



European Parliament
Directorate-General for
EXTERNAL POLICIES
OF THE UNION

VISITING PLACES OF DETENTION OUTSIDE THE EU

**A guide for Members
of the European Parliament**

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1 Context and aim of this guide

In accordance with its founding principles of liberty, democracy and respect for human rights, fundamental freedoms and the rule of law¹, the European Union is committed to supporting democracy and human rights in all its external relations and activities. Respect for human rights features among the key objectives of the EU's Common Foreign and Security Policy (CFSP). The EU's objective is to encourage non-EU countries (also known as 'third countries') to take effective measures against human rights abuses, including in places of detention, and to sign up to, and comply with, the relevant international norms and standards.

Furthermore, the EU Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment stress that: 'Torture and ill-treatment are among the most abhorrent violations of human rights and human dignity'². Indeed, torture is absolutely prohibited by international law. 'To work towards the prevention and the eradication of all forms of torture and ill-treatment within the EU and world-wide is a strongly

¹ The EU's founding values are 'respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights' (Article 2 of the Treaty on European Union).

² EU Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, 6129/1/12REV1, COHOM 57, Brussels, 20 March 2012, p. 1. Online at <http://www.consilium.europa.eu/uedocs/cmsUpload/8590.en08.pdf> (accessed 28 June 2015).

held policy view of all EU Member States. Promotion and protection of this right is a priority of the EU's human rights policy³.

The European Parliament (EP) contributes to the EU's external policies and monitors the work of the other EU institutions, including the European External Action Service (EEAS). As emphasised in the Guidelines for EP Interparliamentary Delegations on promoting human rights and democracy in their visits to non-EU countries, 'EP Interparliamentary delegations contribute to the development and reinforcement of democracy, the rule of law and the respect of human rights and fundamental freedoms [...].'

In its resolution of 11 March 2014 on the eradication of torture in the world, Parliament 'welcomes the fact that the guidelines [on torture] reflect a holistic policy approach, including the promotion of an adequate legislative and judicial framework for the effective prevention and prohibition of torture [and] monitoring of places of detention'⁴ and calls 'for the adoption of a practical guide for parliamentarians on visiting places of detention as part of regular visits to third countries by European Parliament delegations'⁵.

³ Ibid., p. 2.

⁴ European Parliament resolution of 11 March 2014 on the eradication of torture in the world, paragraph 8. Texts adopted, P7_TA(2014)0206. Online at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0206+0+DOC+XML+V0//EN> (accessed 29 June 2015).

⁵ Ibid, paragraph 25.

Accordingly, this guide is addressed to Members of the European Parliament (MEPs) who visit places of detention as part of country missions. The 'detention portfolio for places of detention in non-EU countries' lies with Parliament's Committee on Foreign Affairs (AFET) and its Subcommittee on Human Rights (DROI). Both entities may send *ad hoc* delegations to third countries. Furthermore, Parliament's various standing delegations for relations with third countries may also conduct visits to places of detention.

In the context of the human rights framework, the aim of this guide is to assist MEPs in carrying out visits to places of detention as part of their third-country visits, to foster harmonised and structured practices and to reinforce the EU's human rights policy in general. The guide does not cover unofficial or informal visits conducted by MEPs or EP political groups on their own initiative.

To summarise, this guide is intended to assist MEPs in visiting places of detention as part of third-country missions by:

- sensitising them and raising their awareness of 'do's and don'ts' when visiting places of detention;
- outlining basic legal standards relating to detention;
- introducing a specific methodology for visiting places where people are deprived of their liberty. This methodology is divided into the different stages of such visits – the preparation phase, the visit itself, and the follow-up; and

- highlighting some of the main elements and risk areas to be looked at in relation to detention.

2 Why do Members of the European Parliament need to visit places of detention?

By their very nature, places of detention are shut off from the rest of the world and keep those inside out of sight. Allowing access by outsiders, including MEPs, contributes to the transparency of places of detention, which is a critical element of any system based on the principles of democracy and the rule of law.

WHAT IS MEANT BY 'PLACES OF DETENTION'?

The term 'place of detention' is understood broadly to include any place where a person is deprived of liberty. In particular, this includes prisons, police stations, centres for migrants and/or asylum seekers, centres for juveniles, social care homes, psychiatric institutions, military prisons or cells for military personnel, and any other place where people can be deprived of their liberty.

This guide will, however, focus mainly on visiting 'places of detention' that come under the criminal justice system and, in a more limited way, on administrative detention,

without entering into the specifics of each different type of place of detention⁶. It will not cover all types of administrative detention but rather focus on immigration detention. This is in response to the growing tendency around the world to detain migrants, and to the worrying use of detention as a migration management tool, which makes this category of detainee particularly vulnerable and exposed to the risk of ill-treatment and torture.

Detention under the criminal justice system: a person is in a criminal detention facility (for example, a prison or a police station) because he or she is either under suspicion of having committed a crime or has been convicted of a crime under the national law of the country concerned. A person can also be detained at the request of another country pending extradition or deportation, or be detained or serve a sentence at the request of an international tribunal. In some countries, unauthorised or irregular entry or stay in the territory without proper documentation has been criminalised and can lead to imprisonment under the criminal justice system.

⁶ Visiting certain places of detention, such as psychiatric institutions, centres for juveniles and social care homes, requires a specific approach, although some of the general concepts are applicable.

Administrative detention on grounds of migration status: in many countries, violations of immigration law (alleged breaches of conditions of entry, stay or residence in a territory) lead to immigration detention. Administrative detention refers to arrest and detention without charge or trial ordered by administrative authorities rather than judicial bodies or courts. Authorities usually detain migrants for the purpose of verifying their identity, during the refugee determination process, and/or when a deportation decision has been made, in order to ensure that the migrant does not abscond.

Visiting place(s) of detention in third countries will sensitise MEPs to the reality of detention conditions and the treatment of people deprived of liberty. They will be able to:

- obtain first-hand information about the situation, and possibly have direct contact with people deprived of their liberty;
- observe the facilities (layout and conditions) and how they are managed;
- gain an overall impression of the general atmosphere.

This will ultimately result in a more informed EU foreign policy on key issues relating to detention and torture prevention. It sends a message that MEPs and the EU care about the fate of detainees.

EXAMPLE: THE VALUE OF VISITING A DETENTION CENTRE IN QATAR

'While visiting the Detention and Deportation Center, the delegation was able to hold direct discussions with detained migrants. These discussions reinforced the assessment of the delegation that many of the problems related to the Kafala system remain very serious. Notably, the Qatari authorities should further step up their efforts to enforce the ban on confiscating passports, and to ensure due accountability and prosecution for all violators of the laws designed to protect the migrants' rights. The delegation expresses particular concern about the detention of children, and of individuals detained solely because they have fled their employers, and calls on the Qatari authorities to follow the UN recommendation to replace that practice with appropriate shelters designed to protect the people concerned'⁷.

