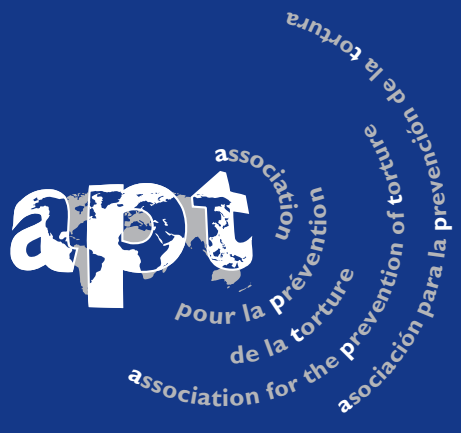

Report

The Prevention of Torture in Southern Europe

An Assessment of the Work of the European Committee for the Prevention of Torture in the South of Europe

Founded in 1977
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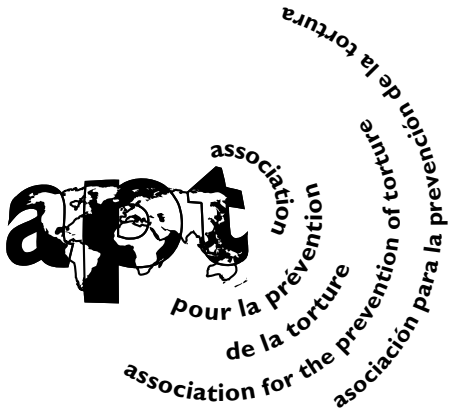

Report

The Prevention of Torture in Southern Europe

An Assessment of the Work of the European Committee for the Prevention of Torture in the South of Europe

Acts of the seminar held in Oñati, Spain, 17 – 18 April 1997

Geneva, December 1997

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LIST OF ABBREVIATIONS

APT:	Association for the Prevention of Torture
CAT:	Committee against Torture
CPT:	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EComm.HR:	European Commission of Human Rights
ECt.HR:	European Court of Human Rights
ECHR:	European Convention on Human Rights and Fundamental Freedoms
ECPT:	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
IGAI:	General Inspectorate of Home Affairs (Portugal)
HRC:	Human Rights Committee
ICJ:	International Commission of Jurists
IISL:	International Institute for the Sociology of Law
NGO:	Non-governmental organisation
SCAT:	Swiss Committee against Torture
UNCAT:	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNWGAD:	United Nations Working Group on Arbitrary Detention

EDITOR'S NOTE

By Anna Khakee, Programme Officer for Europe, APT

Lay persons coming into contact with the international system for the protection of individual rights and freedoms often react in what seems to be, to persons working daily with these rights, a discouraging manner. Not only do they point to the discrepancy between the human rights rules and the actual situation in the world, but they also underline the difference between the human rights system in theory and the actual functioning of this system. They point to the fact that, for all sorts of reasons, many human rights complaints procedures do not work in an optimal way. Similarly, under some reporting systems, governments do not choose to submit reports, and in the context of certain review systems, no reviews seem to be made.

When the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* came into existence less than ten years ago within the framework of the Council of Europe, the *Association for the Prevention of Torture* believed that it was important that the CPT not become a "paper tiger". The main responsibility for avoiding this obviously lies with the CPT, the Council of Europe and the States Parties to the Convention that established the CPT. An independent non-governmental organisation, however, also has a role to play by providing alternative reports on country situations, giving constructive criticism, and furthering co-operation with the CPT.

It was for these reasons that the APT organised a seminar in 1994, assessing the work of the CPT during its first five years of existence and suggesting future perspectives[1]. One of the conclusions of that seminar was that it would be useful to make it the starting point for a series of similar seminars of smaller geographical scope. The bi-lingual Minutes in front of you are the result of the first such seminar. The aim of this Seminar on the Prevention of Torture in Southern Europe was to assess the work of the CPT in six countries in the South of Europe (Greece, Italy, Malta, Portugal, Spain and Turkey[2]) from two angles. The first angle consisted in taking stock of the co-operation between the CPT and various bodies within State and society – the police, judges, lawyers, physicians, academics, NGOs, etc. The second angle provided a comparison of the implementation of the CPT's recommendations in five Southern European States.

Ten years after the adoption of the Convention that established the CPT, the Committee fulfils its primary task, undertaking visits, quite well. In this sense the CPT is indeed no paper tiger. But a second issue needs to be addressed rapidly in order to maintain the credibility already gained by the CPT. The question of the impact of the Committee's work has to be discussed seriously. In this first sub-regional seminar, it was clearly demonstrated how complex the process of achieving concrete results of the CPT's work is. It is a process which no one party controls. The CPT obviously plays one of the main parts, but only one.

While the CPT needs well-established contacts with a restricted number of different actors to be able to carry out efficient visits, the range of partners grows dramatically when the aim is to work for concrete change. This seminar was, in a certain sense, a first assessment of which actors should be involved, and how they should be utilised. In this content, it showed how much remains to be accomplished.

The CPT is a "victim" of its own success, not only in attracting more and more new States[3]. It has also passed its first examination on operational practice with such good grades that more is expected from it. The paper tiger has come to life. Now it is expected to show that its fire really alters reality.

1 See The Minutes of the Seminar of 5 to 7 December 1994 in Strasbourg: *The Implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – Assessment and Perspectives after Five Years of Activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, ed. Carol Mottet, APT, Geneva, 1995.
2 Participants from Cyprus and San Marino were also invited.
3 See Lord Kirkhill's intervention, Strasbourg Seminar, op.cit., p.212.

The Seminar on the Prevention of Torture in Southern Europe was co-organised with the International Institute for the Sociology of Law and took place at the IISL premises at Oñati, Spain. The APT is very grateful to the Institute and its Director, Professor Johannes Feest, for having supported this project from beginning to end, and for having hosted the seminar with such professionalism. In this regard, the APT would especially like to thank Ms Malen Gordoa for all her hard work, as well as the other members of the IISL Secretariat for their devotion and kindness.

We would also like to thank the CPT Secretariat for managing, in spite of the terrific work-load that it is confronted with, to be present at the seminar. Mr Jan Malinowski's presence was especially active and fruitful.

The success of a seminar depends on its participants. We are therefore very happy that the participants showed such an interest and took such an active part in the discussions. Special thanks obviously go to the experts, whose articles are included in these Minutes, for their effort and the time they devoted to prepare an interesting and well-focused discussion. The two rapporteurs had an important and difficult task to fulfil – it is never easy to reassemble points from papers and long discussions – and the APT is very grateful to Malcolm Evans and Didier Rouget for their thorough work.

INTRODUCTION

1) OPENING SPEECH

By Marco Mona, President of the APT

I am very happy to address this meeting on behalf of the Association for the Prevention of Torture, the NGO which prepared this seminar together with the International Institute for the Sociology of Law and to say, first of all, how honoured and happy I am to participate in this gathering of men and women who share the concern about ill-treatment in our own countries and trust that prevention is not only possible but vital in the struggle for limiting and extirpating torture and ill-treatment.

You of course know the APT, but I would like all the same to say a few words about why the APT and its predecessor, the Swiss Committee against Torture, are so tightly linked to the European Convention for the Prevention of Torture and why the APT can claim to have a special legitimation to invite you to a seminar like this one. We have to go back more than 20 years in time: the Geneva banker Jean-Jacques Gautier felt that it was not sufficient to experience deep disgust at the plague of torture but that something had to be done against it, to prevent it, through a system of visits to all places of detention. The idea is indeed as simple as it is ingenious, but it took quite an amount of perseverance to persuade the right people to do the right thing.

Finally, the SCAT and the International Commission of Jurists presented a draft Convention to the Parliamentary Assembly of the Council of Europe, which led to the adoption of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 1987. I may add here that the SCAT, which was transformed into the APT of today in 1992, never abandoned the original idea of its founder J.J. Gautier to create a universal instrument for the prevention of torture: the European Convention is an important step, but the APT is striving today for the creation of a universal instrument through a Protocol to the UN Convention against Torture.

As you see, the APT did not consider its work completed once the European Convention had been adopted. The implementation of the instrument is as important as its creation, and the role of NGOs in this process is crucial – I think we will have the opportunity to discuss this topic during the coming days. The APT organised a seminar in Strasbourg in December 1994, after five years of activity of the European Committee for the Prevention of Torture. Some of you attended it. Those who did not have access to the Minutes which were published by the APT. These Minutes will be one of the guides to this first regional seminar here in Oñati. The holding of this seminar (as well as others in other regions of Europe) was one of the steps decided upon in Strasbourg in order to

- disseminate information on the ECPT and the work of the CPT and the standards emerging from its work;
- develop common strategies towards improving effectiveness of preventive action (visits, reports, recommendations) by the CPT in our countries;
- try to understand the difference in the roles the participants in this seminar may have in their countries and this by simply talking together and listening. We have the advantage of a common interest and concern, and thus we meet as friends. Could there be a better basis for our meeting than knowing and understanding each other?

We will consider and discuss the functioning of the CPT, see what kind of instruments of prevention (and/or repression) there may be on the national level and how they can support the CPT's action, and talk about the role of the non-official interlocutors of the CPT. Tomorrow our work focuses on case studies in different countries: on what is to be done before the visit of the CPT in our country, what during the visit, what after the publication of the CPT report and how to implement the CPT's recommendations… Of course I am aware of the high density of this pretentious programme, but I trust in your willingness to communicate and gather information as well as in your being used to tight schedules and hard work. And then there is the fine and pure air of Oñati, which makes our efforts easier.

Isn't this a marvellous place to hold our seminar, in the midst of the Basque mountains, in this neat little town? Some 500 years ago an Oñati-born bishop built this jewel *ad maiorem Dei gloriam*, and perhaps also a little bit to ensure his own glory, and we are now invited to take possession, for some days, of this historical site, with due respect for what may have been generated during the centuries in this *antigua universidad* (as small as it may seem, it used to be on the same level as Salamanca and Bologna) but also with due respect to the fine work which is now being done by the IISL in its recently re-opened building. Have a look at their programme; it is contagious; get yourself infected.

I'll certainly have other occasions to express my gratitude to those who made this seminar possible. Let me just mention three parties here and thank first of all my friend Johannes Feest and his staff at the IISL for their availability and kind openness: it has been easy and pleasant to work with them from the very beginning – as if preparing and carrying out a seminar together with the APT was something they had been doing from time immemorial. This may be contagious, too.

Then I would like to thank particularly Carol Mottet, who is unfortunately no longer with the APT, for her, as usual, dedicated and meticulous work in planning and preparing this meeting. In this work and throughout the five years of her affiliation with the APT, Carol Mottet has set very high standards in both the methods and contents of her work, which are difficult to meet and imitate. And finally, it is to you all that I would like to express my gratitude, for your commitment, for having accepted the challenging invitation to meet here and do something more to help prevent torture.

Sometimes I feel that this world is suffering from a deep, afflicting agony, a truly depressing thought. But then I think that such an agony need not be, and being here with you, working with you and so many other men and women here, tomorrow, during the years to come, together fighting torture and ill-treatment is one way to confront such an agony successfully. And it's a good way to fight it. Now let's roll up our sleeves and get down to work.

2) OPENING SPEECH

By Jan Malinowski, Member of the CPT's Secretariat

1. Introduction

I will not attempt to give an overview of the topics which you will be discussing during the next two days (i.e. the functioning of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, strengths and limitations; the CPT's interlocutors; and the implementation of the CPT's recommendations in certain Southern European countries); nor will I try to present to you the views of the CPT on those subjects.

The functioning of the CPT is no doubt well-known to you, and you will be discussing certain of the Committee's features in the course of this seminar. Further, each report on the first visit by the CPT to a State Party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment contains a preface, setting out some of the Committee's salient features (including the principles which guide the CPT in fulfilling its task), as well as the principal differences between the CPT and two other Council of Europe supervisory bodies within the field of Human Rights (the European Commission and European Court of Human Rights). In addition, a number of academic papers have already been published concerning the work of the CPT, including some by persons sitting round this table today.

Similar considerations apply to the subject of the CPT's interlocutors (referred to in the programme as the Committee's formal and informal partners). The CPT's relations with certain of its interlocutors are perhaps even better known to you than the functioning of the CPT in general, given that many of you are or form part of those interlocutors. I am referring to those of you who have been appointed by your government to act as liaison officers for the CPT, as well as to those who are active in areas of concern to the CPT, be it in a personal capacity or in the context of a non-governmental organisation.

As regards the third main heading of your programme (the implementation of the CPT's recommendations in certain Southern European countries), the information I am entitled to share with you is limited by the rule of confidentiality to the content of the reports and responses which have been made public by decision of the relevant authorities of each State Party concerned.

Rather than trying to influence the *tone* of your discussions, I look forward to listening to them. Mr Nicolay, the President of the CPT, addressed the seminar on the implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment organised by the APT in December 1994 in Strasbourg; on that occasion, he stated that the CPT members present would necessarily have to concentrate more on listening than on intervening, and he indicated that they were there to hear constructive criticism which the CPT would attempt to take into account in the future. I am in a similar situation here, and will therefore listen attentively to what you have to say in respect of the functioning of the CPT, the Committee's relations with its interlocutors, and the implementation of the CPT's recommendations in the Southern European countries which you will be discussing.

Nonetheless, there are a few ideas I would like to share with you.

2. New developments

In December 1994, Mr Nicolay indicated that the CPT had concluded its first round of visits and that with the adherence of Central and Eastern European countries to the Council of Europe, almost all of which had signed or ratified the European Convention for the Prevention of Torture, it faced the beginning of a new era. In April 1997, the CPT could be said to be about to finish its first round of visits to the Central and Eastern European States which have to date ratified the Convention, and is again facing a new epoch. It should be recalled that the CPT was established by a 1987 Council of Europe Convention, which entered into force in 1989. By the end of 1994 it had been ratified by 29 of the 34 Council of Europe member States; at present, it has been ratified by 33 out of the 40 Council of Europe member States, and it is foreseeable that the Russian Federation and Ukraine will also ratify the Convention shortly[1]. These ratifications will have important implications for the CPT.

To grasp the magnitude of the task with which the CPT will soon be confronted, it is sufficient to contemplate the size of the prison populations in civilian (i.e. non-military) prisons and detention centres in the two States I have just mentioned.

According to recent statistics at the CPT's disposal, the civilian prison population of Ukraine stands at approximately 180,000, i.e. the equivalent of the combined civilian prison populations of France, Germany and the United Kingdom. This very high figure is in turn dwarfed by the situation in the Russian Federation; approximately one million persons are currently being held in civilian prisons and detention centres in the Russian Federation, a figure which exceeds by a clear margin the combined civilian prison populations of all the other Council of Europe member States.

Of course, civilian prisons and detention centres are only two of the many types of places falling within the CPT's mandate. Further, as regards the Russian Federation in particular, the vastness of its territory will further complicate the Committee's task, not to mention the specific situations in certain parts of that territory.

During the December 1994 APT seminar, attention was paid to the conditions which needed to be satisfied for the CPT to keep pace with such developments. In particular, reference was made to the resources available to the CPT, the composition of the Committee, and the need for the second Protocol to enter into force.

At present, on the brink of the ratification of the Convention by the Russian Federation and Ukraine, some of the issues which were discussed in December 1994 continue to be relevant. Indeed, during its quarterly session next week, the Parliamentary Assembly will be discussing a report by the Committee on Legal Affairs and Human Rights on strengthening the machinery of the Convention. The Committee on Legal Affairs and Human Rights of the Parliamentary Assembly has summarised its views as follows:

> 1997 marks the tenth anniversary of the opening for signature of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment (ECPT) and the eighth year of intense activity of the machinery established by it… In the light of the developments and, in particular, the on-going expansion of the CPT's activities to central and eastern Europe, the Assembly identifies some areas where further improvement is necessary in order for the CPT to preserve its effectiveness and credibility.

1 Subsequently, the Convention was ratified by Ukraine (on 5 May 1997), by the former Yugoslav Republic of Macedonia (on 6 June 1997); and by Moldova (on 2nd October 1997). The Convention will enter into force in those three States on 1 September 1997, 1 October 1997, and 1 February 1997 respectively.

The Assembly finds that there is need mainly for: (a) increased human and budgetary resources for the CPT; (b) a more balanced composition of the CPT, with regard to professional background, gender and age; (c) the rapid entry into force of Protocol No. 2 to the ECPT providing for the orderly renewal of the CPT's members and the possibility for them to be re-elected twice; (d) better awareness of the CPT's activities (e) increased co-operation of the CPT with the Assembly (mainly its Committee on Legal Affairs and Human Rights and its Monitoring Committee) and the United Nations Committee Against Torture.

In order to achieve improvements in these areas, the Assembly recommends to the Committee of Ministers, as well as to the Assembly's Bureau, the two fore-mentioned Assembly Committees and the national parliamentary delegations, to take the necessary measures.

Consequently, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly has tabled a draft recommendation to the Committee of Ministers addressing a number of points (e.g. resources, ratification of Protocol No. 2, questions relating to the election of members of the CPT)[2].

The Committee has already taken certain steps to address the above-mentioned developments within the scope of its possibilities. In particular, an accelerated procedure for the adoption of visit reports has been introduced (based on the receipt of draft visit reports well in advance of plenary meetings and their adoption without debate, except for those sections in respect of which a debate has been specifically requested). This new procedure, taken together with comparable measures already applied concerning the adoption of replies to States in the context of the ongoing dialogue, has for the time being enabled the number of plenary meetings per year to be reduced to three; as a result, more resources, both human and financial, can be devoted to the CPT's principal vocation, i.e. carrying out visits.

Nevertheless, it remains clear that the Committee's resources will need to be increased substantially if it is to cope adequately with the challenges which lie ahead.

3. Awareness of the CPT's activities

One of the points touched upon by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly concerns promoting awareness of the CPT's activities, its tasks and powers, at both national and local level. This is a matter that was discussed at length in the course of the December 1994 APT seminar. Particular relevance was attached to the publication of CPT reports and the use which could be made of published reports.

The decision of States Parties to the Convention to publish CPT reports and their responses, which appears to be a confirmed trend, makes a large contribution to developing awareness of the CPT's activities. It also makes it possible to assess or examine the impact of the CPT's work and recommendations in the manner that you will be doing in the third part of this seminar. The CPT, for its part, examines the extent to which action has been taken upon its recommendations in the course of its follow-up and *ad hoc* visits, as well as in the context of the ongoing dialogue with each State Party to the Convention.

2 On 21 April 1997, the Parliamentary Assembly adopted Recommendation No. 1323 (1997) and Order No. 530 (1997) on strengthening the machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

4. Visiting obligations of the CPT

In December 1994, Mr Nicolay also mentioned the policy decisions which had been taken by the Committee in the course of that year concerning its functioning, namely to focus attention on the new States Parties and to increase the number of short and targeted visits.

In line with those decisions, the CPT has engaged in a larger number of short and targeted visits, both of a follow-up and an *ad hoc* nature. These developments can be illustrated by making brief reference to the visits carried out by the CPT to the countries with which you will be concerned in the course of this seminar.

Greece received a periodic visit in 1993 and an *ad hoc* visit of a follow-up nature to Attica State Mental Hospital for children in 1996[3]. Italy received two periodic visits, in 1992 and 1995; subsequently, in 1996, an *ad hoc* visit was carried out to Milan San Vittore Prison, an establishment which had already been visited in the course of both the 1992 and the 1995 visits. Portugal was also the subject of periodic visits by the CPT in 1992 and 1995; and in 1996, Oporto Prison was revisited in the course of an *ad hoc* visit (the first visit to that establishment having taken place in 1995). The CPT carried out two periodic visits to Spain, in 1991 and 1994, and two ad hoc visits, in 1994 and in January 1997; in the course of the *ad hoc* visits, the CPT's delegation in particular interviewed persons who had very recently been detained by the Civil Guard[4]. Turkey received two periodic visits, in 1992 and 1994, and a total of four *ad hoc* visits, the first in September 1990 and the most recent one in September 1996.

It is clear that, even if a certain priority is accorded to new States Parties, the CPT is required by the Convention to continue to organise visits to all of the remaining States Parties. Thus, Article 7 stipulates that "the Committee shall organise visits to places [where persons are deprived of their liberty by a public authority]. Apart from periodic visits, the Committee may organise such other visits as appear to it to be required in the circumstances." As Mr Nicolay reflected in December 1994, if visits were not organised to all States Parties "we could then say that we ourselves were violating the Convention, which provides for periodic visits to each State Party."

5. Final remark

I would like to conclude by stressing that meetings such as this, where the functioning and the work of the CPT are discussed, are most welcome. They tend to promote awareness of the CPT's activities and they constitute food where constructive criticism of the work of the CPT may be expressed – and heard. Consequently, I look forward to listening to the discussions you will be having today and tomorrow on the subject of the prevention of torture in Southern Europe.

3 The CPT carried out a second periodic visit to Greece at the end of May/beginning of June 1997.
4 A further *ad hoc* visit was carried out to Spain at the end of April 1997.

A) The CPT and its Partners

I) FUNCTIONING OF THE CPT: STRENGTHS AND LIMITATIONS

1) THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: OPERATIONAL PRACTICE

By Rod Morgan, Dean of the Faculty of Law and Professor of Criminal Justice at the University of Bristol, CPT Expert, Great Britain

1. Introduction

The CPT is the creation of a Convention of the same name which came into force in February 1989. The Convention does not establish any new norms, but aims to strengthen the obligation found in the European Convention for the Protection of Fundamental Human Rights and Freedoms, Article 3, that: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment". The Convention does so by non-judicial means of a preventive nature. A State Party to the Convention agrees to a system of visits carried out by the CPT to "any place within its jurisdiction where persons are deprived of their liberty by a public authority". The system is based on the twin principles of co-operation and confidentiality. At the time of writing (April 1997) 33 countries are bound by the Convention and more have committed themselves to joining the Convention system in the near future.

The work of the CPT revolves entirely around organising visits, preparing for visits, undertaking visits, reporting on visits and following up visits. These sub-headings are used below briefly to describe the methodology of the Committee.

The CPT comprises one person from each member State elected by the Committee of Ministers of the Council of Europe. Members "shall be independent and impartial" (Art. 4(4)), and they "shall be chosen from among persons of high moral character, known for their competence in the field of human rights or having professional experience in the areas covered by this Convention" (Art. 4(2)). There are currently 28 members of the CPT. They include lawyers with varied backgrounds and experience, medical doctors including psychiatrists, parliamentarians and persons with experience of penal administration. The Committee elects a central Bureau (a President and two Vice-Presidents) and is served by a Secretariat, currently comprising eleven staff, based in Strasbourg.

Information about the CPT and its working methods are available from a variety of sources. The Council of Europe produces information leaflets on the work of the Committee. The CPT itself produces an annual report which describes the activities it has undertaken in the previous year and, from time to time, the methods it employs and the standards it looks to when conducting visits and the safeguards against torture and inhuman or degrading treatment or punishment that it generally promulgates in visit reports.

2. Organising Visits

CPT visits comprise periodic visits and *ad hoc* or follow-up visits. Periodic visits are those regularly planned by the Committee and which the Explanatory Report to the Convention envisaged would be made "as far as possible…on an equitable basis". The CPT initially hoped that this would mean each country being visited every two years, but it is clear that that is not feasible within existing resources and that every four years is now a more realistic target. *Ad hoc* and follow-up visits are "those required in the circumstances" either to investigate allegations, to clarify situations or to see if situations in previously visited institutions have improved or recommendations been

implemented. Most visits are periodic and generally six are planned for each year. They are normally supplemented by several *ad hoc* or follow-up visits of which a greater number are likely in future.

The first round of visits to all countries was determined by lot and was completed in 1990-93. Thereafter countries have been selected according to assessed need and equity.

3. Preparing for visits

The Strasbourg-based CPT Secretariat receives information relevant to the CPT's mandate from any number of sources – the press, official sources, NGOs and individual informants. All communications prepared for and sent specifically to the CPT are acknowledged by the Secretariat and notified to CPT members when meeting in plenary session. Receipt of general mailing list material is not acknowledged although, if it is judged important, it is brought to the particular attention of CPT members when meeting in plenary session. Generally speaking the CPT does not solicit information and its rules of confidentiality absolutely prevent it from telling correspondents how the information they have sent has been acted on. Correspondents may be able to infer that their information has been acted on only by reading the press releases issued by the Council of Europe shortly after visits have taken place (which list all custodial institutions visited) or the report on a visit made, providing the government of the country concerned authorises its publication. This one-way communication system concerns some NGOs, but it is central to the CPT's confidential method required by the Convention.

Once the CPT has decided in the autumn of each calendar year what its programme of visits is to be for the following year, it informs the countries concerned and shortly thereafter issues a press release naming the countries. The exact timing of visits is kept secret. Meanwhile the Bureau, together with the Secretariat, formulates a plan for the timing and duration of all visits and the composition of visiting delegations.

The shape of this plan is constrained by budgetary considerations, by the need to ensure that all CPT members equitably take part in visits, and by the need to ensure that all delegations are balanced in terms of expertise, experience and linguistic compatibility. Because they are in short supply, for example, members with medical expertise tend to undertake an above-average numbers of visits. Most delegations are led by a member of the Bureau and members do not visit their own countries.

When this plan has been approved by the CPT meeting in plenary session the members selected to form the delegation meet and begin to plan the detail of the visit. Such matters as: Which institutions to visit? Will the delegation need to be assisted by experts during the visit? If so, by what sort of expert and by whom? Should an approach be made to an NGO to meet them during the course of the visit? And so on. To assist them in this task the Secretariat prepares a dossier of information received about the country on the basis of which proposals are made as to which institutions should be visited.

About two weeks before the visit is due to take place the country is informed of the proposed date and duration of the visit, as well as the identities of the Committee members, experts and interpreters making up the delegation. Finally, a few days before the visit commences, a provisional list of places to be visited is sent to the country. This procedure is designed to give the country time to make necessary practical arrangements: prepare information about the institutions notified; fix meetings with officials. The notification period is, arguably, too short to allow the authorities time to make significant changes of condition or regime at the places to be visited. However, it should be noted that the CPT always reserves the right to visit places not notified and invariably does so, particularly small establishments like police stations and immigration holding centres.

4. Making visits

The size of visiting delegations and the duration of visits depend on the size of the country being visited and the complexity of the issues which it is anticipated have to be addressed. Visits typically last ten to twelve days though periodic visits to very small countries and *ad hoc* or follow-up visits may be as short as three or four days. Delegations on longer visits typically comprise four or five members of the CPT accompanied by one or two *ad hoc* experts recruited for the purpose, generally two interpreters and two members of the Secretariat. Most delegations include two medically qualified members, one of whom is generally a CPT member and one an *ad hoc* expert.

Visits tend to follow an established pattern. They generally begin on a Sunday with private meetings with local NGO representatives or individuals who it is felt can advise the delegation about recent developments that the delegation may wish to take into account when deciding on possible last-minute alterations to its programme. On the following day meetings are typically held with ministers and officials responsible for the institutions to be visited. But most members of delegations are only briefly involved in these formal exchanges. Delegations quickly get on with the principal business of visits, going to places where persons are held in custody – police stations, prisons, youth detention facilities, closed psychiatric hospitals, immigration detention centres and so on – looking closely at the conditions in which detainees are held, scrutinising custody records and, above all, talking to prisoners about their experience in custody, both that where they are currently held and other places where they may have been.

The CPT enjoys considerable powers when carrying out a visit. It has: unlimited access to the territory of the State concerned and the right to travel without restriction; unlimited access to any place where people are deprived of their liberty, including the right to move inside such places without restriction; access to full information on places where people deprived of their liberty are being held, as well as other information, including medical records, necessary for the Committee to carry out its task. The CPT is entitled to interview in private any persons deprived of their liberty (though such persons may of course refuse) and to communicate freely with anyone else who the Committee believes can supply relevant information about the treatment of persons deprived of their liberty. The Committee sets great store by having immediate and unrestricted access to places of detention, and all areas within them, and published CPT reports testify to the fact that the Committee is insistent on compliance with this letter of the Convention.

Whenever delegations encounter obstacles to their access they are adamant about their rights and, to date, it appears (from annual published country reports) that they have prevailed in gaining access to persons or documents.

The CPT concentrates its attentions on relatively few places of custody which are looked at rather thoroughly. During the course of a periodic visit a CPT delegation will typically visit perhaps half a dozen police stations (some of which will have been notified, but others not), two or three prisons, a psychiatric hospital, a youth facility and an immigration holding centre. The precise balance of institutions will depend on the country, the problems it presents and whether it has been visited previously. CPT delegations often split up when carrying out visits. This is particularly the case in large countries where different regions are being visited.

Finally, visits end as they formally begin, with a meeting with ministers and representative senior officials responsible for the places visited. At this meeting the head of the delegation provides an oral summary of the delegation's preliminary findings and, if any, its immediate concerns.

Shortly after the delegation has left the country the CPT issues a press release announcing that the visit has taken place. This press release provides details of the membership of the delegation and the places visited: there is no reportage on the Committee's findings. The CPT tries to avoid publicity during the course of visits and enjoins those NGO representatives with whom delegations have contact during the course of visits to help preserve its virtual public invisibility during the course of the visit.

5. Reporting on visits

The CPT strives to transmit its reports on visits, the text of which is agreed at full plenary meetings of the Committee, to the governments of member States within six months of visits taking place. This target is not always met, though the CPT's record is improving.

Following a visit the Secretariat prepares a draft report which is based on delegation members' field notes. The visiting delegation, including the *ad hoc* experts, then meets to agree a final text for submission to the next plenary meeting of the CPT. Once approved by the CPT the report is sent in strict confidence to the government concerned.

CPT reports have gradually assumed a more or less standardised format and are typically 70-80 pages long, though those stemming from *ad hoc* or follow-up visits may be shorter. Reports are clearly designed with publication in mind. The facts of the visit are set out in full, followed by the Committee's findings and concluding with recommendations, comments and requests for information.

The overwhelming majority of member States have published their CPT reports (over 30 visit reports at the time of writing), but the manner in which they have emerged has varied as has the time they have taken to emerge. We can distinguish four responses to date. First are the States which authorise publication very soon after they receive the report, about six to nine months after the visit. Second are the States which authorise publication simultaneously with their response, which may take a considerable time (eighteen months to two years after the visit is typical). Third are those States which for reasons that are usually obscure, and no doubt vary, authorise publication of the CPT report, and possibly their response, long after they were received from and transmitted to Strasbourg. In one instance this happened five years after the visit. Finally, there are those countries that after a very long interval have still not authorised publication – currently Cyprus and Turkey – though, given the third category, it is always possible that they may.[1]

6. Following-up the visits

The CPT has always emphasised that a visit, periodic or *ad hoc*, is but a stage in an ongoing dialogue. The dialogue is conducted on the basis of co-operation and in confidence and is designed to prevent ill-treatment of persons in custody. The purpose of the exercise is not to condemn States but to work towards prevention in the future. It follows that country reports represent the beginning of a process, not the end of it.

The CPT asks each Party State to submit an interim response to a visit report within six months of receipt and a final response within twelve months of receipt. Most States have met these deadlines, but a minority have failed to do so. Government responses are then considered by the Committee, following which observations, in the form of extended letters, are sent to the governments concerned. These observations are, like the CPT's original reports, sent in confidence, though they could be published were the recipient governments to authorise publication. In practice this has seldom happened because most governments have authorised publication of their interim and final

1 Cyprus published the CPT's reports in May 1997.

responses at the same time as they have submitted them, that is, well before receipt of the CPT's observations.

The distinction between comments, recommendations and requests for information in CPT visit reports is important because the Convention refers only to recommendations, failure to respond to which may lead to the CPT's only sanction being triggered. If a member State fails to co-operate with the CPT or refuses to improve the situation regarding torture or inhuman or degrading treatment or punishment in the light of the CPT's recommendations, then the Committee may, by a two-thirds majority vote, decide to make a public statement on the matter (Article 10(2)). It should be stressed that in this event, it is not the report of the CPT which is made public – that remains confidential – but a statement on the matter. Article 10(2) has to date been invoked twice, with regard to Turkey, in December 1992 and December 1996.

2) THE LIAISON OFFICER – PRACTICE AND POTENTIAL

By Maria José Mota da Matos, Head of Department for the Study and Enforcement of Sentences of the Penitentiary Administration, Ministry of Justice, Portugal

First of all let me express my best thanks to the organisers of this seminar dedicated to the "Prevention of Torture in Southern Europe" and say that it was with great pleasure that I accepted the kind invitation to participate.

As a matter of fact, as far as human rights questions and the implementation of mechanisms to assure their protection are concerned, although many things have already been or are being done, the truth is that there is still a long way to go, especially as regards the protection of persons who for any reason are deprived of their liberty. It's with this in mind that I always welcome all initiatives aimed at an exchange of views, information and experience, which make possible a concerted approach.

In the field of protecting persons deprived of their liberty I find the activities developed by the European Comittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to be really important. In fact, the CPT, through its mode of action – visits to sites where persons are deprived of their liberty – has an essential role in the prevention of all the abuses that may always occur in situations at risk such as those of persons deprived of liberty.

As concerns my own participation in this seminar, I must immediately confess to you my hesitation when I was asked to speak about the role of the liaison officer in the context of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In fact, I am afraid that actually there isn't very much to say about it, because in my opinion this role is rather reduced. A true "liaison", as the name may suggest, has not yet been established.

Of course my opinion is based on my experience of the last years – I was designated liaison officer at the Ministry of Justice of Portugal in 1992 – but I think that I'm not very far from the reality in other countries as well.

The institution of the liaison officer is referred to in Article 15 of the above-mentioned Convention, which stipulates that " Each Party shall inform the Committee of the name and address of the authority competent to receive notifications to its Government, and of any liaison officer it may appoint ". Being a question touching the States Parties' sovereignty, there have been different approaches to the designation of liaison officers. In Portugal the competent authority according to Article 15 is a division of the Ministry of Foreign Affairs. Four liaison officers were appointed in the Ministries of the Interior, Justice, Health and Defence. However, in the context of the Convention, no specific functions were assigned to the liaison officers and this absence may lead to an absence of activities.

The CPT made two periodical visits to Portugal – in 1992 and 1995 – and a follow-up visit to a prison in 1996.

What was the role of the liaison officers on those occasions? As the delegations of the CPT visited places mainly under the supervision of the Ministries of Justice and the Interior, it was mainly the two liaison officers at these Ministries who were involved. Their role was played primarily before the visits took place, and consisted in sending the material requested by the CPT (identification cards / admittance papers and other documents such as, for instance, plans of a prison or some rules) and other information, either written or oral, requested during the meeting that took place immediately

before the visits. During the period of the visits, with the exception of this initial meeting, there was no contact between the CPT and the liaison officers. After the visit and once the CPT report was received, the liaison officers had to co-ordinate the work of compiling information in order to ensure the preparation of the government observations and the answers to the requests for information and comments on specific matters demanded by the CPT report. Normally the work is finished at this point… until the next visit.

