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## COMPENDIUM ON THE ROLE OF “CPT” IN TORTURE PREVENTION IN PRISONS

***Rezumat:** În această lucrare am prezentat o scurtă informație despre Comitetul pentru prevenirea torturii și a pedepselor sau tratamentelor inumane sau degradante. Informația a fost structurată în câteva puncte cheie: informații generale, importanța practică, structura, activitatea Comitetului și vizitele efectuate. Scopul pe care și l-a propus această instituție a fost atins, reușind într-o măsură mai mare sau mai mică să disciplineze statele în ceea ce privește respectarea drepturilor persoanelor aflate în locuri privative de libertate. Consider că acest scurt material poate fi propus și pentru instruirea teoretico-practică a studenților la disciplina drept execuțional penal.*

***Cuvinte cheie:** stat, tortură, tratament inuman sau degradant, Comitet, Convenție Europeană, detenție.*

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter Committee): A fundamental aspect regarding the protection of human rights is the respect of the physical and mental integrity of the person. It is essential how the state tackles the issue of persons deprived of their liberty, given the need to ensure security and order in prisons. It is taken into account that any deprivation of liberty places the person in a vulnerable position and exposes them to various, hazardous situations (torture, cruel punishment, degrading or inhuman treatment), which can have severe mental and physical aftereffects, including long-term ones. While in detention, the person can not dispose entirely of himself/ herself or the goods in their property, or bears other inconveniences related to the changes occurred in the volume of their rights. In this regard, the states have adopted internal normative acts, acts that highlight the assurance of human rights, at the same time signing / ratifying various international treaties to protect the rights of the detainees.

A legal act of international value, which has been adopted in the spirit of the

protection of human rights, including the rights of persons deprived of their liberty, is the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. [1] This legal act has become an important guarantee for persons deprived of their liberty and a source of reference for norms with minimum stipulations. At the same time, the greatest value of this Convention is that it promotes a dialogue between state representatives and an international multidisciplinary committee. The concerned act takes the form of a mutual commitment between the state members of the Council of Europe, which creates conditions to ensure that higher standards are created in prisons for the sake of detainees

According to the Convention, a Committee for the prevention of torture and inhuman or degrading treatment or punishment has been charted. The Committee is based on art. 3 of the Convention, which demands that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment”. The Committee is not a control body, but it provides a preventive, non-judicial tool to protect persons deprived of their liberty from torture or other degrading treatment. The Committee complements the legal work of the European Court of Human Rights. Therefore, this institution examines the treatment enforced on persons deprived of their liberty in order to strengthen their protection against torture and inhuman or degrading treatment or punishment.

Previously, actions to protect detainees were carried out by other organizations, such as the International Committee of the Red Cross (ICRC). Under the auspices of the International Committee of the Red Cross, solutions and alternatives were offered to the difficulties that states encountered in combating overcrowding, mistreatment, respect for the rights of detainees and those in pre-trial detention or lack of technical expertise needed to build new prisons, this exposed problems being the field of interest for the entire international community. The International Committee of the Red Cross was the starting point for the elaboration of a regional, European treaty, which would address the rights of imprisoned people. The Convention was ratified by the Member States and entered into force in 1989. The Committee has already made its first visits in 1990. The Permanent Secretariat of the Committee is located at the Council of Europe's headquarters in Strasbourg, France.

We cannot overlook other international acts on the prevention of torture in prisons,

which have been the pillars of the Committee's emergence, such as the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Resolution 39/46 of 10 December 1984), UN Rules for the Protection of Minors Deprived of their Liberty (Resolution 45/113 of 14 December 1990) [2, p. 17, 42].

*Regarding the members of the Committee:* as the Convention demands, the Committee shall consist of a number of members equal to that of the state members. The members of the Committee 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 the Convention. In their activity, the Committee members are independent and impartial and 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. The members of the Committee shall be elected for a period of four years, with the possibility of twice re-election. In general, members work for a short period time, but in practice many members devote considerable time to the work of the CPT.