⁷ Joint Statement of Parliament's delegation for relations with the Arab Peninsula and the Ad hoc delegation on the situation on migrant workers, Doha, 24 March 2014:

<http://www.europarl.europa.eu/document/activities/cont/201403/20140325ATT81738/20140325ATT81738EN.pdf>

KEY PRINCIPLES FOR MONITORING PLACES OF DETENTION

Visiting a place of detention is a sensitive task. It is recommended that MEPs respect the following basic principles, based on UN good practice⁸:

- **Do no harm**

People deprived of their liberty are particularly vulnerable to human rights violations, and their safety is of paramount importance. MEPs should not take any action or measure that could endanger an individual or a group.

- **Respect those deprived of their liberty**

Whatever the reasons for the deprivation of their liberty, detainees must be treated with respect and courtesy. MEPs should introduce themselves to the detainee(s).

- **Respect authorities and staff in charge**

It is important to establish at least a minimum level of respect between staff and MEPs in order to ensure that the visit is constructive. Although the staff of the place of detention may in some cases be implicated in human rights violations, problems are often related to broader systemic issues such as the social status or working conditions of staff.

⁸ These principles draw inspiration from the 18 basic principles of monitoring identified in the *United Nations Training Manual on Human Rights Monitoring* (Chapter V) and presented in more detail in the Association for the Prevention of Torture's 2004 publication *Monitoring Places of Detention: A practical guide*, pp. 27-31.

- **Respect confidentiality**

Information obtained through private interviews with detainees must be kept strictly confidential. MEPs, medical staff and interpreters must all be sworn to confidentiality. MEPs should never refer to an individual detainee by name without his or her informed consent. Furthermore, MEPs need to ensure that detainees clearly understand the potential implications, both positive and negative, of disclosing their identity.

- **Respect security**

Security encompasses both the personal security of the visitors and the detainees themselves and the general security of the place of detention. MEPs should follow internal rules and ask for authorisation for any additional specific requests, especially given that external visits could be considered intrusive.

- **Behave with integrity**

MEPs should treat all detainees, authorities, staff and fellow visitors with decency and respect. In all their dealings, they should operate in accordance with human rights principles.

3 How to carry out visits to places of detention

Monitoring places of detention is a process comprising three main stages: preparation, the visit itself, and follow-up. Visits must be negotiated with the authorities; this may affect the way in which they are carried out, especially as regards preparation and follow-up.

3.1 Preparation of the visit

3.1.1 Preliminary agreement and objectives of the visit

MEPs must seek authorisation and negotiate access to places of detention as part of their country mission.

There is, unfortunately, no golden rule as to how to gain access, but MEPs could consider taking the following steps:

- informing the relevant embassy in Brussels before the country mission and, if possible, obtaining a formal authorisation letter from that embassy before leaving; and
- informing the relevant EU Delegation so that it can inform the authorities.

EXAMPLE: DENIAL OF ACCESS TO A PRISON IN ETHIOPIA EVEN THOUGH PRIOR HIGH-LEVEL APPROVAL HAD BEEN OBTAINED

'MEPs asked for the possibility of visiting the Kaliti prison, which would have allowed for a first-hand experience of the detention conditions. They called for further efforts, including with the support of international donors, to improve the treatment of detainees and the detention facilities. Despite the approval of the visit by the Ministry of Federal Affairs, admission was denied, including a meeting with prisoners. The EP delegation expressed its disappointment at the resulting inability to further assess potential cooperation in improving conditions in prisons and detention as discussed with the Human Rights Commissioner and the Minister of Federal Affairs. While welcoming the open discussions with the different interlocutors, MEPs deplored the unexpected refusal of the prison visit without prior notification, after arrival at Kaliti⁹.

⁹ Press statement on European Parliament delegation visit to the African Union and Ethiopia, Addis Ababa, 15-17 July 2013. Online at: <http://www.europarl.europa.eu/document/activities/cont/201307/20130718ATT69926/20130718ATT69926EN.pdf> (accessed 27 June 2015).

MEPs are advised to agree in advance on the terms of the visit so that certain minimum guarantees are in place in order to ensure an effective visit. These terms should cover access to the place of detention itself and the facilities within it, and the possibility of conducting private interviews with detainees.

**THE NEED TO HAVE MINIMUM CONDITIONS IN PLACE
BEFORE AGREEING TO A VISIT**

Statement made by the UN Special Rapporteur on torture at the Expert Meeting on the situation of detainees held at the US Naval Base at Guantánamo Bay (Washington DC, 3 October 2013)

'In February 2012, the US government extended an invitation to the Special Rapporteur to visit certain parts but not all of the detention facility. The invitation explicitly excluded the possibility of conducting private, unmonitored interviews or indeed any meetings with detainees. The Special Rapporteur strongly believes that maintaining the principle of unfettered access to detainees is an important part of his responsibility as a UN independent expert. **Conditions such as those mentioned impair the ability of UN experts to conduct credible enquiries into allegations of torture and ill-treatment when independent experts visit places of detention and detainees** [emphasis added].

The Special Rapporteur declined the invitation and has again, on 15 May 2013, formally requested the US government to reconsider the terms and to enable the Special Rapporteur to conduct a visit that includes every part of the detention facility and unmonitored private interviews with detainees.¹⁰

The overall objective of a visit to a place of detention may be:

- to observe the general conditions and how the place of detention operates;
- to focus on a specific theme such as the overuse of lengthy pre-trial detention; and/or
- to focus on specific detainees or individual cases, such as those of political detainees.

In the latter case it is recommended that, in addition to meeting specific detainees, MEPs also take time to visit other facilities within the place of detention and to talk to other detainees, in order to gain a broader understanding of the situation within the place of detention.

¹⁰ Office of the UN High Commissioner for Human Rights (OHCHR), 'Statement of the United Nations Special Rapporteur on torture at the Expert Meeting on the situation of detainees held at the U.S. Naval Base at Guantanamo Bay', 13 October 2013. Online at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13859&LangID=E#sthash.X6tsjMIN.B1ukvf7K.pdf> (accessed 27 June 2015).

EXAMPLE: A PRISON VISIT IN UKRAINE WITH THE OBJECTIVE OF FOCUSING ON A SPECIFIC DETAINEE

The European Parliament monitoring mission to Ukraine was launched on the basis of an agreement reached between the President of the European Parliament and the Prime Minister of Ukraine on 16 May 2012 and of a subsequent exchange of letters. The mandate covered inter alia the observation of “the approaching appeal process and future trials of Yulia Tymoshenko, with complete access to all documentation and proceeding of the Court and assisted by professional staff of the European Parliament”. It was later extended to the observation of the cases against former Ministers Yuriy Lutsenko and Valery Ivashchenko, to the humanitarian conditions of their detention, and more broadly to the consideration of the on-going judicial reforms in Ukraine¹¹.

¹¹ European Parliament monitoring mission to Ukraine, May 2012 – see ‘EU Annual Report on Human Rights and Democracy in the World in 2013’, p. 132. Online at: http://eeas.europa.eu/human_rights/docs/2013_hr_report_en.pdf (accessed 28 June 2015).

3.1.2 Collecting and reading available information

In order to optimise the time spent in the place of detention itself, it is important to collect information and study it prior to the visit. Where the delegation is composed of several members, this information should be shared among all the members of the team.

As a minimum, such information should include:

- the type and capacity of the place of detention; and
- the authority/authorities directly responsible and the higher authorities.