From this short summary we may conclude that at present the liaison officer has a role to play mainly when there are visits of CPT delegations. The question we may raise is whether this role might be different, whether the liaison officer could be more active, and what the limits to such activity might be. And the question has to be posed either at a national level or as concerns the relation between the CPT and the liaison officers in general.

I may say that in Portugal there were remarkable differences between the visit in 1992 and the visit in 1995, due to a much better internal co-ordination between the competent authority, in terms of Article 15, and the liaison officers.

While stressing the sovereignty of the States Parties to the Convention, I think that we should try to establish some common practices to allow an effective expression of the principle of co-operation that must always guide our work. Thus the role of the liaison officers must not end with the visits. This role should have, in my opinion, a continuing character. The liaison officer should take the lead in either regularly up-dating the information already provided to the CPT or provide new information concerning texts or practices implemented in their countries with the purpose of reinforcing the protection of persons deprived of their liberty. Also, at a national level, the liaison officer should have an active role as concerns not only the dissemination of the CPT reports but also of the Convention itself and of the role and functions of the Committee. With this in mind efforts must be made, for instance, to include these matters in personnel training.

I can give the example of the Portuguese prison administration which, last year, included nine hours dedicated to the study of the main international texts on human rights in the training of prison officers, with special emphasis on the procedures of the CPT.

To conclude, I should like to say that it would be very useful to hold periodic meetings between the CPT and the liaison officers. On 4 March 1994 a meeting took place in Strasbourg that was very positive. There it was possible to discuss, in an open and informal way, the main difficulties and to establish some guidelines.

Although one of the conclusions of the meeting was precisely the advantages of holding such regular meetings, none has taken place since then. We hope that in the near future it will be possible to do so.

3) THE ROLE OF THE EXPERT WITH THE CPT

By J.J. McManus, Scottish Prisons Complaints Adjudicator, Great Britain

1. Introductory remarks

Delegates will know that there are two key words summarising the approach taken by the CPT to carrying out its duties under the Convention: co-operation and confidentiality. The confidentiality principle governs all members of the CPT and all those who work for it in any capacity and binds them both during and after any contract entered into with the CPT (Article 13). Accordingly, I cannot be at liberty to disclose any information gained in the course of visits I have undertaken as an expert with the CPT except that which has been published with the consent of the member States. What I can do, however, is discuss in general terms the legal position of the expert under the Convention and the practical input an expert may make into a mission and the subsequent report submitted to plenary meetings for ratification and negotiations thereafter.

2. The legal position of the expert

The power to appoint experts to assist the Committee in carrying out any of its functions on a visit is contained in Article 7(2) of the Convention. It is to be presumed that this power was created to enable the Committee to ensure that each particular delegation had available to it sufficient expertise to carry out its functions properly. Although the appointment of members of the CPT is ultimately in the hands of the Council of Ministers, it cannot of course be guaranteed that the States Parties will submit only the names of persons qualified fully to fulfil the role of CPT members or that the Committee would always have available to it from among its own membership enough people with relevant expertise to perform all the duties required of the Committee. Accordingly, the Committee is given by the Convention a wide discretion to appoint such experts as it thinks fit to perform whatever functions it thinks fit. The practice has been developed of each mission taking along with it one, two or more experts with such expertise as the preliminary work carried out before the mission has indicated would be useful. Commonly, there are two experts on each mission, one medicaly qualified and one with non-medical qualifications. I speak as a non-medically qualified expert and my colleague Jean-Pierre Restellini is addressing this meeting on the role of the medical expert. Non-medical experts used by the Committee have a variety of backgrounds though there does seem to be a common thread of knowledge, academic and/or practical, of the operation of penal systems. Some experts have actually worked within the penal system of the States Parties; others have mainly academic interests in the matter though usually complemented by considerable field experience as researchers or inspectors. Qualifications are not specified by the Convention. Rather, this matter is left to the discretion of the Committee itself.

On appointment, experts have exactly the same powers and immunities when carrying out their functions as members of the Committee itself (Article 16). The only exception to this is that the member States are entitled to object to any particular expert proposed for a mission (Article 14(3)). To the best of my knowledge, this power has never been used by the States Parties. Thus experts have the same immunity from prosecution or civil suit for anything done in the course of their engagement, the same right to enter the country, move around within it and leave it and the same rights of entry to places where individuals may be deprived of their liberty and the power to speak with such individuals in privacy.

Particular duties of the office may vary from mission to mission. Experts are, however, subject to the same duty in relation to confidentiality as all members. They can only perform such tasks as they are authorised to do by the head of the delegation. This normally means that an expert will

work in the company of a member of the delegation, though there are occasions when the head of the delegation may authorise an expert to follow up some information on his/her own.

3. My personal experience as an expert

3.1 My background

I am, at heart, an academic lawyer whose main job has been teaching penology and criminal law in the university sector in the United Kingdom since 1972. Most of my research has been prison related and this has involved me in visiting penal establishments over a long period of time. As part of one project I trained as a basic grade prison officer and spent three months working in uniform. I have also worked as a consultant to Her Majesty's Inspectorate of Prisons in England and Wales, been a member of the Scottish Parole Board for seven years and sat on a government committee reviewing the future of parole and early release systems. For the last three years I have held the post of Scottish Prison Complaints Adjudicator, a new post created as an independent ombudsman for prisons.

My expertise is thus primarily legal, though I have considerable practical experience of the operation of prisons and law within them. My involvement with the CPT started when I received a telephone call out of the blue asking if I would be prepared, in general, to act as an expert for them. I sent an abbreviated curriculum vitae as a result of that phone call and some nine months later was invited on my first mission. My selection for individual missions remains a bit of a mystery to me, though it is clear than an expert will not be invited to assist in his or her own jurisdiction.

3.2 Preparing for a mission

Once appointed for a particular mission, the expert receives copies of the briefing papers and is invited to make any comment he or she considers appropriate on these papers. The kind of comments offered will vary depending on the expert's expertise and knowledge of the particular country to be visited. Commonly, one will have some acquaintance with the country through comparative penology. One may also have professional colleagues in that country, and, subject to the need to preserve confidentiality, one may approach such colleagues for further information and advice. In any event, the briefing papers enable some assessment to be made of the likely areas of specific interest to the Committee and the expert comments on these to the Secretariat and through the Secretariat to the head of the delegation and other members of it.

3.3 During a mission

Duties during a visit vary enormously. For much of the time the expert acts as simply another member of the Committee, hearing exactly the same briefing and visiting the same establishments. The expert is relied upon to use his or her own particular expertise to identify potential areas of special interest to the delegation within these establishments. Thus, for example, I have particular knowledge of and experience in record keeping in police and prison custody and of staff training and complementing in these areas. I also pay special attention to discipline records, complaints processes and regime activities. If I identify any particular problem in any of these areas, I draw this to the attention of members of the delegation and invite them to look closely at the area. Equally, I will be available to members of the delegation who might wish to discuss matters which they have identified as potentially problematic and on which they wish further advice before reaching a conclusion.

Much, of course, depends on the composition of a particular delegation. Presumably this is a factor taken into account by the delegation in deciding which kind of expert to employ for a particular mission.

The non-medical expert usually also plays a significant part in conducting interviews with both officials and detainees. Most such experts have considerable experience of interviewing as well as a detailed knowledge of the realities of detention which might enable them to form proper professional relationships with interviewees very rapidly. It may also be that both staff and detainees are more relaxed with the experts given, in many cases, a greater communality of experience.

During a mission, the expert may also play a significant role in daily meetings which review what has been done and identify what needs to be done.

Of course, as individual members have become more experienced in carrying out missions, the role of the expert has become less clearly defined. However, since all the experts come to the task with considerable experience in the field, they should still be able to offer more in terms of both an overview of the work and identification of details needing further investigation. Much of the work is in fact performed in partnership with the members and mutual respect is clearly a prerequisite for successful operation. Newer members, coming fresh to the task for the first time, bring an important element of questioning of what those regularly involved can often take for granted. The expert may be able to provide good reasons for particular practices but it is very useful to have basic questions asked on a regular basis.

3.4 After the mission

Once the mission has ended all members of the delegation are invited to submit their notes within a certain deadline to the Secretariat. It is clear that individuals' interpretation of what "their notes" mean differs. In my case, I submit a structured narrative, describing each of the places of detention I have seen in factual terms, assessing what has been seen and heard and commenting on all of this in terms of the Committee's remit. These written submissions form the basis of the Secretariat's first draft of the report. Commonly, members of the Secretariat will seek further information from members of the delegation before completing the first draft of the report.

This draft is then submitted to a reunion of the delegation. This meeting, usually over two days, will go through the draft line by line, agreeing a final draft. Again at this stage the expert may have considerable input not only in terms of amending what is in the first draft but also of suggesting additions to the draft. This process can involve considerable discussion and amendment to the draft. The final draft produced by the process is presented to a plenary meeting for adoption by the whole Committee, at which stage the expert has no role whatsoever. Plenary meetings are confidential and only members of the Committee and the Secretariat are present at these meetings.

Adoption of a final report by the plenary meeting is of course only the end of the first stage of the process. This report is forwarded to the State Party which is invited to comment on it and reply to it. The expert receives copies of replies relevant to the expert's interests and may make further comment on the substantive replies received. This assists the process of following up the visit and helps to ensure that the contents of the final report are properly understood and addressed by the State Party. The dialogue continues even after any publication of the report and the government's response, but the extent of the expert's involvement in the follow-up is variable.

4. Conclusion

Being an expert for the CPT is an honorous privilege. Delegations generally work extremely hard, for very long hours during a mission and not always in the most pleasant environments. Nonetheless, the access granted to the Committee and to the expert assisting it enables a detailed examination of the facilities being visited. The expert has to call not only on professional expertise but also on inter-personal skills and common sense to ensure that the delegation fulfils its mission as well as possible. The expert with a background in prison law and practice is accorded the unique opportunity of assisting a delegation to identify potential areas of difficulty and thus to bolster the impact of Article 3 of the ECHR. The growing success of the Committee gives considerable encouragement to those of us who have been involved and is, I believe, a vindication of the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

II) FORMAL PARTNERS OF THE CPT

1) THE CPT AND ITS FORMAL PARTNERS – AN INTRODUCTION

By Malcolm D. Evans, Lecturer in International Law at the University of Bristol, Great Britain

The European Convention for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment is an international legal instrument and the Committee for the Prevention of Torture a creation of international law. In this respect, it is no different from any of the monitoring bodies established by other international human rights instruments, such as the Human Rights Committee, established by the International Covenant on Civil and Political Rights, the European Commission and Court of Human Rights, established by the European Convention on Human Rights and Fundamental Freedoms, the Committee against Torture, established by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and others. As international instruments and bodies, all of these interact with States, but in differing fashions.

The EComm.HR and ECt.HR principally relate with States through the judicial or quasi judicial procedures associated with the applications submitted to them by either individuals or States themselves alleging a breach of the obligations contained in the ECHR. This, of course, may also include an investigative function, when the Commission visits a State in order to investigate and take evidence. Nevertheless, assessment and adjudication are the hallmarks of the relationship, tempered with a degree of mediation. And it is the actions or responsibilities of "the State" which usually are at issue.

The UN bodies mentioned – the HRC and the CAT – also experience this form of relationship with States Parties to the relevant Conventions, but for the most part, the essence of their relationship lies less in the "communication" procedures than in the reporting obligations which States have accepted: the States are obliged to submit to the treaty bodies a report which indicates the manner in which they are giving effect to the obligations they have undertaken and this report then forms the basis upon which the monitoring body will engage in a dialogue with the State at a formal meeting, usually in Geneva or New York. Two things should be noted about this procedure. First, it is the State which has the responsibility to produce the report upon which the dialogue is founded, and it is the State which, in practice, determines the composition of the delegation which it sends, and, hence, the nature of expertise which can be probed by the treaty monitoring body in question. Perhaps because of these, and other factors, the dominant impression (rightly or wrongly) is that the relationship is, once again, between the Committee and "the State".

At one level, of course, this is correct. The relationship is with the State. The problem is that the international character of these instruments, the nature of the obligations assumed and the manner in which they operate, all combine to foster the impression that "the State" is an abstract entity, a monolith (to borrow an analogy used by another contributor to this seminar, a Leviathan). They focus upon what "the State" has or has not done. However, although States often do present this appearance on the outside, on the inside they are complex entities. There are competing voices and pressures which act and react upon each other. Most States can be likened to an orchestra, which is a single entity and operates as such. But the manner in which that orchestra is heard – how it is received and judged – by its audience depends upon the balance struck between its various parts.

The CPT is unlike all the other international human rights bodies so far mentioned in that it is the body which produces the reports upon which the dialogue with each State is conducted: it sets the agenda and this is a significant advance upon other such mechanisms. However, the crucial question is whether the dialogue that takes place on the international level between "the State" draws upon the

responses of the various internal actors and whether those internal actors are willing and able to respond to the recommendations of the CPT in their operational activities and institutional interrelationships within their own bureaucracies. To return to the orchestral analogy, it is not enough that the conductor pass on the comments of the audience and reviewers: they must be taken into account in rehearsals if the performance is to alter as a consequence.

In short, if the CPT is to fulfil its role as a preventive mechanism and work alongside States in order to assist them in the eradication of ill-treatment in detention, then it is essential that its priorities penetrate deeply into the systems and structures of States. It is evident from CPT reports that its recommendations require this. And yet the voice of the CPT is only one among many which will be attempting to influence the relative ordering of priorities within each State. At a simplistic level, we can think of financial pressures, calling, perhaps, for reduced expenditure within an economy; of political pressure, calling for greater expenditure upon, say, the public education or health systems rather than upon prisons; of social and environmental concerns over the establishment of more detention institutions; the potential list of competing claims is enormous. Such pressures come from within administrative, governmental and political circles. They also come from the media, academic, health and educational professionals, social workers, police and prison officers and, of course, the national and international NGO communities. Against such a background, can we dare to assume that the voice of the CPT is going to be heard, let alone heeded?

These thoughts provide the background to the papers and discussion which follow. The current session is devoted to the "formal partners" of the CPT. The next session will focus upon the "informal partners". Inevitably, these are rather inexact characterizations. Both sessions are intended to place the spotlight on the practical impact of the CPT in order to better understand how this can be enhanced. This session, concerned with "formal partners", is, in broad terms, designed to embrace the arms and agencies of government which the work of the CPT touches. I say "touches" rather than "contacts", because if it is to be effective, the influence of the CPT's work must extend beyond those with whom it comes into direct contact and be channelled through them to others. Many would not see themselves as "partners" of the CPT at all – indeed, some might see their relationship in an entirely different light. However, this does not matter: what matters is whether the work of the CPT is having an impact upon *their* work. If it does not, then there is a danger that the dialogue between the CPT and "the State" will remain at a fairly formal level and the ECPT will turn out not to be the radical advance in the protection of human rights that it was intended to be.

The problem with this exercise is that it is an extremely difficult subject to penetrate. Even when CPT visit reports and State responses are published, the true nature of the dialogue may still be shrouded by the veil of confidentiality which hangs over the work of the Committee. The inner functioning of the governmental apparatus of a State is also notoriously prone to secrecy and it might be thought these two tendencies would combine to make it almost impossible to determine the true impact of the Committee's work. However, while it is certainly not easy, it is not impossible, if only because of the willingness of many within governmental and judicial circles to speak of their experiences and perceptions of the relevance – or irrelevance – that the CPT has for them. This is the necessary first step along the road towards determining what might be done to enhance the practical impact of the work of the Committee: an attempt to assess the extent of that impact and the manner in which it is felt. What is also evident is that the progressive identification of the various actors within the apparatus of the State which are – or should be – touched by the work of the CPT will further our understanding of the forms of dialogue that must be engaged in, not only by the CPT and by the "formal partners", but also by the informal partners whose role will be considered later. The search is on for all those who can and should be drawn into a 'multi-directional discourse' through which the aims and values of the CPT can effectively be pursued.

2) SPEECH BY THE PORTUGUESE GENERAL INSPECTOR OF HOME AFFAIRS

By António Henrique Rodrigues Maximiano, General Inspector of Home Affairs, Portugal

It is with the utmost pleasure that the General Inspectorate of Home Affairs participates in this seminar promoted by the Association for the Prevention of Torture. Considering that this General Inspectorate has been recently created in Portugal and is focused on the relationship between the police officer and the citizen, I found it quite appropriate to give you an idea of who we are and what our goals are. The IGAI – the acronym is based on its Portuguese name – was created by Decree Law 227/95, of 11 September 1995, later amended by Decree Law 154/96, of 31 August, 1996. It is a high-standard inspection entity with technical and administrative autonomy, reporting directly to the Minister of Home Affairs.

Although the General Inspector, currently a magistrate, reports directly to the Minister, the latter does not intervene in the functional course of the investigations. The structure of the IGAI also comprises a Deputy General Inspector, currently a magistrate, an inspection and supervising section planned to include 22 members recruited for periods of 3 years from the most varied fields of knowledge connected with inspection, criminal investigation and public administration activities, and/or command or leadership activities developed in the police forces. The IGAI also comprises a department for home affairs (DAI), currently supervised by a magistrate and directly dependent on the General Inspector. It is competent to control and supervise the activity of the IGAI. The IGAI also has a group which provides technical assistance in the various fields of scientific knowledge and a section which handles administrative and general matters.

Although created by the previous government, this institution has only been implemented by the current government, which empowered the General Inspector on 26 February 1996. The IGAI is a supervising and inspection service concentrating on control of legality within the Ministry of Home Affairs, giving special attention to the defence of citizens' rights in their relationship with the police forces. It is an instrument external to the police forces which seeks to intervene in a transparent, rigorous and independent way – and within the limits of legality –, with the purpose of achieving a better and swifter disciplinary justice in situations of social significance, in particular those concerning torture or ill-treatment by the police. The formation of the IGAI is intended to fill a gap in the area of control external to the police forces in Portugal, as regards their behaviour in the context of their relationship with citizens.

Within the scope of its powers, this institution conducts inquiry proceedings and preventive actions on its own initiative. Following a ministerial decision, it also includes proceedings of a disciplinary nature and performs inspections, audits, etc., its addressees being all the services depending on the Ministry of Home Affairs as well as the public administrations ("governos civis") and the enterprises which run private security activities.

The IGAI was set up throughout 1996, and we have now reached the final phase of staff recruitment. However, all activities deemed possible were begun immediately after its formation, even though the staff available still corresponded to only 10 % of its full capacity. Presently the IGAI is closely following the process of reformulation of the training of police officers. It undertook a series of contacts and visits on the international level, to be further developed, maintaining a permanent contact with institutions such as Amnesty International and the Committee for the Prevention of Torture.

At the very beginning of its activities, the IGAI undertook a check of the police places of detention all over the country, with a view to determining the degree of dignity accorded by such places to citizens in detention. As a consequence of this action 9 places were closed and work toward improvements has begun in another 17.

After the disclosure by the Portuguese government of the CPT's report, the IGAI engaged in verifying if the recommendations made therein were being observed, having already presented its proposal in this respect to the Ministry of Home Affairs.

Currently the IGAI is engaged in visiting all police stations and squads in Lisbon, including those visited by the Portuguese ombudsman in 1995. This action aims at presenting proposals to close those places of detention which do not guarantee dignity. In order to establish how the investigations concerning disciplinary offences, namely those related to citizens' complaints, are proceeding within the police forces, we have made a study of the disciplinary attitude in the police forces during the year 1995 and the first half of 1996. We are now issuing the final proposals.

During these months we have also presented proposals regarding guarantees provided to detained citizens, and our proposals have already been accepted. There is now an entry in an appropriate record for each detained citizen, and the responsible police officer is obliged to communicate the detention immediately, by phone or fax, to the magistrate with jurisdiction over the area in which the detention was made. Implementation of this system has led to the connection of fax devices in more than two hundred police stations and squads.

We have already made a study with the purpose of determining the quality of police intervention in areas deemed to have high priority, namely those connected with either African or gypsy ethnic minorities. This study will be evaluated in the context of the project of institutional co-operation with the High Commissioner for Immigration and Ethnic Minorities.

Given our lack of staff, it has not yet been possible to put in practice, in a systematic way, all the investigations incumbent on the IGAI.

During the year 1996 we prepared 150 proceedings regarding the supervision and close observation of disciplinary measures taken within the police forces with repect to all sorts of situations denounced by the press or by citizens.

The IGAI has directly investigated a situation in which a citizen accused the GNR (Republican National Guard) of having submitted her to ill-treatment during the detention period and having thus caused the miscarriage of her baby, as well as another situation denounced by the press dealing with ill-treatment applied by the PSP (public police forces) to a detainee, having caused his death. In both cases, it was ascertained that such denunciations lacked foundation, and the final reports and conclusions were disclosed to the press and to the persons concerned. Currently the IGAI is investigating a citizen's death immediately subsequent to a police pursuit and the firing of shots.

According to its planning for 1997, the year during which the setting-up process will be completed, the IGAI intends to give full priority to the uncompromising defence of human rights and of citizens' fundamental rights, especially when such rights are infringed by members of the police forces, combined with an uncompromising improvement of the quality of police action and the dignity of the officers of the police forces. This priority goal is included in the programme of the government, which is strongly committed to its implementation and has made available a significant

budget item for this purpose. We aim at a police force which can offer quality and efficiency, while being aware that efficiency has to cease when it endangers citizens' fundamental rights.

This fundamental goal will be pursued by giving special relevance to the areas of prevention, training and institutional co-operation. The IGAI also intends to perform systematic preventive and supervisory actions on the national level, as well as actions focused on close observation of police behaviour, police procedures, police training, codes of ethics and courtesy as regards the relationship between police agents and citizens. We also intend to develop a closer co-operation with the European Committee for the Prevention of Torture, with Amnesty International and with the Association for the Prevention of Torture.

Finally, the activity of the IGAI will always comply with the criteria of objectivity, rigorousness, excellence, quality and transparency. In this sense, it will make public its activities provided there are no legal provisions to the contrary.

3) THE FUNCTIONS OF INSPECTORS OF PRISONS

By Remei Bona I Puigvert, Magistrate, Spain

European countries (such as France, Italy, Portugal and Spain) that have regulated legal control of the punishment of deprivation of liberty by appointing officials known as Judges of the Application of Punishments (Jueces de Aplicación de Penas) or Inspectors of Prisons (Jueces de Vigilancia Penitenciaria) have in them a relevant institution able to investigate first-hand information, accusations and complaints, by prisoners or their families, and are empowered to intervene directly at prison level to restore any rights of prisoners that may have been infringed by the prison authorities.

1. The jurisdiction of prison inspection

The function of these jurisdictional organisations may be grouped into three major areas that, apart from slight differences, are similar in the various countries concerned. In Spain these are:

1.1 Scrutiny of the correct application of the punishment imposed

This area includes those decisions of Inspectors of Prisons that entail approval of prison benefits, reduction of sentence, and the regime applicable to individual prisoners.

Inspectors of Prisons therefore have the power to grant ordinary and special release on parole (especially to prisoners suffering from incurable disease), or approval on appeal of the classification of prisoners, and where appropriate, approval of flexible, semi-open or open regimes, including the possibility of serving a sentence without spending the night in prison, for prisoners classified as inmates of open prisons.

1.2 Ensuring the reality and exercise of prisoners' rights

The duties of Inspectors of Prisons also include that of ensuring that all rights not specifically limited by the judgement passing sentence are respected and are exercised by prisoners.

Indeed, although prisoners are deprived of liberty they are not thereby deprived of the other rights established in the constitution and the remainder of the legal system. Inspectors of Prisons must therefore create the conditions (1) that enable prisoners who consider that any of these rights have been infringed to forward their accusations and complaints to the Inspectors of Prisons court, (2) for the relevant investigations to be made, and (3 and lastly) to enact decisions that restore the infringed right and are respected by the prison authorities.

1.3 Correcting the abuses and deviations of the prison authorities by carrying out the function entrusted to it (i. e. prison inspection)

This section is the one that in practice raises the greatest difficulties for Inspectors of Prisons, for various reasons. The first is the workload that any of these courts has to take on when it has several prisons under its jurisdiction, often a long way from its own premises.

The second of these reasons is that prisons have unwritten rules of their own – those of the prison authorities and those of the prisoners – the effect of which is often that the prison authorities do not give the Inspectors of Prisons court full information, especially in cases of ill-treatment, and that they always justify the conduct of their staff. Similarly the prisoners, for fear of reprisals by the prison authorities or by organised pressure groups of prisoners, are not usually willing to act as

witnesses or to make a formal complaint to the Inspectors of Prisons court, whose operations are therefore often restricted.

The last reason is that in Spain the prison authorities have a powerful means of evading any decisions they do not like that are made by the Inspectors of Prisons courts and affect individual prisoners; namely that the prison authorities are recognised as having sole competence to transfer prison inmates from one prison to another. In this way, although apparently obeying a legal decision concerning a particular prisoner, in practice they can transfer him/her almost immediately to another Spanish prison under the jurisdiction of another Inspectors of Prisons court headed by an official whose views more nearly coincide with their own. If the post of head of that court is vacant at the time because the last head has been transferred elsewhere, as often happens, so much the better.

2. Co-operation with the CPT

Inspectors of prisons can help the CPT's work by passing on to it any information that has come to their knowledge through their work on torture and inhuman or degrading treatment that may have taken place in prisons.

Such information should be supplemented by relevant information on the laws of the country that have been infringed by the committing of such acts, and on all proceedings or steps taken without positive result. Where appropriate, the CPT should be asked to intervene.

In their periodic visits, the members of the CPT should not just visit penitentiary centres, but should also talk to the judges responsible for prison oversight in the judicial district in question, in order to hear their views on the areas in which they find it particularly difficult to intervene and re-establish legal order in the penitentiary establishment after a violation of the fundamental rights of the prisoners has occured.

As regards the recommendations of the CPT, the judges responsible for prison monitoring could examine them and draw attention to any aspects which are not in accordance with national legislation, the reasons why this is so, and the ways in which these recommendations could be incorporated in the national legal structure. Conversely, the judges could inform the CPT about any facts or circumstances which, in their opinion, should be mentioned in a special recommendation by the CPT.

4) THE POLICE AND THE PREVENTION OF TORTURE

By Augusto Calado, Head of the Brigade to Combat Corruption, Judiciary Police, Portugal

It was with great interest that I accepted the kind invitation of the President of the Association for the Prevention of Torture, Mr Marco Mona, to participate in this Seminar on the Prevention of Torture in Southern Europe at Oñati, Spain, as the representative of a police union, the Associação Sindical dos Funcionários de Investigação Criminal da Polícia Judiciária (ASFIC) in Portugal.

Given the fact that certain practices of torture and other inhuman or degrading treatment have been attributed to elements of the police force, the role of the professional associations, especially the police unions, seems to me very important in the abolition of such practices.

These representative organisations, over and above their essential role, which is to defend their members' interests, especially as regards the psychological and material conditions in which police officers carry out their activity, should also contribute to a better exercise of public police work. They should insist upon scrupulous attention to legality, resist any practice related to torture or ill-treatment, and bring police and citizens closer together.

Police unions must work as a "countervailing force" to avoid abusive utilisation of the police in acts violating citizens' rights and must play an educational role by showing that police action is not merely repressive but also serves to guarantee these very rights.

On its part, society must recognise the dignity of police officers – citizens with increased responsibilities due to their functions – and contribute to a better understanding of the legal basis of police activity. The responsible arms of government must accept the basic rights of the police such as freedom of association and the right to create free unions.

With regard to ethics, the Parliamentary Assembly of the Council of Europe, having concluded that the European system of human rights protection would be strengthened if the police adhered to codes of conduct oriented toward human rights and basic freedoms, adopted a Declaration on the Police through Resolution No. 690-79, from which I quote the following points:

A) Ethics

1) A police officer shall fulfil the duties according to law while protecting fellow citizens and the community against violent, predatory or other harmful acts;

2) A police officer shall act with integrity, impartiality and dignity. He/She shall refrain from and vigorously oppose all kinds of corruption;

3) Summary executions, torture and other forms of inhuman or degrading treatment or punishment are prohibited in all circumstances. A police officer shall disobey or disregard any order or instruction involving such measures.

With a view to implementing the principles expressed in the Declaration on the Police and in the Code of Conduct for Officials Charged with Law Enforcement established by United Nations Resolution 169-34, the European Council of Police Unions (ECPU), which comprehends about 300 000 police officers in 17 European countries and is recognised by the Council of Europe as a non-governmental organisation with consultative status, approved the European Charter of Police Officers at its 2nd Congress in November 1992.

This is a document which, according to its preamble, aims to contribute to reflection about and transformation of the way in which the police function is understood, especially through use and possible instrumentation of the institutions themselves and their representatives.

It points out the need to create codes of conduct that define and set precise limits on the action of police officers, setting forth the needed balance between police activity, recognition, respect and guarantee of rights and individual freedoms on the one hand and the limits to which the police must be subject in a democratic society on the other.

The concerns raised about the relations between police and community are expressed in Chapter II of the Charter, which underlines that policemen, when exercising their duties, should, among other things:

- prevent any abusive, arbitrary or discriminatory practices causing physical or moral violence, and oppose all acts of corruption;
- treat citizens with respect and consideration, try to help and protect them while taking the necessary decisions at the right time to avoid serious and irreparable consequences, respect principles which require police to use the resources put at their disposal at certain times, and do so advisedly;
- only use their weapons when in situations endangering their life or physical integrity, or that of other persons, and do so only at the right time and advisedly;
- respect and honour the dignity of individuals and watch over the life and physical safety of individuals they arrest or who are placed in their custody;
- comply with formalities and respect the time limits provided for by the judicial system when arresting individuals;

The Charter also states that:

- Police officers are personally and professionally responsible for any act or violation of the law or regulations committed while on duty.
- The obedience owed to superiors may in no way release police officers from their responsibility for actions committed in response to orders given which are in breach of the law.

In the final analysis, however, pre-established rules or codes of conduct, even if inspired by the purest of principles, cannot eliminate the negative practices attributed to some police officers.

We must invest in a new police culture, for as society becomes more democratic, it demands changes in the structure and function of the police. Special attention must be given to training. The task must be carried out in depth, in a professional spirit aimed at continuing improvement, above all in everything concerning the freedoms of the citizen, human rights, and social problems.

This new approach by the police will result in a significant improvement in the services rendered to the public and in a better understanding between the forces of law and order and other citizens.

In this context, it is obvious that police forces organised on a military pattern should abandon such a model. In this way, possible shocks between police action and the structure of civil and democratic society can be avoided.

This is the path the police unions wish to tread on their march into the future.

III) INFORMAL PARTNERS OF THE CPT

1) THE CPT AND ITS INFORMAL PARTNERS – AN INTRODUCTION

By Renate Kicker, Associate Professor, Institute of International Law and International Relations, University of Graz, Austria

1. Who are the informal partners of the CPT?

Informal partners or, as Marco Mona called them in his introduction, "non-official interlocutors" of the CPT, are first of all **non-governmental organisations** on the national as well as the international level. Other important partners of the CPT are **individuals or groups** working in fields related to detention directly or indirectly, for example, **lawyers, prison visitors, chaplains, doctors, nurses, and social workers**. Finally, **academics** and **journalists,** too, are useful to the CPT as they can make the system known and create awareness about situations where torture or ill-treatment may occur.

I personally fulfil the requirements of an informal partner of the CPT. I am an academic dealing with questions of human rights and a professional working to combat human rights violations. The main task of academics as partners of the CPT is to investigate and report on progress as well as problems in the effective implementation of this European preventive system of visits. Links between NGOs and academics are of special importance in bringing specialised knowledge regarding the activities of human rights groups and at the same time providing information on practical situations and cases.

I know this from personal experience as I am a founding member and the vice-chairperson of a national NGO, the former Austrian Committee against Torture, which is now called the "Austrian Society for the Prevention of Torture". This NGO was established in 1982 at the initiative of the late Jean-Jacques Gautier, the founder and at that time president of the Swiss Committee against Torture. We worked closely together, and when the Swiss Committee against Torture became the Association for the Prevention of Torture, the Austrian Committee also changed its name to emphasise that the main focus of our work is to support the drafting and implementation of a preventive system of visits on the regional as well as the universal level.

In this round table, in which we will concentrate on the experiences of informal partners of the CPT in the Mediterranean States, Eva Falcão from Portugal represents the NGOs and is going to speak on behalf of the Forum Justiça e Liberdades. The lawyer, Iñigo Elkoro from Spain, who works with TAT (Group against Torture), an organisation involved in the human rights protection of Basque prisoners, will report on behalf of the group of defence lawyers. Jean-Pierre Restellini, a physician from Switzerland who has gained experience as a frequent expert with the CPT, will raise questions on a closer co-operation between medical doctors working in an environment at risk and the CPT.

Let me now mention some key words on the topic of this round table.

2. What is the role of the external partners of the CPT from the non-official side in the implementation of the ECPT ?

2.1. Information and communication – *preparation of the visits*

The CPT needs information on places of detention, which are, in the wording of the Convention: "any place, where persons are deprived of their liberty by a public authority" (Art. 2 ECPT).

In practice, places of detention are not only prisons and police stations, but also psychiatric institutions, detention areas in military barracks, holding centres for asylum seekers or other categories of foreigners, and places in which young or adult persons may be kept by judicial or administrative order. Information about all such places is of utmost importance for the CPT in planning visits so that it can choose the right places to include. This information should be given by the formal partners, the liaison officers (Art. 8/2/b), corresponding to the main principle of co-operation. However, this information is not always complete and up-to-date. Therefore it is one of the most crucial tasks of NGOs, individual professionals or groups to inform the CPT on a permanent basis about the variety of places of detention, especially about situations or cases of torture or ill-treatment, as well as about the legal system of the respective countries.

2.2. Interpretation and translation – *meaning of the recommendations*

The CPT report, after having been published with the authorisation of the State concerned, may still lack coherence because of its language and wording. In terms of language, this means that these reports are issued in one of the official Council of Europe languages, English or French only, and not in any other national or minority language. In terms of wording, the report and especially the recommendations themselves may be difficult to understand as they are couched in diplomatic language using standard expressions with a special meaning that may be unknown even to the public officials concerned. It is therefore sometimes useful and necessary that NGOs, lawyers and academics make the essence of the CPT findings more transparent by translating them into more practical terms.

