Inf (92) 3, para. 54.
- 64 CPT/Inf (97) 5 (Cyprus), paras. 105-7.
- 65 CPT/Inf (97) 5 (Cyprus), paras. 105-7.
- 66 CPT/Inf (97) 1 (Bulgaria), para. 175; CPT/Inf (98) 5 (Romania), para. 143.
- 67 CPT/Inf (97) 1 (Bulgaria), para. 175; CPT/Inf (98) 5 (Romania), para 143.