Additional useful information might include:

- information from other sources (EU Delegations, visiting national and international bodies, correspondence, non-governmental organisations (NGOs), media, released detainees, detainees' families, lawyers);
- laws and regulations relating to the place of detention or to vulnerable groups such as women, children, people with disabilities, and minorities.

Once in the country, it can be very helpful for MEPs to meet the national stakeholders dealing with deprivation of liberty and prevention of torture. These could include the national preventive mechanism (NPM), if established, the national human rights institution (NHRI), civil society representatives and lawyers who represent detainees. When feasible, meetings with judges and medical staff and contact with detainees' families are useful sources of information.

In some instances, if the elementary conditions for a visit – such as access to all facilities within the detention centre and the possibility of talking with detainees – are not obtained from the authorities, it may be advisable not to conduct a visit to the place of detention but instead to hold meetings with the abovementioned stakeholders.

3.1.3 Delegating work and coordinating and organising the visit

It is generally recommended that MEPs do not conduct visits to places of detention alone. As a minimum a delegation should consist of two people to allow for checking and sharing of information.

Where a visit is carried out by several MEPs, it is important that they work as a team. This means agreeing on a team leader, defining roles and sharing out responsibilities in advance (for instance, some members might be tasked with conducting interviews with detainees and others with conducting interviews with staff). The team leader will act as the principal spokesperson with the authorities and ensure that the visit is conducted in a coherent manner.

As regards the composition of the team, it is always advisable to have a gender balance, to include different language skills and, in general, to have as diverse a team as possible (encompassing, for instance, different ethnic and religious backgrounds and a range of expertise and skills).

It is recommended that, if possible, the visiting team include someone from the EU Delegation, such as the human rights focal point (HRFP), who can act as an 'expert witness'.

A short preparatory meeting of all the members of the delegation (and interpreters) is very useful in order to plan the visit, pool knowledge and arrive at a common understanding of how the visit will be conducted.

3.1.4 Deciding on the length of the visit

The length of a visit will vary depending on several factors, in particular the size of the facilities and whether an interpreter is needed. Visits should be long enough for MEPs to be able to talk to the person in charge and a sample of the detainees, and to examine the facilities and living conditions. This will require half a day (3-4 hours) at the very least.

MEPs should remain flexible in case of unforeseen events. It is recommended that a standardised 'checklist' (see section IV) be drawn up as an *aide-memoire* so that no major issues are forgotten.

WORKING WITH INTERPRETERS¹²

In the majority of cases, MEPs visiting places of detention in third countries will need to be accompanied by one or more interpreters. Access to reliable, independent interpreters is crucial. They should be recruited with care, taking account not only of competence but also of cultural, religious and political affiliations that may have an impact on relations with authorities and inmates.

It is crucial that the role of the interpreter(s) is clearly defined in advance and that it is stressed that an interpreter must never lead the conversation. It is important to include the interpreter(s) in some of the preparatory discussion, as it may be their first time in a prison.

Interpreters are sworn to confidentiality.

¹² See *Monitoring Immigration Detention – Practical Manual*, Association for the Prevention of Torture, International Detention Coalition and UN Refugee Agency, 2014, p. 70.

3.2 Conducting the visit

Conducting a visit to a place of detention usually entails:

- an initial talk with the head of the place of detention on arrival;
- a tour of the premises, during which general observations are made;
- possibly, consultation of registers and other documents;
- interviews in private with detainees; and
- a final talk with the head of the place of detention prior to departure.

Given the context and visibility of their visits to third countries, MEPs must be alert to the possibility that some authorities may seek to use such a visit for their own purposes, for example by showcasing only positive aspects while downplaying or seeking to obscure less favourable aspects of the detention regime.

3.2.1 Talk with the head of the place of detention

If the visit is conducted by several MEPs, it is important that they arrive at the place of detention together. This enhances the team's credibility and efficiency.

It is important that MEPs bring all the clearance papers they have received for the visit, such as an official letter of authorisation from the relevant authorities.

MEPs must dress in culturally appropriate and respectful clothes that easily differentiate them from the authorities and staff.

The initial talk with the head of the place of detention is important. It gives MEPs a chance to explain the reason for and terms of the visit. Where the delegation comprises several MEPs, it is recommended that there be a leader who acts as the main interlocutor with the director.

The initial talk provides an opportunity to:

- introduce the European Parliament, the role of MEPs and the reason for their presence. The team leader should introduce all the team members and interpreters by name;
- ask for current and detailed information (for instance, whether there are any children in detention, and if so how many);
- ask the person in charge for their views about the main problems faced and ways to address them; and
- explain the arrangements for the visit, including private discussions with detainees.

- It is important to plan in advance the duration of the initial talk and to manage time efficiently so that there is sufficient time for the visit itself and for discussions with detainees.

3.2.2 Overview of the premises and observations

After the initial talk, the director or an appointed officer may accompany all the members of the team on a short tour of the entire place of detention. However, MEPs need to demonstrate impartiality vis-à-vis the authorities; they should make every effort to ensure that the team is perceived as independent, always keeping in mind the 'do no harm' principle.

The tour allows MEPs to gain a general impression of the place of detention and its design, structure and facilities (for instance, the location of dormitories and/or cells, isolation and disciplinary cells, outdoor areas, workshop areas, visiting rooms, the kitchen and medical services). By observing, MEPs will also be able to ascertain the atmosphere in the place of detention (including staff-detainee and inter-detainee relations).

Important areas to visit include:

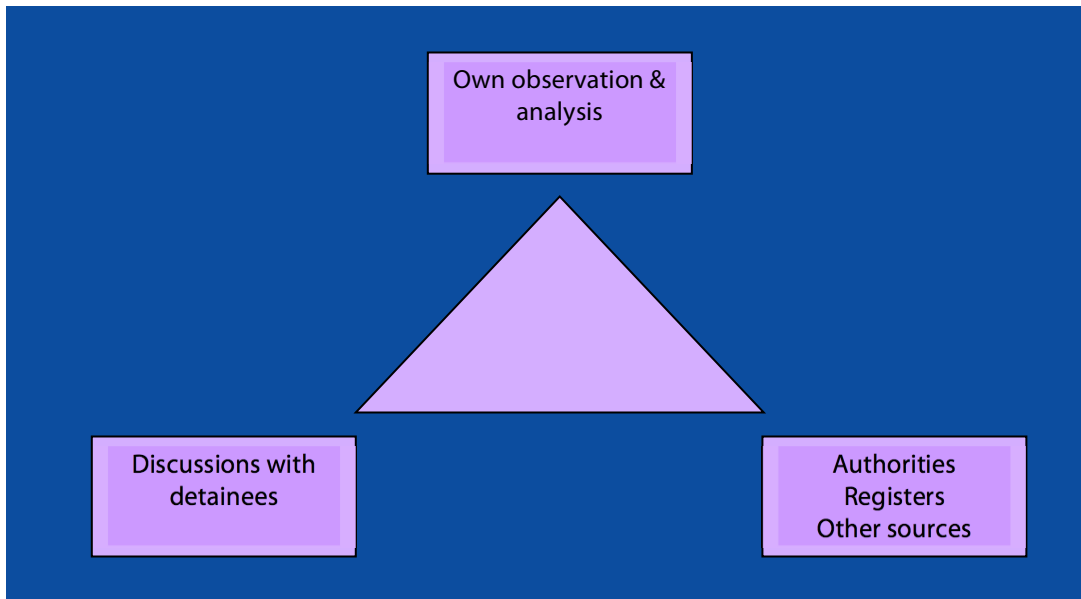
- cells and dormitories, including sanitary facilities;
- isolation and disciplinary cells;
- courtyard;

- kitchen;
- visiting room;
- medical services;

It is important to ensure that the initial guided tour does not take too long, so that there is enough time to speak to detainees and others. MEPs should be aware that the authorities may not spontaneously show them all areas of the place of detention, and that they may therefore need to request access to particular areas.