2.3. Lobbying – *publication of the reports, implementation of the recommendations, promotion of the work of the CPT*

The same group should first of all make sure that the CPT's report and the State's responses are published, if possible within a period of one year after the visit has taken place. That means putting pressure on the responsible government to deliver its response in due time and to authorise immediate publication.

Then the proper implementation of the recommendations must be supported by the external partners. That could be done by instigating parliamentary questions to the government, public discussion, media campaigns, etc. By doing this, the work of the CPT could be promoted.

3. What are the preconditions for co-operation?

3.1.Knowledge of the CPT's mandate – *criteria of torture and inhuman or degrading treatment or punishment; standards the CPT applies when conducting visits*

In its 1st General Report, the CPT's interpretation of its mandate reads as follows: "In carrying out its functions the CPT has the right to avail itself of legal standards contained not only in the European Convention on Human Rights but also in a number of relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use this as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries." In this context, the CPT has started to elaborate a set of standards with respect to specific areas such as detention by the police, imprisonment (2nd Report), and penal medicine (3rd Report), and has announced that it will continue in this way. Such defined standards,

which can act as guidelines, have been frequently required and are important for an effective co-operation on the part of the informal partners.

3.2. Readiness to communicate information to the CPT without getting a response – *one-way communication due to the principle of confidentiality*

As has already been stressed by Rod Morgan in his introduction, the lack of response by the CPT to the information received is of concern to some NGOs. The question is whether the principle of confidentiality has to be understood in this strict sense. A formal communication through the Secretariat that the information put forward will be taken into account would satisfy the informant and could be done without much effort. There would also be the possibility to ask for further particulars. In this context, it could help if the CPT elaborated a general questionnaire identifying and structuring the basic and most important information required.

3.3. Readiness to build up and continue a constructive dialogue with the responsible public officials in the respective States – *to achieve the recommended changes*

The limited resources of the CPT as well as the increased number of States Parties limit the CPT's opportunities to maintain an ongoing dialogue with the formal partners. Therefore, it would be important for national NGOs and individual professionals to build up contacts with the government and try to improve situations that have been criticised by the CPT.

4. What are the aims of this round table ?

4.1. To analyse the special obstacles to co-operation between informal partners and the CPT with respect to Mediterranean States.

4.2. To find ways and means to improve that co-operation.

2) THE NGOs - IMPORTANT PARNERS OF THE CPT

By Eva Falcão, Lawyer, Forum Justiça e Liberdades, Portugal

Forum *Justiça e Liberdades* is a non-governmental organisation whose objectives are primarily the defence of civil rights and liberties, assuming several activities under that aim, from education and media intervention to legal support. We are divided into several working groups – fund raising, prisons, legal advice/lawyers, image promotion and relations with mass media – each working articulately, under the co-ordination of the management.

Some of these groups are very close to the problems connected to the existence of, prevention of and struggle against torture: lawyers and prison groups and also the management board have already met with the CPT twice, the last time in Lisbon, on 14 May 1995. However, apart from these two contacts (as well as the presence of one of our directors in Strasbourg), we feel that there are no regular contacts; that is, Forum Justiça e Liberdades has the impression that the CPT members only went to Portugal, saw, inquired and reported. Unfortunately, there are no regular or periodical meetings, scheduled and planned in order to co-ordinate both types of work – ours and the CPT's. Forum Justiça e Liberdades is only contacted when the CPT goes to Portugal; other than that, we do not receive the CPT's reports directly – or any other briefings or working material.

This lack of feedback as well as these few and sporadic contacts make Forum Justiça e Liberdades feel that we could improve both our work and actions if better communication and co-ordination were established. With this goal in mind, allow us to present our suggestions:

- It would be very important to establish regularity in contacts, for instance quarterly meetings;
- The CPT should ask for information from the NGOs once every two or three months; even better, it should demand specific actions and investigations, concrete tasks – for example, appealing to us to make the first contacts with any prisoner or other person allegedly a victim of torture who might have contacted the CPT at the international level.
- The CPT could use NGOs as privileged institutions for the training of future agents, or even local agents;
- The edition of guidelines and procedure rules for the observation and attendance of complaints is of primordial importance. We feel that such guidelines would be extremely important due to the lack of experience of our personnel, composed mostly of volunteers (we are a private association without any public funding). At the same time, the CPT's experts should develop training courses in order to play a bigger role in our work, fulfilling at the same time the CPT's objectives regarding our country.
- The CPT could arrange a "distribution agreement" with the governments it investigates; so far, Forum Justiça e Liberdades hasn't received the CPT's reports – at least never directly; it would be of great interest if we did so through the Portuguese government; in fact, this kind of triangle – NGOs, the CPT and governments – should be stimulated, the NGO being a special vehicle between the CPT and the local authorities, since it is in a position to speed up things by its on-the-spot location.
- Meetings must be held in order to elaborate "rights charters" based on real situations; different countries and societies have different and specific needs; therefore, the CPT should work locally, i.e., apart from international conventions, more detailed charters should be created.

To summarise, our relations with the CPT have been sporadic and, in our opinion, non-integrated.

Although we feel flattered by having worked with CPT, we also think that much more could be done in order to obtain a tighter collaboration and better results: information, communication, co-operation, feedback, mutual support. NGOs must be seen as partners, local agents.

We sincerely hope that this seminar will be a first step towards bridging the gaps.

3) THE LAWYER'S ROLE IN THE WORK OF THE CPT

By Iñigo Elkoro, Lawyer, Member of TAT (Group against Torture), Spain

1. Introduction

As a result of the approval in the Council of Europe of the European Convention for the Prevention of Torture, and therefore of the CPT, a new stage is beginning in that body in the work of eradicating torture. The formation of the CPT creates a system of pressure on States that did not previously exist anywhere in the world. Although it is not the CPT's task to denounce and/or deprive of legitimacy States that practise torture or other kinds of ill-treatment or cruel, inhuman or degrading punishment, there is no doubt that States fear the CPT and its visits and reports, and subsequent use of the reports by bodies upholding human rights and by the victims themselves. In short, they fear that a body they do not and cannot control should get to know of the abuses and violations that may be committed in a State by its officials, whether occasionally or by accident or – what is much more important – systematically.

When I say "pressure" I am aware that the CPT's task is not to express its disapproval of situations, but to make recommendations in an attempt to ensure that those it discovers do not happen again, and that gaps in domestic law that allow them to happen are filled. Certainly the principle that all the CPT's work is confidential saves its work from being made use of by persons outside it, and makes its activities trustworthy and credible.

Furthermore, the fact that the Committee is composed of representatives of every State Party to the Convention, representatives who are independent, impartial and elected by no less a body than the Council of Ministers of the Council of Europe for their high moral character, ability in matters concerned with human rights and professional experience in those areas covered by the Convention, causes even governments to regard the Committee and its work as completely legitimate.

The CPT's working methods (which are to receive information from various non-governmental sources; to prepare its visits conscientiously, always using the "surprise factor" in dealing with governments; and to send the most suitable experts on each visit, assessing their suitability in relation to the characteristics of each State, which it deduces from information received) make its visits and subsequent reports effective, but most unfortunately not effective enough to eradicate the abuses it detects.

As to the context in which the CPT works, the fact remains that States try to hide things they cannot be proud of. Torture and cruel, inhuman and degrading treatment are some of the most shameful things they have committed. Basically, therefore, the CPT works on principles hostile to them. Although States and their agents are obliged to co-operate with the CPT they will always try to hide the facts and situations as much as they can, and may even obstruct the work of the experts on their visits. This may not happen always, but there is evidence from various reports that the experts have had problems even with some judges, who in theory know the terms of the Convention perfectly well. One has to remember too that victims of torture or cruel, inhuman or degrading treatment distrust the experts who visit them. It is only natural for people who have suffered such treatment to distrust "outsiders" who enter prisons, police stations and other places of detention without hindrance and interview them without anyone interfering. People who do not know that the CPT even exists simply cannot understand how this can happen when they are not even allowed to talk in private and without intervening barriers to their lawyers, physicians of their choice, or relatives.

Finally, and to end this introductory section, I want to emphasise that to do its work the CPT needs information. Some information will obviously come from governments, but by itself it does not suffice for the CPT to fulfil its mandate. The Committee would be worthless if it did no more than accept as true the information it received from governments. Alternative information is necessary, information on what governmental practice really is; information that fits the facts, is technically correct and contrasts with what is laid down by law, which is that the State should scrupulously respect citizens' rights. The CPT therefore needs co-operation from victims of torture and other cruel, inhuman or degrading treatment, from the NGOs concerned and from lawyers who discover instances of its use. These are the Committee's "informal and unofficial partners".

2. The contribution made by lawyers to the CPT

The CPT does of course have sources of information about the use of torture and ill-treatment in various countries. Apart from the legislators obtainable directly and without go-betweens, it is sometimes possible to form an idea of what is going on in a country in the spheres of interest to the Committee by following the press. But it can always happen that neither the press nor "direct sources" (governments and legislators) have any desire to report or make known serious cases of torture or ill-treatment. This is where the lawyers (as well as victims and NGOs) come in. In my opinion it is essential for the CPT to have the information lawyers can give it. It has to be borne in mind that lawyers are also an essential channel for letting victims know that an organisation such as the CPT even exists; besides, the NGOs themselves are working hand in hand with lawyers and health consultants. Lawyers, to my mind, play a vital part in the CPT's operations.

When it organises its visits the CPT has to know what objectives to choose and what centres and persons to visit. It has to know about the victims it should interview and the situations that have to be discussed with the government's representatives. Without the co-operation of unofficial sources the Secretariat would have difficulty in giving the Committee guidance in planning its visits, and the Committee could not easily fix priorities or know what was in fact happening in a particular place to a particular person. In any case, it would then make general-purpose visits during which it might possibly discover violations of the European Convention on Human Rights. No less possibly, it might not discover them even though they were present. That is why unofficial agents play an important part in the work of the CPT. Their information is essential to the CPT because by knowing where to look for such situations it can uncover them, and accordingly recommend to governments that they do the necessary to put a stop to the conditions that allow such things to happen.

The question of *ad hoc* visits and what lawyers do or can do to help the Committee decide whether to make a visit of this kind deserves special attention. Exact information that such-and-such a situation of torture exists or an extrapolation from previous cases may possibly lead the Committee to decide that a task force will set out on an *ad hoc* visit. Obviously, in such cases the victim cannot inform the CPT of the situation. Therefore his/her family or the lawyer or NGO must pass this information to the CPT, the normal practice being either that the lawyers advise them to approach the Committee or that the lawyers get in touch with the Committee directly. Usually, of course, it is almost impossible for CPT delegations to get to where torture or ill-treatment is applied while it is being applied. Nearly always, therefore, they will arrive after the fact. In either case – extrapolation from previous cases or exact information concerning a case of torture – the lawyer's role is vitally important. In the former event he/she has to weigh the risk that torture or ill-treatment is being perpetrated before making a request for an urgent visit by the Committee. In the latter event, it is well to remember that the first official to interview the victim is the lawyer. It is he/she who obtains the first information and first-hand evidence, and is therefore the first person in a position to make an urgent request for the Committee to make its visit.

3. The lawyer's role after CPT action

3.1. Confidentiality

The CPT's activities and its credibility and legitimacy in the eyes of governments are founded on the principle of absolute confidentiality and absolute secrecy until the government concerned gives the green light for publication of the reports drawn up by the CPT or until the CPT, using the authority bestowed by the Convention and the channels provided by it, makes a public statement regarding that government.

Because of their contacts with victims and their families, and with NGOs and other bodies or individuals dealing with the case, lawyers often have private information on visits, what transpired at the CPT delegation's interviews with various sources, and so on.

Lawyers might well make all this information public, in order to draw immediate advantage from the CPT's visit by accusing the government concerned, either for political purposes (to deprive that government of internal or international legitimacy), or for legal advantage in a particular case (for its immediate settlement through legal channels, making use of the fact that the CPT interviewed their client).

In either case, if the information is still being kept secret, what does society gain by its being published? Does "selfish" publicity do anything to prevent or put an end to a situation that recurs in other cases? The point is certainly that if such methods were to be used by persons holding private information, the CPT's activities, legitimacy and credibility, and therefore its potential efficacy, would be drastically reduced. The CPT's activities would be confined to a "case", not a situation, whereas the fact is that cases are produced by situations, either legislative or caused by government officials. These are the situations the CPT has to discover, and on which it must base its reports and recommendations. Lawyers have to help the CPT to discover situations. They have to do so by investigating actual cases so that they can thereby resolve those situations, and logically this should help to settle cases.

3.2. Pressure to obtain publication of the CPT's reports

As I said before, lawyers may have private information; they may know that the visits have been made (a fact that, although public, is unknown to the great majority of the public) and may in many cases be aware of what transpired in the interviews with victims or other persons concerned.

Armed with this information, with their knowledge of the law and their own knowledge that situations of torture and ill-treatment do exist, lawyers can make a guess at some of the content of the CPT's report, both of its findings and recommendations.

The CPT's reports can certainly guide the government towards carrying out the reforms needed to overcome situations of this kind. If they do, and if the reforms are carried out, all the better – the CPT will have worked to good effect. But for the recommendations to become reality the government has to be determined to overcome the situation complained of, and the governments of many States Parties to the Convention do not display any great determination of that kind. If there is no will to accept and approve the CPT's recommendations by making such reforms, there is obviously no will to make its reports public either.

In inauspicious circumstances such as these, where the State shows so little desire for reform, lawyers' knowledge can be extremely useful. Without breaking the rule of confidentiality, but by giving publicity to cases that recur at some time or other, and making known the CPT's visits and the refusals by governments to reveal their results, lawyers put pressure on governments by making it difficult for them to keep CPT reports secret. Of course the reports are not always made public (neither Turkey nor Cyprus has yet published any such report [Editor's note: The government of Cyprus has now made public the CPT reports addressed to it]). Nevertheless there is the example of the Spanish government, which although it had not the least desire to publish the CPT's reports felt obliged to do so when the pressure to publish became too strong to resist. In that case, for example, the approaches by NGOs and lawyers to international institutions and international NGOs were important, and there were also many other elements that obliged the government to make that decision.

3.3. Use of the reports to eradicate undesirable situations

Once the reports are made public it is essential that they be read by legal experts. Generally speaking, apart from a few technicalities the conclusions of the reports are clear and can be understood by anyone, even without legal knowledge. But they have to be distinguished from the recommendations on the changes in the law required to put an end to situations in which the use of torture or other cruel, inhuman or degrading treatment becomes possible. Responsibility for making these recommendations will fall mainly on the legal profession, which is the best equipped to interpret the CPT's recommendations and press governments to apply them. That, indeed, is its duty. The legal profession can and must inform society of these matters. It can and must guide the various bodies working for a better society so that they press governments to adopt measures of this kind. Similarly, it can cooperate with governments when such measures are being adopted, and work with them to end the use of torture and ill-treatment. And it can measure and monitor the extent to which the recommended measures are adopted, and keep the CPT informed of developments.

4. Lawyers' reservations regarding the CPT's work

Without being unduly long-winded, I feel I must mention some reservations that could (and indeed do) arise among lawyers, victims and NGOs, regarding the CPT's principle of confidentiality. It raises a number of queries in my mind which I am certain preoccupy others, too – for example:

Why, when the CPT becomes aware of situations involving specific persons and is alone in possessing information and evidence that these abuses have taken place, cannot this explicit evidence and testimony be obtained for use in legal proceedings? One obvious reply or argument is that CPT members cannot become involved in domestic lawsuits between a government or its agents and the victim. If they did, they would be less able to oppose that government effectively and would arouse distrust that could even nullify the purpose of the CPT. There may be an answer to this, and opinions may differ; anyway, the subject is an interesting one.

Why should reports be confidential? Why must two-thirds of the members of the Committee be in favour before a public statement can be made about a named government? Why should there not be procedures whereby they would be published automatically or on the expiry of a timelimit, the Committee then being empowered and obliged to make a public statement? I cannot answer these questions, but I do think they would be interesting subjects for debate. The answers to them, and to many other questions that could be asked, could be of great value to the Committee when it has to act and take decisions for the future.

4) EXTERNAL NON-OFFICIAL PARTNERS OF THE CPT– THE DOCTORS

By Jean-Pierre Restellini, Doctor, CPT Expert, Switzerland

1. Introduction

One might represent the struggle against torture and inhuman or degrading treatment throughout the world by Thomas Hobbes' famous Leviathan. Only a multitude of individuals and groups of individuals, making up a large body which draws its strength from combined forces and diversity of approaches, can fight effectively. In this anthropomorphic visualisation of the action against torture the NGOs would constitute the giant's eyes and ears, continuously reporting complaints and denunciations. The CPT's activity would be that of Leviathan's arm. Not the arm that holds the dagger, but the hand that touches, palpates, measures in order to verify the material reality of the information transmitted by the eyes and ears.

But one should not forget that the Leviathan monster can only take action once it has recorded the input from its various senses. In other words, it is only at a later stage that the real work against torture begins. And at this stage, "external non-official partners" play an essential role in field work. This patient, time-consuming and laborious action is certainly less spectacular and holds less media appeal than the denunciation stage, but the two things follow each other in a natural sequence.

The various reports (to the States) of CPT missions – which are a kind of snapshot of the situation at a given moment – are only meaningful if they lead to an improvement of the local situation they address. That is, if they lead to action aimed at concretely reducing, if not eliminating, violations of Article 3 of the ECHR in the State concerned. A denunciation is not an end in itself; if it were, then such activity would be nothing more, in my opinion, than a sordid pseudo-humanitarian voyeurism. Denunciation only acquires meaning and legitimacy when it is followed by careful field work and effort to initiate local change, leading to an improvement in the respect for human rights.

The essential questions today are: **How can one go beyond the achievements of the European Convention against Torture during its ten first years of existence?** What is the next step that should be taken? To return to the image of the Leviathan, the monster has been trained to hear and see (NGOs) as well as to touch and feel (CPT). We now need to concentrate our efforts on making the monster move and effect change, concrete change.

One of the most fruitful ways to get this movement going is by encouraging the work of the CPT's external non-official partners. Only they, strengthened by the CPT's recommendations and observations, which are based on solid international experience, can hope to modify unacceptable situations in the long term with regard to Article 3 of the ECHR in a majority of the Council of Europe's member States.

In other words, this second step comprises co-operation and dialogue not only among States (governments), but also in the field, between different private or public partners on the front line of the struggle against torture.

2. The decisive role of the health professionals

It is no longer necessary to recall the essential role of the health professional in this area. The situations when a doctor or nurse can radically influence the outcome of a violation (or risk of violation) of Article 3 of the ECHR are numerous and by now rather well documented: prison medicine,

police medicine, institutes of forensic medicine, psychiatric hospitals, etc. In general, the health professional's role is essential in any situation in which the attitude or decision of that health professional can have a determining influence on the conditions of deprivation of liberty of an individual.

In consequence, the two questions proposed by the APT illustrate perfectly the problem of follow-up in the field by these external non-official partners of the CPT in the action against ill-treatment and torture (in my talk, I consider these partners to be our natural and indispensable allies, the doctors):

a) How can a health professional working in an "environment at risk" (prison, police station, forensic institute) make use of the CPT?

b) How can this same health professional be useful to the CPT mission?

3. How can a health professional working in an "environment at risk" (prison, police station, forensic institute) make use of the CPT?

There are, of course, numerous and varied concrete answers to this question; they depend especially on the characteristics of the "situation at risk" in which the professional operates.

When a medical opinion can be determining for a deprivation of liberty procedure, a doctor can be subjected to terrific pressure. Here it is extremely important that the professional be able to refer to internationally recognised standards to underpin a professional ethical position. Obviously, the various CPT reports can serve as such objective standards. For instance, CPT's third general activity report defining the rules of professional ethics for prison health services (frequently used by the International Committee of the Red Cross, among others, as a reference for the inspection of prison health services) can be applied by a majority of health professionals working wherever persons are held in conditions of deprivation of liberty. These recommendations are very useful for strengthening their position when they run into conflict with prison authorities' written or unwritten guidelines or attitudes.

In keeping with this view, it can be important for health professionals working in an environment at risk to have access to information on how their problems are dealt with in neighbouring countries in Europe. In the face of a prison administration or the police, a responsible doctor will defend his/her position more effectively if he/she can show that the solution he/she proposes, and which conforms to medical ethics, has already been implemented in practice, with no particular difficulty, in countries with a similar democratic and humanitarian tradition.

The doctors usually have access to the reports sent by CPT to the governments of the countries visited and the answers of the latter (most States which have ratified the Convention publish these documents). One can hope that in future the CPT secretarial services, thanks to computerisation, will be able rapidly to provide full and precise information to anyone requesting it. For instance, on the issue of access to a doctor for detainees in a high-security ward. Some guidelines on exactly this topic are mentioned in CPT's third report. But in my experience, it is sometimes much more useful to know what CPT's concrete recommendations (for example, concrete proposals about a very specific situation) were after the German, Romanian or Turkish missions,

One can also hope that in the future the CPT will provide moral – and sometimes financial – support for the organisation of meetings on the national or international level of health professionals working in environments at risk. Some such meetings have already been held under the auspices of

the Council of Europe and have made possible extremely lively exchanges of views, as for example, during a meeting of the Turkish Medical Association held in Ankara last year.

Finally, thanks to the fact that the CPT regular visit plan is made public early each year, it is possible for any health professional faced with an unacceptable situation to inform the CPT Secretariat confidentially so that the issue can be investigated during the next mission, and if necessary to take the further step of testifying to and denouncing an Article 3 violation. In addition, thanks to the CPT's permanent dialogue with the States, it can decide to intervene directly by contacting the authorities after having been legitimately called upon to do so by a health professional.

4. How can this same health professional be useful to the CPT mission?

First of all, and reverting to the topic covered earlier, the health professionals working in an environment of deprivation of liberty can easily help the CPT to prepare its missions by keeping it up-to-date on daily concrete problems pertaining to the application of Article 3 of the ECHR in the practice of their professional activities. CPT missions are brief, and with each a rigorous selection of sites to be visited and situations to be investigated must be made. In addition to the valuable information furnished by the NGOs, especially the APT, it would be useful if the health professionals would transmit their concerns, directly or via professional associations, thereby making it possible for the CPT to better target its mission to their country.

Finally, the CPT may well be mistaken sometimes in the suggestions it makes to the authorities of the country visited. The shortness of the visits and a sometimes patchy knowledge of the terrain undoubtedly hinders it from reaching flawless solutions in every case. Because of this, I feel it is essential that the CPT's recommendations be adjusted if necessary, and that these "external non-official partners" should inform the CPT directly when this is necessary. It is perfectly possible, for instance, that the CPT recommendations cannot be applied for good technical reasons. When a health professional operating in a high-risk environment is deeply convinced that the model proposed by the CPT for his unit is not suitable or relevant he/she should have rapid access to the Secretariat to present and substantiate his/her position. Such criticism has the advantage of immediacy and such an interface with the field could be extremely useful in many cases.

B) The Implementation of the CPT'S Recommendations in Five Southern European Countries

1) REPORT ON GREECE

by Effi Lambropoulou, Department of Criminology, Panteion University of Political and Social Science, Greece

1. Introduction

The delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited Greece from 14 to 26 March 1993. The visit formed part of the Committee's programme of periodic visits for 1993, and the delegation saw five correctional institutions, a prison hospital, the psychiatric unit in a prison complex, a custodial unit in a general hospital, ten detention centres and four mental hospitals[1]. In addition a number of prison inmates were interviewed.

At the end of the round of Greece, the CPT delegation gave an oral summary of its visit to the Minister of Justice and to senior officials of the Ministries concerned. In the same year, the CPT drew up a report with its remarks. The report was published on 29 November 1994 and included recommendations to the Greek government, which agreed to the publication of this report.

Methodology of the study

The present study worked on a systematisation of the CPT's recommendations, associating them with the response (November 1994) and the follow-up report (February 1996) of the Greek government. It also takes into consideration on the one hand the institutions visited by the CPT, and on the other, the organisations or the separate persons from whom information is derived on the contemporary situation in the institutions.

First of all, personal contacts were established with liaison officers and senior officials of the Ministry of Health, the Ministry of Justice (Direction of Correctional Policy, Direction of Prison Sentence Enforcement, Department of Organisation of Prisoners' Work), and the Ministry of Public Order. A brief questionnaire asking about the implementation of the recommendations and improvements registered in the Greek reports was lodged with them.

Secondly, a related questionnaire was sent to several NGOs and meetings were held with their directors or their members. Some of the organisations could not provide sufficient help because they did not know the situation very well (e.g. the Medical Rehabilitation Centre for Torture Victims, the Greek section of Amnesty International); others wrote that they did not have time to answer and others did not answer and showed no interest at all (e.g. the Bar).

Thirdly, long discussions were held with psychiatrists either working in the psychiatric institutions visited by the CPT or working in other State psychiatric units. Information has also been sought from lawyers who have knowledge of the enforcement of prison sentences and of detention centres, as well as from other experts about the improvement in prison establishments, work programmes etc. without, however, much success.

2. The CPT's visit

2.1. Preparation of the CPT visit

The visit of the CPT delegation took place rather quietly and without much publicity. According to representatives of several NGOs, they were not informed of the visit in advance, but

1 a) The Korydallos Prison Complex in Attica, the Larissa Prison, The Pavlos Melas Military Prison in Thessaloniki, b) the Athens Police Headquarters, the 4th Police Station in Athens, the Piraeus Central Police Station, the Glyfada Police Station in Attica, the Athens Transfer Centre, the Pireaus Transfer Centre, the Aliens Holding Centre at Athens Airport, the Larissa Police Headquarters, the Thessaloniki Police Headquarters, the 3rd Police Station in Thessaloniki, c) the Attica State Mental Hospital for Adults and Children, The Lepida and Lakki Public Health Establishments on Leros, as well as the Hospital for children with special needs at Lakki, Leros d) the Prison Hospital, the Psychiatric Unit in Korydallos Prison Complex and the Custodial Unit at the Nikea Hospital.

only while the meetings were taking place during the delegation's visit to Greece. The CPT has no ongoing contacts with organisations in our country. Few local NGOs provide the CPT with any information – or rather fragmentarily – relating to human rights violations, for example, degrading or even violent treatment of foreigners by the police.

As regards the publicity of the visit during the stay of the delegation in Greece (14-26 March 1993), as well as a day before its arrival and a day after its departure (13 March and 27 March 1996) an examination of newspapers revealed, with few exceptions *(e.g. Risospastis, Eleftheri Ora, Eleftheros Tipos)*, only marginal publicity for the visit. The low publicity was confirmed by a visit to the Botsi Institute which keeps a central register of significant news items in the Greek press. However, the Institute pin-pointed the relevant news item only in the press of 11 December 1993. On this date, there is a long account of the entire Greek press on the report of the CPT, mainly concerning the correctional institutions, the detention centres and the psychiatric unit for prisoners. The publications emphasise the material conditions of the prisons and detention centres, the behaviour of the prison staff, the allegations of ill-treatment, especially of electric shocks suffered by some persons in the Athens and Thessaloniki police headquarters and the discovery of objects for physical abuse (wooden sticks, batons, a baseball bat, and a plastic rod with two electrodes used apparently for electro-shocks).

It must also be taken into account that the newspaper of the Greek Communist Party *Risospastis* in its issue of 11 December 1993 (p. 20) presented some points of the CPT report and stressed that the Ministries of Justice and Public Order had tried to keep the visit of the CPT delegation secret. However, it is not known whether the delegation itself, in consultation with the Ministries in charge, decided that it did not want press coverage of its visit in order to accomplish its work better, or whether the low publicity was due to the efforts of the Ministries to keep the visit secret. The then Minister of Justice, Ms Benaki, in a telephone communication, emphasised that the Ministry had informed the mass media of the CPT visit.

However, the CPT report did come into the limelight prior to December 1993, when news leaked out in July of the forthcoming interim response of the Greek government to the findings of the delegation.

The CPT report was given publicity again on 31 March 1994, because of a debate held the day before in the Greek parliament on the bill for the decongestion of prisons and other reforms in correctional policy. The then Minister of Justice, Mr Kouvelakis, admitted that degrading treatment took place in Greek prisons, thus confirming the Committee's remarks. At the parliamentary session on 5 April 1994, Mr Kouvelakis tabled the part of the report referring to the conditions in Greek prisons and mental hospitals, to be included in the record of parliamentary proceedings. Yet, he declined to produce those parts of the report mentioning physical abuse incidents in police stations. The Ministry of Public Order also refrained from publishing the findings of the Committee's research. In July 1994 a parliamentary committee drew up a report on living conditions and other problems in Greek prisons. The issue of physical abuse in prisons, however, is not touched upon in this lengthy report.

2.2. Visit of the CPT

According to the CPT report, the meetings with national authorities from the beginning to the end of the visit took place in a spirit of close co-operation. It is noted that fruitful discussions were held with the Minister of Justice, the Deputy Minister of Public Order, the Deputy Minister for Defence, as well as senior officials of the Ministries of Defence, Health, Justice and Public Order

(p. 12: 5). The delegation received significant support from the liaison officers appointed by the different Ministries concerned for the CPT visit (p. 12: 6.).

The delegation had no serious difficulties in gaining access to the establishments visited. There was only a brief delay entering the military prison (Pavlos Melas) and the custodial unit of the Nikea Hospital in Athens, because the staff had not heard of the delegation and wished to check with their superiors before allowing it to enter (p. 12: 7).

The delegation was received in a very satisfactory way in all the establishments visited by those in charge and by staff. However, according to the CPT report "there were clear indications that police officers at the Athens Police Headquarters had attempted to conceal from the delegation at least two persons in custody. Further, the delegation gained the distinct impression that some of the persons working at the Leros psychiatric establishment had been discouraged by the authorities in charge from having any contact with the delegation" (p. 12: 8). The CPT met, as stated in its report, the officials in charge of the visited institutions (prisons, detention centres, psychiatric institutions) and inmates at Thessaloniki Prison. It could not be ascertained whether the officials in charge of the institutions were informed of the possibility of a CPT visit, or whether they were sufficiently informed of its mandate, role, etc. It is more likely that they had been informed of the possibility of this visit, while it is doubtful that they knew about its role and area of competence. The officials in charge cannot refuse the visit of this delegation, nor any other delegation if so directed by their superiors in the Ministries. The cases of concealment and discouragement registered by the CPT probably refer to an obviously regrettable recent event in the institutions, or to the usual closeness of these organisations.

The CPT visited very representative institutions of the Greek situation as concerns justice, health and public order. The prisons in Corfu and in Agios/Stephanos (Patras) should have been visited too. The correspondence between the institutions selected by the CPT and those considered priorities by local observers could have been improved with more co-ordinated contact by the CPT with Greek NGOs or experts.

2.3. Publication of the CPT report and the responses from the Greek authorities

The Greek government has agreed to the publication of the CPT report as well as of its responses. The report and the interim response of the Greek government were published by the CPT 19 months after the delegation's visit, on 29 November 1994, and the Greek government's follow-up report on 21 February 1996. As mentioned before, the Greek press referred extensively to the CPT report in December 1993. The part of its report concerning prisons and mental hospitals was included in the record of parliamentary proceedings, so that everybody could have access to it. However, the Greek responses have not been widely circulated. The only pressure which might persuade the Greek government to make public its responses would come from the mass media, parliamentarians or the resolve of a Minister concerned to introduce some related reforms, thus using the remarks, recommendations etc. of the CPT to support his/her effort. The role of NGOs and the pressure which they can exert is not significant. Moreover, neither enough information on the entirety of the issues concerning the delegation, nor good co-ordination with other pertinent organisations exists.

It is interesting that some of the interviewed politicians did not know the content of the responses of the Greek government or the framework in which they were made. It is also worth mentioning that parliamentarians, who perhaps should have shown an interest so as to be better informed about the country's official answer, were ignorant of the subject. Furthermore, it seems

that the parliamentarians showed little concern for issues regarding correctional policy, mental health policy and degrading treatment. Except for the references on 30 March 1994 and 5 April 1994 in the Greek parliament when the Minister of Justice, Mr Kouvelakis, tabled part of the CPT report concerning the correctional institutions in his attempt to introduce some reforms and to fight the criminal networks in Greek prisons, no other systematic discussion has taken place.

The Greek government regarded the CPT visit in a positive way. The delegation was not misled by Greek authorities, even though the country has no reason to be proud of the situation in some detention centres (e.g. 7th floor in the Athens police headquarters, Piraeus tranfer centre) or mental hospitals.

Nevertheless, it must be taken into account that, as the Greek authorities stated to the CPT delegation, the country was facing and still faces extremely serious financial problems affecting areas covered by the CPT's mandate. Additionally, in recent times there has been a massive inflow of illegal immigrants, especially from countries to the north of Greece, and there has been an increase in the registered crime rate during the last few years, in particular regarding organised crime. Because of the economic restraints, there had been some delay in taking all the necessary measures to deal with these phenomena, with the result that both the police force and the prison services were presently experiencing great difficulties in performing their tasks. However, the financial problem has always been an excuse for Greece not to make long-term efforts to improve the situation in the so-called "total institutions", preferring only stop-gap solutions; despite the country having no serious crime problems and the social fabric not yet having been seriously eroded.

2.4. Content of the CPT report

The CPT report is very accurate and critical. However, sometimes the recommendations seem quite mechanical (e.g. "… the CPT was dismayed to learn that prisoners known to be HIV positive were held in isolation at Korydallos Prison Hospital"; cf. I2. 6.1. of the present study). The evaluation should be based on more specific criteria so that the situation in each country can be better understood in its formal as well as in its informal reality (e.g. the delegation reports that in Korydallos Prison Complex "despite the overcrowding, prisoners apparently did have ready access to the shower facilities located in the basement of each wing… The negative aspects of the overcrowding were mitigated to some extent by reasonable out of cell time. Between 8.30 to 11.30 and 14.30 to sunset, inmates were allowed to circulate freely and associate with other prisoners within their detention wing and its courtyard"; p. 41).

The CPT recommendations refer briefly to:

a) the increase in prison staff and the improvement of their education in all correctional institutions of the country, and especially in the Korydallos Prison Complex, as well as the increase in specialised staff, primarily of general practitioners, psychiatrists and qualified nurses in prisons and mental hospitals and the release of the last group from secondary administrative or other duties which burden their work in mental hospitals;

b) the reduction of prisoner overcrowding;

c) the improvement in material and general living conditions in prison establishments, detention centres and mental hospitals;

d) the expansion of work programmes, occupational therapy, deinstitutionalisation programmes, rehabilitation and after-care programmes for prisoners or mental patients as appropriate; and

e) a better education and sensitising of policemen to issues of human dignity and human rights.