An important feature is the specialization of the members of the Committee, insofar as they ensure a balance of knowledge in several fields. Most are lawyers, doctors, former employees of the penitentiary system, former police officers. At the same time, during the visits, the Committee may be accompanied if necessary by specialists in the fields concerned, independent experts.

*Regarding the Committee activity:* The fundamental activity of the Committee is clear from the name of this institution itself - strengthening the protection of persons deprived of their liberty against acts of torture, inhuman or degrading treatment or punishment. In its actions, the Committee shall cooperate with all Member States on the basis of complaints, findings reports and responses received.

During its evolution, the Committee adopted a series of control rules, in order to ensure a complex assessment of detention institutions in the states subjected to control. This law-making activity emerges from the results of state-level assessments. The Committee establishes minimum detention rules and standard

rules. The Committee's rules are published in the brochure entitled "CPT Rules" (CPT / Inf / E (2002) 1). [3]

*Regarding the Committee visits:* During the term of office, members of the Committee may visit a number of institutions such as police stations, prisons, psychiatric clinics, immigrant centers, detention areas of military barracks, shelters for asylum seekers, or other categories of foreigner, and places where young people can be deprived of their liberty by a judicial or administrative decision. The purpose of the visits is the same, to prevent acts of torture, inhuman or degrading treatment or punishment.

There are two types of visits that the Committee carries out: periodic visits and ad hoc visits. Periodic visits allows the Committee to visit the states on a regular basis, according to a schedule established each year. Ad hoc visits take place when there are certain indicators that require an immediate reaction to solve some problems that have arisen in a place of detention. Initially, when the Committee was set up, all visits were periodic, but as time went on, arose the need to organize short visits, ad hoc visits. Sometimes, ad hoc visits are carried out at the request of the state itself.

When carrying out a visit, the Committee benefits extensive powers under the Convention: access to the territory of the State concerned and the right to move without restriction, unrestricted access to any place where persons are deprived of their liberty, including the right to move within such places without any restriction, access to complete information in places where persons deprived of their liberty are detained, but also to other information available to the State, which is necessary for the Committee to carry out its tasks. The Committee may also interview persons deprived of their liberty in particular and communicate freely with whomever they think may provide useful information.

When it comes to access to information, members of the delegation must also take into account internal rules, linked to the task of preventing mistreatment. Likewise, the communication of the information sought may be accompanied by certain conditions imposed by the national authorities, however, they may not authorize it under conditions that would be tantamount to a refusal.

*Regarding the Committee results:* After each visit, the Committee members

shall draw up a report on the facts found during the visit, taking account of any findings and recommendations needed to improve the situation of persons deprived of their liberty. The report prepared shall be confidential and shall, simultaneously, contain a request for the preparation of a response from the state in which it shall indicate the measures taken to implement the recommendations made, respond to the comments made and provide the requested information.

Two fundamental principles govern the relationship between the Committee and the States Parties to the Convention: cooperation and confidentiality. In this context, the role of the Committee is not to condemn states, but to assist them in preventing mistreatment of persons deprived of their liberty. Confidentiality, however, has two exceptions: the first - when a state itself requests the publication of the report and its response comments, and the second - when a state refuses to cooperate or refuses to improve the situation of the detainees in the light of the Committee's recommendations, in this case, the Committee may decide to make a public statement on the matter. The decision shall be taken by a majority of two-thirds of its members and after giving the state the opportunity to explain the arisen situation.

Initially, confidentiality was important to encourage states' cooperation with the Committee, and over time, states themselves have requested to publish the reports and responses they received. The Committee's reports are now available on its website. In addition, the Committee prepares annual general reports on its work, which are also published on the website. [1]

#### References:

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3. Consiliul pentru Prevenirea Torturii [http://www.avp.ro/mnp/legi/norme\\_cpt\\_mnp.pdf](http://www.avp.ro/mnp/legi/norme_cpt_mnp.pdf) (seen on 11.10.2020).
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