CROSS-CHECKING DIFFERENT SOURCES OF INFORMATION

In order to gain a comprehensive overview and understanding of the place of detention, it is important to cross-check different sources of information (a process known as 'triangulation'), including:



3.2.3 Consultation of registers and other documents

Consulting registers and other key documents such as the internal rules and the staff roster is time-consuming and can be challenging if they are in a language not known to the MEPs. However, these are important sources of information, as they shed light on the management practices of the place of detention.

There are a number of different registers, but the most relevant are:

- entry and exit registers of detainees;
- if they exist, registers of disciplinary measures, and possibly of solitary confinement;
- registers of incidents and/or events (such as the use of force).

3.2.4 Interviews with detainees

Interviews with detainees are a central part of a visit, as they are the only way to hear directly from the people inside about the realities of the situation as they perceive them. A mixture of 'individual' and 'collective' interviews with detainees is suggested. Interviewing detainees is complex and needs to be handled with care and sensitivity, keeping in mind the 'do no harm' principle.

MEASURES TO MITIGATE THE RISK OF REPRISALS FOLLOWING A DETENTION VISIT

The term 'reprisals' covers a wide range of practices (including both acts and omissions), and can range from intimidation, threats and mockery to punishment and torture. Reprisals may be inflicted by law enforcement officials, other staff members or fellow detainees, and are used to victimise or punish detainees for their involvement or interaction with a monitoring visit.

Parliamentarians undertaking visits to places of detention and holding interviews with inmates should be aware at all times that the individuals agreeing to talk to them are at risk of reprisals simply on account of the act of speaking with someone from outside.

Some measures aimed at preventing, or at least mitigating, the risk of reprisals include:

- never referring explicitly to statements made by a detainee;
- during group discussions, being aware at all times of the possible presence of informants among the detainees; and
- refraining from discussing more sensitive issues with detainees (such as the use of isolation or force by authorities).

- If an MEP is aware of a risk of reprisals against a detainee as a result of being interviewed, the MEP should not conduct the interview.

After the visit, it is of the utmost importance to respect confidentiality and not to make public or identifiable the testimonies of those with whom the MEP has been in contact. In public reports or statements, the information given should always be general enough to avoid any additional risk of reprisals. Where possible, it is strongly recommended that the MEP contact an independent monitoring body such as the NHRI or the NPM, which may be able to make a return visit as a safeguard against reprisals.

- **Group discussions**

Group talks enable MEPs to communicate with several detainees at once, and are useful for ascertaining the mood of the place of detention, observing visible group dynamics among inmates and enquiring about non-sensitive issues such as physical conditions and access to work, education and medical services. Moreover, group talks may be a good avenue for identifying inmates to invite to private interviews.

In some contexts, such as Latin America, conducting interviews with small groups may be an effective way of collecting information while ensuring the security of the interviewer and

avoiding putting individuals at risk. However, enquiries about sensitive issues such as the physical and mental health of individuals, relations between groups of inmates, including inter-prisoner violence, and relations with staff should be dealt with only in private. A cautious attitude is always essential when conducting group discussions. Strong consideration should always be given to the 'do no harm' principle in order to avoid the risk of reprisals.

- **Interviews in private**

An interview in private is about having a confidential discussion with a detainee out of earshot – and if possible, out of sight – of authorities and other detainees. Confidentiality gives detainees more confidence to speak openly and is more likely to yield accurate information while minimising the risk of reprisals against the detainee.

It is important to hold the interview in a setting where the detainee feels comfortable and confidentiality is upheld. Administrative offices should be avoided, as they may be monitored and the detainee may not feel comfortable about speaking openly in such an environment. Instead, places such as the yard, the cell or the visiting room are preferable. Often detainees themselves can recommend a place to go.

MEPs should be at liberty to choose the people they wish to talk to in private. It is important not to interview only those who ask for an interview but to be proactive in deciding. At the

same time, MEPs should be independent in their choice and not rely on administrative staff to identify detainees to talk to. It is also important to talk to a representative sample of detainees (insofar as this is possible) so that individual detainees cannot be recognised; this helps to mitigate the risk of reprisals.

The interview selection process is vital, therefore, and MEPs should consider agreeing in advance on the process, depending on the purpose of the visit.

Particular categories of detainees with whom MEPs may decide in advance to conduct private interviews include:

- people in at-risk situations, such as recently arrived migrants, detainees in isolation or disciplinary cells, and inmates with reported injuries or records of 'self-harm'; and
- people in a situation of vulnerability (women, children, elderly people, detainees accused of certain crimes). In small facilities such as police stations, which are likely to have few detainees, it is strongly recommended that MEPs speak either to everyone or to no one at all, so as to avoid the risk of reprisals.

- **How to conduct an interview in private with a detainee**

MEPs need to be clear from the outset about **what they can and cannot do**, so as to avoid misleading detainees or raising false expectations (for example, an expectation that an MEP can influence a detainee's particular case). It is crucial to explain that the interview is conducted in **confidentiality**.

MEPs should bear in mind the following:

- There should be no more than two interviewers talking to one detainee (or a maximum of three including an interpreter).
- Where more than one MEP takes part in the interview, it is usually recommended that one person leads the interview and ask questions while the other acts as note-taker, possibly asking additional questions at the end.
- It is important that the MEP clearly introduces the interviewing team, including the interpreter, and explains the nature of the visit.
- Interviewees need to give informed consent to be interviewed if their details are going to be discussed at a later stage.

- It is crucial to explain to interviewees that all interviews are conducted in confidentiality and that the interpreter is sworn to confidentiality.
- Interviewing detainees is complex and requires interpersonal skills such as the ability to listen and empathise. It requires sufficient patience to make the interviewee feel comfortable by using conversational techniques (small talk) and suitable body language and seating arrangements (for instance, crouching down at the same level as the detainee) to reduce barriers between the interviewer and interviewee.
- Interviewers need to avoid leading or intrusive questions; for instance, it is better to ask 'How were you treated when you arrived?' than 'Were you badly treated when you arrived?'
- At the end of the interview, it should be clearly explained to the detainee how the information collected will be used. MEPs should not make any promises that cannot be kept.