From a study of the CPT report, it can be concluded that:

a) for the prevention of degrading treatment, information and a process of sensitising the entire staff of institutions to human rights and degrading treatment issues through education are needed, both at a theoretical and day to day experience level;

b) the inadequate material infrastructure encourages degrading treatment, and

c) the financial development of a country determines the framework of treatment in the area of health care, social welfare and relief, as well as in the area of punishment.

2.5. Content of the Greek authorities' responses

The response and the follow-up report of the Greek government are generally accurate, although verification of the data is very difficult. Difficulties arise as well on the examination of implementation of law, mainly for those cases in which inmates avoid exercising their rights because of the fear of negative consequences (e.g. "In case of illegal act in detriment of the detainees… or infringement of their rights by any member of the personnel of detention institutes, the detainees are entitled to recourse in writing and without any delay to the hierarchically managing corrective authority and consequently to the competent court…"; p. 11, follow-up report of the Greek government dated 21 February 1996).

The vagueness in some aspects of the Greek responses can be accounted for in the following ways:

a) Some improvements began or were to begin after the first response of the Greek government (e.g. "Kassavetia rural correctional Institution for Minors: Very soon, by the end of the year, an intervention geared to the improvement of above institution's installations shall be effected by the technical company with a view to promoting the living conditions of the detainees"; p. 70 f. of the Greek response dated 20 November 1994);

b) The process for the realisation of the improvements is very time-consuming (e.g. "Glyfada police station: It must be pointed out that a proposal was advanced to the competent Directorate of our Ministry [of Public Order] for approval of the requisite funds designed for the reconstruction or the relocation of the aforecited guardhouse to other more suitable premises, as there is insufficient space in the premises where the Glyfada police station is housed"; p. 10, GR: 20 November 1994)[2];

2 This station has been out of service since 8 June 1994.

c) There are particular issues which cannot be solved easily by the political leadership of the Ministry; issues on which adequate initiatives presuppose either a very good detailed knowledge of the situation in the institutions, and even the intensity of a problem (e.g. Measure of order, protection and appeasement in prisons, Art. 93 of the Law 1851/89: "In the event of a detainee being imprisoned in solitary confinement pursuant to Article 93 par. 1, the detainee *will have* [emphasis added] the right to be informed of the reasons for the imposition of such measures, to call a hearing by the Director of the Prison or the Competent Public Prosecutor, to resort to the same authorities or the Ministry of Justice, requesting the revocation of the measure, to communicate with his lawyer"; p. 11, FuR: 21 February 1996).

d) Further, the vagueness in some cases is perhaps associated with political reluctance to solve these definitively (e.g. "In order for the detainee to be given the option to call, in case he/she is ill, the physician of his/her choice, we are of the opinion that this recommendation can be satisfied in the context of implementation of the provisions of Articles 60 and 67 of LD 141/1991, on the express pre-condition that a police doctor shall be present during the medical examination and that all the statutorily prescribed measures for the safe-guarding of the detainee shall be taken."; p.17, FuR: 21 February 1996),

e) Or vagueness is due to an effort to avoid control of the extent of improvements, especially if these have little likelihood of being adequately carried out (e.g. "The opinion of the Committee of Psychic Health of the Central Council of Health has been requested for the determination of the geographic area of responsibility of each psychiatric institute of our country. This first step of creating sections will reduce the number of entries." p. 33, FuR: 21 December 1996).

Some of the points in the follow-up report dated 21 February 1996 do not represent the actual situation of the implementation of the recommendations. For example, page 31 reads:"by the *end of January 1995* (emphasis added) the public health establishments at Leros will have finished the works in the wings of the ground floor of the same building and the works in the other buildings where the administrative services and the Hostel of Personnel used to function", concerning the public health establishments at Leros and page 21: "In the 7th floor of the Athens police headquarters, works are in progress for the renovation of the men's detention areas… The project is intended to have been completed by *20 December 1994* (emphasis added), pursuant to the affirmations of the contractor and the directorate of technical services of the prefecture of Athens which supervises the project".

Overall, there is a general correspondence between the situation to which the Ministries refer and our information, as concerns the work programmes of the prisons, the employment of qualified staff as well as the occupational and rehabilitation programmes in the mental hospitals. However, differences emerge on the extent of the improvments referred to in prisons and in some detention centres and the psychiatric unit in Korydallos Prison Complex and the information of prison inmates about AIDS, drugs and the prevention of contagion.

The officials of the Ministry of Justice avoided expressing their position on the CPT's recommendations, while the officials in the Ministry of Public Order appeared especially "neutral" and the Ministry of Health did not answer at all. However, the officials of the two first Ministries stressed that the CPT should not underestimate the claims of adverse financial conditions or the powerlessness of the authorities to control constantly the implementation of the recommendations, which rests to a large extent with the personnel, and depends on the working conditions, personality, experience and

educational level of each person. From the meetings with senior officials of the relevant Ministries the impression has been gained that sometimes they have to operate in the dark, they do not have sufficient information of the situation in the institutions. Moreover, they are only interested in prompt settlement of certain issues, being indifferent to whether they arose because of the visit of the CPT delegation, or some other event, because it is necessary for the institution or public policy to find some solution to the problem.

3. Implementation of the recommendations made by the CPT

As mentioned above, it is difficult to evaluate properly the real extent of the improvements, without observing the everyday life of and visiting the establishments. It seems, however, that the basic recommendations are at the stage of implementation, while some of them have already been realised.

In the following paragraphs some improvements which occurred after the delegation's visit in March 1993 are presented as well as some additional information concerning the implementation of the CPT's recommendations and those included in the follow-up report of the Greek government dated 21 February 1996.

3.1. Correctional institutions

According to the data of the Ministry of Justice, the number of prisoners on 16 October 1996 was 5,318 persons. This means a decrease of 21.4% in relation to the number of prison inmates on 1 April 1993 (6772) and of 9.8% referring to the number on 1 January 1996 (5897). The decrease is due to a new law passed in June 1996 (2408/96) which reduced to 2/5 the lowest limits for a prison sentence to serve for the granting of parole (Art. 105 par. 1 of the Greek Penal Law). The law also defined more favourable conditions than previously for suspension of a prison sentence (Art. 99 par. 1 GrPL). According to some lawyers there has also been a more lenient trend on the part of the judges toward acquittals. More specifically, in Korydallos Prison for men – the biggest prison in the country – 962 prisoners were held in October 1996, in the psychiatric unit of the same prison, 199 prisoners; in Korydallos Prison for young male offenders, 92 inmates, in Korydallos prison for women, 199 inmates, and 593 inmates in the Larissa Prison. The situation in the prison for women is better now than in 1993 as regards occupancy, because the seven high-security male prisoners held in the whole area of C Wing have been relocated to one floor of the prison building.

The reduction in the number of prisoners implies some improvement in their contact with their families and intimates, especially in the Korydallos Prison Complex, where the problem of overcrowding was severe. However, according to the accounts of lawyers there has been no related improvement in prisoner contact with their lawyers, mainly in Korydallos Prison, where the conditions do not guarantee the conduct of a private conversation and the confidentiality of the discussion, as the CPT has stressed.

At the initiative of the Ministry of Justice and in cooperation with the Ministry of Health the (seven) children of the female inmates held in Korydallos Prison visit a nursery school of Korydallos municipality every day, while the creation of a small separate building to be used as a nursery school in the future is planned. It is worth mentioning that female inmates with children live in a separate part arranged suitably for them and their children.

In relation to 1993, work positions have been increased by about 16.6%, namely from 1824 to 2189 (April 1996). More specifically, for the closed prisons 578 work positions are envisaged, for the judicial prisons[3] 689 positions, which means that for both closed and judicial prisons 1267 positions are planned, for the agrarian prisons[4] 646 positions, for the young offenders' institutions 173 positions and for the inmates in the infirmaries 103 work positions. In Korydallos Prison for men, the work positions increased to 321, in Larissa to 124.

Prisons display great activity regarding the occupational and training programmes, although the number of prisoners who participate is low (460 inmates). In all, 30 programmes are operating in twelve prisons (in other words, half of the correctional institutions of the country), with workshops for data processing, office automatisation, intensive vocational training of electricians, automobile mechanics, and building painters, as well as for printing and book-binding, the production of costume jewellery, interior decorating, cosmetics, carpet-making and the management of small firms. For the implementation of the programmes every free space in the prison areas, even church yards, is being used. The programmes are 75% financed by the European Union and 25% by the Greek State. The Ministry of Justice emphasised that they have created structures in the majority of the institutions for the continuity of the programmes once the initial financing runs out. Furthermore, their approval from the European Union needs to be renewed almost every six months. It must also be taken into consideration that vast areas of the prison establishments suffered damage in the last riots (e.g. Larissa Prison, Korydallos Prison for young male offenders) and only recently and gradually have begun to operate again.

From the Organisation for the Reconstruction of the Labour Force (OAED), a subsidy has been authorised for each released prisoner who wishes to create his/her own firm, of 1.2 million drachmas if the project fulfils certain prerequisites. Further, the same organisation subsidises each employer who hires an ex-convict at 5,000 drachmas per day (which is the minimum daily wage), for eighteen months, under the condition that the employer will keep the released person employed for six more months and will pay him/her; this means that the released person can have steady work for two years. Besides, in some centres of vocational training programmes for 450 released persons are operating.

In the correctional institutions, useful information pamphlets relating to drug issues, AIDS, and other infectious diseases are distributed. Soon all inmates will be issued a "health kit" with articles for personal hygiene. The Ministry of Foreign Affairs is translating a pamphlet on life in prison into many languages, while in Korydallos Prison the pamphlet is printed for the Greek prisoners.

Prisoners undergo the standard general and psychiatric examination, and if they wish, some other haematological examinations. The haematological examinations are obligatory for those prisoners who work. The nine HIV positive prisoners who have been identified in all the correctional institutions of the country are held separately at Korydallos Prison Hospital. They were located after a voluntary haematological examination for hepatitis B which was carried out in five prisons on a sample of 1,882 prisoners. Moreover, some prisoners state on their arrival or later that they are HIV positive, so they are examined; most of them hope to be transported to prison hospital where custody is laxer than in the rest of the prison establishments. The majority of the declarations is usually found to be false upon examination, but a very small number are valid. In such a way some of the HIV positive prisoners held in the hospital have been detected. According to the Ministry of Justice in November (1996) the vaccination of prisoners for hepatitis B will begin.

3 These establishments are by definition to be used for prisoners on remand; for the time being they have both functions, for convicted prisoners and for prisoners on remand.

4 Prisons which function in a semi-secure way, with the prisoners working in the fields outside the boundaries of the prison and coming back to prison after work in the afternoon.

The Ministry also stressed that it has been making efforts to separate different categories of prisoners, but the results have not been satisfactory because of the prison facilities and overcrowding. In the psychiatric unit of the Korydallos Prison, drug addicts are (still) not separated from the mentally ill inmates, although it must be pointed out that the two groups are accommodated in distinct areas. Drug addicts are accommodated in four wings and the mentally ill in two others. As the Ministry of Justice mentioned, the non-separation is due to practical reasons, mainly because there is no possibility of building different communal areas (entrance, stairs, yard – which is anyway very small, 80 m^2 for 160 to 190 inmates) for the prisoners. However, senior officials of the Ministry of Justice are sceptical about separation, worried that it will result in the formation of a ghetto for drug addicts.

It should also be pointed out that the Ministry of Justice had expressed keen interest in creating a withdrawal and rehabilitation unit on a farm of its own in Dilessi (Boeotia), but the inhabitants reacted strongly against this idea. It is now negotiating the purchase of a farm with small houses from the Jehovah's Witnesses in Thiva (Boeotia).

Since 1988, programmes of "sensitisation and mobilisation" of prisoners have been operating in some prisons, not for the purpose of withdrawal and rehabilitation, because rehabilitation can only succeed under free conditions and not coercive ones. In total, fourteen groups of about 170 inmates are operating, all of them currently in Korydallos Prison Complex. The damage from the last prison riot in Larissa Prison, the failure of some programmes to continue under the organisation in charge (KETHEA) in Thessaloniki Prison and the transformation of a prison for male adult prisoners into one for young Albanian offenders (Volos Prison) are the reasons for the stop in the programmes in the rest of the correctional institutions in which they had been operating.

In the country's prisons there has also been an improvement in medical care. Although, as the second response of the Greek government reports, doctors do not manifest any particular interest for work in prisons (p. 8, FuR 21: February 1996), their number has lately increased by 11 full-time and 17 part-time doctors. In total, the prisons of the country are assisted by 50 general practitioners, 18 psychiatrists, 18 doctors of other qualifications and 10 dentists. Specifically, the Korydallos Prison for men had a team of three part-time psychiatrists, while in 1993 there were two, four part-time general practitioners while in 1993 there was one, a part-time dermatologist as of 1993, and a full-time dentist, while in 1993 he was working part-time; there are still, however, no facilities.

The psychiatric unit is now assisted by a full-time psychiatrist, four psychiatrists and a general practitioner, each part-time, and eight duty doctors available on call. In the Korydallos Prison for women, a full-time dentist has been taken on and the rest of the team remains as it was in 1993, namely one psychiatrist, one general practitioner and one gynaecologist, all part-time. In Larissa Prison, some progress has taken place as well; it is now staffed by one full-time general practitioner and one full-time dentist – in 1993 they were both part-time –, one part-time general practitioner as in 1993, and two psychiatrists, each part-time, whereas in 1993 there was only one.

What is referred to as an "intensive care unit" in the CPT report in the psychiatric unit of Korydallos is a normal isolation cell which is located on the ground floor of the psychiatric unit. According to an official of the Ministry of Justice, the correctional officers had the unfortunate idea to put up a sign "INTENSIVE CARE UNIT" during the visit of the CPT delegation in 1993, although it did not correspond to such a unit, either in respect of the place or the equipment. This is still operating as an isolation cell like the other eight cells in the basement, which will soon be covered with rubber, and air-conditioning will be installed.

Regarding the correctional staff, there has been an increase of about 375 to 400 posts, (or, a 27 % increase), including the resignation or retirement of about 50 persons. The total number of filled staff posts rose to 1,648 and represents 80 % of the whole prison staff. Korydallos Prison for men is manned by 165 prison officers, Korydallos prison for young male offenders by 44 persons, the psychiatric unit by 60 officers. Korydallos Prison for women is staffed by 82 officers and the prisoners' hospital by 45 officers. In addition to the correctional officers and doctors, 18 social workers, 21 nurses and 3 persons for general duties have also been employed.

The CPT expressed the wish to be informed of the existing safeguards (the right to be informed of the reasons for the measure; the right to be heard; review procedures; the right of appeal to higher authorities, etc.) as applied to a prisoner confined to a special cell as a measure "for the maintenance of order and for purposes of protection and pacification" in the correctional institution (p. 49: 132). The Code of Basic Rules for treatment of prisoners (Law 1851/89) does not define explicitly the duration of the measure (except the case of Art. 94 par. 1[5]), or the right of appeal to higher authorities and request for revocation of the measure (Art. 93 par. 1, section b). According to the officials in charge at the Ministry of Justice the right of appeal to higher authorities in that case is provided by Art. 5 par. 2 of the same law concerning basic prisoner rights. It is important to note that Art. 94 par. 1 of the Code stresses that this measure is *not imposed as punishment*. In addition, it is regarded that the right of a prisoner to be examined, if he/she wishes it for any reason, by a doctor of his/her own choice, even for drawing up a forensic medical report, is regulated by the general Article 31 of Law 1851/89 concerning the prisoners' medical care, and especially by its second paragraph, wherein the prisoner "can ask to be examined by a doctor of his choice in the presence of the doctor of the institution and during working hours according to the rules of medical ethics".

It is also worth mentioning that on 16 January 1996 the Central Scientific Prison Council was formed with five members and on 9 July 1996 enlarged to ten. The Council was to meet for the first time at the end of October (1996). It is responsible mainly for the design of public policy concerning the correctional institutions, the supervision of vocational and work programmes of the prison inmates and the organisation of the education and training of prison staff. It has to sit a minimum of two times per month (Art. 7 of Law 2298/95, Ministerial Decree 129873/22, November 1995).

3.2. Police headquarters and stations

In recent years and mainly after 1987 there has been an improvement in the human rights education of police officers. Since 1994, a better educational level and awareness of the students in police schools has been noticed, as well as a greater sensitivity to and interest in human rights issues than before. This situation is expected to improve further with the enforcement (since 1995) of the national matriculation exams to enter the police schools, a system which is in force for the entrance of students to the universities of the country. The situation can also be improved with a greater representation in the police schools of people with a university degree, a result of the high unemployment motivating them to look for a "secure" job. The rejuvenation of the police with a better educated and more aware body of recruits as concerns human rights gives rise to hope for a better situation. The use of inhuman or degrading treatment in a democratic society is an indication of weakness.

For this paper, the Ministry of Public Order has not provided additional information about the actual condition of the detention centres, but confined itself to the forwarding of its responses to the CPT included in the response of Greek government of November 1994 and in the follow-up report of February 1996.

5 The director may order that prisoners suffering from an infectious disease or who are a danger to themselves or others be confined in a special cell. Such a measure is to be lifted as soon as the reason which caused its imposition disappears; if that reason persists, the prisoner concerned is to be tranferred to a specialist State hospital for treatment.

According to some additional information received from the Ministry, information pamphlets translated into four languages about the rights of detainees and foreign nationals awaiting deportation have already been delivered, while translation into other languages continues. However, no such pamphlet has yet been seen for this report.

Art. 2 of Presidential Decree 405/1994 has complemented Art. 60 par. 3 section h of Presidential Decree 141/1991. Thus the right of the detainee to be examined by a doctor of his/her choice "if he/she is ill", during his/her examination by a police doctor has been explicitly legislated for.

From the information which could be collected, some improvements in living conditions at Athens police headquarters seem to have taken place, where, in October 1996 fewer persons were being detained than usual, most of them Albanians. The police prefer to hold the detainees in their own communal departments and after some time to send them to the headquarters. The effort to improve the Pireaus transfer centre is apparent; the building has been painted, it has better lighting, more beds, the detainees are fewer than usual and the conditions in the area of personal hygiene have improved.

The Greek reports refer to some police stations, guard-houses of headquarters or entire headquarters which have been moved to better buildings: more suitable from the viewpoint of hygiene, security and operation.

The authorities have also distributed to all police services and personnel Resolution No. A/RES/34/169 dated 5 February 1980 of the General Assembly of the United Nations "On the Code of Police Behaviour" and have ordered the distribution and observance of what is mentioned therein (p. 20, FuR: 21 February 1996).

3.3. Mental hospitals

Greece has nine mental hospitals, 42 psychiatric departments in general hospitals (up from 2 in 1983), and 14 community mental hospital centres (up from 4 in 1983). During these years the number of beds in mental hospitals has been reduced, accompanied by a gradual increase in the number of psychiatric beds in general hospitals.

Greek research has found[6] that the number of admissions decreased between the years 1987 and 1989, while after 1989 both the mental hospitals and the psychiatric departments of general hospitals have shown an increase in their admissions; so the total number of admissions increased from 7944 in 1983 to 16 063 in 1994. The increase in psychiatric departments in general hospitals, most likely, is due to the increase in beds, in the mental hospitals to the reduction of the mean hospitalisation days. This is apparent from the admissions at Dromikaitio, a large State mental hospital in Attica not visited by the CPT. In this hospital, admissions constantly increased from 1991 to 1994, rising from 1006 to 1444, while the mean hospitalisation days have been reduced from 147 to 107. The high number of admissions can perhaps be justified by the high number of re-admissions reported in the international literature[7]. At the same time, the number of non-stationary patients has greatly increased[8]. The psychiatrists stressed the lack of bonds and support among the mental services; this is mainly attributed to the stagnation in determining the geographic area of responsibility of each psychiatric institute of the country and its operation.

Most of the psychiatrists agree that profound changes in mental health services have been realised since 1984, despite the fact that they express reservations concerning the quality of the reform. They point out that the existing structures were untouched, that a long-term mental health

6 See Sarandidis, D.: "The Development of Mental Health Services in Greece", unpublished paper presented at the 11th Congress of the Southeast European Society for Neurology and Psychiatry, Thessaloniki, September 1996; Sarandidis, D.: "Data about Psychiatric Hospitalization in Greece 1983-1994. First Results", unpublished paper presented at the 14th Congress of the Greek Psychiatric Society, Heraklion/Crete, 30 March – 3 April 1996.

7 There is no indication of the re-admissions in the Greek research put at our disposal; however, see Sarandidis, D./Sakalis, G. (1995): "The Development of Mental Health Services since 1983 up to Today", in: *The Psychiatric Reform and the New Structures of Mental Care of the National System of Health in Greece*, New Psychiatric Structures in Attica, ed. by A. Einstantopoulos, Athens, (pp. 17-31).

8 See: Sarandidis/Sakalis 1995: 29-31.

policy has not been designed by the Ministry in charge, and that the reform has not been supported by public opinion.

The situation in the State mental hospitals is regarded as especially difficult after the expiry of Regulation 815/84 through which the European Community financed 50 % of the reforms in the mental health sector of Greece; the situation is hard, too, because of the insufficient number of psychiatrists. The psychiatrists spoken to stressed that the recommendations and remarks of the CPT are generally appropriate, that psychiatric care in Greece is at a low level, and that the patient is frequently treated in a degrading way. However, they emphasised first, that the recommendations were not derived from a critical viewpoint for the institution, namely that institutions like mental hospitals are coercive and degrading by their nature; second, they stressed that in the Greek mental hospitals, in spite of degrading living conditions in some cases, often a more critical and liberal spirit prevails than in other European countries which maintain higher living standards for the patients and better respect for his/her human dignity.

The most impressive progress seems to have been realised in public health establishments on Leros Island (a group of pavilions and cottages at Lepida for male patients, and a similar group at Lakki for female patients), in which about 530 patients are accommodated, not including the 150 children and young patients of the hospital for children with special needs situated near the Lakki Complex. According to our information the hospitals have been organised into small structures. More specifically, within the boundaries of the hospitals 37 sheltered accommodations operate in a hostel-type environment (11 small houses, 25 "villas"[9], and the first hostel of the hospital) for more than 400 patients; 120 patients are accommodated in the five remaining sections of the main hospital buildings, each housing about 25 patients; 107 patients are accommodated in 20 "protected" residences (apartments) outside the boundaries of the hospital area on Leros Island. Since 1991, 130 patients have been transferred to 13 residences on the mainland. In total, the patients of mental hospitals on Leros inside as well as outside the establishments come to 800.

Those involved explained that from every viewpoint significant improvements in living conditions had been accomplished by the creation of sheltered accommodation. In the hospital for children there is some progress as well, but the shortage of doctors is pressing.

The patients can have a walk outside the hospitals in the town of Leros or somewhere else once a week. Since 1989, no physical restraint has been employed, while in May 1994, the 16th pavilion, known as the "pavilion of the naked patients", was closed. These patients have been tranferred gradually either to residences in the hospital area, or to the five remaining sections of the hospital.

20 patients work on a large hospital farm with a greenhouse. There is also a clean-up party of male patients for the hospital, a pottery workshop, a painting workshop, a carpet-making workshop, all for male and female patients, a shop selling the artistic products of the patients in which a patient and a member of the staff work. There are also two refreshment rooms in each hospital at Lepida and at Lakki operated by the inmates themselves for their own needs, the needs of the personnel and of visitors. About 100 patients work in the workshops and the hospital farm, and ways are being sought to legally register the farm as an agricultural cooperative.

The psychiatrist/patient ratio has not been improved; however, the nursing staff and the social staff has increased by about 12 %. In 1994, 38 persons (ergotherapists, physiotherapists, social workers, etc., as well as cleaning staff) were hired, while two directorships have been filled by psychiatrists. Soon the filling of 25 positions of unqualified personnel will be announced. The public

9 After the Turks the island was occupied from 1912 to 1947 by the Italians. The 'villas' were large houses of Italian naval officers and have been renovated recently for the use of patients.

health establishments at Lepida and Lakki of Leros are assisted by 39 doctors, eight of whom are psychiatrists, four social workers, one psychologist, one ergotherapist, two physiotherapists, 40 qualified nurses, 140 non-qualified nurses who have undergone short courses, and 250 persons of nurse auxiliary status.

Unfortunately, information about the mental hospital for children with special needs at Lakki, and about the Attica State mental hospital for children at Rafina, Attica, was not obtained.

At present, the biggest mental hospital in the country is the Attica State mental hospital. In 1995, 3077 patients were admitted, 1856 of them were non-voluntary and 1221 voluntary. In October 1996, the number of patients rose to 1750. The Attica State mental hospital has two hostels in Attica for 32 persons (in Kolonos and in Korydallos), 12 "protected" apartments of 37 to 40 persons, an intramural "unit for therapeutic and recreational support" (known by its old name, "occupational therapy" or "ergotherapy") for about 100 patients, an intramural "therapeutic rehabilitation unit" with workshops for about 78-80 patients; in October 1996 there were 25 working patients in general duties, as cleaners, waiters, ironers; 20 were working in the gardening and other recreational activities such as tidying up the hospital's free space; 8 were working in a coffee shop operated by the patients themselves, 6 in a candle workshop, 4 in the hospital car-wash, 4 in a fast-food shop, 2 in a mini-market and 10 in a small wine-making shop. It is expected that soon a large baker's and pastry shop as well as a carpenter's workshop will be operating. In the hospital area, a day-hospital exists which the patients can leave in the afternoon, but it is not operating fully because of a lack of personnel. Finally, outside the hospital there is a "unit of pre-vocational education and training" with about 20 patients on different programmes (hair-dressing, needlecraft, knitting, cooking, carpentry, office administration, fine arts).

The great number of patients, the difficult financial situation, but mainly the time-consuming process within the Ministry of Health and the other Ministries in charge for approval and financing of building in the hospital establishments do not favour the creation of smaller structures in Attica State mental hospital. According to our information great improvements have been made in living conditions, while physical restraint is rarely used and only for short periods (e.g. for one night).

Finally, some issues concerning all the mental hospitals of the country must also be mentioned. The first has to do with the administration of medicines. All the psychiatrists met were emphatic that medicines are given only on the basis of their own prescriptions and that there has been great progress concerning the observance of their prescriptions by the nursing staff; moreover, in each department of the hospital "a book of medicines" is kept and every day a new list with the medicines for the patients is posted. The doctors admitted that patients' files were not updated at regular intervals, because they prefer to spend their limited time speaking with patients. In the files only what is absolutely necessary for providing an indication of the patients' condition is registered, while the frequency of registration ranges from once per week to once per six months.

The second issue refers to the remark of the CPT that the provisions (Art. 47, 96, 99) of Act 2071/92 regulating involuntary hospitalisation of patients and defining the guarantees available to patients – in particular as regards their admission and discharge – are not duly applied. This law was drafted, among other reasons, in order to better protect the rights of mental patients, especially the cases of involuntary hospitalisation and the termination of any long duration placement, if there is no further need for it. The majority of the psychiatrists avoid abiding by the rules of the law, saying they cannot spend much time with the patient because they have a lot of work, that there is a lack of co-operation between the psychiatrists, judges and prosecutors concerned with involuntary hospitalisation, as well as inadequate information in the last group about issues of mental health.

The CPT also expressed the wish to be informed "of the extent to which the 1992 Act will be applied to patients hospitalised before its coming into force and, more generally, whether there is a procedure for the review, at appropriate intervals, of placements lasting longer than six months" (p. 73: 222), because, according to Art. 99 par. 2 of the Act, involuntary hospitalisation cannot normally exceed six months (cf. Art. 99 par. 6). From the information provided there does not seem to be any progress in the re-evaluation of those cases under the new provisions.

The creation of an independent body involved in the affairs of psychiatric institutions to which the patient can make a complaint is open. A bill is soon expected for an ombudsman system to be established; 13 positions are planned for the whole country and for all sectors of public administration. To what extent this institution will look into patients' complaints is not known. Moreover, it is especially doubtful whether mental patients can make use of the regulation. Perhaps the ombudsman can be effective in such situations by visiting institutions like mental hospitals, correctional institutions, etc. in order to meet the persons concerned, irrespective of specific grievances, and maintain surveillance of the Ministry of Health.

4. Conclusion

The CPT's recommendations, its criticism and its indirect pressure exercised on the Greek authorities are very useful, motivating the latter to attempt improvements which would not be carried out otherwise, or which could be realised only very slowly, despite the discussions, the opinions of experts and scientists and publicity in the mass media.

The implementation can be encouraged mainly by developing public awareness and by directors' creating awareness among the personnel of their institutions. NGOs could be a good means of applying pressure, but in our country they have not yet succeeded in arousing the interest of the majority of the citizens and mobilising them. However, the mass media – especially television, which has great power and influence – could contribute to the information and the sensitising of citizens. But practice thus far has shown that issues concerning human rights, degrading treatment, institutions and other similar issues are occasionally and accidentally reduced to sensationalism. An exception is the press, which has always been a source of information and criticism on the conditions of those institutions.

Lawyers have some scope, although very limited, to use the CPT recommendations in legal procedure, to refer them to judges and to sensitise them to such issues. Furthermore, it must be pointed out that the interest of the lawyers in matters such as ill-treatment stops on the last day of the trial. Very few are aware at first hand of the conditions in prisons and detention centres because they meet their clients in a special room. Lawyers, academics and other experts co-operating with NGOs could co-ordinate their efforts and intervene in the life of institutions to encourage conformity with the standards of treatment supported by parliamentarians.

However, the frequent visits and the intensive monitoring of the CPT are the most significant factors for the implementation of its recommendations and the prevention of degrading treatment in the Greek case. A time schedule for the implementation of the recommendations, a mechanism for monitoring improvements, better CPT contacts with NGOs and with willing and active people already operating in the area of the CPT's mandate, as well as a control mechanism are sufficient, given that Greece, for whatever political reasons, wants to have a good position among countries which show respect for human rights.

2) REPORT ON ITALY

By Patrizio Gonnella, Deputy Director of Padova Prison, Specialist in Human Rights, and Prof. Mauro Palma, President of ANTIGONE, Italy

1. Introduction

A CPT delegation[1] paid its first periodic visit to Italy from 15 to 27 March 1992. In January 1995, with the approval of the Italian State institutions, the resulting report was published. The report of the follow-up visits made in November 1995 and December 1996 as well as the feedback of the Italian State institutions have not yet been published. The analysis in this paper will therefore concern the 1992 visit.

The establishments visited were the following:

Milan:
- the San Vittore House of Detention
- the Provincial Police Headquarters
- the Operating Department of the *Carabinieri*[2]

Naples:
- the Judicial Psychiatric Hospital
- the Provincial Police Headquarters
- the *Carabinieri* Station in Corso Vittorio Emanuele
- the *Carabinieri* Company in Piazzetta Stella

Rome:
- the Rebibbia Women's House of Detention
- the Rebibbia New Complex House of Detention
- the Provincial Police Headquarters
- the Trevi Police Station, Piazza del Collegio Romano
- the Operating Department of the *Carabinieri*
- the *Carabinieri* Station in Piazza Dante

2. Preparation of the visit

The CPT delegation, as usual, had contacts with civil servants from the Justice, Internal Affairs, Defence and Public Health Ministries. All authorities of the concerned institutions were advised in advance when they would be visited, and names of the delegation members given. An exchange of information also took place with non-governmental organisations. Undoubtedly this exchange worked out more effectively during the CPT follow-up visits, as the not yet published report will show.

The role of the CPT and the way it functions have gradually been understood by organised groups within society. The possibility for these groups to intervene with prevention mechanisms is varied and complex. All the organisations engaged in thwarting the expansion of abuse and ill-treatment in places of detention must intensify their efforts in order to influence the behaviour of the State security apparatus in a positive way. They must denounce, as well as inform, advertise and sensitise public opinion, to make sure that human rights in prisons are guaranteed. The complex machinery built up by international organisations in defence of prisoners' human rights gives NGOs ample space for positive action. Examples of their support are their providing organisms such as CAT

1 The CPT delegation members were: Astrid Heiberg (Norway – Head of Delegation), Jacques Barnheim (Switzerland), Tonio Borg (Malta), Claude Nicolay (Luxemburg), Ergun Ozbudn (Turkey). The delegation was assisted and accompanied by four interpreters, two experts (Dominique Bertrand – responsible for the Department of Penitentiary Medicine, University Institute of Legal Medicine, Geneva and, Gordon Lakes – Associate General Director of English and Welsh Penitentiary Administration), and two members of the CPT Secretariat: Trevor Stevens and Fabrice Kellens.

2 Army Police Force

or CPT with precise and detailed information on torture or ill-treatment episodes, and their helping all those who wish to resort to supra-national judicial bodies (e.g. the European Court of Human Rights). Organised groups within society could well use the opportunities offered by the international apparatus, in order to expand them and make them more effective. They should disseminate the contents of the European Prison Rules and the CPT goals, and activate the European Commission and Court of Human Rights. By these actions NGOs would not be insitutionalised, but upgraded.

The CPT's aim is twofold: 1) to collaborate with bodies which, with scarce means and resources, are committed to the prevention of torture and to the humanisation of imprisonment, thus contributing to the effectiveness of their action; 2) to scientifically plan the CPT's own actions, to avoid duplicating efforts and to maximise the resources at hand.

The institution of a Permanent Non-Governmental Observatory on Imprisonment Conditions that includes all the associations dealing with guarantees in penal and penitentiary systems could act as a useful bridge between NGOs and international organisms, particularly between them and the CPT. The Observatory could be helpful in selecting information, performing inspections of the more serious problems, overcoming the present fragmentation of complaints, correctly informing both public opinion and prisoners about control and legal mechanisms.

Indeed, to make this work, it is necessary for the CPT to increasingly formalise its relationship with the NGOs, not only during its *ad hoc* visits, but also during its periodic inspection visits. The CPT could, for example, systematically compare the State institutions' feedback to its reports with the NGOs' comments (better still if they are organised in a network) in order to evaluate whether the feedback is complete, clear and truthful. This information could be used during further controls and inspections with specific goals. Participation of NGOs in the periodic meetings the CPT holds with the civil servants of the States would also be useful.

3. The CPT visit

The CPT report notes different degrees of co-operation among government officers and among those responsible for the visited institutions, i.e. prisons, State police and *Carabinieri* stations (see the introduction for a list of these institutions).

The initiative undertaken by the central Penitentiary Administration (which was repeated for the following visits) was certainly deeply appreciated by CPT: two days before the beginning of the visit the administration sent out a circular letter to all the directors of penal institutes as well as to the presidents of the surveillance courts summarising the CPT's mission and competence, as well as the names of the delegation's members. This certainly facilitated the delegation members' action, because they did not find the obstacles usually present when the institutions' officers do not know about their assignment and role. The only exception was the Rebibbia New Complex Prison, where the chief inspection officer of the unit put up a strong resistance to the delegations' visiting the high security section: a problem solved by the arrival of the prison director.