3.2.5 Interviews with staff

Ideally, interviews with staff should also be conducted in private. Staff of different positions and ranks (guards, security officers, medical personnel, educators) should be interviewed, and some may serve as whistle-blowers regarding misconduct or dysfunctions within the place of detention. In addition, hearing staff members' views and opinions about useful ways forward can be very helpful. It is not always possible to conduct private interviews, however, and an

informal conversation with staff may also be effective. In order to be perceived by all as neutral and impartial, such conversations should not be held in the presence of detainees.

3.2.6 Final talk with the head of the place of detention

Every visit must be officially closed by means of a final talk between the visiting team and the director. This is courteous and affords an opportunity to convey some general impressions of the place of detention.

The team leader should lead the discussion so as to use the time efficiently and keep the focus on general rather than specific comments (to minimise the risk of reprisals). The content of private interviews should not be referred to, as this heightens the risk of identification of who said what. Depending on the context and situation, it may be appropriate to limit the final talk to a formality, referring only to the conduct of the visit rather than commenting on any findings.

4 What to look at when visiting places of detention

Main risk areas	Main safeguards
<ul style="list-style-type: none">• Means of restraint• Interrogation• Body searches• Solitary confinement• Incommunicado/secret detention• Length of custody• Poor physical conditions	<ul style="list-style-type: none">• Information on rights• Access to a lawyer• Access to a doctor• Right to be brought before a judge• Notification of a third party• Custody records• Right to complain• External monitoring

This guide does not set out to examine international standards in detail, but presents the overarching human rights principles to be respected for all forms of detention. It also includes a short generic checklist of aspects to examine during a visit, based on international standards and practices.

DETENTION FOCUS – DATABASE ON DETENTION ISSUES

For a more comprehensive and in-depth analysis of prison issues, you can refer to the Association for the Prevention of Torture (APT) Detention Focus Database. This database is a thematic online tool that offers analysis, standards and practical guidance in respect of 40 key issues relating to prisons, such as body searches and family visits. It also devotes special attention to groups of detainees in situations of vulnerability. Combined searches on specific themes and groups can be carried out.

See <http://www.apr.ch/detention-focus/en>

4.1 Overarching principles for all forms of detention

Absolute prohibition of torture

Torture is absolutely prohibited under international law and cannot be justified under any circumstances. The right to be free from torture is a non-derogable human right. This means it is an absolute right, meaning that states cannot put forward any justification – be it a public emergency or state security – for departing from it.

Humane treatment

Respect for the dignity of detainees as human beings should be the fundamental ethical value for those responsible for; and working in, places of detention; and also for visiting bodies and others such as MEPs.

Prohibition of arbitrary detention

The right to liberty is not absolute. Through detention individuals lose their right to liberty and freedom of movement. However, international law provides that restrictions on liberty are permissible only when they are both legal and non-arbitrary. In other words, any restrictions on liberty, including detention, may take place only on grounds prescribed by law and in accordance with procedures authorised by law.

Alternatives and detention as a last resort

International standards encourage states to limit the use of detention. Pre-trial detention should not be used systematically but rather as 'a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society

and the victim¹³. International standards promote the use of non-custodial or other alternative measures, such as community service.

BEING AWARE OF PARTICULAR SITUATIONS OF VULNERABILITY IN DETENTION

Some individuals or groups of detainees (such as women, children, people with mental or physical disabilities, foreigners, LGBTI people, those belonging to ethnic minorities or indigenous peoples, and elderly people) find themselves in situations of particular vulnerability in detention, which require additional attention and protection. In some cases these situations may justify access to specific services without this constituting preferential treatment or discrimination against other inmates.

The authorities in charge must exercise permanent vigilance and care in respect of these groups. All practices and procedures within the detention facility should incorporate the dimension of vulnerability.

¹³ Article 6 of the UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), adopted by General Assembly resolution 45/110 of 14 December 1990.

4.2 Specific issues to look at during the visit

Given the short duration of visits, MEPs will need to concentrate on one or more key issues. The visit's focus will vary depending on the type of detention, the prior information obtained about the place of detention, and regional and country specificities.

Key issues include physical conditions, procedural and legal safeguards, protection measures, regime and activities, treatment, healthcare and personnel.

4.2.1 Physical conditions

- **Capacity and occupancy of the place of detention**
 - Number of detainees by status
 - Number of detainees by nationality
 - Breakdown by gender and age

- **Accommodation**
 - Size of room, equipment
 - Clothing and bedding: quality, frequency of change, possibility of doing laundry
 - Lighting and ventilation

- **Food and water**
 - Access, quality, quantity, frequency, budget, diversity, special dietary regimes (for medical, cultural, religious or health reasons)
 - Availability of clean water
- **Sanitation facilities and personal hygiene**
 - Facilities inside rooms and outside, access, cleanliness
 - Showers: ratio to number of detainees, cleanliness, state of repair, frequency of use, relative privacy
 - Toilets: ratio to number of detainees, cleanliness, state of repair, relative privacy

PRISON OVERCROWDING WORLDWIDE

The size of the prison population throughout the world is growing [...].

[...]

Imprisonment rates vary considerably between different regions of the world and between different parts of the same region. For example, the median rate for western African countries is 47.5 whereas for southern African countries it is 219 [...].

[...]

The reality in many prison systems is that prisoners do not have even the minimum space requirements [...] and very large numbers spend up to 23 (sometimes 24) hours in overcrowded, cramped accommodation.

[...]

Overcrowding impacts also on the quality of nutrition, sanitation, prisoner activities, health services and the care for vulnerable groups¹⁴.

¹⁴ *Handbook on strategies to reduce overcrowding in prisons*, UN Office on Drugs and Crime in cooperation with the International Committee of the Red Cross, 2013, pp. 7-11.

4.2.2 Procedural and legal safeguards

- Legal basis for detention
- Decision to detain (prompt and full communication of reasons)
- Access to interpretation/translation services
- Access to free legal counsel
- Right to challenge detention
- Right to apply for release

PRE-TRIAL DETENTION IS ENDEMIC IN MANY REGIONS, IN PARTICULAR IN AFRICA, LATIN AMERICA AND SOUTH ASIA

'UNODC has highlighted that the proportion of pre-trial detainees is highest, on average, for countries at the lower end of income levels and lowest for countries at higher income levels, suggesting that high levels of pre-trial detention may point to shortcomings in criminal justice systems. In post-conflict and low-income states seven out of ten prisoners may be awaiting trial¹⁵.

¹⁵ 'Global Prison Trends 2015', Penal Reform International, 2015, p. 8.