The co-operation offered by officers from the Ministries of Internal Affairs and of Defence – controlling respectively the State police and the *Carabinieri* – was not equally prompt. The CPT had repeatedly asked the authorities to send it a list of all police and *Carabinieri* stations with security cells before its visit. They received this list only on the second day of their visit. Furthermore, even though the delegation had a letter authorising it to enter the institutions, it met some difficulties, especially at the beginning. For example, the members had to wait for two hours in front of the Roman provincial police headquarters and two in front of the Roman operating department of the *Carabinieri*. It usually

doesn't take this long to carry out identification procedures. The situation gradually improved in the following days.

In some cases the delegation was also given wrong information during its visits. For example, during the first visit to the Roman operating department of the *Carabinieri*, it were told that only two cells were there, while there were actually eight. At the Milan operating department of the *Carabinieri*, an officer categorically denied the existence of security chambers. During the second visit, the same delegation discovered a detention area comprised of two cells and an interrogation room. Furthermore, at the *Carabinieri* station in Piazza Dante in Rome, the CPT delegation had to wait for 45 minutes to begin its visit only because the *Carabinieri* wanted to end a suspect's interrogation and transfer him to prison before the visit began.

This kind of behaviour is certainly not indicative of a fruitful co-operation.

On another occasion, the delegation, in open violation of Article 8 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, was denied access to a prisoner's file by the judicial authority at the *Carabinieri* company of Piazzetta Stella in Naples.

The difficulties encountered with the police and the *Carabinieri* by the CPT delegation sprang from different factors. First of all, local officers have little knowledge of the CPT's role and activities; secondly, bureaucracy is slow to give out information; finally, unlike houses of detention, police and *Carabinieri* stations are not usually checked by official inspectors outside their administration. Therefore they are unprepared to receive inspection visits from outsiders. Even taking into consideration the above-mentioned factors, the behaviour of the Naples judicial authority is not to be excused, because it shows, on the best interpretation, no knowledge of how the Committee operates.

On the whole co-operation was poor, probably to safeguard State sovereignty in a sphere of activity where traditionally external bodies don't interfere. It is necessary to give the international community growing powers in the penal and penitentiary sectors, both to improve prisoners' treatment standards and to make sure that intervention is possible whenever and wherever fundamental human rights are at risk.

The places visited by the CPT in 1992 are a true representation of the situation in Italian police stations and prisons. Indeed, San Vittore in Milan is the epitome of the dramatic situation of overcrowding and for this very reason the delegation decided to visit this prison again in 1996. During the visit in 1995 the jails in the islands were also visited.

To help the CPT better to focus its action, it would be helpful if the associations on the whole acted as a qualified filter for the Committee. Associations shouldn't limit themselves to pointing out complaints or particular violations, but should also periodically describe the national and the local situation in prisons and police stations. They should also keep up with the state of the art in legislation. If, for example, they clearly and punctually described the present debate on legislative changes to be made on the issue of jailed mothers, the CPT could usefully inspect penal houses where nurseries are inadeqate.

4. Publication of the CPT report and of the authorities' feedback

The report as well as the government's feedback was published almost three years after the visit. Italy's assent to its publication was almost inevitable when a good number of the Convention member States had already expressed an opinion in its favour.

In order to avoid excessive delays in the publication of reports that could invalidate their efficacy, it is necessary to impose a maximum time for the government's feedback, let us say six months from the CPT's report, so as to conclude the whole affair within a year of the visit. Indeed, some issues may be tied to a particular historical period and need to be tackled immediately. If too much time elapses between inspection and publication, it is difficult to check whether structural and legislative improvements stem from a natural evolution of the legislation or from the CPT's inspections. Organised groups within society together with a parliamentary committee could monitor the timing.

The press in Italy has never paid particular attention to the report's contents; this is due either to simple neglect or to insufficient knowledge of the CPT's role. Mass media tend to be interested in the world of prisons only when particular events take place or when they are pushed by emotional circumstances.

Remarkable, on the other hand, was the publication of a book in spring 1995 describing the CPT's role and commenting on the contents of the report on Italy. A journalist (Adriano Sofri) and the director of a detention house in Milan (Luigi Pagano) were the authors.

After the publication of each report the task of organised groups within society should be to disseminate, as much as possible, its contents and encourage public and parliamentary debates about the issues raised in them. Over the long run it is to be hoped that parliament will discuss both the issues in the reports and the government's feedback, so as to guarantee transparent policies and democratic control over the government's choices in this sphere. This would be a way to make the Committee's powers effective and ensure opportunities for ongoing serious debate on issues of detention and guarantees.

5. Contents of the CPT report

The CPT's report is particularly accurate in its contents: while paying attention to the situation in prisons and police stations on the whole, it also points out particular cases and describes present legislation, which is often the cause of detention which lacks respect for human dignity. An example of this is the excessive use of containment measures, applied four times in two months at San Vittore's diagnostic and therapeutic centre in Milan, as noted by the CPT. The CPT's remarks focus on the discrepancy between penitentiary legislation and ordinary legislation. While the former allows individuals suffering from serious psychiatric pathologies to be kept in psychiatric judicial hospitals, the latter prescribes alternative solutions because it has ordered all psychiatric hospitals to close.

The most relevant problems in the Italian security system are well identified in the report. They are: 1) risk of ill-treatment of prisoners, which is inflicted mostly on drug users, non-European citizens and psychotics; 2) little attention to citizens' rights paid by the *Carabinieri*. This may be the result of the military code to which they adhere; 3) penitentiary structures' obsolescence and inadequacy, and their inability to house the excessive number of prisoners and thus grant them individualised treatment as is their right; 4) detention conditions of the most dangerous prisoners regulated by Article 41 bis of the Italian Penal Code which does not comply with the European penitentiary rules and Article 3 of the 1950 Convention on Human Rights and Fundamental Freedoms;

5) inadequate training of police personnel; 6) chronically overcrowded jails; 7) detention of individuals who have contracted the HIV virus.

Even though the situation is substantially similar to that of other European countries, on the whole Italy presents a great number of problems yet to be solved, causing conditions of detention which violate prisoners' fundamental human rights.

Besides the description of conditions in prisons, the CPT's criticism addressed the inadequacy of the co-operation actually encountered when dealing with personnel in police and *Carabinieri* stations. There are two possible reasons for their behaviour: their being unprepared for external controls and their inadequate training, which leads them to ignore the contents of international norms.

In fact, one of the CPT's most urgent recommendations concerns the training of the police force and of personnel working in penitentiaries. Adequate professional training is fundamental for any strategy of ill-treatment prevention. Adequately prepared police agents would be able to successfully carry out their functions without having to resort to unacceptable means.

Professional training of judicial agents in the matter of human rights is largely lacking too. Indeed, its curriculum only contains judicial subjects such as penal rights, criminal proceedings, and constitutional rights.

It must be said that in 1995 the subject "Human Rights" was added to the specialisation course for State police deputy superintendents. Its curriculum contains some information on the evolution of human rights recognition, and a more detailed description of the present situation of human rights protection within the United Nations and in Europe. Unfortunately, in a course which lasts six months, only eight hours are spent on this topic. Moreover, the study of the Convention instituting the CPT doesn't appear in the curriculum at all. The specialisation course for penitentiary administration directors also devotes part of the curriculum to the study of international conventions on human rights.

The CPT pointed out that ill-treatment within houses of detention is often caused by a penitentiary sub-culture with a mafia-like logic and values. It can only be prevented by an adequate and continuous professional training. The capability of high level members in the penitentiary police to scientifically observe prisoners' personalities would lead to a reassessment of their role and to the possibility of turning guards into specialised agents. This is the path to undertake with determination.

Some of the CPT's recommendations can be seen in this light, such as the requirement that penitentiery employees know at least one foreign language. This would reduce the distance between employees and foreign prisoners (about 20 % of those imprisoned), the latter being among the most exposed to the risk of ill-treatment. The CPT delegation made different remarks to guarantee a humane detention rather than indicating generic standards to follow in order to prevent ill-treatment.

Among the problems raised by the CPT were the following: length of prisoners' telephone calls to their relatives, lack of space reserved for sexual encounters between prisoners and their spouses or housemates, insufficient activities for prisoners detained in high security areas, absence of a prisoners' roster in the security rooms of *Carabinieri* stations, lack of precise rules regarding meals to prisoners in security cells – where they could be held for up to 48 hours in case of *giudizio direttissimo*[3]. The CPT considers humane penalties and the higher minimal standards of treatment as prerequisites to respect for prisoners' fundamental rights.

3 immediate trial

6. Contents of the authorities' feedback

The Italian authorities' feedback was presented in three reports. The surveys on *Carabinieri*, State police and penal institutes were commented upon respectively by the Ministries of Defence, Internal Affairs and Justice. The completeness and truthfulness of each of the three reports are to be assessed separately.

Ministry of Defence: The feedback received is excessively bureaucratic and in some cases evades the issues raised by the CPT report. Two examples of this are: a) in answer to the request for information on present rules regarding prisoners' meals in *Carabinieri* security cells, the following was supplied: "The problem arises only in the case of those who collaborate with the judicial authorities, for whom specific protection programmes are adopted and authorised by the Central Protection Service of the Ministry of Internal Affairs." This statement implies that, apart from *repentant* criminals, no individual deprived of freedom should stay in the *Carabinieri* stations long enough to require a meal. This is surprising, since an arrested person or detainee can be held for up to 24 hours and, in the case of immediate trial, up to 48 hours; b) the request for more specific information on the way searches are conducted was met by simply copying out the paragraphs on searches from the *Carabinieri* handbook. The little attention paid to answering the CPT's report certainly doesn't attest to a belief in the inspection functions of a supra-national body.

Ministry of Internal Affairs: The information provided in their report tends to summarise the state of the art of legislation on the issues raised by the CPT delegation. This feedback is therefore more accurate than that of the Ministry of Defence. As already mentioned, the fact that State police work under a civilian code favours greater transparency and reduces the risks arising from the so-called team spirit. The latter is often an obstacle to social and cultural evolution in terms of greater receptivity and sensitivity to issues related to human rights protection.

Ministry of Justice: The greater part of their report is centred on detention conditions in penal houses and in psychiatric judicial hospitals. The Ministry of Justice was precise although sometimes cautious in its feedback. For example, on the CPT's point that prisoners are not allowed to have sexual intercourse with their spouses (or housemates) in prison, the Ministry's answer was canonical: "the code foresees that convicts who have behaved in accordance with the rules can obtain, from the surveillance judge, home leaves of a period not exceeding 15 days (for a total of 45 days a year) to allow prisoners to meet, among other things, their emotional needs." This is a way of evading the issue of sexuality in prisons, and avoiding taking a stand vis-à-vis the treatment standards as suggested by the CPT.

On various points the reports of the three Ministries seem keener to justify their own choices of legislation and treatment of prisoners than to take a stand on the CPT's recommendations. However, the information disclosed on how legislation is applied and prisoners treated gives a faithful picture of what happens in everyday penitentiary life. Progress in turning the CPT's recommendations into actual measures in a reasonable lapse of time, let us say between the CPT's visit and a Ministry's feedback report, is to be expected in the future. Concrete action is expected at least when changes depend on administrative regulations.

7. Conformity with the CPT's recommendations

It is difficult to know whether changes in the Italian penal and penitentiary legislation as pointed out by the CPT stem from a natural evolution of the legislation or from the CPT's inspections.

Let us examine the only normative innovations introduced from 1992 onward, in accordance with the CPT's remarks: 1) new rules regarding prisoners' transfer have been imposed by Act No. 492 (12 December 1992). Use of handcuffs during individual tranfers is only allowed for particularly dangerous individuals, when a real danger that the prisoner may escape arises, or in other extreme circumstances. During collective transfers the use of multiple modulated handcuffs – their characteristics are described in the ministerial decree dated 18 May 1993 – is compulsory. In almost all regions the penitentiary police are now in charge of the transfer service, a task formerly performed by the *Carabinieri*. This change of hands has finally excluded the use of clogs. Nevertheless, handcuffs are still used much too often; 2) Law No. 296 (12 April 1993) states that prisoners' telephone conversations are no longer to be listened to or recorded. The only exceptions are calls made by prisoners convicted for particularly serious crimes. This entails that in the case of foreign prisoners the presence of an interpreter during a telephone call is no longer necessary. This meets with the CPT's request to favour convicts' contacts with their families. The issue of whether the telephone numbers the prisoners call are to be checked or not remains unsolved. Some consulates, particularly those of the Maghreb area and ex-Yugoslavia, often fail to provide telephone numbers, thus hindering the prisoners' right to use this means of communication; 3) The Act of 3 August 1995, by changing Art. 104 of the criminal proceedings code, has modified precautionary surveillance, thus reducing from seven to five days the time for a prisoner to excercise his/her right to talk to a defence lawyer. Again, it is difficult to demonstrate that the legislators have taken the CPT's recommendations into account, rather than acting under the pressure of public opinion and the mass media at the height of the political corruption scandals in Italy.

The CPT's recommendations on detention of individuals who have contracted the HIV virus not only have remained unheeded, but legislation has suffered a setback. Indeed, although the Committee raised both the problem of prevention and that of medical assitance, a recent sentence of the Constitutional Court has ruled out the automatic release from prison of inmates clearly affected by AIDS. This has dramatically worsened the problem.

Up to now the government has not shown the will to comply with the CPT's recommendations concerning the larger issues: overcrowding, insufficient activities for prisoners, run-down establishments and personnel training.

A new culture centered on legality and on respect for human rights would require a parliamentary debate on the CPT's inspections. That would make the outcome of its visits more visible and allow both legislation and the running of the penal system to attain the standards proposed by the Committee.

8. Conclusions

Co-operation was poor and the CPT's visit was scarcely known to the public at large. The Italian feedback was acceptable although lacking in concrete proposals; the main remarks of the CPT were not taken into account. The steps to be taken to improve prisoners' living conditions and prevent ill-treatment are:

- Continuous monitoring of conditions in places of detention by organised groups within society. This would guarantee the CPT useful and precise information.
- Reduction in maximum time from the publication of the CPT's report to ministerial feedback, with the contribution of qualified pressure groups (NGOs and press).
- Parliamentary debate on issues raised by the CPT's reports.
- These changes are necessary if we want to guarantee prisoners' rights, and to make the penal machinery work effectively, even without new legislation on these issues.

3) REPORT ON PORTUGAL

By Eva Falcão and Francisco Teixeira da Mota, Lawyers, Forum Justiça e Liberdades, Portugal

1. The CPT's visit

The CPT delegation visited Portugal from 14 to 26 May 1995. This was the CPT's second periodic visit to Portugal, the first having occurred in January 1992.

The delegation, composed of 12 persons, including experts and interpreters, was headed by the CPT's President, Mr Claude Nicolay. It visited several different detention institutions, from police stations of the Judiciary Police (PJ) responsible for serious investigations, the Public Safety Police (PSP), city police force and the Republican National Guard (GNR), rural and township police to prisons, including detention centres for minors, and a prison hospital. It was received by the Minister of the Interior at the time (Dias Loureiro) and by the Minister of Justice (Laborinho Lucio) and met with high officials of these Ministries as well as of the Ministries of Defence, Foreign Affairs and Health in what was considered to be fruitful talks. Very fruitful was the result of the meetings with the ombudsman (Menires Pimentel) and his staff and with the attorney general (Cunha Rodrigues). The delegation was well received in all the institutions visited, with the exception of the detention section of the police (PSP) headquarters in Lisbon ("Governo Civil"), where it had to wait 30 minutes until the officer in charge, who had invoked "security reasons", was told by the liaison officer of the Ministry of the Interior, contacted in the meantime, to permit the visit. Nevertheless, the delegation felt that all officers were generally well informed about its visit and were very helpful – the previous communication to all institutions involved in the CPT's visit played an important part in this success.

2. The CPT's report

It should be noted, however, that the follow-up report prepared by the Portuguese government in response to the CPT's 1992 report was only ready during the CPT's 1995 visit. It is quite obvious that, as a result, the CPT could not prepare its visit properly. The follow-up report on the 1995 CPT report has already been prepared, which is an improvement. The CPT report was published and got good press coverage, in large daily newspapers such as *A Capital* (one page in the edition of 21 November 1996), *Público* (3 pages in the edition of 22 November), *Jornal de Notícias* (one page on 22 November) and in the weekly *O Diabo* (one page, 26 November).

In the report the CPT delegation states that it spoke with a large number of persons about their experiences with regard to their detention by the police. "A significant percentage affirmed it had been ill-treated". Confirming once more the findings of the 1992 report, the most usual form of ill-treatment was physical aggression (kicks, punches, blows with police truncheons). Several had been hit with phone directories simultaneously on both ears, as well as on the soles of their feet. The detainees frequently alleged excess violence at the moment of their detention or complained that they were injured by civilians while the police looked on.

The new Penal Code, in effect since 1995, establishes a new type of crime – that of committing "torture and other cruel, degrading or inhuman acts" (Articles 243, 244 and 245), which is considered an improvement. This crime is punishable with prison sentences that can reach 16 years in more serious cases, and, very important, it also establishes the obligation to report incidents to the hierarchical superior (or he/she will face a criminal procedure as well). Nevertheless, we are still waiting for the crime of inflicting physical injuries ("ofensas à integridade física") when practised by an agent of authority to be considered as "public" (according to Portuguese law, a crime can be

public, semi-public or private: in the first case, there is no need for a complaint: any agent of authority who might be aware of a public crime shall report to the district attorney so that a criminal procedure can be undertaken).

The ill-treatment allegations concerned particularly the PSP and, to a lesser degree, the GNR. The Judiciary Police had relatively few complaints, but its record is tarnished by a specially serious one (on the DCCB – Direcção Central de Combate ao Banditismo), which was made worse by the unsatisfactory reply of the authorities (paragraph 26, CPT/Inf(96)/31). This is contrary to common knowledge, which normally views the GNR as the most brutal of all the police forces, partly because of the fact that it has less educated agents, a more militaristic approach, and is more difficult to control due to the relative isolation of its local posts and the lower civil rights consciousness of the rural population. But it seems to be consonant with the trends in Portuguese society and could well point to problems ahead. There has been heavy migration from the interior, rural, areas to the coastal, urban, areas. This has reduced the population in the rural areas and consequently the number of crimes and detentions, which, coupled with an increasing awareness of civil rights (both in the public and in the police), boosted by media attention, could well reduce ill-treatment by the GNR. On the other hand, this migration has increased the pressure on the PSP – there are more crimes than before in growing urban areas, while the number of police officers and police stations has remained basically the same. Significantly, the GNR cases of ill-treatment seem to be located in the now suburban areas, where the transfer to PSP jurisdiction has still not been made.

By way of justification of the high number of complaints by the detainees of police ill-treatment, the Portuguese government mentions the possibility that a large part of those complaints are made up as a technique of legal defence. That might be the case for some of the complaints. Especially because ill-treatment by the police is so frequent, it becomes highly plausible that the complaint is true. However, these complaints would only slightly help the defence, for they would trigger a different criminal procedure, with no influence on the first one.

The doctors included in the CPT delegation confirmed allegations of ill-treatment when examining the detainees *in loco*. These simple examinations show how easy it is to effectively discern the real cases of ill-treatment from the fake ones. If the Portuguese government provided adequate mechanisms, such as easy access to doctors for the detainees (in particular for the newly arrived ones, which doesn't happen at present) the number of confirmed cases of ill-treatment would probably multiply. It is unnecessary to underline that the medical staff should be totally independent vis-à-vis the prison and police personnel and that the detainees should be encouraged to report their complaints. The CPT also found several objects in the police stations which matched descriptions made by victims of ill-treatment. These objects, like non-regular truncheons, baseball bats, and all sorts of handmade weapons should not be present in police stations except as evidence (and in this case they should be clearly tagged as such and stored in an appropriate room – not in the interrogation rooms).

The CPT's 1995 report is very accurate, and went deeply into the Portuguese situation regarding police behaviour as well as prison conditions. In fact, the material conditions of detention have improved generally (since 1992) in the police stations. In prisons some effort was also made, but there are still serious problems, especially as regards overcrowding. The excess of inmate population added to facilities that are wholly inadequate makes the essential task of resocialising the prisoners totally impossible.

In the prison house establishment of the PJ in Oporto there was no programme of activities. The detainees could not even go outdoors to the patio, which is particularly serious when prison

quarters are located 3 floors below ground surface with minimal natural light at some points (and although most detainees stayed for short periods, a few were there for at least a couple of years). In the Oporto prison house establishment, the official capacity was 500 – yet 1120 inmates occupied it at the time of the CPT visit. In the C Wing of this establishment the cells were of acceptable size for one person, but most lodged two and many three persons. Current information given by the DGSP (Direcção-Geral dos Serviços Prisionais) referred to 1300 inmates occupying the 500 places in Oporto prison house.

These bad living conditions are made worse by the lack of effective vigilance by the guards. The guards rarelly ventured into the C Wing when the cells were opened, with the obvious result that all sorts of violence were exerted by some prisoners on others. Many inmates complained of being terrorised by a small group of powerful inmates, a complaint that the CPT, shortly afterwards, verified as true.

The government declares that there have been substantial changes for the better in this establishment since the CPT visit. A plan has been approved to tackle the problem of overpopulation in the prison system; a director was appointed especially to take care of the health problems; four new prisons are to be built in the next three years and the existing ones are to be ameliorated and expanded. This is significant if we recall that in the last 20 years only one prison was built.

The institutions for minors seem to be in a relatively good state. A problem of overcrowding is also present here, albeit not a very serious one. The government states that this problem will be solved soon. The CPT is aware of occasional slapping of inmates. This is completely forbidden, and is a cause for disciplinary procedure.

3. The Portuguese authorities' answer and the implementation of the recommendations made by the CPT

The Portuguese government's response was very formalistic, adhering closely to what is already legally established; however, in Portugal there is a deep gap between the law in theory and the law in practice. An example: instead of showing total repugnance for the incident with the illegal truncheon (paragraph 25 and 26, CPT/Inf(96)/31), the authorities' reaction was to minimise it. The media regularly unearth terrifying new cases; the higher authorities continue to immediately endorse whatever version the police officer suspected of ill-treatment gives.

Regarding the CPT's recommendations, we feel that the Portuguese authorities' answer "smooths over" very important issues, with the argument that there are already legal dispositions concerning some of the matters; in general, the reality is that agents generally lack an awareness of the law.

Police stations – torture and other brutal acts:

Recommendations I and II of the CPT (police hierarchies should strongly condemn police brutality): To our knowledge, there is still no internal circular letter in this sense, nor a firm public position from the police hierarchy. There is no clear statement condemning police brutality.

Recommendations III and IV (need to change police curricula to include in them subjects like human and civil rights): A committee has been created to study new curricula for police schools, and has already made suggestions.

Recommendation V (a magistrate should be present at the moment of detention, assisting the defendant): Although, as the authorities' answer states, judges are totally independent from government or any other political force, this recommendation, as well as the CPT report, should be brought to the knowledge of the Conselho Superior da Magistratura, Procuradoria-Geral da República and Sindicato dos Magistrados.

Recommendation VI (importance of the presence of doctors and lawyers in police stations): Once again, the government refers to the existing law; in our opinion, the presence of lawyers and doctors in police stations, or any other mechanism that prevents police abuses – motion picture cameras, for instance – is of major importance.

Recommendation VII (to forbid irregular weapons at police stations): The IGAI (Inspecção-Geral da Administracção Interna) was created by the government elected in October 1995; the appointment of a respected magistrate to the new post as inspector of the police (who is by no means an ombudsman, since he is hierarchically dependent on the Minister of the Interior) seems to be a good sign (he has already published "guidelines" concerning the use of violence by police officers). The IGAI should make periodic surprise inspections to police stations in order to assure the implementation of this recommendation.

Prison house establishments

a) Detention conditions

Recommendations I and VII (to develop more interesting work programmes): As far as we know, the work at Linhó continues in the same manner; the contract with a company that produces car filters seems to be an improvement.

Recommendations II, III and IV (new measures to fight the overcrowding problem in prisons, as well as sanitary conditions): A plan was approved by the government on 22 March 1996 to attack the overload in prisons. There is work in progress aiming to build new prisons, creating at the same time proper sanitary conditions in the existing ones. According to the DGSP, Oporto and Paços de Ferreira, among others, are being given more WCs and new cells. These changes, however, take time.

Recommendations V and VIII (1 hour outdoor exercise per day at Oporto Prison; additional activities for sentenced "inactive" prisoners at Linhó Prison): Unfortunately, we have not been able to verify *in loco* what has happened at Oporto, and thus we cannot give more detailed information on the situation.

Recommendation VI (removing remand prisoners from Judicial Police prisons in Lisbon and Oporto to normal remand prisons): As far as we know, the recommendation hasn't been implemented.

b) Medical services

Recommendations I, II and IV (lack of medical personnel, medicine being given by others than doctors): As already said, we cannot verify *in loco* what happens at Oporto; however, the government has started procedures providing the reinforcement of all its medical staff at prison establishments.

Recommendation III (permanent presence of person competent to provide first aid): To our knowledge, no changes were introduced; however, see previous commentaries to recommendations II, III and IV, last section.

Recommendation V (prisoners who have contracted tuberculosis and who might transmit it to others): Prisoners who have contracted tuberculosis are unable to work or perform any other activities, pursuant to medical recommendation.

Recommendations VI and VII (reports of physical injuries; health data confidentiality): There is a model of a medical record to be filled out by the doctor, with blank spaces to describe physical observations as well as other medical comments, and questions about serious injuries or wounds, but more could be done. Submission to testing is voluntary, and confidentiality is in general observed; however, the government admits that "some information must be given to the prison administration in order to allow proper management".

Minors

A committee has been created to rebuild the entire system. Its intentions are to study the problem and legislate accordingly, establishing a totally new reality. No concrete changes were produced, and there are still no guaranties on the implementation of the CPT's recommendations regarding minors. A whole new attitude is needed, from legal assistance to putting an end to some paternalistic approaches.

4. Conclusion

In general it should be said that the situation has improved somewhat compared to the past. The present government, in power since October 1995, seems to be more conscious of its responsibilities in the area of civil rights. One of its campaign promises was implemented in this report. The new Interior Minister, Alberto Costa, has even been challenged by the police hierarchy due to his relatively tough stance on police brutality, which led to the resignation of the PSP chief.

Nevertheless we have not seen, nor are we near to seeing, the end of flagrant violations of the most basic human rights by the police. The problem of brutality by agents of the State will only be solved in the long term, as mentalities of the rank and file evolve. But this won't happen unless the State exerts severe disciplinary action and shows a strong commitment to the maintenance of law and the constitutional rights of all its citizens.

4) REPORT ON SPAIN

By Rafael Sainz de Rozas, Lecturer, Faculty of Law, University of San Sebastián, Spain

1. Introduction

The penal reformer Beccaria (d.1794) showed that heavy sentences would not reduce crime unless, *inter alia*, the potential offender was perfectly sure that he would be prosecuted and punished. This is especially true as regards the offence of torture. There is no lack of laws in the Spanish legal system that proscribe and punish it. They were of course there under Franco's dictatorship too, but according to a now unanimously accepted opinion did not prevent its habitual use at that time. We must nevertheless recognise that there have been great steps forward in legislation since the advent of democracy. In fact, the entry into force of the new Penal Code in May 1996 brought in an improved codification of these offences; it describes and condemns torture itself, quite apart from the injuries it might occasion. Nevertheless the fact is that accusations of torture and ill-treatment in Spain are still frequent and detailed. It therefore seems obvious that the problem is not any lack of laws against such abuses, but that the procedures intended to ensure that those laws are obeyed do not work in practice.

Moreover, the penal measures, even when applied, are completely insufficient to overcome this disgraceful abuse. What is needed is a safety net that in practice avoids or significantly reduces the material possibilities of ill-treating persons deprived of liberty. Finally, censure of such conduct must not be merely a norm, it must above all have social acceptance. In some popular discourse, a torturer is not a psychopath who enjoys inflicting pain; he/she acts to protect society by more effectively preventing and repressing crime. It is therefore essential that the authorities responsible for such repression, be they police, judges or prosecutors, and its theoretical beneficiary, society, should sincerely and absolutely, in their heart and soul, reject torture. Otherwise the laws, however many and however harsh, will always be more symbolic than effective. Penal law would then be giving up its preventive function, its function of guaranteeing detainees' rights against the State, becoming instead a mere excuse for its lack of effective protection. As has been said of the penal law of the environment, there are too many regulations and too few results, and this suggests that sometimes the real purpose of the law is simply and solely to encourage public trust in the system and to substitute a fictitious What Should Be for the less agreeable What Is.

This attempt at substitution is in great part the subject of this report. In accordance with the scheme proposed by the APT, it will open with a review and appraisal of the CPT's recommendations after its visits in 1994. Thereafter it will deal with the Spanish authorities' reply and the way in which those recommendations have in fact been applied. A final section will consider what conclusions are to be drawn from the above, and will note ways of joint action that could make the CPT's work more effective in overcoming the serious situation we are now in.

The report will be based on the investigations made both by governmental and non-governmental bodies: the Report by the Defender of the People on the situation in Spanish prisons submitted in March 1997, the Report of the Ararteko (ombudsman) of the Basque Autonomous Community on the situation in Basque prisons submitted in March 1996, the 1994 and 1995 annual reports of the Madrid Association against Torture, the Basque Group against torture report for 1996, the report submitted by the conscientious objectors imprisoned in Pamplona to the Human Rights Commission of the Parliament of Navarra (March 1995), the report by the conscientious objectors imprisoned in Basauri-Biscay (June 1996), the report by the prisoners in Villabona (Asturias) prison (September 1994), and data supplied by the Salhaketa Prisoners' Support Association, the

Association for the Monitoring and Support of Prisoners in Aragon, the Asturian Citizens' Assembly for Liberties and the National Coalition of Solidarity with Persons confined in Prisons.

2. The contents of the CPT report

The CPT's three visits to Spain were followed by complete and detailed reports, especially that following the visit of 10-22 April 1994. We found no significant omissions as regards the detention centres visited. There were, however, some for certain prisons in which the situation at the time of the visit was particularly serious, especially as regards the living conditions of inmates whose names appeared in the *Ficheros de Internos de Especial Seguimiento* (Special Surveillance Inmates Index). (This is commented on in the examination of the contrast between the government's reply and the situation complained of by the prisoners themselves.)

Both the tone of the report and the general direction of its criticism are, generally speaking, correct, taking into consideration the earnest desire to keep within the bounds of objectivity and a constructive approach to governments. Nevertheless, the more the authorities appeared to co-operate with the CPT in welcoming and replying to the CPT the more critical the tone of subsequent assessment reports has to be, in so far as they recognise that in practice no progress has been made.

The CPT's main recommendations were as follows:

2.1 Police forces

Torture and ill-treatment:
- Training in recognition of the necessity that these phenomena must disappear.
- Police should be trained to treat prisoners with respect.
- The absence of marks on the body etc. does not necessarily imply that complaints of ill-treatment are false.
- Immediate application of the new regulations on transfers and alterations to the vehicles used for the purpose.
- Request for information on the number of cases in which complaints have been made of torture and ill-treatment, with a description of the facts, the decision taken and the circumstances under which it was taken.

Material conditions of detention:
- Improvements in various police buildings in which detainees are kept in custody.
- Improvements in the quality and frequency of food.
- Improvements in the habitability and furnishings of cells.
- Request for information within three months on the extent to which these recommendations have been implemented.

Guarantees against ill-treatment of detainees:
- Reduction of the period of isolation to at most 48 hours.
- Access to a lawyer as from the very beginning of detention, with guarantees of confidentiality.
- Medical examinations at which no representative of the police is present, the detainee being informed of the results of the optional examination.

- An interrogation code that emphasises the necessity of avoiding ill-treatment and of disclosing the identity (or at least the identification number) of all the persons taking part in the session and its foreseeable duration, rest periods, whether or not the person under interrogation is kept standing, and special precautions for persons under the influence of alcohol or other substances.
- A systematic record of the persons taking part in the interrogation and of incidents therein.

2.2 Detention centres for foreigners

- Material improvements at the Moratalaz Centre.
- Barcelona Centre; recommendations respecting the selection of policemen, the use of truncheons, the maximum number of prisoners per cell and access to open-air exercises.

2.3 Prisons

Torture and other forms of ill-treatment:
- Removal of the metal rings at the base of the beds in Madrid II prison.
- A record to be kept of all occasions on which coercion was used.
- A request for information on complaints of ill-treatment in 1993 and 1994.

The treatment of prisoners regarded as "extremely dangerous" or who "fail to adjust themselves to the ordinary regime":
- Steps should be taken to guarantee that prisoners are not isolated and that no security measures are taken against them in excess of those arising from their Grade I classification.
- Revision of the regime applied to Grade I inmates, so that they may busy themselves with useful activities.
- A general revision of the living conditions of inmates listed in the "Index of Special Surveillance Inmates".

Conditions of detention in the prisons visited:
- In the Barcelona Models Prison, and in Madrid I Prison, reduction of the number of inmates per cell to two, and redefinition of the programme of activities in order to allot occupations for a specific purpose.
- In the Women's Prison in Madrid, reduction of the rate of occupancy to a target of one person per cell, and that mothers living there with their children shall not have to share a cell with other inmates.
- Remedy the shortcomings in the ordinary visiting areas in the Carabanchel and Modelo Prison, and in the areas reserved for lawyers' visits in Madrid I Prison.
- In general, take steps to relieve overcrowding in prisons.

Health Services:
- Barcelona Models Prison; improvements in the psychiatric patients' unit.
- Madrid I Infirmary: reduction in the number of persons per room; ventilation and natural lighting.
- Women's Prison, Madrid: various improvements in health care.
- In general: The medical staff for psychiatric care should be substantially increased; quicker transfer to hospital when necessary; free treatment of dental decay should be given; and a record should be kept of any sign of violence observable on the admission of any prisoner or following a violent incident within the prison, all information thereon being made available to the person concerned.

Other matters:
- General revision of staff regulations, to make them suitable for the prison population.
- Special training for civil servants working in prisons having a high incidence of foreign prisoners.
- Action to ensure that Prisons Surveillance Judges ("Jueces de Vigilancia") do in fact visit the prisons under their jurisdiction at least once weekly and are in direct contact with prisoners and prison staff, whether or not they have been expressly required to do so.