4.2.3 Protection measures

- Arrival and reception
 - Information provided to detainees on arrival: language and format
 - Accessibility of internal rules and procedures
- Access to external procedures
 - Access to asylum procedures
 - Access to consular services
- Detention registers
 - Existence and maintenance
- Separation of detainees (men from women; adults from children; convicted prisoners from those in pre-trial detention)
 - Effective separation by category

- Complaints procedures
 - Availability and accessibility
 - Effectiveness

4.2.4 Regime and activities

- Access to the outside world
 - Contact with family and others: visitor access, frequency, conditions, duration, telephone access
 - Contact with the outside world and provision of information: access to radio, television, telephone, newspapers, written correspondence and parcels
- Activities
 - Access to outdoor exercise
 - Organised purposeful activity: work, education
 - Leisure and cultural activities
 - Religious practice and worship

4.2.5 Treatment

- Allegations of torture and ill-treatment
- Use of force or other means of restraint

- Use of solitary confinement and other disciplinary measures
- Violent or peaceful protest; hunger strikes; self-harm
- Transport of detainees
- Non-refoulement
- Deportation procedures

SELF-GOVERNANCE AND VIOLENCE: A MAJOR CHALLENGE IN LATIN AMERICAN PRISONS

A report published by the Inter-American Commission on Human Rights highlighted serious structural deficiencies that gravely affect prisoners' human rights, including overcrowding, overpopulation and excessive use of preventive detention, which has led to increased violence throughout Latin American penitentiaries¹⁶. As evidence of the high rates of violence and the lack of effective control by prison authorities, the report cites the case of Venezuela, where, according to government information, there were 1865 deaths and 4 358 injuries in state penitentiaries between 2005 and 2008¹⁷.

¹⁶ See, generally, *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, Inter-American Commission on Human Rights (IACHR), December 2011. Available at <http://www.oas.org/en/iachr/pdl/docs/pdf/PPL2011eng.pdf> (accessed 28 June 2015).

¹⁷ *Ibid.*, p. 5.

4.2.6 Healthcare

- Access to medical care, including dental services
- Medical examination on arrival
- Staffing levels and staff presence
- Mental health (access to counsellors, psychologists, psychiatrists)
- Specialised healthcare (for women, children, elderly people, etc.)

4.2.7 People in situations of vulnerability

- Children and babies
- Unaccompanied children
- Women
- Elderly people
- People with physical or mental disabilities
- Ethnic minorities and indigenous peoples
- Foreignersⁱ

A GROWING NUMBER OF FOREIGN PRISONERS, ESPECIALLY IN EUROPE AND THE MIDDLE EAST

'In September 2012, the mean percentage of foreign nationals in Council of Europe member states was 21 per cent and the median 13 per cent. Some Middle Eastern countries also have very high proportions of foreign nationals (United Arab Emirates 92 per cent and Qatar 74 per cent). In many countries, foreign nationals are at high risk of being remanded in pre-trial detention and are over-represented among those charged with or convicted of offences such as drug trafficking. Foreign nationals present a number of challenges to prison systems including ensuring access to justice and legal representation, facilitating contact with families and preparation for release or deportation¹⁸.

4.2.8 Personnel

- Staffing levels: numbers, ratio, gender balance, recruitment criteria, average salary, presence
- Qualifications and training: type, length, subject areas

¹⁸ Penal Reform International, op. cit., p. 18.

- Cultural awareness, languages, attitudes/behaviour

5 Follow-up action

Given that visits to places of detention by MEPs are conducted as part of missions to third countries, they are usually a one-off exercise. Follow-up action will consequently depend on the specific context and situation. Nevertheless, visits should be treated as one component of a broader human rights dialogue between the EU and the state concerned, and should therefore be an integral part of a more comprehensive strategy to address respect for the human rights of people deprived of their liberty. It is recommended that potential follow-up action be discussed and considered at an early stage – possibly before the visit, as this may affect how it is conducted.

Suggested strategies for follow-up action include:

5.1 Oral feedback to the EU Delegation

A debriefing among the members of the visiting team and with the EU Delegation is important. Even where someone from the EU Delegation has participated in the visit, it is useful to provide oral feedback to the EU Delegation immediately after the visit, in particular to HRFPs and liaison officers, who have a permanent presence in the country. Such an exchange is a good opportunity to discuss together the visiting team's main observations and recommendations. It also ensures coherence and coordination, and forms a basis for possible follow-up action.

5.2 Follow-up action by the EU Delegation

Both the EU Delegation and Member States can take a range of follow-up actions, including¹⁹:

- **Following up on allegations of torture and ill-treatment made during a visit**

If, in the course of a visit, MEPs are faced with one or more people who allege in a credible manner that they have been tortured or ill-treated, the case(s) must be referred to the EU Delegation to the country concerned.

As stated in the EU Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, the EU Delegation can request information from the authorities and urge them (confidentially or by public démarche) to investigate the allegation, 'ensure that alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families are protected from violence, threats of violence or any other form of intimidation or reprisal that may arise pursuant to the report or investigation'²⁰, and 'provide reparation for the victims of torture and ill-treatment and their dependants, including

¹⁹ This list is not exhaustive, and it is strongly recommended that readers refer to the EU Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment. Op. cit.

²⁰ Op cit n 2, p. 8.

fair and adequate financial compensation as well as appropriate medical care and social and medical rehabilitation²¹.

In raising individual cases, the EU Delegation must ensure that the detainee has given informed consent to the use of the allegations. The EU Delegation must be aware of the risk of reprisals against detainees, and consider the possibility of conducting a follow-up visit to interview the detainees in question.

- **Monitoring trials**

It is important to be aware that the EU Heads of Mission 'have the possibility of sending embassy representatives as observers to trials where there is a reason to believe that defendants have been subjected to torture or ill-treatment.'²²

- **Facilitating meetings and political dialogues with key authorities at country level**

Practice suggests that face-to-face exchanges and discussions are one of the most effective means of fostering a constructive dialogue. The EU Delegation, which has a permanent presence in the country, is in a good position to facilitate meetings and dialogues (including EU human rights dialogues) on issues relating to detention and prevention of torture. The EU

²¹ Ibid., p. 9.

²² Ibid., p. 4.

Delegation could also facilitate discussion between authorities and key stakeholders (such as NPMs, NHRIs, NGOs, national parliamentarians and international organisations), possibly in a closed format, with a view to identifying potential actions aimed at improving the situation.

Depending on the context, the EU Delegation could also play a pivotal role in facilitating concrete action such as:

- provision of training for penitentiary staff;
- review or adoption of codes of conduct;
- strengthening of procedural and legal safeguards (for example, the right to access a lawyer or a doctor, and contact with the outside world, especially family members).

CHAIR OF THE SUBCOMMITTEE ON HUMAN RIGHTS URGES BETTER COMMUNICATION AND COOPERATION AMONG ALL EU ACTORS

'We have three main pillars: one is the work in the EP, the parliamentary diplomacy and the open political pressure on human rights violations; another one is the diplomatic work and systematic efforts undertaken by the EEAS, the Commission and the EU Special Representative for Human Rights; and the third one is what is done on the ground: the direct support to NGOs, human rights defenders and activists, which is conducted by the HRFP and financed by instruments, such as the European Instrument for Democracy and Human Rights (EIDHR). **For a more effective EU external action, we have to advance in a more coordinated and intertwined** work of these three pillars based on our shared priorities, further to the very much needed joint action of our Member States, which still retain a huge responsibility in building up an EU single voice in the world'²³.

²³ Elena Valenciano MEP, Chair of the Subcommittee on Human Rights, press statement, 11 February 2015. Online at: <https://polcms.secure.europarl.europa.eu/cmsdata/upload/ff4d136e-f1e1-449f-83e2-4215e513dce4/Press%20Statement%20Human%20Rights%20Focal%20Points.pdf> (accessed 28 June 2015).

- **Integrating detention issues into EU country human rights strategies**

Last but not least, MEPs could encourage country delegations to better integrate detention issues into their country human rights strategies, in line with the EU human rights action plans.

5.3 Making contact with detainees' families

If the objective of the visit was to focus on one or more specific detainees, MEPs could follow it up with the relatives of the detainee(s) by meeting them personally and giving recent news. If time is too short, the case could be referred to the EU Delegation to follow up.

5.4 Engaging with the media

Following a visit to a place of detention, MEPs and the EU Delegation should make strategic use of the media. Depending on the context, public statements and press releases could be a useful means of sending messages to the authorities regarding the implementation of human rights obligations or the ratification of international treaties. However, in some circumstances public visibility may jeopardise efforts to build a diplomatic dialogue. The pros and cons of media engagement should be weighed on a case-by-case basis.

PARLIAMENT DELEGATION CALLS ON THE ETHIOPIAN AUTHORITIES TO RATIFY THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE (OPCAT)

'Highlighting the particular responsibility of Ethiopia as a member of the UN Human Rights Council, the delegation of the European Parliament also called on the Ethiopian authorities to ensure ratification of the optional protocols of the UN Conventions on Torture and on the Rights of the Child concerning child soldiers'²⁴.

In the context of media engagement, it is important once again to keep in mind the risk of reprisals faced by people deprived of liberty.

- **High-level talks**

Any high-level talks that MEPs hold with the authorities at the end of a mission could be a good opportunity to raise general concerns regarding conditions in places of detention, or more

²⁴ Press statement on European Parliament delegation visit to the African Union and Ethiopia, Addis Ababa, 15-17 July 2013. Online at:

<http://www.europarl.europa.eu/document/activities/cont/201307/20130718ATT69926/20130718ATT69926EN.pdf>

(accessed 27 June 2015).

specifically in relation to particular detainees and the need to respect the dignity and rights of all those deprived of liberty.

5.5 Engaging and forging partnerships with national monitoring bodies and others in order to prevent reprisals

It is important to be aware of the various national stakeholders that could be allies in the human rights dialogue in general, and in mitigating the risk of reprisals in particular. Depending on the context, there are bodies with regular access to places of detention that could conduct follow-up visits to the places visited by MEPs.

- **National parliamentarians**

In a large majority of countries, national parliamentarians have a mandate to visit places of detention, including immigration detention²⁵.

As members of the legislature, national parliamentarians can play a key role in overseeing the executive and the fulfilment of human rights obligations. They can also play such a role in

²⁵ See *Visiting Immigration Detention Centres: A guide for parliamentarians*, Association for the Prevention of Torture and Council of Europe, 2013. Available at http://www.apt.ch/content/files_res/guide-for-parliamentarians-visiting-detention-centres-en.pdf (accessed 28 June 2015).

ratifying human rights treaties, including the OPCAT, and drafting and adopting relevant legislation.

- **National monitoring bodies**

National monitoring bodies such as NPMs and NHRIs, which are frequently on the ground conducting visits to all places of detention, can establish an ongoing dialogue with the authorities and foster change. It is therefore highly recommended that the visiting team engage with them in order to coordinate follow-up visits. This will help in preventing and mitigating the risk of reprisals and in monitoring the implementation of recommendations.

- **Civil society**

In many countries, civil society organisations carry out visits to places of detention, either to provide services (religious, health, legal, etc.) or to assess detention conditions and the treatment of detainees.

- **Others (see Annex 2)**

UN bodies (in particular the Subcommittee on the Prevention of Torture (SPT) and Special Rapporteurs), regional monitoring bodies and international NGOs can be useful channels for follow-up action.

5.6 Mission report

It is recommended that MEPs include in their mission report a specific section on their visit(s) to one or more places of detention. This will serve as a written record of the visit(s), build institutional memory and be useful in future contacts and activities with the country concerned. Parliament's Secretariat will also be able to share it with MEPs conducting subsequent visits.

5.7 Public reports

MEPs can ensure that key issues relating to the situation in places of detention in third countries are included in Parliament's resolution on the EU Annual Report on Human Rights and Democracy in the World, and propose that a specific report be drafted (such as the parliamentary report on torture, which was initiated in 2013).

In addition, Parliament's contribution to the EU Annual Reports on Human Rights and Democracy in the World could systematically include a section on visits to places of detention in third countries, summarising the main findings and recommendations of the visits conducted.

5.8 Disseminating and mainstreaming the issue of detention as part of the EU's human rights policy

MEPs can help to mainstream the issue of detention and foster coherence and synergies with the EEAS thematic and country desks, the EU Delegations and the EU Special Representative for Human Rights by systematically sharing mission reports which contain a specific section on the situation as regards places of detention in third countries. Furthermore, MEPs can adopt resolutions calling for concrete action, such as better integration of the issue of detention in third countries into the EU human rights toolbox, including the action plans.

Reports could also be shared with key external players such as the UN Subcommittee for the Prevention of Torture (SPT), UN Special Rapporteurs, regional bodies and relevant NGOs. Lastly, Parliament can continue to invite representatives of UN human rights bodies and other bodies to committee hearings.

Annex 1

Glossary of key terms²⁶

Administrative detention: arrest and detention without charge or trial, on non-criminal grounds. In many countries violations of immigration laws lead to administrative detention.

Asylum seeker: an individual who is seeking international protection. In countries with individualised procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she submitted it. Not every asylum seeker will ultimately be recognised as a refugee, but every refugee is initially an asylum seeker²⁷.

Criminal detention: detention where a person has been arrested, or is being punished, for a criminal offence that carries a custodial sentence.

Deprivation of liberty: any form of detention or imprisonment, or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will, by order of any judicial, administrative or public authority²⁸.

²⁶ This glossary is taken from the glossary developed by the Council of Europe and the Association for the Prevention of Torture for the 2013 guide 'Visiting Immigration Detention Centres: A guide for parliamentarians'.

²⁷ 'Master Glossary of Terms Rev.1', UNHCR, June 2006.

²⁸ *Monitoring places of detention: A practical guide*, Association for the Prevention of Torture, 2004, p. 21.

Detainee: this term is used differently in different countries, and even in different international documents. In some cases it relates only to people at the pre-trial stage or under administrative detention, and not to convicted prisoners. For the purposes of this guide, the term 'detainee' is used in its broadest possible sense to cover anyone deprived of personal liberty as a result of arrest, administrative detention or conviction and held in a place of detention.

Immigration detention: this is generally administrative in form, but can also be judicially sanctioned. It is generally not meant to be punitive, unlike criminal detention. Here the term covers anyone deprived of personal liberty on account of their immigration status or an alleged breach of their conditions of entry, stay or residence in a territory.

Place of detention: this term is used broadly to cover any place where a person is deprived of liberty – prisons, police stations, centres for migrants and/or asylum seekers, centres for juveniles, social care homes, psychiatric institutions, prisons or cells for military personnel and any other place where people can be deprived of their liberty.

Refugee: a person who meets the eligibility criteria under the applicable refugee definition, as provided for in the 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention). A refugee is defined in Article 1 of the Refugee Convention as a person who:

‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable or, owing to such fear, is unwilling to avail himself of the protection of

that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it’.