2.4 Centres for the detention of minors

- Disciplinary measures: the children to be guaranteed a hearing.
- Recognition of the right to appeal to a higher authority after sentence.
- A detailed record of all punishments imposed to be kept at each centre.
- There must be specialist examination of the reasons underlying every episode of self-inflicted injury.
- The results of HIV-virus analysis are to be confidential.

2.5 Psychiatric institutions

- Detailed medical criteria must be established on the circumstances and way in which physical coercion is permissible. It may never be applied except in accordance with special medical instructions.
- A record must be kept in patients' case histories of all cases in which physical coercion is used.

3. The government's reply in theory and practice

3.1 The behaviour of the various security corps

Dates and Statistics

The first thing that strikes the reader of the Spanish government's reply is the discrepancy between the data it gives on the number of penal proceedings for ill-treatment initiated in the period 1992-1994 and the number supplied by non-governmental organisations that have kept a record of the matter.

The government's data (information submitted by the Fiscalía General del Estado (State Attorney-General's Office), refer to a total of 54 proceedings. The following data, however, were given by the Madrid Association Against Torture on cases of torture brought before the courts, and refer to the year 1995:

Period	National Police	Guardia Civil	Municipal Police	Auton. Police	Prisons	Total
1992-1994	233	264	150	52	66	**765**
1995	69	58	71	28	22	**248**

For the penal proceedings resulting from these complaints, there is a record of 51 convictions and 30 acquittals for cases prior to 1995. The government officials implicated are shown in the following table:

Year	Persons convicted	Acquitted	Pending	Totals
1993	120	128	200	**448**
1994	154	150	229	**533**

The persons who complain that they were tortured or ill-treated are not only those connected with terrorist offences. It is significant that the reasons for detention may vary widely from one police corps to another, as is shown by the following table of orders opened by the courts in 1995 for this reason:

Corps complaints	Common criminals	Armed gangs	Illegal immigration	Trafficking	Social movements	Others	Total
National Police	8	9	12	2	22	16	**69**
Guardia Civil	4	33	1	1	3	16	**58**
Auton. Police	–	–	–	–	21	7	**28**
Municipal Police	6	**–**	1	20	5	39	**71**
Prison Officers	15	7	–	–	–	–	**22**
Totals	**33**	**49**	**14**	**23**	**51**	**78**	**248**

Only in the case of the Guardia Civil is there a clear predominance of persons detained as members of terrorist groups (NB: Only the number of persons making the accusation is recorded. The number of complaints is in fact higher (81), as 23 of the 33 persons detained for this reason complained that they were tortured both in their place of origin (Catalonia and the Basque country) and in Madrid.)

The details of each complaint cannot be reproduced here, but they are all given in due detail in the court proceedings, and agree with the reports periodically received by the Madrid Association Against Torture. It has not yet been possible to classify the reports of the cases initiated in the course of 1996; but as regards the Basque country, The Basque Group against torture has made a study covering 112 persons detained last year who complained before the judges that they were subjected to torture and ill-treatment; the study, however, refers exclusively to arrests made in the Basque and Navarrese autonomous communities. In any event, at least three conclusions may be drawn from the contrast between all this material and the information sent by the government in its reply to the CPT. Those conclusions are as follows:

First – In spite of the legal advances, there is still a disquietingly high number of complaints of, and sentences for, torture and ill-treatment. Cases have been reported in all the various police corps, although to a differing extent in each.

Second – The information sent by the government is patently biased. As regards the number of proceedings, whether or not yet finalised, the discrepancy in the figures speaks for itself. It is also reasonable to suppose that the real number of cases is higher than that shown here, which is only the number of complaints actually made in court. Accordingly, there is not only the suspicion that the law prohibiting the use of torture is only being applied symbolically, but the more serious realisation that the government is attempting to present an image of reality conforming to the idealised vision that the legal situation tends to project.

Third – The information the government includes in its reply sidesteps a number of significant details of the few penal proceedings it alludes to, and without these details it is not possible to measure how far the attempt to stamp out torture is succeeding. We have particularly in mind the long delays in delivering verdicts for the reduction of sentences imposed, and the government's use of pardon once sentences are imposed. To take only the first two sentences referred to in the government's reply (Sumario 21/84, J.I. No.2, and Diligencias Previas 4098/89, J.I.No.1, both of San Sebastian): in both, the length of the sentence was reduced because of the extenuating circumstance that a long time (9 and 12 years respectively) had elapsed since the initiation of proceedings. As a result of this, the penalties did not even reach 12 months. People sentenced to punishments depriving them of their liberty can be put on parole under certain circumstances. Whenever the person convicted is not a recidivist and the sentence is up to one year, judges almost automatically suspend the latter. Consequently, the torturers convicted in the second of the above-mentioned cases never went to prison at all. Quite extraordinarily, the court dealing with the first case refused the parole application, so the convicted members of the Guardia Civil did have to go to prison. However, at a later date the government pardoned two of them, and another was discharged from the Guardia Civil on account of illness and granted a pension by the Ministry of the Interior. The delay in proceedings is nowadays still exactly the same, as is shown by the last two trials held in Biscay in February 1997.

3.1.1 Practices complained of

The complaints of ill-treatment cannot be described in detail here, but as regards the data given in 1995 it may be significant to list the forms it has taken, taking as a basis a sample of 44 people detained in Euskal Herria in that year:

Method used	Totals	National Police	Guardia Civil	Auton. Police
Beatings	**37**	11	26	–
Physical exhaution	**24**	5	18	1
Asphyxia	**18**		18	–
Electricity	**4**	1	3	–
Hair pulling	**11**	1	10	–
Verbal sexual aggression	**19**	1	18	–
Nakedness	**7**	1	18	2
Blindfolding	**25**	2	23	–
Constant interrogation without lawyer	**29**	7	21	1
Threats of torture or death of the detainee or his/her family	**40**	11	28	1
Forcing the detainee to see or hear torture of others	**15**	–	15	–
Humiliation	**30**	9	20	1
False information	**14**	2	11	1

3.2 The situation in prisons

Prisons will now be considered under the main headings used in the CPT report which were answered by the Spanish government's report.

3.2.1 Torture and other forms of ill-treatment

The government's report states that Madrid II was the only prison visited in which complaints of recent ill-treatment were made to the CPT delegation. The CPT refers to the metal rings in the wall and the use of sprays for coercive purposes, and the government's reply states that it has taken action in that connection.

The previous section has pointed out the discrepancy between this limited cause for worry and the number of cases in courts of law at the time when the said reply was being prepared. Since then, according to the statistics on complaints of ill-treatment in prison in 1994 and 1995, prison officers have beaten up aggressive prisoners in the following prisons: Navalcarnero (Madrid), Alahurín de la Torre (Málaga), Valdemoro (Madrid), Ceuta, Villanubla (Valladolid), Bonxe (Lugo), Picassent (Valencia), Carabanchel (Madrid), Soto del Real (Madrid), Tenerife II, Huelva, Martutene (Guipúzcoa), Seville II, Puerto de Santa María (Cadiz), Castellón, Can Brians (Barcelona), Melilla, Herrera de la Mancha (Ciudad Real), Jerez (Cádiz), and Segovia.

3.2.2 Treatment of prisoners regarded as extremely dangerous and unsuited to an ordinary regime

The CPT is chiefly concerned in this connection with what are known as the FIES – the "Ficheros de Internos de Especial Seguimiento" (Lists of Inmates to be Specially Supervised), and it is basically with this that the government's reply is concerned.

As for the FIES, far from the reduction and tendency to disappear suggested by the government's reply, it is certain that at the end of 1994 the regime applied to "Special Regime" (Régimen Especial – RE) FIES inmates was a specific one, one distinct from those foreseen by the law. It obliged the Surveillance Judges, when they met in November 1994, to state that "There is no special prison regime apart from the ordinary, open and closed regimes referred to in the Prisons General Organisation Act (Ley Orgánica General Penitenciaria – LOGP). The closed regime must be clearly differentiated from being held in solitary confinement, as it is not a permanent punishment, and Article 10 of the LOGP must be applied restrictively because of its exceptional character". Similarly, the prison judges found it necessary to insist that the ordinary closed regime will be applied, as a minimum and in all circumstances, to inmates classed by the prison authorities as Group 1 Special Regime (RE) prisoners.

From February 1995 onwards the government contravened these provisions of the Prisons General Organisation Act and the prison regulations by continuing to regulate the FIES as a specific regime, harsher than the closed one. It did so by circulars and instructions, all of minimal importance as regulations. In practice, however, it is these circular letters that guide prison officers' daily duties, over and above whatever the prison regulations and the LOGP itself may ordain, as we have seen it happen in this matter.

According to the inmates on these lists the changes that have since taken place have been merely nominal. Early on, the name of the "Special Regime" FIES group was changed to "Direct Control", solely in order to avoid the classification as a specific regime implied by the name. Later,

the Programme for the Recuperation of Aggressive Inmates (PRIC) merely supplied a new set of regulations ensuring that the old state of affairs continued unchanged.

In this context the complaints that arrived in February 1996 from prisoners in that situation in Villabona (Asturias) Prison are especially serious. They make a detailed series of complaints about restrictions on communications, lack of information on the regime of living conditions applicable to them, violation of the right to carry out cultural, recreational and sporting activities, systematic application of handcuffs even within the prison, restrictions on the use of the prisoners' shop, and their having to be locked up in their cells for 22 to 23 hours every day. One of the principal complaints of ill-treatment is that the large steel rings mentioned in the CPT report are still being used to chain prisoners' feet and hands to the bed, and to keep them in that position for up to three days at a time. As a result of the tension produced by this state of affairs, in 1996 the FIES inmates led various common programmes of demands and hunger strikes, in the following prisons: Badajoz, Villanubla (Valladolid), Jaen II, Topas (Salamanca), Valdemoro (Madrid) and Picassent (Valencia), as well as in Villabona prison, as already mentioned.

The prison authorities affirm that the CPT's observations on the subject of changes to the common closed regime have been taken into account. The CPT had recommended that steps be taken to ensure that the material conditions of imprisonment of a prisoner kept in isolation because he/she was classed as Grade I should be distinctly better than those of a prisoner in solitary confinement as a punishment, and that the regime applied to Grade I prisoners should be changed in order to enable them to carry out useful activities.

A fair sample of the extent to which these recommendations are being carried out is, however, the observation made by the Ararteko (ombudsman) of the Basque Autonomous Community, who after visiting the prisons in the district under his jurisdiction stated in March 1996 that closed regime living conditions are especially rigorous and sometimes entail deprivation of essential rights recognised by prison legislation for all prisoners without exception. This is especially evident as regards communications and access to work. The report quoted also holds that it is not permissible for the provisions regulating the closed regime, and particularly Article 10 of the LOGP to which the government's reply alludes, to lead to the almost complete isolation that sometimes occurs.

3.3 General evaluation

The state of Spanish prisons is giving rise to many complaints. These are being made to the prisons authorities, the courts and the various human rights commissions, both of the autonomous parliaments and of non-governmental organisations. All these complaints show the discrepancy between the actual facts and the government's statements in reply to the CPT's report. To avoid casuistic arguments, and to sum up, be it said that the failures to comply with the Committee's recommendations are shown in the following general recommendations which the Arateko (ombudsman) of the Basque Autonomous Community made in March 1996 after verifying the deficiencies existing in the Basque prisons. According to the sources used to compile the present report, all these deficiencies are applicable to the prison situation throughout the country.

First – The infrastructure necessary before it will be possible to apply the punishments set out in the new Penal Code as alternatives to prison have still to be put into place. There are legal procedures by which many conflicts can be settled by other than penal means (conciliation, above all in the interests of the victim), and punishments for the offence that do not involve deprivation of liberty in prisons (such as week-end detention and work for the benefit of the community). Because, however, of the lack of adequate centres for this kind of alternative punishment, there is a tendency

to take the easiest way out, although it is the most expensive one both economically and politically. The government's answer to the problem of overcrowded prisons pointed out by the CPT seems to opt unhesitatingly for traditional ways. The result is that in budget allocations priority is given to building new penitentiary centres and macro-prisons.

Second – Every encouragement should be given to information and public debate on the present system of penal punishments and their possible alternatives. The attitude of the prison authorities to this is to appeal to solidarity to justify the building of macro-prisons and to overcome the resistance that its attempt to introduce them has aroused in affected communities, such as Saragossa and Biscay.

Third – Overcrowding is now causing a gross shortage of all the standard materials in a prison establishment. Another cause of overcrowding, besides the causes already stated, is the excessively high percentage (now 28 %) of prisoners awaiting trial.

Fourth – Many of the people serving sentences in Basque prisons have no personal link with the Basque country. On the other hand, a large number of people resident in the Basque community are confined in various prisons all over Spain. This makes it very difficult for prisoners to keep up their personal, family and social relationships and makes their reinsertion into the community more difficult. In this connection, we would add, the use of transfers from one prison to another as a punishment is frequent and unacceptable. The most noteworthy case of this took place at the Pamplona Prison, only three months after the CPT's principal visit. A number of inmates, who were in prison as a result of their civil disobedience to military service on pacifist grounds, started a campaign to demand improvement of the living conditions for all prisoners. The prison administration responded by transferring the leaders of the campaign to a number of prisons far away from Pamplona, in the middle of an absolutely intolerable campaign of disparagement and calumny of the persons so punished.

Fifth – Mortality and morbidity rates in prisons are much higher than in society as a whole.

Sixth – The personal and material means at the disposal of prison inspectors must be increased.

Seventh – Nearly all prison officers are fully engaged in supervising prisoners, and technical staff are obliged to devote themselves to office work, to the detriment of their educational, therapeutic and assistance functions.

Eighth – The facilities now provided for Grade III prisoners are absolutely inadequate. There should be open regime centres independent of the prison, as the new prison regulations provide – in most cases as yet only on paper. Before release on parole (after serving three-quarters of the sentence) can be granted, the sources of support enjoyed by the prisoner outside the prison have to be borne in mind, and not only (as nearly always happens in actual fact) his/her good conduct in prison.

Ninth – For prisoners of either sex to be really able to communicate with the outside world it is essential that there should be a far-reaching and decisive policy of temporary exit passes. As for visits, not only do present conditions in visiting areas have to be improved, but above all the time allowed for visits should be respected and as far as possible increased, and checks on visitors, which are sometimes excessive and even vexatious, should be avoided.

Tenth – Inactivity must be avoided. So must its result, the deterioration in personality suffered by recluses.

Eleventh – Grade I classification must be restricted, and in any event the harsh regime in this grade must be made less harsh.

Twelfth – The rules for discipline and punishment must be revised so that the body imposing punishment is invariably independent and impartial. The present practice of systematically assigning greater credibility to prison officers' statements must be abandoned.

4. Concluding remarks

Torture is practised and becomes chronic under the cloak of concealment. Exactly as with all other crimes, the fact that the law forbids it does not necessarily mean that it will cease to be used – an obvious statement, but an especially significant one when it refers to torture in Spanish government establishments.

There is in this respect a strong contrast between the picture presented by the Spanish government's reply to the CPT and the one that emerges from examination of the legal proceedings opened as the consequence of complaints to examining courts and prison inspectors by prisoners and detainees. Similarly, the co-operative attitude towards the CPT delegation of the governmental representatives it interviews is the complete antithesis of the administration's real behaviour when the time comes for investigation of the complaints made. It is useful to draw various conclusions from these contrasts in order to improve co-operation between the CPT and the Spanish government representatives with whom it is in regular touch.

4.1 As regards the real possibilities that use will be made of the Committee's recommendations

- They may be usefully employed in court to overcome the deep-seated conviction of some judges that complaints of torture are made to serve destabilising political interests. They may also usefully accompany prisoners' complaints of their living conditions. We cannot, however, ignore the fact that in most cases appeal to the CPT's recommendations will be of little use as evidence. Especially in torture cases, the enormous difficulty of proving each particular case contrasts with the fact that the Committee has expressed its concern on certain general points which are, however, directly related to the cases being tried. These would include being held in solitary confinement, lack of a private interview with a lawyer, and failure to record or identify the persons taking part in all declarations.

- It is usually more effective to publish recommendations in newspapers, especially those of international reputation. But the media tend to treat the appearance of these recommendations as a subject of only transitory value that has no further interest two or three days after publication. There is also a kind of consensus that what the security corps do, especially in their anti-terrorist activities, should not be criticised. Consequently, the press tends to treat the Committee's observations and recommendations in the same way as it does those of organisations such as International Prison Watch (Observatoire International des Prisons) and Amnesty International – as a mere version of the facts contradicting the government's and ignoring a basic fact: as far as we are living under a constitutional democratic system, and almost by definition, there are legal procedures for the successful elimination of torture inflicted by Spanish government officers in those isolated cases in which it may occur.

4.2 As regards co-operation between the CPT and its various contacts in the Spanish government

- The NGOs use the CPT's observations and recommendations in their negotiations with the government in an attempt to improve the situation, but the prison authorities' attitude towards these organisations is far from being as welcoming and co-operative as it was towards the CPT delegation. If the NGOs adopt a critical or assertive attitude they are marginalised if not criminalised, accused of using the same arguments that are used by supporters of terrorism. The CPT will have to tackle the government about this contradictory behaviour.

- Some interest in the recommendations has been shown in the universities, but there could be more interest in academic circles in continuing to put them into practice. This should be improved by holding lectures and seminars on the subject, or by introducing a system of courses for students lasting several months, as already exists on the subject of The Hague War Crimes Tribunal.

- Follow-up of the government's compliance with the recommendations must take place with NGO co-operation, not only on the basis of information sent by administrative bodies. There would otherwise be a feeling of disparity between the said recommendations and the information put out by the NGOs, even when they both refer to the same set of facts. The government's behaviour in this connection will be a source of concern for the CPT, in two respects:

1) The Spanish government is making use of the CPT's visits to endorse its policy on the prevention of torture and on prison affairs. This was clearly shown in the note which it sent to International Prison Watch after that body published its 1994 report. After comparing the conclusions of the report (which were extremely critical of the situation in Spain) with "the impression left in the conversations of the CPT members with Spanish officials", it unhesitatingly rejects those conclusions because they are based on information from organisations such as Salhaketa, which it pathetically calls "a fringe group of the terrorist gang ETA".

2) It could be said that the government replies with promises of co-operation to criticisms on the situation of prisoners and detainees when those criticisms come from the CPT, and with criminal complaints when those criticisms are made by an NGO. Organisations with a prominent record of defending liberties from a position of independence and basic work, such as Salhaketa and ASAPA, could have much to say on this subject.

- To conclude, selection of contacts has been fairly complete in Spain. It has to be said that the NGOs had easy access to the Committee's delegation, in spite of the necessary reserve in contacts. In this respect it should only be pointed out that as regards the situation in prisons, at the present time the Coordinadora de Solidaridad con Presas/os (Organisation for the Co-ordination of Solidarity with Prisoners) represents the easiest and most complete form of access to the organisations carrying out basic work in this field.

5) REPORT ON TURKEY

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1. Introduction

1.1 Notes on the Convention and the CPT

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was adopted unanimously by the Council of Ministers of the Council of Europe on 26 June 1987 (the day on which the UN Convention against Torture entered into force). It was opened for signature on 26 November 1987 and entered into force on 1 February 1989.

In the Convention system, the information gathered by the CPT in relation to a visit, its report and its consultations with the State Party concerned are subject to the principle of confidentiality (Convention, Art. 11; 13; Rules of Procedure, Rule 45; 46).

In order to make public the CPT activities and reports, the Convention provides three procedures. The first is the "general report" of the CPT on its activities, published every year (Convention Art. 12; Rule 47). The second procedure is to publish the CPT's report with the attached observations of the State Party concerned at the latter's request. (Convention Art.11/2; Rule 47). The third method of publicising the CPT reports is based on a decision taken by a two-thirds majority of the CPT's members to make a "public statement" on the matter. This procedure is applied when the State Party concerned fails to co-operate[1] or refuses to improve the situation in the light of the CPT's recommendations (Convention Art. 10/2; Rule 44/1-3). It operates as a sanction of the breach of a State Party's obligation to co-operate with the CPT (Convention Art. 3).

The CPT, since its establishment in November 1989, has applied the Art. 10/2 procedure only twice and made public statements on Turkey on 15 December 1992 and on 6 December 1996[2]. Thus Turkey was the first, and is so far the last State Party faced with this sanction.

Turkey has never requested the publication of the CPT's reports concerning its visits to Turkey and her responses to the observations of the CPT. Turkey is, once again, unique among the States Parties to the Convention. The CPT underlined that "it is fair to say that publication of the CPT's visit reports has become the norm, non-publication the exception"[3]. By mid-1997, none of the reports on Turkey have been published.

1.2 Notes on the Turkish legal system

Turkey did not put her signature to the Convention on the opening date of signature. Turkey's date of signature was 11 January 1988. Paradoxically, Turkey was the first State to ratify the Convention, on 26 February 1988.

In order to complete the ratification process within domestic law, the Grand National Assembly of Turkey (GNAT - Turkish parliament) promulgated a Law on the Approval of the Ratification of the Convention, dated 25 February 1988, No 3411[4].The official Turkish translation of the Convention and the English original text were published in the Official Gazette on 27 February 1988[5].

1 It may be noted that the CPT announced that "an excessive delay in providing an interim report could lead the Committee to make a public statement under Article 10, paragraph 2, of the Convention" (CPT, 6th General Report, Council of Europe, Strasbourg, 5 August 1996, par.10, p. 6). This is an important step to make the Convention system more efficient and to direct States Parties to carry out their reporting obligations.

2 CPT, 3rd General Report, Council of Europe, Strasbourg, 4 June 1993, par. 9-11, p. 7 (for the texts of the statements see press release dated 21 December 1992) and CPT/Inf(96)/34 (2nd Public Statement).
The Convention, the CPT, this public statement on Turkey and its consequences were analysed in only one study; see Mehmet Semih Gemalmaz, "Right to Life and Prevention of Torture" (in Turkish), Kavram publishers, Istanbul, 1994 (second ed.), p.p. 351-399.

3 CPT, 5th General Report, Council of Europe, Strasbourg, 3 July 1995, par. 11, p. 6.

4 The Law on the Approval of the Ratification, Number 3411, dated: 25 February 1988, (Official Gazette (OG):26 February 1988, No.19737bis).

5 See (OG, 27 February 1988, No.19738).

According to Art. 90 of the Turkish Constitution of 1982, international agreements duly put into effect have the power of law. International conventions ratified by Turkey automatically become a part of Turkish law. If an international norm is written in a form and style to be directly applicable after ratification, all relevant domestic authorities must apply the norm directly as it is domestic legislation. This is what Turkish legislation requires.

It is true to say that the Turkish general government policy is not to be a party to legally binding international or regional human rights instruments. For instance, some of the main human rights documents (such as the UN Covenants of 1966) have not yet been ratified by the Turkish government. Moreover, the documents ratified by Turkish governments generally provide norms that have no direct applicability within domestic law. These kinds of documents necessitate actions (such as an enactment of a new law) carried out by the relevant domestic authorities (such as the parliament) in order to be transmitted to the domestic legal order. The Turkish parliament is not very active in doing so.

When Turkey ratified the Convention, the President of Turkey was former General Kenan Evren. He was the leader of the military junta of l2 September 1980 *coup d'Etat* in Turkey. The Prime Minister was Mr Turgut Özal. He was a minister in the military government during the *de facto* regime of 12 September 1980 and then became the leader of the new established Motherland Party.

2. The CPT's visits to Turkey (1990-1996) and their consequences

The CPT carried out different types of visits to Turkey from 1990 to 1996. These visits took place basically in three periods. The first period was 1990-1992, the second 1993-1994, and the third started in 1996.

2.1 The first period (1990-1992) and the public statement on Turkey (15 December 1992)

In the first period, the CPT organised three visits that took place from 9-21 September 1990; 20 September – 7 October 1991 and 22 November – 3 December 1992. The first two of these visits were of an *ad hoc* nature, based on the provision of Article 7/1 of the Convention, that is, they appeared to the CPT "to be required in the circumstances". The third visit was the kind categorised as a *periodic visit* (Convention, Art. 2; 7/1 Rules of Procedure, Rule 31).

During the first *ad hoc* visit to Turkey, police headquarters (Ankara, Diyarbakir provinces), the interrogation centre of the lst section of the Diyarbakir police, the central interrogation centre of the departmental command of the Diyarbakir gendarmerie regiment, Içkale gendarmerie unit/Diyarbakir, Ankara Central Closed Prison, Diyarbakir lst Prison and Malatya E-Type Prison were the places of detention visited by the CPT[6].

The number of places was extended in the second *ad hoc* visit to Turkey. They were; in the **Ankara** province: police headquarters; Yenimahalle police station; Esenboga Airport police station and Ankara Central Closed Prison; in the **Diyarbakir** province: police headquarters; the interrogation centre of the lst section of the Diyarbakir police; the central interrogation centre of the departmental command of the Diyarbakir gendarmerie regiment; Çarsi police station; Diyarbakir 1 Prison; and in the **Istanbul** province: police headquarters; Beyoglu central police station; Bayrampasa Prison[7].

The third visit to Turkey by the CPT was the first of a periodic nature. The list of the places visited is as follows: **Adana** province: police headquarters; Adana Prison; closed unit for prisoners

6 CPT, lst General Report, Appendix 3, p. 35.
7 CPT, 2nd General Report, Strasbourg, 13 April 1992, Appendix 3, p. 25.

in Numune General Hospital; Ankara province: police headquarters; Çankaya district central police station; Etlik district central police station; Mamak district central police station; Ankara Central Closed Prison; **Diyarbakir** province: police headquarters; interrogation centre of the 1st section of the Diyarbakir police; central interrogation centre of the departmental command of the Diyarbakir gendarmerie regiment; Dicle University police station; Diyarbakir 1 Prison; Diyarbakir 2 Prison; **Istanbul** province: police headquarters; Beyoglu district central police station; Eminönü district central police station; Eyüp district central police station; Bayrampasa Prison; Bakirköy Mental and Psychological Health Hospital[8].

The above list shows, firstly, that the CPT started its Turkey visits by *ad hoc* visits, and not periodic ones. The second observation is that, not only the number of the provinces, but also the number of the places of detention was step by step enlarged. For instance, during the first visit 3 (Ankara, Diyarbakir, Malatya), in the second 3 (Ankara, Diyarbakir, Istanbul) and in the third 4 (Adana, Ankara, Diyarbakir, Istanbul) provinces were visited. Similarly, during the first visit a total number of 8 places, in the second 12 places and in the third 20 places were visited.

The basic function of the CPT is to prevent abuse of power by national authorities. In the case of Turkey, this is problematic for several reasons. On the one hand, the CPT's attention is mainly focused on particular places of detention such as civil security/police establishments, in a limited number of provinces. In Turkey there are many places of detention in different provinces. Intensive complaints of torture and ill-treatment are another phenomenon. On the other hand, in the CPT's general reports, the financial and staff limitations of the CPT are insistently referred to as a problem. All these issues may be causes for carrying out less sufficient, frequent and efficient *in loco* investigations by the CPT in Turkey. It can be debated whether such circumstances, in an early stage, may have placed the CPT, among others, also under a psychological pressure rather than a legal/Conventional necessity to refer to the application of the Art. 10/2 procedure.

The CPT delegation observed some of the facts during its first visit to Turkey in 1990. Both physical and psychological torture and other forms of severe ill-treatment were frequently applied by the detectives of the anti-terror departments of the Ankara and Diyarbakir police when they are holding and questioning suspects. Large numbers of allegations of torture and other forms of ill-treatment and of the consistency of these practices were received by the CPT. The allegations were raised not only by persons suspected or convicted of offenses under the anti-terror law, but also by persons suspected or convicted of ordinary criminal offences. As regards the latter, the number of allegations was especially high among persons detained for drug related offences, offences against property and sexual offences.

Concerning the types of ill-treatment involved, the following forms were frequently alleged: Palestinian hanging; electric shocks to sensitive parts of the body including the genitals; squeezing of the testicles; beating of the soles of the feet (falaka); hosing with pressurised cold water; incarceration for lengthy periods in very small, dark and unventilated cells; threats of torture or other forms of ill-treatment to the person detained or against others, and severe psychological humiliation. The doctors in the CPT's visiting delegation examined the detained persons and observed physical marks or conditions consistent with their allegations of torture or ill-treatment by the police. Furthermore, particularly at the Ankara police headquarters, the CPT's visiting delegation was subjected to a series of delays and diversions and was on several occasions given false information; a number of detainees were removed in order to prevent the delegation from meeting them. The CPT transmitted its observations to the Turkish authorities and recommended a series of immediate and efficient measures to combat the problem of torture and other forms of ill-treatment[9].

8 CPT, 3rd General Report, Appendix 3, p. 29.
9 CPT, 3rd General Report, Appendix 4, par. 4-9, p.p. 31-32.

At the end of its second visit to Turkey in the autumn of 1991, the CPT found that no progress had been realised in eliminating torture and ill-treatment by the police. According to the allegations received by the CPT, the application of torture and other forms of ill-treatment remained much the same and, moreover, an increasing number of allegations of beating with sticks or truncheons was added to them. The CPT's delegation also observed and concluded that torture and other forms of severe ill-treatment continued in the anti-terror departments of the Ankara and Diyarbakir police. In the report on its second visit to Turkey the CPT recommended that a body composed of independent persons be set up immediately in order to carry out an investigation of the methods used by police officers when questioning suspects[10].

The reports and recommendations prepared by the CPT following these two visits were submitted to the Turkish authorities. The CPT conclusions were as follows: More than two years after the CPT's first visit, its recommendations for the strengthening of legal safeguards against torture and ill-treatment and the stopping of such actions by the Ankara and Diyarbakir police had achieved almost nothing. Moreover, not only in the mentioned provinces, but also from other parts of the country, reports of torture and ill-treatment continued to be received[11].

The CPT observed the continuity of the problem during its periodic visit to Turkey in 1992. The CPT referred to the political commitment declared by the new Turkish government[12] to stop such practices when it came to power in late 1991, but found that the problem had not been resolved. In the course of this visit, the delegation doctors found marks of torture and ill-treatment on the bodies of persons examined. Also, material evidence and equipment related to such practices were found in police establishments[13].

The CPT's conclusions based on the first three visits were as follows: 1) The practice of torture and other forms of severe ill-treatment of persons in police custody remains widespread in Turkey. Such methods are applied to both ordinary criminal suspects and persons held under anti-terrorism provisions. 2) In Turkish prisons there are certainly problems, but torture is not among them. 3) No allegations of torture and ill-treatment by hospital staff or any other evidence of such practices were found by the CPT during its visit to the Bakirköy Mental and Psychological Hospital, Istanbul. 4) The CPT also received allegations from suspects ill-treated by members of the gendarmerie. The CPT believes that from time to time, ill-treatment occurs when the prisoners are transported from one place to another. 5) To sum up, according to the CPT, it is an undeniable fact that torture and other forms of ill-treatment of persons deprived of their liberty in Turkey are carried out, especially by the police and to a lesser extent by the gendarmerie[14].

In its first public statement on Turkey the CPT also recommended a number of measures to be taken: For the prevention of practices of torture and severe ill-treatment, new and effective legal safeguards have to be reinforced; training of law enforcement officials on human rights matters must be improved; public prosecutors must take effective action against torture and ill-treatment; the medical examinations of persons in custody carried out by the forensic institutes should be broadened in scope; the independence of doctors to perform forensic tasks and provide reports should be guaranteed; an effective independent monitoring mechanism possessing appropriate powers for the control and supervision of law enforcement officials should be established; the maximum periods of detention should be reduced; a right to access to an independent lawyer (though not necessarily the suspect's own lawyer) as well as a doctor other than one selected by the police should be granted; a rule that a person in custody be physically brought before the judge to whom the request for an extension of the custody period is submitted should be provided, etc. The CPT also drew attention to the fact that, despite the existence of legislation related to these fields, many safeguards were no more than a dead letter. Thus, the torture and ill-treatment problem would not be

10 ibid., par. 10-11, p. 32.
11 ibid., par. 12-16, p.p. 33-34.
12 It was a coalition government of the True Path Party and the Social Democrat People's Party; the former led by Mr Süleyman Demirel, who would be president of the country after the death of President Turgut Özal, and the second party leader was Prof. Erdal Inönü.
13 CPT, 3rd General Report, Appendix 4, par. 17-20, p.p. 34-35.
14 ibid., par. 21-25, p.p. 35-36.

eradicated by legislative fiat alone. In this context there was a concrete need to amend laws, to promulgate new codes and also realise a change in mentalities[15].

The CPT's findings during its visits to Turkey correspond in the main to what Turkish non-governmental human rights organisations have observed and declared on the same subject. (The two main domestic NGOs are the Turkish Human Rights Association and the Turkish Human Rights Foundation).

Furthermore, the UN Committee against Torture applied the heaviest sanction within the system established by the UN Convention against Torture, against Turkey[16]. Article 20 of the UN Convention authorises the CAT to determine that there are well-founded indications that torture is being systematically practiced in the territory of a State and to request an *on-site inquiry* of the situation. At first the Turkish government refused the CAT's request for an on-site visit, but in November 1991 the government permitted two CAT members and their staff to visit Turkey for nearly two weeks in June 1992. The visit delegation reported to the full CAT and the CAT adopted their report, which subsequently was transmitted to the Turkish government. The government opposed publication of the report; but the CAT, in accordance with Art. 20/5, decided on 18 February 1994 to include a summary account of the results of the proceedings in its annual report[17]. The CAT's visit to Turkey was the first – and still only – occasion of such an on-site inquiry under Art. 20 of the UN Convention against Torture. The summary accounts of the on site inquiry in Turkey by the CAT also clearly underlined the phenomenon of the practice of torture.

2.2 The second period (1993-1994)

In the second period the CPT carried out two visits to Turkey, in 1993 and 1994. The types of the visits were different from those of the first period visits.

2.2.1 The December 1993 visit

In its 1993 activities a delegation of the CPT held talks with Ministers and senior officials in Ankara from 7 to 9 December 1993. These talks formed part of the *"ongoing dialogue"* between the Turkish authorities and the CPT[18]. In this case, even in Ankara, no place of detention was visited.

This visit took place a year after the public statement on Turkey of December 1992. The timing, duration and content of the CPT's 1993 visit to Ankara lead to the conclusion that the purpose of the visit was to re-establish firm conditions of co-operation between the Turkish authorities and the CPT rather than to determine whether there had been any improvement in eradicating torture and ill-treatment. This visit can be classified as an attempt to re-establish mutual confidence.