Reprisals: these encompass a wide range of practices (whether acts or omissions), and can range from intimidation, threats and mockery to punishment and torture. They may be inflicted by law enforcement officials, staff members or fellow detainees, and are used to victimise or punish detainees for their involvement or interaction with a monitoring visit.

Annex 2

Main organisations visiting places of detention

With the development of regional and international human rights instruments, there are a number of detention monitoring mechanisms of which parliamentarians should be aware. This overview includes different types of monitoring body at the national, regional and international levels, all of which are completely independent from the detaining authorities.

1. National Level

- **National Preventive Mechanisms (NPMs):** independent²⁹ domestic visiting bodies designated or created by a state party to the Optional Protocol to the UN Convention against Torture (OPCAT). NPMs are mandated to conduct regular visits to all places where people are deprived of their liberty. They can also present observations on draft or existing legislation relevant to the prevention of torture and are required to prepare an annual report of their activities, which has to be made public and disseminated by the authorities.

²⁹ NPMs should be independent of the state and its authorities, from both a financial and a functional point of view.

- **Ombudsman offices and national human rights institutions (NHRIs):** these bodies often have a broad mandate to monitor and promote respect for human rights, combined with the power to examine individual complaints. Their mandate often includes the possibility of visiting and monitoring places of detention. The depth and frequency of their visits may vary, however. One advantage of the ombudsman and NHRIs is that they usually report publicly to parliament, and their recommendations are viewed as authoritative.
 - **National human rights non-governmental organisations (NGOs) and civil society organisations (CSOs):** some NGOs/CSOs may be authorised to monitor places of detention regularly on the basis of a written agreement with the authorities. Monitoring by civil society tends to be accompanied by an extra level of independence, frankness and publicity.

2. Regional Level

- **African Commission**, including the Special Rapporteurs on refugees, asylum seekers and internally displaced persons in Africa, and on prisons and conditions of detention in Africa.
- **Inter-American Commission on Human Rights**, including the Rapporteurships on the Rights of Migrants and on the Rights of Persons Deprived of Liberty.

- **European Committee for the Prevention of Torture (CPT)**, the first body set up specifically to carry out preventive visits to all places of detention in Council of Europe member states, including in respect of immigration detention. The CPT carried out its first visits in 1990.

3. International level

- **UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)**: composed of 25 independent experts, the SPT is the international component of the visit system established by the OPCAT. It monitors detention conditions and the treatment of people deprived of their liberty through country visits to any state party to the OPCAT, and advises on OPCAT implementation, in particular by supporting the establishment and functioning of NPMs.
- **UN Human Rights Council Special Procedures** can visit places of detention, including immigration detention. These include the Special Rapporteurs on torture, on the human rights of migrants, and on trafficking in persons, especially women and children, and the Working Group on Arbitrary Detention (WGAD). These mechanisms can only carry out on-site visits with the prior authorisation of the state concerned.
- **UN Refugee Agency (UNHCR)**: as part of its supervisory responsibility over state implementation of international instruments relating to asylum seekers and refugees, and pursuant to its mandate for the international protection of refugees, the UNHCR

has a particular role to play in monitoring immigration detention. Its 1950 Statute calls on all states to cooperate with the UNHCR in the exercise of its functions, while states parties to the 1951 Convention relating to the Status of Refugees (CSR) and/or the 1967 Protocol thereto are in fact obliged to cooperate with it, including by providing access to places of detention and to asylum seekers and refugees in detention.

Annex 3

Selected readings and resources

1. On monitoring places of detention

Association for the Prevention of Torture (APT) (2004), *Monitoring Places of Detention: A practical guide*.

APT (2013), *Monitoring Police Custody: A practical guide*.

APT, Council of Europe (2013), *Visiting Immigration Detention Centres: A guide for parliamentarians*.

APT, International Detention Coalition and UN Refugee Agency (2014), *Monitoring Immigration Detention – Practical Manual*.

APT (2008), 'Making Effective Recommendations', Detention Monitoring Briefing No 1.

APT (2009), 'The Selection of Persons to Interview in the Context of Preventive Detention Monitoring', Detention Monitoring Briefing No 2.

APT (2009), 'Using Interpreters in Detention Monitoring', Detention Monitoring Briefing No 3.

APT (2012), 'Mitigating the Risks of Sanctions related to Detention Monitoring', Detention Monitoring Briefing No 4.

APT and Penal Reform International (2013), 'Detention Monitoring Tool – Addressing risk factors to prevent torture and ill-treatment'.

APT and Penal Reform International (2013), *Women in Detention: A guide to gender-sensitive monitoring*.

APT and Penal Reform International (2013), *LGBTI Persons Deprived of their Liberty: A framework for preventive monitoring*.

2. On the OPCAT

APT and Inter-American Institute for Human Rights (2010), *Optional Protocol to the UN Convention against Torture – Implementation Manual*.

APT (2004), *Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – A Manual for Prevention*, available in English, French, Spanish and Portuguese.

APT (2003), *Implementation of the Optional Protocol to the UN Convention against Torture: Establishment and Designation of National Preventive Mechanisms*, available at www.apr.ch in English, French, Spanish and Russian.

3. On alternatives to detention

R. Sampson, G. Mitchell and L. Bowring (2011), *There are alternatives: A handbook for preventing unnecessary immigration detention*, International Detention Coalition.

Annex 4

Summary of the stages of a visit³⁰

1. Before the visit

- Inform the relevant embassy in Brussels before the country mission and, if possible, obtain a formal authorisation letter before leaving.
- Notify the relevant EU Delegation so that it can inform the authorities.
- Gather basic information (facts and figures) from a variety of sources.
- Define the objective of your visit.

2. During the visit

- The team should comprise at least two people. Include someone from the EU Delegation as an 'expert witness'.
- Do no harm.

³⁰ This summary is adapted from the 'tips for parliamentarians' developed by the Council of Europe and the Association for the Prevention of Torture for the 2013 guide *Visiting Immigration Detention Centres: A guide for parliamentarians*.

What to look at when visiting a place of detention

Choose one or more key issues of concern:

- Physical conditions
- Access to the outside world and activities
- Protection measures
- Procedural and legal safeguards
- Treatment
- Healthcare
- People in a situation of vulnerability (children, women, elderly people, etc.)
- Personnel

Remember the different stages of a visit

- Arrival and initial talk with the head of the place of detention
- Tour of the premises and observations
- Consultation of registers and other documents
- Discussion with detainees
- Discussion with staff
- Final talk with the head of the place of detention
- Allow enough time – it really does fly.

- Speak to a variety of sources.
- Visit all parts of the premises and use all your senses.
- Dig deeper into issues.
- Look at registers and other documents.
- Respect confidentiality and mitigate the risk of reprisals.
- Final talk: it is important and courteous to have a final meeting with the person in charge in order to give some indication of your impressions and formally end the visit.

3. After the visit

As a minimum, follow up with a letter to the head of the place of detention visited and/or the appropriate minister, in coordination with the human rights focal point and/or liaison officer of the EU Delegation.

**Directorate for Regions
Policy Department for External Relations**