The December 1993 visit did not attract any particular attention in the Turkish press. One of the short notes related to this visit was as follows: "Turkey is once again being inspected for human rights. The CPT established by the Council of Europe is continuing its contacts in Ankara. It is noted that this visit is the continuation of the CPT's visit held on 22 November 1992 in Turkey. The Deputy Spokesman of the Ministry of Foreign Affairs, Mr Ferhat Ataman, stated that Turkey publicises its political will to prevent torture. The Spokesman stated that 'Turkey already took concrete steps directed at this aim; Turkey maintains the rule of law despite the existence of terrorism'. The CPT also visited the State Minister Concerning Human Rights, the Minister of Internal Affairs and the Minister of Justice"[19]

15 ibid., par. 26-37, p.p. 36-39.
16 The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly with resolution 39/46 on 10 December 1984 and was opened for signature, ratification and accession on 4 February 1985. Turkey put her signature to this Convention on 25 January 1988. The following step was the promulgation of a ratification law: The Law on the Approval of the Ratification of the UN Convention Against Torture, Law No 3441, dated 21 April 1988, (OG:29 April 1988, No 19799). The official Turkish translation of the Convention was published in the Turkish OG, dated 10 July 1988, No 19895. This text also covered the "declaration" made by the government of the recognition of the competence of the CAT under Art. 21 and 22 of the Convention. Finally, the instrument of ratification was deposited with the Secretary-General of the UN by Turkey on 2 July 1988. This Convention became effective for Turkey on 1 September 1988; (see UN Report of the CAT, General Assembly, Official Records:Forty-Fourth Session, Supplement No.46 (A/44/46), UN, New York, 1989, p. 45).
17 UN Report of the CAT, Supplement No. 44A (A/48/44/Add. 1) (18 February 1994), UN, New York, 1994, p.p. 1-11.
18 CPT, 4rd General Report, Strasbourg, 10 August 1994, par. 3, p. 4.
19 *Hürriyet* daily, 9 December 1993, No 16410.

This example shows that the information on not only the Convention but also on the CPT is not yet widespread. Moreover, the Turkish media were not very keen to publish news about the activities of the CPT. Also, the Turkish authorities, the Ministry of Foreign Affairs in particular, and the government in general had no inclination to publicise the CPT reports concerning Turkey.

Moreover, significant changes to the CPT's membership occurred in 1993. Seven members left the Committee. Mr Ergun Özbudun (Turkey/Constitutional Law Professor) was among them. Mr Sefa Reisoglu (Turkey/Civil Law Professor) was elected to his post[20]. Following the CPT's public statement on Turkey in 1992, it was an open question why Prof. Özbudun was not nominated by the Turkish government for a second term of office.

2.2.2 The October 1994 visit

In 1994 the CPT carried out a visit of a follow-up nature to Turkey from 16 to 28 October, with a view to examining developments since the public statement in 1992[21]. In this case, the following places were visited: police establishments in Ankara, Batman, Cizre, Diyarbakir, Mardin, Nusaybin, Sirnak and Istanbul; gendarmerie establishments in Batman, Cizre, Diyarbakir and Mardin; prisons in the Ankara, Cizre, Diyarbakir, Mardin and Sirnak provinces or districts. Finally, as other places of detention, the alien holding centre (Hac Camp) in Silopi was also visited[22].

The above list shows that the 1994 visit included a total number of 9 political units (provinces and districts). The number of police establishments visited was 11; 5 gendarmerie establishments were visited as well as 7 prisons and one Hac Camp. Except for the Ankara (the capital) and Istanbul provinces, most of the places visited (20 of the total of 24 places, approximately 75 percent) were in the southeastern region of Turkey, under the exceptional regime of a state of emergency.

In the first period of the visits (1990-1992), the maximum number of provinces included in a visit was 4. In the second period, only on the 1994 visit, this number was increased to a total number of 9 provinces and districts. Again, in the first period the total number of places visited was 40 in three visits (respectively, 8+12+20 places in three visits). During the 1994 visit alone, a total of 24 places were visited.

A few conclusions can be drawn here. Firstly, despite the existence of the public statement of 1992 and the reaction of the Turkish authorities as a forseeable consequence of this step, the relationship between the parties has remained stable. Secondly, the CPT continues to focus its attention on the region ruled by a state of emergency regime. In this context, there is a parallel between the CPT and other inter-governmental or non-governmental human rights organisations.

None of the CPT's observations and recommendations (if there were any) addressed to the Turkish authorities were spelled out in the 5th General Report of 1994. They were subject to the rule of confidentiality.

The 1994 CPT visit to Turkey once again did not attract very much attention in the Turkish press. Indeed, the national press neither follows up the activities of the CPT by itself, nor is any official information on the subject provided by the Turkish authorities. Nevertheless, there were a few articles concerning the issue in one of the dailies.

According to one of the news items published in the *Özgür Ülke* daily, in the Diyarbakir province, the military security unit known as "Jitem" was evacuated and detainees transferred to some other places while the building was being painted as a preparation for a possible visit by the

20 ibid., par.14-15, p:7-8.
21 CPT, 5th General Report, par. 1, p. 4.
22 CPT, 5th General Report, Appendix 3, p.p. 21-22.

CPT delegation[23]. According to another article in the same daily, the CPT delegation met the heads of the Turkish Human Rights Association (THRA) and also of the Turkish Human Rights Foundation. The Secretary-General of the THRA, Mr H. Öndül, said that they informed the delegation (Mr Jan Malinowski)[24] on cases of torture which had occurred during the last two years and the recent disappearance of Mr Kenan Bilgin and also presented a file on the situation in the prison of Diyarbakir. During this visit, the CPT carried out its mission through two teams in Istanbul and Ankara[25]. The same newspaper also reported another case related to this visit. The CPT delegation visited the "deep research and examination laboratory" (in Turkish, Derin Arastirmalar ve Incelemeler Laboratuari or shortly, DAL) unit in the police headquarters in Ankara. The delegation recognised that the police tried to hide three detainees. They were taken before the State Security Court (SSC). The delegation was able to see them in the prosecutor's office of the SSC. Doctors in the delegation examined them. Indications of torture were observed on their bodies. The police had threatened them and warned them not to tell that they had been ill-treated[26]. Just a few days later a new report appeared in the same daily. According to this information, one of the three detainees mentioned above, Mr I. Özçelik, was detained by the police again soon after the CPT delegation left the country[27].

Clearly Turkish security authorities tend to hide torture and other ill-treatment practices and victims rather than to eliminate such abuses of power.

2.3 The third era (1996)

After the visit of a follow-up nature carried out in October 1994, no visit took place in Turkey by the CPT during its 1995 activities. The CPT adopted ten visit reports during 1995 and the report on the 1994 visit to Turkey was among them. They are all subject to the rule of confidentiality. So no information was published on the issue in the 6th General Report of the CPT covering the year 1995[28].

In 1996 the CPT visited Turkey again.

2.3.1 The May 1996 visit

The first visit was carried out in May 1996.

In order to understand the scope of the visit and its consequences, it is necessary to examine the relevant information disseminated by the national press. The earliest news about this visit is dated 8 May 1996.

According to the *Cumhuriyet* daily, the CPT delegation, composed of the CPT President Mr Claude Nicolay, the Vice President Ms Ingrid Lycke Ellingsen and Vice-Secretary Ms Mayer, had a meeting with the Prime Minister, Mr Mesut Yilmaz, for one and a half hours at the Istanbul Swiss Hotel on 7 May 1996. A press communiqué was handed to the reporters after the meeting. It indicated that Turkey is one of the States which has ratified the Convention, that the CPT assist governments in the prevention of torture and that the delegation would continue its visit until 10 May, 1996[29]. Another newspaper, *Evrensel*, wrote as follows: "The CPT President stated that he did not have any power to make a statement. He invited journalists to address their questions to the Prime Minister himself. Following the insistence of journalists, he declared that "they had not been able to find adequate grounds for an exchange of views"[30].

One of the biggest dailies in Turkey, *Hürriyet*, published completely different information on this issue on the same day, 8 May 1996. According to this newspaper, "the members of the

23 *Özgür Ülke daily*, 22 October 1994, p. 8
24 The person (Mr Jan Malinowski) cited in the newspaper is not a member of the CPT, but an administrative officer of the CPT Secretariat.
25 *Özgür Ülke*, 17 October 1994, p. 4.
26 *Özgür Ülke*, 19 October 1994, sf:8.
27 *Özgür Ülke*, 24 October 1994, sf:7.
28 CPT, 6th General Report, Council of Europe, Strasbourg, 5 August 1996, par. 9, p. 5.
29 *Cumhuriyet* daily, 8 May 1996, No 25781, p. 7.
30 *Evrensel* daily, 8 May 1996, No 334, p. 3.

European Human Rights Commission centred in Helsinki carried out investigations in the Istanbul Police Headquarters. The members of the commission particularly inspected the Anti-Terror Section, Security Department and Foreigners' Bureaus and especially examined interrogation rooms and custody cells. After the investigations which would take a few more days, the members of the commission would go to Ankara for some meetings"[31].

This article includes entirely inaccurate information. The delegation of the CPT actually made investigations in the Istanbul police headquarters, but this delegation neither consisted of the members of the European Commission on Human Rights, nor is either of the bodies based in Helsinki. The source of this information is not mentioned in the newspaper. If the source was the police itself, the situation is terrible, because this would mean that the authorities were not accurately informed about the Convention and the CPT and that they were unable to make the distinction between the CPT and the European Commission on Human Rights. On the other hand, the fact that such a wholly mistaken piece of information can be published in one of the biggest dailies of the country may be considered as a lack of accurate information on the Convention and the CPT even among national media circles.

The next day, 9 May 1996, news in the national press included information which was technically accurate but still requires an examination.

According to *Cumhuriyet*, the visit of the delegation to the Izmir province "has alarmed the Police Headquarters of Izmir. Through the radios of the police and gendarmerie, it was demanded that detention cells be put in order. The delegation, following the investigations in Istanbul and Ankara and a meeting with Prime Minister Yilmaz, will continue its activities in Izmir today. The preparations commenced before the arrival of the CPT members in Izmir. By the announcements through the police and gendarmerie radios, the officials were warned to be attentive at visiting sites. In addition to that, by drawing attention to the expectation that the visit of the delegation would not be limited to a particular institution, it has been demanded that detention rooms be scrutinised and arranged in accordance with their objectives"[32].

Some conclusions arise from this news item. First, appropriate conditions are not provided and legal requirements are not followed at the detention and interrogation rooms in Izmir security departments. Second, the officials were alerted to provide temporary and possibly misleading arrangements in order to prevent the delegation from detecting the actual situation.

The news in *Hürriyet* daily was about the meeting between the delegation and the prime minister which took place the day before. According to it "…the delegation, composed of five persons, met Mr Yilmaz in Istanbul…. The members of the Committee intensively directed questions to Mr Yilmaz on the subject of torture. In response to members asking 'Why is torture still practiced in Turkey?' Mr Yilmaz stated that, 'even though we pay great attention, as a result of our struggle against terrorism, unfortunately cases of torture do occur. However, when the state of emergency regime ceases, torture cases will decrease'. Yilmaz responded to the question 'Why is there no Ministry of Human Rights?' as follows: 'Each minister of our government is responsible for human rights'. According to information provided to *Hürriyet* from government circles, the detention period which may be increased up to one month in cases of crimes falling within the jurisdiction of State Security Courts shall be decreased to a period of ten days by an amendment to the Turkish Criminal Procedure Code (TCPC)". In accordance with this news item, "Prime Minister Yilmaz promised the CPT to decrease the detention period of persons detained for terror crimes and the crimes falling under the jurisdiction of the SSCs"[33].

31 *Hürriyet*, 8 May 1996, No 17279, p. 25.
32 *Cumhuriyet*, 9 May 1996, No 25782, p. 7.
33 *Hürriyet*, 9 May 1996, No 17280, p. 31.

On 9 May 1996 another newspaper, Evrensel, noted that the delegation "met the Minister of Internal Affairs, Mr Ülkü Güney, and the Minister of Health, Mr Yildirim Aktuna, on 8 May 1996 and also carried out an investigation in the detention and interrogation rooms of the Ankara Police Headquarters. The Directorate of Police was aware of the visit, so cells were generally kept vacant and the investigations were made in the absence of the press"[34].

Finally, the daily entitled *Bizim Gazete* reported on the same day on the meeting held between the delegation and the Minister of Health. After the hour and a half meeting the Minister in question stated the following: "It would have been easier if there were no terror in Turkey. Obstacles arise from the current terrorism and the activities of the extreme leftist organisations related to it. However, we are struggling against these and endeavour to prevent torture and protect human rights". Mr Aktuna adds that "the doctors of the health care units examining persons kept under detention will be trained on 4-5 June 1996 and informed on how to perform their duties". The Minister of Health also told that he made a joke during the meeting: "One of the members of the delegation was smoking and I wanted to make a joke. I said, 'human rights has become an ideal, but some circles may turn this ideal to an obsession and may even push it to the point of taking action against people who smoke in a group and thereby harm the others'. The delegate said that there was an ash-tray on the table. And I said this was a trap and that there was a no-smoking sign on the wall. Everybody laughed. This was a very intelligent bit of humour"[35].

The above news in the national press in relation to the activities of the CPT in Turkey in May 1996 provides an opportunity to observe the true nature and scope of the CPT mission in Turkey.

First of all, the news given with attribution to the Prime Minister about a decrease of the detention period for the crimes falling within the jurisdiction of SSCs should be considered as an important statement as there had not been any other official statement on the issue before. However, the press probably found the declaration insignificant. Following the promulgation of Law No. 3842 of 18 November 1992 (which was a sample of partial and insufficient improvement, but presented as a great reform of the TCPC), both national and international human rights circles criticised the provisions of this law. It provides double standards in detention periods for ordinary crimes and crimes committed under anti-terror legislation. It is evidently contrary to the universal standard of equality. Thus if the national administration circles had been ready for such an amendment as mentioned in the news, they would have used this step as a means of political propaganda. On the contrary, the authorities maintained silence on the issue until the latest news. The explanation made by the Prime Minister to the delegation, that has not been refuted, was perhaps an attempt to divert the CPT. This is not a rational policy, because the CPT has been confronted with numerous promises by the authorities and made public in its report that they were not realised.

The second concern is an argument allegedly presented to the CPT delegation both by the Prime Minister and the Minister of Health during the meeting. Both politicians would have established a relationship between the conditions arising from the struggle against terror and the phenomenon of torture. They both claimed that it would be easier to stop torture if there were no terror. The understanding on which this argument is based is that struggle against terror can somehow justify the practices of torture and other forms of ill-treatment. If so, it is a clear confession of State terror. Since torture and other forms of ill-treatment are applied systematically and intensively, the authorities lost their opportunity to reject the phenomenon entirely. New policy on the issue is to present the cases as if they are singular and exceptional. Yet, the occurrence of torture, whether exceptional or systematic, attests to a deformation of a politico-judicial system.

34 *Evrensel*, 9 May 1996, No 335, p. 11.
35 *Bizim Gazete*, 9 May 1996, No 284, p. 3.

The third concern is the argument produced by the Prime Minister that if the state of emergency regime ceases, torture cases will decrease. A few conclusions can perhaps be drawn from this argument. The first point: there is a directly proportional relationship between exceptional regimes and torture cases. The second point: under the state of emergency regime, such practices cannot be prevented.

The fact is that in Turkey the state of emergency regime has been applied for such a long time that it has become an ordinary regime. For instance, states of exception either under the form of martial law or states of emergency have been in effect in the southeast region of the country since 1978. This means that a region in the country has been uninterruptedly ruled under exceptional regimes for more than 18 years. Moreover, since the establishment of the republic in 1923, the country has been governed under exceptional regimes approximately half of the total period of 74 years[36]. Such a pathological use of exceptional regimes is one of the reasons which make torture a complicated and deep-rooted problem.

The UN Convention against Torture provides that "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency may be invoked as a justification of torture" (UNCAT, Art. 2/2). Therefore, the above-mentioned arguments of national politicians can perhaps be considered as a confession of violations of human rights obligations undertaken by Turkey.

The fourth point at issue is related to the statement of the Minister of Health. The Minister, a psychiatrist, underlined that "some circles could turn human rights into an obsession". The argument "not to turn human rights into an obsession" addressed to an international body of torture prevention is certainly unusual.

According to a news item dated 11 May 1996 in the national press, the CPT delegation, after the inspections in Istanbul and Ankara, was to go to the Izmir and Manisa provinces on 10 May 1996 and continue investigations there.

As concerns the *Cumhuriyet* daily, the visits by the delegation to Manisa "stimulated the city. The arrangements, started a week before in the units of the Police, were supervised last night. The governor of the city, Mr Muzaffer Ecemis, came to the Police Headquarters of Manisa early in the morning. The Governor and the Director of the Police, Mr Kemal Iskender, superintended the detention rooms". After that, while the foreign guests were waiting: "Mr Iskender, before the arrival of the delegation in Manisa, responded to the reporters' questions on torture. He said that 'there is no torture. There is nothing we cannot give account for. All the detention rooms completely meet the standards'. The CPT delegation also met the Director of the Police. The delegation then met a doctor and examined the medical records. Afterwards they went to the Manisa Bar Association. It has been a crowded day at the Bar. The delegation talked separately to M.A., Ö.Z., A.K., F.A.S., E.T., K.K., Jale Kurt, Hüseyin Kurt who were alleged to have been tortured in Police Headquarters"[37].

Evrensel wrote as follows: "The delegation arrived in Manisa in the early hours yesterday, and first met the Director of the Police. The Vice-President Ingrid Lycke Ellingsen and a member of the Secretariat, Trevor Stevens, were in the delegation. After the meeting, where no member of the delegation made any statement to the press, Mr Iskender (Director of the Police) responded to reporters as follows: 'Am I Don Quixote to make declarations?' The delegation went to Manisa Central Health Institution No. 2 in order to meet the doctor who gave a medical report of torture. The delegation then went to meet the children who are victims of torture, their families and a member of parliament, Mr Sabri Ergül, at the Court House. While the delegation met the victims,

36 Mehmet Semih Gemalmaz, "State of Emergency Rule in the Turkish Legal System: Perspectives and Texts", Turkish Yearbook of Human Rights, vol.11-12, Ankara, 1989-1990, p.p. 1-42; "Historical Roots of Martial Law within the Turkish Legal System: Perspectives and Texts", Turkish Yearbook of Human Rights, vol.13, Ankara, 1991, p.p. 73-145; "1920-1950 Martial Law in Turkey: Is it an Additional Measure or a Main Instrument for Repression? Perspectives and Texts", Turkish Yearbook of Human Rights, vol. 14, Ankara, 1992, p.p. 85-115.

37 *Cumhuriyet*, 11 May 1996, No 25784, p. 1 and 4.

Jale Kurt, B.S., A.A. and Ö.Z., who are still being tried by the Court, stated that some of the policemen who tortured them were among the ones following the delegation"[38].

According to another newspaper, *Yeni Yüzyil,* "the members of the CPT carried out investigations in Izmir and Manisa. Two of the members came to Manisa and three to Izmir. The CPT members met the Director of the Police in Manisa, Mr Kemal Iskender, and the Public Prosecutor, Mr Muzaffer Çelebi"[39].

It is possible to draw some conclusions from the news in the national press relating to the last part of CPT activities during its May 1996 visit to Turkey. Only a limited number and mostly politically leftist Turkish dailies followed the activities of the CPT delegation seriously. As concerns the scope of the news, three things stand out: The news is very brief; the existence of inaccurate and also contradictory information in the news; and, finally, the problem of the sources of the news. The latter draws our attention to the fact that the sources of the news generally are not the reporters of the newspapers. The sources were either a national semi-official news agency (AA/Anatolian Agency) or the security units themselves. Furthermore, some of the papers assigned their reporters to cover the visit, but the errors in the news demonstrate that the reporters were not well informed in advance about the CPT, its powers, its previous activities in Turkey, etc. and that the news prepared by the reporters or obtained from other sources was not subjected to a serious examination before publication.

Concerning the news related to the activities in Manisa on 10 May 1996, a few more points can be emphasised. The governor of Manisa, just before the CPT delegation's visit, inspected police establishments in the province and examined whether the interrogation rooms were in conformity with standards. The question why the governor had not periodically inspected such places before this visit was left unanswered. The arrangements were made as a special preparation for this visit of the CPT delegation.

National security agents followed the CPT delegation, according to reporters listening to the police radios. Moreover, alleged torture victims who met the delegation stated according to the news that "some of the police officers who tortured them were also among the ones following the delegation". These facts show the endeavours of the authorities during the visit of the CPT to keep both the delegation and the persons alleging to be victims of torture under pressure.

The CPT delegation met the Public Prosecutor of Manisa, some of the lawyers of the Manisa Bar Association, the doctor of the Manisa Central Health Institution, the police chief of Manisa, people who alleged to be victims of torture, their families, etc. The delegation also examined the medical records of the health institution, and inspected the interrogation rooms of the police establishments. It is obvious that these investigations are in conformity with the powers given to the CPT by the Convention and the Rules of Procedure of the CPT. In light of this fact, it is illogical not to provide similar powers to similar national units (such as bar associations, the Human Rights Commission of the Turkish Parliament, etc.). The establishment of such empowered national bodies, as already recommended by the CPT, would help to stop acts of torture and severe ill-treatment[40].

38 *Evrensel*, 11 May 1996, No 337, p.11.
39 *Yeni Yüzyil*, 11 May 1996, No 513, p. 5.
40 Editor's note: The May 1996 visit was followed by a four-day visit to Turkey in August. The CPT was invited by the Turkish Government to visit Eskisehir Special Type Prison. During the visit, the CPT visited a prison establishment under construction in the Kartal District of Istanbul. The CPT held discussions with senior officials of the Ministry of Justice, and the Minister of Justice himself, Mr Sevket Kazan. The CPT also met a well-known human rights lawyer, Mr Esber Yagmurdereli. The CPT paid a third visit to Turkey in September the same year. This visit was centred around Turkish police custody. The police headquarters in Adana, Bursa and Istanbul as well as the Central Police stations in two Istanbul districts were visited. The delegation also interviewed prisoners who had just been transferred to prison from police custody in Adana and Istanbul.
As noted by Professor Gemalmaz at the outset of his article, the CPT issued a public statement on Turkey on 6 December 1996. In this second statement on Turkey, the CPT notes that "the information at the CPT's disposal demonstrates that resort to torture and other forms of severe ill-treatment remains a common occurrence in police establishments in Turkey – To attempt to characterise this problem as one of isolated acts of the kind which can occur in any country – as some are wont to do – is to fly in the face of the facts" (CPT/Inf (96) 34).

C) Conclusions by the Rapporteurs

1) THE MACHINERY OF THE EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE MUST BE CONSOLIDATED TO STRENGTHEN THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY

By Didier Rouget, Lecturer, Paris VIII University, France

1. Introduction

All observers recognise the high quality of the work done by the European Committee for the Prevention of Torture. In the course of the sixty visits made by it on or before 1 May 1997 to the States Parties to the European Convention for the Prevention of Torture, its conscientious approach and valuable expert knowledge and recommendations have impressed international observers as an essential protection of human rights. But the CPT has to face a formidable immediate challenge. It has to adapt its working methods and have at its command all it needs to do the work assigned to it in the 33 member States of the Council of Europe that have so far ratified the Convention[1]. To follow up its inspections and check that its recommendations are applied in all the States Parties to the Convention, the Committee has constantly to work at high pressure, regular follow-up being essential to the efficacy of a system of international inspection. The Committee's workload has already obliged it to scale down the tasks it had set itself. It had at first intended to pay a regular visit to each State every two or three years[2]. In fact it can do so only every four years, and has often to shorten its visits considerably.

The CPT will in future have to work in an even wider sphere because the Convention will apply to even more States, including Russia. The accession of Russia and Ukraine to the Convention will more than double the civilian prison population coming under the CPT's mandate[3], and it is estimated that by the year 2000 between 40 and 45 States will have become parties to the Convention[4]. The way in which the Committee copes with this enlargement, particularly in the States of Central and Eastern Europe, is of capital importance to the future of the prevention of torture.

The Committee's findings and recommendations concerning the countries of Southern Europe will be especially important, for in every one of those countries it has had to deal with a specific situation, highlighted by several of its investigations. These have revealed that torture is a frequent, systematic and institutionalised practice in certain Southern European States, among them Turkey and Spain. It cannot be too strongly emphasised that whatever crises, serious tensions or even states of war exist in a country, nothing can justify the use of torture or other forms of ill-treatment by the bodies enforcing security. Torture must be prohibited always and anywhere!

Moreover, in many Southern European countries there is often a flagrant lack of administrative transparency. As a result, the replies made by their governments to the Committee's findings and recommendations are often conventional, stereotyped and contrary to fact. In all these countries the national authorities sometimes find it hard to overcome administrative inertia and to ensure that the CPT's recommendations, and regulations old or new, are properly applied by the officials concerned. Much is at stake when this happens, for the credibility of the system installed by the Convention depends on the extent to which the CPT can begin to remedy the abuses in these countries. The fact is that even now, as well as in the years to come, the CPT must produce results. It has to show that the system it has put into practice – a system based on inter-governmental co-operation – can lead governments to put its recommendations into real effect.

1 Editor's note: By 2 October 1997 36 States had ratified the Convention: Albania, Andorra, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom.

2 CPT / Inf (94) 10, 4th general report on the CPT's activities, paragraph 24.

3 The prison population in Ukraine is estimated to number 200,000, equivalent to the combined prison population of France, Germany and the United Kingdom. In the Russian Federation there are believed to be one million persons in civilian prisons and detention centres (Council of Europe Parliamentary Assembly, Recommendation 1323 (1997) relating to the strengthening of the machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted on 21 April 1997).

4 CPT/Inf (94) 10, Fourth General report on CPT activities, paragraph 24.

2. Strengthening the protection given by the Convention.

Many challenges await the CPT that it is still ill-equipped to meet. Steps have therefore to be taken to strengthen the protection given by the Convention for the Prevention of Torture. The Parliamentary Assembly of the Council of Europe has made important recommendations to that end[5], and it is essential that the Committee of Ministers of the Council of Europe give the CPT all the human and budgetary resources it needs to fulfil its mandate.

The States Parties must all ratify Protocol N° 2 to the Convention without delay. This is necessary so that the Committee can function more efficiently. Protocol N° 2 has been open for accession and ratification since 4 November 1993. It is intended to ensure balanced renewal of Committee members by making them eligible for re-election twice and by regrouping the elections. The present system causes many difficulties because it leads to fragmentation of the elections of CPT members[6].

Special attention should be given to the previous occupation of Committee members and to their age and sex, so as to increase the number of specialists in prison affairs, and of forensic physicians and women, and to have members more readily available to do the work they are asked to do[7]. The independence of Committee members should be beyond question; the role of the Bureau and members of the Parliamentary Assembly of the Council of Europe in choosing the most suitable candidates should be decisive[8].

3. Follow-up to the Committee's recommendations must be ensured.

The Committee's visit to a State Party and dispatch of its report on the visit to the national authorities concerned is only the first step towards applying the Convention. Its application entails nothing less than an **ongoing dialogue** with the national authorities, a dialogue the regular progress of which is essential if the Committee's recommendations are to be followed to good effect. The **liaison officer** appointed by the State, who is responsible for its relations with the CPT, is an essential party to any such dialogue. It has been emphasised that he/she has a capital part to play at each stage of the application of the Convention – in preparing for the visit, during the visit, when receiving and replying to the CPT's report, in following the Committee's recommendations and in carrying them out. He/she could be one of the NGOs' regular contacts at the national level. Playing this more active part, the liaison officer should not be regarded as a mere letter box by the CPT, or by the States or NGOs.

For the aforesaid dialogue to be valuable, States must prepare their replies to the Committee's reports with great care. They must be sufficiently precise and of high quality, and their replies on the follow-up action they have taken must be made within the time limits fixed by the Committee.

The Committee must keep up a steady flow of visits in each State, and make the fullest use of all the means offered to it by the Convention to ensure that its recommendations are put into effect. For this purpose it can combine **periodical, follow-up and *ad hoc* visits**. In its follow-up procedure the Committee has made great efforts to visit specific targets, such visits being of shorter duration than those of other kinds. During a visit the Committee can make the **immediate observations** for which provision is made in Article 8.5 of the Convention. It may for example ask States for **specific information** in accordance with Article 30 of the Committee's Rules of Procedure, to ensure that particular recommendations are followed up, or in accordance with Article 8.4 of the Convention to communicate freely with any person who can give it information on follow-up to its recommendations. To orientate its work the Committee should make every effort to define its

5 Council of Europe Parliamentary Assembly, Recommendation 1323 (1997) relating to the strengthening of the machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted on 21 April 1997.

6 Editor's note: as of 3 October 1997, 31 of the States Parties to the Convention had ratified Protocol N° 2. In order for the Protocol to enter into force, the ratifications of Andorra, Bulgaria, Italy, Portugal and Ukraine are necessary.

7 To ensure the members' availability, the Council of Europe Parliamentary Assembly recommends that the Committee of Ministers make the function of Member of the Assembly incompatible with that of CPT member (Council of Europe Parliamentary Assembly, Recommendation 1323 (1997) relating to strengthening the machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted on 21 April 1997, paragraph 10.vi).

8 Article 5.1 of the Convention provides that "The members of the Committee shall be elected by the Committee of Ministers of the Council of Europe by an absolute majority of votes, from a list of names drawn up by the Bureau of the Consultative Assembly of the Council of Europe; each national delegation of the Parties in the Consultative Assembly shall put forward three candidates, of whom two at least shall be its nationals". See in this connection paragraph 5 of Directive No. 530 (1997) on strengthening the machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, sent by the Parliamentary Assembly of the Council of Europe to its Bureau, and adopted on 21 April 1997.

priorities in relation to each State, and after every visit should assess the impact of its recommendations. Visits to a country should not be automatically repeated but should be successive steps towards ascertaining the exact position there, defining its essential problems, and trying to give these priority.

If the aforesaid ongoing dialogue with a country reaches a deadlock, the Committee can apply the procedures laid down in Article 10.2 of the Convention. Before doing so it must give the State Party an opportunity to offer an explanation, and must consult it for that purpose. If that fails it may then make a **public statement**. It was pointed out in the course of the debate that the CPT has used the public statement procedure on only two occasions, both relating to the same State, Turkey. The public statement procedure should continue to be an exceptional one. Perhaps, however, it should have less sensational connotations and be used to a moderate extent. The Committee could then employ this instrument, given to it by the Convention, in situations less extreme and less completely unsatisfactory than the Turkish one; for example, to highlight the cause of deadlock on an important point or make application of the Convention more transparent[9].

The Committee should also adapt its **working methods** to developments in the situation. It must for example constantly improve the quality of its **investigations**, for the systematic practice of torture is institutional in character. Torturers have therefore adapted themselves to the CPT's methods of investigation by using increasingly sophisticated methods so as to leave no trace of what they have done. The CPT, and especially its medical experts, must overcome these difficulties, well knowing that their conclusions will in the future be disputed by States which, because they consult governmental specialists, are no less expert than the CPT.

The extent to which **non-governmental organisations** support the application of the European Convention for the Prevention of Torture varies enormously from one Southern European country to another, and from one situation there to another. Some NGOs give little support, mainly because they do not properly understand what the Committee's terms of reference are. The essential role of the NGOs has been stressed and repeated at every stage of the Committee's activity – in preparing its visits, explaining its work, getting its reports published and its recommendations put into effect, and in following up its work. It is essential for NGOs to **seize** on the Committee's recommendations as **tools** to further their own activities. NGOs are better placed than anyone else to prevent their national authorities from misrepresenting the CPT's work. This they can do by **critical appraisal** of CPT reports, and especially – so as to counterbalance the political slant that governments give these – by critical appraisal of their government's replies.

It has been stressed that the CPT's strength is not limited to the work it does. It is also remarkable for its **influence** over other bodies concerned with the protection of human rights. Thus its first public statement on Turkey (that of 15 December 1992) did much to alert international public opinion to the seriousness of the situation there, especially as it was made before the results of the inquiry into the situation in Turkey made by the United Nations Committee against Torture in pursuance of Article 20 of the Convention against Torture were made known. In the Council of Europe a series of important decisions by the European Commission of Human Rights and the European Court of Human Rights made public the serious violations of human rights perpetrated in Turkey.

There has been an important debate on the **confidentiality** of CPT sources of information. The subject arises when the findings of a CPT delegation and especially of its medical experts are the only evidence that torture was used in a particular case. Until now, when the Committee has stated that it has found evidence of ill-treatment it has never published the victim's name, even when he/she has not wished to remain anonymous. Only the Committee, the experts accompanying it and to a lesser extent the State Party are bound to observe confidentiality. Others involved – persons vis-

9 In this connection the Committee has stated that should a State submit an interim report with excessive delay the Committee could make a public statement as Article 10.2 of the Convention allows (CPT (96) 21, 6th General Report on the CPT's activities, paragraph 10).

ited by the CPT, lawyers and NGOs – are not as a rule bound by that obligation. Under Article 11.3 of the Convention "no personal data shall be published without the express consent of the person concerned". This means, *a contrario*, that if the person concerned explicitly so requests personal data, including his/her name, may be published. In theory, therefore, there is nothing in the Convention to stop such publication. Moreover, in the procedures for complaints and applications the Committee's findings and recommendations are reference items that can be used in support of an application to a magistrate or other authority in the country concerned or to a supranational authority. Other arguments have, however, been urged in favour of the CPT's present practice of absolutely refusing to publish personal data, in order to prevent a particular case from being identified. It has been said that this could make it more difficult for delegations and experts to collect evidence of ill-treatment, and would brand States as potentially accused, because visits could also serve to support accusations, if any were made.

Finally, another large-scale debate took place on whether the rules made by the CPT were **relative** or **universal**, and whether they could be varied to suit the widely differing conditions prevailing in the various States – whether, in fact, the Committee's recommendations should be the same for London, Vladivostok, Tirana and Oslo. The debate reached no definite conclusion on the subject. Some of the Committee's rules refer to the living conditions obtaining in the country, and some recommendations have significant economic implications. Other rules, on reforms in laws and regulations affecting, for example, the length of time for which a person may be held in police custody or the right to inform a close friend or relative of his/her arrest, can be introduced at once, the authorities having no right to defer their introduction for financial reasons. Still other recommendations admit of no derogation whatsoever: the first of these principles – that torture is absolutely prohibited – cannot be repeated too often.

4. Promoting the Committee's work

The immense tasks awaiting it led the Committee – with good reason – to concentrate on doing its essential work – visits – as well as possible. This, however, was at the expense of clarity, of promoting that work, of making its methods and the standards it established one after another perfectly clear. The CPT's work is not well known and its reports have only a small circulation. This lack of publicity for its work may weaken it, isolate it in its dealings with States, and obscure the exact reason for its working methods. To remedy this faulty communication the CPT itself, the Council of Europe, States and NGOs all have to find ways to promote the CPT's work and give its reports a wider circulation.

Most States Parties have given permission for the Committee's reports and their own replies to be published. In practice, therefore, **publicity** for the CPT's work has become the general rule – an excellent one that should make its activities better known. To ensure that this information is widely circulated and extensively used it is important that translations of press releases, reports published and public statements by the CPT should be available in the language of the country concerned.

The Committee's first annual reports contained general recommendations in the form of guidelines for the protection of persons held in police custody, health questions and so on. It must resume these general observations and present them in systematic form. Its experience should gradually lay the foundations of something very like a **Charter of the rights of persons deprived of liberty**.

It is now the Committee's practice, when a report is made public, to publish selected extracts from the report as a summary of its conclusions. This practice should continue.

5. International prevention of torture should be linked to internal protection against it

These two aspects of the prevention of torture are essential and complement each other. The CPT does indeed carry out an **international inspection** to supplement the **internal machinery** available in every State for the prevention of torture. As was pointed out in the debate, internal machinery was already available but seldom or never used.

It is essential to make clear that there can be no effective prohibition of the practice of torture without **political will on the part of States**. Unless this exists in the organs of government, in its administration and its courts of law a lot of effort will be wasted. Without political will to abolish torture it will be regarded as legitimate and justified by the sectors of public opinion that regard ill-treatment as normal and acceptable. The importance of combating **impunity** has already been emphasised, and indeed when officials guilty of torture are not prosecuted, when they are not really punished for it, or when, as in Turkey and Spain, they are amnestied by the political authorities, the practice of torture is encouraged.

In most States there are internal procedures for combating the practice of torture, but they are not effectively applied. Such procedures may be **judicial** ones, such as the appointment of inspectors of prisons or **judges of the application of punishments** or the role that **government procurators** should play in visits to places of detention. Magistrates have also the responsibility of **prosecuting** the government officials responsible for ill-treatment. Similarly, **all evidence obtained under torture** is to be declared inadmissible by judges. For legal redress there are also **complaints** procedures which persons deprived of liberty can follow, but we know that they rarely succeed and are not easily accessible by those concerned.

These may be **administrative** inspection procedures such as general inspections by the services concerned. There are also independent administrative authorities such as the defenders of the people, mediators or ombudsmen. Lastly, but much less often, there may be **independent commissions**, such as the visitors' commissions of citizens or independent personalities who visit places of detention or hear detainees' complaints.

To eradicate torture States must obviously embark on essential basic reforms, including the **changes in legislation and regulations** required to give persons deprived of liberty greater protection against torture. To prompt these reforms **members of national parliaments** must adopt the Committee's recommendations. The reforms include changes in the rules under which persons are held in police custody, the right to choose one's own lawyer and medical practitioner, and ensuring that **forensic physicians** are **independent and impartial**. Another way of preventing ill-treatment lies in adopting, as everyday practice, new **working methods** that could be effective. It has been suggested that these should include uniform rules for examination by forensic physicians, and the introduction of registers and rules specifically for interrogations. No significant experience has, however, been quoted as regards staff **training**, although it is essential to educate staff in methods that would prevent torture.

6. Concluding remarks

The European Convention for the Prevention of Torture has been in existence for ten years. The drafting of this instrument by the Council of Europe was the first great leap forward in the campaign against torture. Ten years later, the Committee for the Prevention of Torture faces a new challenge; it has to prove by its activities and their results that this system of prevention, Jean-Jacques Gautier's brainchild, does give greater protection against torture and other ill-treatment to persons deprived of liberty.

2) COMPARATIVE ANALYSIS OF THE IMPLEMENTATIONS OF THE CPT'S RECOMMENDATIONS

By Malcolm D. Evans, Lecturer in International Law at the University of Bristol, Great Britain

1. Introduction

The aims of the second part of this conference were twofold. The record of implementation in Southern European countries was to be examined in a series of country reports and this was to provide the basis upon which a comparative analysis could take place: not for its own sake, but in order to see what lessons could be learnt from it. These lessons could either be general or specific: there might be common experiences, revealing factors which affected the implementation of recommendations in all member States, or there might be particular case histories which illustrated possibilities or problems that had not been experienced elsewhere but which, once recognised, might be either imitated elsewhere, or guarded against, as appropriate.

The reports themselves are reproduced elsewhere in this volume and it would be pointless to repeat or summarise them here. Rather, in what follows the general features which emerged in both the papers and the discussion to which they gave rise will be set out. It should be said at once that both the reports and the discussion did not really combine to produce the results that had been hoped for. However, this was not the fault of the reporters or of the participants. Rather, it reflects the relative lack of knowledge of the impact which the CPT is having in the States concerned.

For example, in the case of Turkey it is impossible to consider the implementation of the CPT reports for the obvious and simple reason that they remain confidential. Of course, we know from the two public statements issued under Article 10(2) of the Convention that the CPT believes torture and ill-treatment by law enforcement officials to be a common occurrence and that many of the essential safeguards against ill-treatment are lacking. Moreover, it is evident that the CPT is not satisfied with the levels of co-operation and progress. All of the other States considered in detail at this conference have published some, if not all, of the basic documentation arising out of visits. Even this, however, cannot provide a sure foundation for analysing the implementation process and assessing factors which tend to make it more or less successful since an element of that assessment relates to the accuracy of the information upon which the dialogue is built.

2. Determining compliance

2.1. Assessing "implementation"

It became clear in the course of the discussions that implementation is a difficult area to assess for those not intimately involved in the process. Outsiders may have sight of the recommendations presented in the reports and they might observe that what has been recommended has come to pass but this does not mean that the CPT recommendation has been "implemented". For example, the change in question might have been planned before the recommendation was made. On the other hand, even if it was not previously planned, the CPT recommendation might not have been a factor in the decision, which could come about because of pressure from other sources and have been entirely uninfluenced by the fact that the CPT was also pressing in a similar direction. Of course, it is likely that many CPT recommendations will raise issues which are already well-known within the State concerned and so will feed into an ongoing debate and contribute to the outcome. In such a situation it becomes very difficult to assess the degree to which it was the voice of the CPT which brought about a given result. It is better perhaps to think in terms of whether the results sought by the CPT have come to be realised in the State concerned, rather than focus on whether

the CPT recommendations have been implemented. This has the advantage of recognising the potential impact of the contributions made by other actors. It also places the focus upon the heart of the matter – improvement in the treatment of detainees – rather than upon what might become a narrow, technical issue of whether this has come about because of the CPT, a question which it may often be impossible to answer with certainty.

2.2. The identification of factors relevant to "implementation"

If the above viewpoint is accepted and understood the discussions at this seminar take on a new and more meaningful direction. At first sight, the particular points and suggestions which will be considered below seem to go over old ground and to be chiefly preoccupied with information and communication, rather than with enhancing effective implementation. However, it became clear that the reason for this was twofold. First, there remains a very real need for further development in order to facilitate the practical functioning of the CPT visit mechanism. Secondly, continuous communication and flows of information are crucial to maintaining the momentum created by a visit thereby sustaining the pressure upon the State to accede to the recommendations made by the CPT. In the final analysis, it may not matter whether the desired result comes about because of pressure from the CPT or from elsewhere, but if the CPT wishes it to be understood that theirs is a significant voice in the process of change then it is important that dialogue be maintained and enhanced with all those engaged in the process.

2.3. Models of compliance with recommendations

It has already been pointed out that "compliance" with recommendations can take a number of forms, including the bringing about of an outcome which would not otherwise have happened, or the acceleration of a programme already planned. Both of these results might appear "positive", but it should also be remembered that they might produce a negative consequence in that something which was planned to have happened may not now happen, or not happen so speedily. In short, compliance with a CPT recommendation might have negative as well as positive effects and it might be necessary to consider these in relation to each other when assessing the overall impact of the CPT's work in a State.

Another way of putting this is to ask whether the CPT's priorities are appropriately ordered for the State in question and whether it is necessarily the case that the State should adopt them if, in good faith, its assessment of priorities *within the relevant field* is different.

For example, the CPT may visit a particular institution and be generally complimentary about the physical conditions of detention while noting poor levels of regime activity and call for improvements in this regard. Is a State justified in concluding that it should devote resources to bringing conditions of detention in other institutions up to what it now recognises as the CPT's standards as a matter of greater priority, albeit at the expense of not fully addressing the issue of regime activities in the institution first visited? Should a State be deemed to have "failed" to implement CPT recommendations if it applies the lessons the CPT has given it to facilities more in need of improvement than those in the context of which the lesson was drawn? Conversely, to what extent should one say that a recommendation has been "implemented" if a particular facility is improved in response to a visit but others which are known to the State to be as bad are left alone, or made worse in consequence (e.g. increasing overcrowding elsewhere). Of course, the ideal is for the State to do both, but at the very least, these questions suggest that a mechanical 'check list' approach to assessing the implementation record of States may not be appropriate. This may be too crude a measure.

3. Assisting compliance

The principal conclusion of the seminar was that further flows of information were needed in order to both assess and assist the process of compliance. To this end, a number of routes were considered.

3.1. Further probing by the CPT

Knowledge of compliance is inevitably restricted by the confidential nature of the dialogue between the State and CPT and the publication of reports and responses does not fully address this problem. We cannot tell how much the CPT knows about the real impact which its visits have within member States, but there is evidence that the published responses of States are not always as full, candid or honest as they might be. Ideally, the Secretariat should be engaged in detailed follow-up and developing ongoing dialogue in order to test the degree to which its recommendations have been taken up at an administrative and operational level.

This could be done by conducting further visits but this is unlikely to be practical, or even well suited to the aim. Other possibilities would include establishing more regular contact with the liaison officers and with inspectoral mechanisms already existing within the State concerned and, where they are lacking, giving greater weight to recommendations that they be established. In short, thought could be given to constructing a supporting dialogue with the "formal partners" which would be inspired by the visit reports but would not be directly focused upon them. However, it is suspected that the resources needed to pursue this path might not be available, or could only become available if there was a fairly fundamental re-appraisal of the CPT's priorities and working methods, the consideration of which is beyond the scope of the present discussion[1].

3.2. Probing by others

3.2.1. Parliamentary scrutiny

The CPT stands in a privileged position when seeking to engage in dialogue with States. As several of the country reports delivered at this conference indicate, it can be difficult, if not impossible, for others to gain access to relevant, reliable information. Parliamentarians, however, themselves stand in a privileged position. When a government is slow to authorise publication they can be a potent source of pressure. Equally, when publication has taken place efforts should be made to make CPT reports and recommendations known to them and they should be encouraged to use their position to discover what has been the response. To date, this has happened sporadically but to some effect. More attention should be given to fostering their interest.

3.2.2. The legal community

The legal community in member States ought to have a very real interest in the work of the CPT. They provide detailed and reliable information which can be of use when preparing cases, particularly those which involve the jurisprudence under Article 3 of the ECHR.

3.2.3. National inspectoral agencies

Those bodies which exercise inspectoral functions and/or judicial oversight of the penal system should be made aware of the general standards advocated by the CPT, as well as the contents of reports relevant to their own national jurisdictions and domestic spheres of competence.

1 The need for an increase in the human and budgetary resources of the CPT is highlighted in the recent Report by the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly, 26 March 1997, Doc. 7784, Report on the Strengthening of the Machinery of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Rapporteur Mr Jerzy Jaskiernia), par.50-55.

This information could be offered outside of the CPT-State dialogue arising from a particular visit, in order to emphasise its general relevance to their functions in a non-specific (and therefore potentially less contentious) context.

3.2.4. The academic community

The work of the CPT should be made better known to the academic community. This would have a number of benefits. It would ensure an ever wider dissemination of knowledge about the Committee and would foster the study of its work. It would also bring a greater degree of critical scrutiny of the working methods and standards of the CPT, placing them within a broader framework and bringing new influences to bear upon them.

3.2.5. The media, journalists, etc.

More could and should be done to ensure publicity for the work of the Committee. It is recognised that this is not the responsibility of the CPT, and there are dangers of misportrayal and misrepresentation. Yet these are no different from the risks habitually run by other bodies whose work is not fully understood and should not be used as a reason to marginalise their potential to contribute towards the effective implementation of the Committee's recommendations. It should be remembered that NGOs have relatively little influence in some States and the media, particularly the press, have a greater influence on public opinion and government policy.

3.2.6. The NGO community

Perhaps inevitably, the principal focus of discussion concerned the extent to which the NGO community could and should be involved in the follow-up of CPT recommendations, both in the sense of monitoring compliance and working in order to achieve it. There was a widespread feeling that some of the smaller national NGOs did not fully understand the manner in which the CPT feels constrained by the principle of confidentiality. It was also felt that the CPT need not adopt quite so restrictive an interpretation. The lack of warmth in the acknowledgement of information submitted – and the failure to provide any meaningful indications of its usefulness to the Committee – could be interpreted (albeit incorrectly) as indifference and this did little to encourage small and often struggling NGOs to embrace the CPT and its work with any real enthusiasm. More could be done to make NGOs feel a part of the wider circle of the preventive mechanism.

For example, NGOs who had supplied information to the CPT could be automatically provided with a copy of the relevant report if and when it was made public – why should they have to request it? There could be increased dialogue with NGOs on the nature of information which the CPT would find valuable and the manner in which it could be most usefully presented. This could include specific details relating to areas about which the CPT had expressed concern within a State.

Suggestions were also made that the CPT could develop a list of "accredited" NGOs. While this might raise complex issues, it works well in other fora, resulting in better channels of access and a fuller understanding of the procedures involved. This leads to a more productive relationship for all concerned.

4. Availability of information

All of the points made above are linked by a common theme: the need to make the work of the CPT more readily accessible and widely known. Without accessibility and knowledge there is little

prospect that the Committee's recommendations will be embraced by civic society. Central to this is the need of making the reports available in the language of the country concerned.

4.1. Availability

It is not enough that reports are available on request in printed form. Requests can take weeks, even months, to be fulfilled, by which time interest may have lapsed. Even if the distribution system could be improved, reports should now be made available in electronic form, and capable of being down loaded from the Internet. Other areas of the Council of Europe are adopting this practice and it is to be hoped that this is under consideration within the CPT. Alternatively, NGOs, such as the APT, could develop a website with the co-operation of the Committee. This would be a major step forward.

Additionally, the Ministries of Foreign Affairs of many member States now have their own websites. Could they not be encouraged to make reports and responses available themselves through these channels?

4.2. Language

Above all else, the need to make reports available in the language of the State concerned should receive further thought. The position at the moment appears random. It is accepted that there are very real barriers to be overcome, particularly those of cost and delay. A further problem concerns the range of languages: in a number of States there might be a need to produce versions in a variety of languages, including minority languages, the use (or lack of use) of which might be contentious. Accuracy is, of course, a paramount consideration, particularly given the careful nuances of language within the reports.

On the other hand, translations of reports and responses exist for internal use in many States. In the spirit of co-operation these might form the basis of an approved translation, thus eliminating the need to 'start from scratch'. It is also apparent that the use of standard terminology in key statements of standards and recommendations should facilitate translation.

Would it not be possible to produce the summaries of recommendations, or a summary of the report, it being clear that this was without prejudice to the authority of the report as a whole?

Finally, would it not be possible to produce the general reports in a wider variety of languages, particularly the sections of those reports (such as the 2nd, 3rd and, the 7th) which set out the CPT's approach to key areas of its mandate?

5. General conclusion

At first sight, it might seem that the points raised in the previous sections do no more than revisit issues raised in the past. It is true that issues of publicity, information and co-operation have long been debated. That they are still considered pertinent suggests that further improvements are needed. At a broader level, it is important to note that the very fact that the discussions kept returning to these questions when attempting to focus on issues of enhancing compliance with CPT recommendations suggests that the basic impulse of the NGO community and the guiding spirit of international human rights protection under international law – that the sanction which the State fears the most is publicity – are soundly based. This raises important questions for the operation of a mechanism which sees confidentiality as the central pillar of its working relationship with States.

It may be that the CPT is approaching a crossroads. It was – and is – an exciting and innovative mechanism that has great potential. There is, however, a danger that the operation of the mechanism no longer produces the same degree of concern in certain States: having seen (or thinking that they have seen) what the CPT might mean for them it is possible that some States might come to believe that they have the measure of it. Certainly, once a public statement has been issued there is the problem that the CPT has no further forms of pressure remaining at its direct disposal. It is incumbent on all those dedicated to the struggle against torture and inhuman or degrading treatment or punishment to ensure that States do not feel comfortable[2] about their position vis-à-vis the Committee and that they feel the need to embrace the opportunities that a constructive dialogue built around the implementation of CPT recommendations presents.

2 Editor's note: the CPT recently set up its own web-site. Its address is http//www.dhdirhr.coe.fr

Annexes

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2) CPT VISITS TO SOUTHERN EUROPEAN STATES

	Date of visit	State Party	Type of visit	Date of publication of report*
1990	01.07.1990 – 09.07.1990	Malta	Periodic	26.09.1996
	09.09.1990 – 21.09.1990	Turkey	Ad hoc	–
1991	01.04.1991 – 12.04.1991	Spain	Periodic	05.03.1996
	29.09.1991 – 07.10.1991	Turkey	Ad hoc	–
1992	19.01.1992 – 27.01.1992	Portugal	Periodic	22.07.1994
	15.03.1992 – 27.03.1992	Italy	Periodic	31.01.1995
	25.03.1992 – 27.03.1992	San Marino	Periodic	12.10.1994
	02.11.1992 – 09.11.1992	Cyprus	Periodic	22.05.1997
	22.11.1992 – 03.12.1992	Turkey	Periodic	–
1993	14.03.1993 – 26.03.1993	Greece	Periodic	29.11.1994
1994	10.04.1994 – 22.04.1994	Spain	2nd periodic	05.03.1996
	10.06.1994 – 14.06.1994	Spain	Ad hoc	–
	16.10.1994 – 28.10.1994	Turkey	Ad hoc	–
1995	14.05.1995 – 26.05.1995	Portugal	2nd periodic	21.11.1996
	16.07.1995 – 21.07.1995	Malta	2nd periodic	26.09.1996
	22.10.1995 – 06.11.1995	Italy	2nd periodic	04.12.1997
1996	12.05.1996 – 21.05.1996	Cyprus	2nd periodic	22.05.1997
	19.08.1996 – 23.08.1996	Turkey	Invitation	–
	18.09.1996 – 20.09.1996	Turkey	Ad hoc	–
	21.10.1996 – 24.10.1996	Portugal	Follow-up	–
	04.11.1996 – 06.11.1996	Greece	Follow-up	–
	25.11.1996 – 28.11.1996	Italy	Follow-up	–
1997	17.01.1997 – 18.01.1997	Spain	Ad hoc	–
	21.04.1997 – 27.04.1997	Spain	Ad hoc	–
	25.05.1997 – 00.06.1997	Greece	2nd periodic	–
	05.10.1997 – 19.10.1997	Turkey	2nd periodic	–

* Subsequent to State consent

APT December 1997

3) PLACES OF DETENTION VISITED BY DELEGATIONS OF THE CPT IN SOUTHERN EUROPE

CYPRUS

Year 1992

Famagusta District
- Ayia Napa Police Station
- Xylotymbou Police Station
- Xylophagou Police Station

Larnaca District
- Larnaca Airport Police Station and Transit Room for foreigners
- Larnaca Town Police Station
- Kiti Police Station
- Kophinou Police Station
- Oroklini Police Station

Limassol District
- Limassol Town Police Station

Yermasoyia Police Station

Nicosia District
- Athalassa Psychiatric Hospital
- Nea Eleoussa Home for Severely Mentally Retarded Persons (Athalassa area)
- Nicosia Central Prisons
- Nicosia Police Prison
- Ayios Dhometios Police Station
- Deftera Police Station
- Klirou Police Station
- Lykavitos Police Station
- Omorphita Police Station
- Strovolos Police Station
- Holding room at Nicosia Assize Court

Paphos District
- Kouklia Police Station
- Paphos Town Police Station

Year 1996

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

Prisons:
- Nicosia Central Prisons

Military detention facilities:
- Tasou Markou Barracks, Klirou
- Panagidis Military Police Barracks, Nicosia

Psychiatric hospitals:
- Athalassa Psychiatric Hospital

GREECE

Year 1993

Athens
- Korydallos Prison for Men
- Korydallos Prison for Women
- Korydallos Prison for Young Offenders
- Korydallos Prison Hospitals (General Medicine and Psychiatric Care)
- Police Headquarters, Alexandras Avenue
- Police Station, Socratous Street
- Athens Transfer Centre for Prisoners, Kavafi Street
- Piraeus Transfer Centre for Prisoners, Notara Street
- Detention Centre at Athens Airport
- Piraeus Central Police Station, Iroon Polytechniou Street
- Glyfada Police Station, Dousmanis Street
- Attica State Mental Hospital
- Attica State Mental Hospital for Children
- Secure Room of the Nikea Hospital

Larissa
- Larissa Prison
- Police Headquarters, Papanastasiou Street

Leros
- Lepida and Lakki State Mental Hospitals
- Hospital for Children with Special Needs

Thessaloniki
- Pavlos Melas Military Prison
- Thessaloniki Police Headquarters, Security Division, Valaoritou Street
- Police Station, Alexandrou Svolou Street

Year 1996

- Attica State Mental Hospital for Children

Year 1997

Police establishments

Athens
- Police Headquarters, Alexandras Avenue
- Drapetzona Police Station, Piraeus
- Police Station No. 2, East Terminal, Athens Airport

Hellenikon Holding Centre for Aliens
Holding Areas at Athens Airport
Piraeus Holding Centre for Aliens, Asklepiou Street
Piraeus Transfer Centre for Prisoners, Notara Street

Corfu
Police Headquarters, Alexandras Street
Police Station, Samartzi Street

Ioanina
Police Headquarters, 28 October Street
Perama Centre for Illegal Immigrants

Thessaloniki
Police Headquarters
Police Station, Democracy Square

Prisons
Korydallos Prison Complex, Athens
Corfu Prison
Diavata Judicial Prison, Thessaloniki

Psychiatric establishments
Attica State Mental Hospital, Athens
Thessaloniki State Mental Hospital

Other establishments
Detention facilities of the Courts of First Instance, Evelpidon, Athens

ITALY

Year 1992

Milan
District Prison (Casa Circondariale), San Vittore
Police Headquarters, Via Fatabenefratelli
Operational Department of the Carabinieri, Via Moscova

Naples
Judicial Psychiatric Hospital (Ospedale Psichiatrico Giudiziario)
Police Headquarters, Via Medina
Carabinieri Headquarters, Corso Vittorio Emanuele
Stella District Carabinieri Headquarters, Piazzetta Stella

Rome
District Prison for women, Rome-Rebibbia
District Prison New Complex (Nuovo Complesso), Rome-Rebibbia
District Prison, Rome-Regina Coeli
Police Headquarters, Via di S. Vitale
Trevi Police Station, Piazza del Collegio Romano
Operational Department of the Carabinieri, Via In Selci
Piazza Dante Carabinieri Station, Via Tasso

Year 1995

State Police
Catania Police Headquarters, Via Manzone
Naples Police Headquarters, Via Medina (Follow-up visit 1992)
Rome Police Headquarters, Via di S. Vitale (Follow-up visit 1992)
Police Station at Milan Central Railway Station
Police Station at Rome-Termini Railway Station
Police Station at Rome-Fiumicino International Airport
Accommodation area in the transit zone of Rome-Fiumicino International Airport

Carabinieri
Piazza Verga Carabinieri Station, Catania
Piazza Dante Carabinieri Station, Catania
Ponticelli Carabinieri Station, Naples
Poggioreale Carabinieri Station, Naples
Parioli Carabinieri Station, Rome

Finance Police
Milan Regional Office
Rome Special Office
Fraud Department, Rome

Prisons
Catania Prison (Piazza Lanza)
Milan Prison (San Vittore) (Follow-up visit 1992)
Naples Prison (Poggioreale)
Rome Prison (Regina Coeli) (Follow-up visit 1992)
Spoleto Prison

Institutions for Minors
Nisida Penal Institution for Minors, Naples

Psychiatric Hospitals
Naples Judicial Psychiatric Hospital (Follow-up visit 1992)

In addition, certain persons were interviewed and specific matters were examined at the Naples Provincial Psychiatric Hospital, Leonardo Bianchi.

Year 1996

Milan Remand Prison (San Vittore)

MALTA

Year 1990

Police establishments
Police General Headquarters, Floriana
District Police Headquarters, Sliema
District Police Headquarters, Valletta

Prisons
Corradino Prison, Paola

Other places
Mount Carmel Hospital, Attard
Military Detention Centre, Luqa Barraks, Luqa

Year 1995

Police establishments
Police Headquarters, Floriana
Cospicua District Headquarters
St.-Julian's Police Station
Ta'Kandj Police Complex, Siggiewi
Immigration Service cells at Luqa International Airport

Prisons
Corradino Correctional Facility, Paoloa

Hospitals
Mount Carmel Hospital, Attard
St.-Michael's Ward at St.-Luke's Hospital, Pietà

PORTUGAL

Year 1992

Alcoentre
Vale de Judeus Prison

Almada
Alfeite Naval Prison
Headquarters of the National Republican Guard
Almada Division of the Public Security Police

Lisbon
Judicial Police Group Prison
Headquarters of the Judicial Police
Headquarters of the Public Security Police
Public Security Police Station at Praça da Alegria

Santarem
Headquarters of the Public Security Police
Headquarters of the National Republican Guard

Sintra
Linhó Prison
Public Security Police Station at Rua Dr Guilherme Fernandes

Year 1995

Judicial Police
Serious Crime Squad at Avenida José Malhoa, Lisbon
Headquarters at Rua S. Bento da Vitória, Oporto

Public Security Police
Police Station at Avenida Movimento Forças Armadas, Amaroda
Police Station at Rua André Resende , Benfica
Holding facilities at the Governo Civil, Lisbon (follow-up visit 1992)
Police Station at Praça da Alegria, Lisbon (follow-up visit 1922)
Divisional Headquarters at Rua de Goa, Matosinhos
Holding facilities at Largo 1° de Dezembro, Oporto
Police Station at Rua de Naulila, Oporto
Police Station at Praça de Infante D. Henrique, Oporto
Police Station at Praça Coronel Pacheco, Oporto
Police Station at Largo dos Restauradores, Seixal
Headquarters at Avenida Luisa Tódy, Setúbal
Police Station at Avenida da República, Vila Nova de Gaia

National Republican Guard
Rua Central Station, Lever
Headquarters at Avenida Jaime Cortesão, Setúbal

Prison
Judicial Police Prison, Lisbon (follow-up visit 1992)
Judicial Police Prison, Oporto
Linhó Prison, Sintra (follow-up visit 1992)
Oporto Prison (C Wing)
S. João de Deus Prison Hospital, Caxias

Institutions for Minors
Padre Antonio de Oliveira Re-education Centre, Caxias
Observation and Social Action Centre, Lisbon

Year 1996

Oporto Prison

SAN MARINO

Year 1992

San Marino Prison
Headquarters of the Civilian Police
Headquarters of the Gendarmerie

SPAIN

Year 1991

Algeciras
Algeciras Prison
National Police station (Avda. Fuerzas Armadas)

Bilbao
Bilbao Prison (Basauri)
Barracks of the "Guardia Civil", La Salve
National Police station (c/Gordoniz)
Headquarters of the Municipal Police

Cadiz
Cadiz Prison (Puerto de Santa María II)
National Police station (avda. de Andalucía)

El Puerto de Santa María
Puerto de Santa María I Prison

Madrid
Madrid II Prison (Alcalá-Meco)
Detention Centre for foreigners (Morataláz)
Headquarters of the "Guardia Civil"
National Police station, Barajas Airport
National Police station, Entrevías District
National Police station, Puerta del Sol
Detention area at the "Audiencia Nacional"

Year 1994

National Police establishments
Area 1 District, Calle Guipuzcoa, La Verneda, Barcelona
Police Headquarters, Vía Layetana, Barcelona
Central District, Calle Gordoniz, Bilbao
Central Duty Inspection (Puerta del Sol), Calle del Marqués de Pontejos, Madrid
Central District, Calle de la Luna, Madrid
Arganzuela District, Ronda de Toledo, Madrid
Minors Police Unit (Grume), Calle Hermenegilda Martínez, Madrid
Barajas Airport District, Barajas, Madrid
Parla Police Station, Juan Carlos I, Parla, Madrid

Civil Guard establishments
La Salve District Barracks, Plaza de la Salve, Bilbao
General Directorate, Calle Guzmán el Bueno, Madrid
Outer Madrid Headquarters, Sector Escultores, Tres Cantos, Madrid
Guipuzcoa Headquarters, Ulia ("El Antiguo") and Inchaurrondo, San Sebastián

Basque Autonomous Police (Ertzaintza) establishments
Ertzaintza Station, Plaza Easo, San Sebastián
Ertzaintza Station, Sestao
Ertzaintza Station, Tolosa

Prison establishments
Barcelona Men's Prison (Modelo)
Madrid I Prison (Carabanchel Hombres)*
Madrid Prison for Women (Carabanchel Mujeres)
General Penitentiary Hospital, Madrid (Carabanchel)

* Further, the delegation which carried out the *ad hoc* visit to Spain in June 1994 interviewed a number of prisoners being held at Madrid I Prison.

Other places of detention
Joint Municipal and National Police Station, Las Ramblas, Barcelona
Detention Centre for Aliens, Calle Guipuzcoa, La Verneda, Barcelona
Penitentiary Unit, Terrassa Hospital, Barcelona
Cells at the Audiencia Nacional, Madrid
Detention and Reform Centre for Minors "El Madroño", Madrid
Detention and Reform Centre for Minors "Renasco", Madrid
Detention Centre for Aliens, Calle la Tacona, Moratalaz, Madrid
Special Transit Area, Barajas Airport, Madrid

Year 1997 (January)

General Directorate of the Civil Guard, Madrid
Madrid V (Solo del Real) Prison

Year 1997 (April)

Establishments for Foreigners
Detention Centre for Foreigners, Plaza de Capuchinos, Málaga
Calamocarro Camp, Ceuta
Premises at La Granja, Carretera de Alfonso XIII, Melilla

National Police Establishments
Headquarters of the National Police, Paseo de Colón, Ceuta
Headquarters of the National Police, Plaza de Manuel Azaña, Málaga
Headquarters of the National Police, Actor Tallavi, Melilla

Civil Guard Establishments
Headquarters of the Civil Guard, Nuestra Señora del Otero, Ceuta
Holding facilities at the Port of Ceuta

Army establishments
Disciplinary Unit, regiment No. 52 of the Infantry, Melilla
Disciplinary Unit of the Gran Capitán Regiment of the Legion, Melilla
Remand Detention facilities of the Military Police, Melilla

Prisons
Ceuta Prison, Los Rosales, Ceuta

TURKEY

Year 1990

Police and gendarmerie establishments
Police Headquarters, Ankara
Police Headquarters, Diyarbakir
Interrogation Centre of the 1st Section of the Diyarbakir Police
Central Interrogation Centre of the Departmental Command of the Diyarbakir Gendarmerie Regiment
Ickale Gendarmerie Unit, Diyarbakir

Prisons
Ankara Central Closed Prison
Diyarbakir 1 Prison
Malatya E-type Prison

Year 1991

Ankara
- Police Headquarters
- Yenimahalle Police Station
- Esenboga Airport Police Station
- Ankara Central Closed Prison

Diyarbakir
- Police Headquarters
- Interrogation Centre of the 1st Section of the Diyarbakir Police
- Central Interrogation Centre of the Departmental Command of the Diyarbakir Gendarmerie Regiment
- Carsi Police Station
- Diyarbakir 1 Prison

Istanbul
- Police Headquarters
- Beyoglu Central Police Station
- Bayrampasa Prison

Year 1992

Adana
- Police Headquarters
- Adana Prison
- Closed Unit for Prisoners, Numune General Hospital

Ankara
- Police Headquarters
- Cankaya District Central Police Station
- Eltik District Central Police Station
- Mamak District Central Police Station
- Ankara Central Closed Prison

Diyarbakir
- Police Headquarters
- Interrogation Centre of the 1st Section of the Diyarbakir Police
- Central Interrogation Centre of the Departmental Command of the Diyarbakir Gendarmerie Regiment
- Dicle University Police Station
- Diyarbakir -1 Prison
- Diyarbakir -2 Prison

Istanbul
- Police Headquarters
- Beyoglu District Central Police Station
- Eminönü District Central Police Station
- Eyüp District Central Police Station
- Bayrampasa Prison
- Bakirköy Mental and Psychological Health Hospital

Year 1994

Police establishments
- Ankara Police Headquarters
- Batman Police Headquarters
- Cizre Police Headquarters
- Diyarbakir Police Headquarters
- Interrogation Centre of the 1st Section of the Diyarbakir Police
- Istanbul Police Headquarters
- Foreigners Bureau, Istanbul
- Mardin Police Headquarters
- Interrogation Centre of the Mardin Police
- Nusaybin Police Headquarters
- Sirnak Police Headquarters

Gendarmerie establishments
- Batman Provincial Gendarmerie Headquarters
- Cizre Gendarmerie Headquarters
- Diyarbakir Provincial Gendarmerie Headquarters
- Central Interrogation Centre of the Diyarbakir Provincial Gendarmerie Headquarters
- Central Interrogation Centre of the Mardin Provincial Gendarmerie Headquarters

Prisons
- Ankara Central Closed Prison
- Cizre Prison
- Diyarbakir I Prison
- Diyarbakir II Prison
- Diyarbakir Garrison 2nd Class Military Prison
- Mardin Prison
- Sirnak Prison

Other places of detention
- Aliens Holding Centre (Hac Camp), Silopi

Year 1996 (August)

- Eskisehir Special Type Prison

Year 1996 (September)

Police Establishments:
- Police Headquarters at Adana, Bursa and Istanbul
- Central Police stations of the Beyoglu and Eminönü Districts, Istanbul

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

Year 1997

Police Establishments:
Adana Police Headquarters

Istanbul:
Police headquarters
Beyoglu District Central Police Station
Küçükçekmece District Central Police Station
Izmir Police Headquarters
Mersin Police Headquarters
Samsun Police Headquarters
Ünye Police Headquarters

Prisons and reformatories
Izmir (Buca) Closed Prison
Izmir Reformatory for Juveniles
Mersin E-Type Prison
Ünye Closed Prison

Psychiatric establishments
Bakirköy Mental and Psychological Health Hospital, Istanbul
Psychiatric Observation Unit of the Institute of Forensic Medicine, Istanbul
Samsun Regional Psychiatric Hospital