COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Strasbourg, 26.XI.1987

Text amended according to the provisions of Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152), which entered into force on 1 March 2002.

The member States of the Council of Europe, signatory hereto,

Having regard to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms,

Recalling that, under Article 3 of the same Convention, "no one shall be subjected to torture or to inhuman or degrading treatment or punishment";

Noting that the machinery provided for in that Convention operates in relation to persons who allege that they are victims of violations of Article 3;

Convinced that the protection of persons deprived of their liberty against torture and inhuman or degrading treatment or punishment could be strengthened by non-judicial means of a preventive character based on visits,

Have agreed as follows:

Chapter I

Article 1

There shall be established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Committee"). The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment.

Article 2

Each Party shall permit visits, in accordance with this Convention, to any place within its jurisdiction where persons are deprived of their liberty by a public authority.

Article 3

In the application of this Convention, the Committee and the competent national authorities of the Party concerned shall co-operate with each other.

Chapter II

Article 4

1 The Committee shall consist of a number of members equal to that of the Parties.

2 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 this Convention.

3 No two members of the Committee may be nationals of the same State.

4 The members shall serve in their individual capacity, shall be independent and impartial, and shall be available to serve the Committee effectively.

Article 5 [1]

1 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.

Where a member is to be elected to the Committee in respect of a non-member State of the Council of Europe, the Bureau of the Consultative Assembly shall invite the Parliament of that State to put forward three candidates, of whom two at least shall be its nationals. The election by the Committee of Ministers shall take place after consultation with the Party concerned.

2 The same procedure shall be followed in filling casual vacancies.

3 The members of the Committee shall be elected for a period of four years. They may be re-elected twice. However, among the members elected at the first election, the terms of three members shall expire at the end of two years. The members whose terms are to expire at the end of the initial period of two years shall be chosen by lot by the Secretary General of the Council of Europe immediately after the first election has been completed.

4 In order to ensure that, as far as possible, one half of the membership of the Committee shall be renewed every two years, the Committee of Ministers may decide, before proceeding to any subsequent election, that the term or terms of office of one or more members to be elected shall be for a period other than four years but not more than six and not less than two years.

5 In cases where more than one term of office is involved and the Committee of Ministers applies the preceding paragraph, the allocation of the terms of office shall be effected by the drawing of lots by the Secretary General, immediately after the election.

Article 6

1 The Committee shall meet in camera. A quorum shall be equal to the majority of its members. The decisions of the Committee shall be taken by a majority of the members present, subject to the provisions of Article 10, paragraph 2.

2 The Committee shall draw up its own rules of procedure.

3 The Secretariat of the Committee shall be provided by the Secretary General of the Council of Europe.

Chapter III

Article 7

1 The Committee shall organise visits to places referred to in Article 2. Apart from periodic visits, the Committee may organise such other visits as appear to it to be required in the circumstances.

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1 *Text amended according to the provisions of Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152).*

2 As a general rule, the visits shall be carried out by at least two members of the Committee. The Committee may, if it considers it necessary, be assisted by experts and interpreters.

Article 8

1 The Committee shall notify the Government of the Party concerned of its intention to carry out a visit. After such notification, it may at any time visit any place referred to in Article 2.

2 A Party shall provide the Committee with the following facilities to carry out its task:

a access to its territory and the right to travel without restriction;

b full information on the places where persons deprived of their liberty are being held;

c unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction;

d other information available to the Party which is necessary for the Committee to carry out its task. In seeking such information, the Committee shall have regard to applicable rules of national law and professional ethics.

3 The Committee may interview in private persons deprived of their liberty.

4 The Committee may communicate freely with any person whom it believes can supply relevant information.

5 If necessary, the Committee may immediately communicate observations to the competent authorities of the Party concerned.

Article 9

1 In exceptional circumstances, the competent authorities of the Party concerned may make representations to the Committee against a visit at the time or to the particular place proposed by the Committee. Such representations may only be made on grounds of national defence, public safety, serious disorder in places where persons are deprived of their liberty, the medical condition of a person or that an urgent interrogation relating to a serious crime is in progress.

2 Following such representations, the Committee and the Party shall immediately enter into consultations in order to clarify the situation and seek agreement on arrangements to enable the Committee to exercise its functions expeditiously. Such arrangements may include the transfer to another place of any person whom the Committee proposed to visit. Until the visit takes place, the Party shall provide information to the Committee about any person concerned.

Article 10

1 After each visit, the Committee shall draw up a report on the facts found during the visit, taking account of any observations which may have been submitted by the Party concerned. It shall transmit to the latter its report containing any recommendations it considers necessary. The Committee may consult with the Party with a view to suggesting, if necessary, improvements in the protection of persons deprived of their liberty.

2 If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter.

Article 11

1 The information gathered by the Committee in relation to a visit, its report and its consultations with the Party concerned shall be confidential.

2 The Committee shall publish its report, together with any comments of the Party concerned, whenever requested to do so by that Party.

3 However, no personal data shall be published without the express consent of the person concerned.

Article 12[1]

Subject to the rules of confidentiality in Article 11, the Committee shall every year submit to the Committee of Ministers a general report on its activities which shall be transmitted to the Consultative Assembly and to any non-member State of the Council of Europe which is a party to the Convention, and made public.

Article 13

The members of the Committee, experts and other persons assisting the Committee are required, during and after their terms of office, to maintain the confidentiality of the facts or information of which they have become aware during the discharge of their functions

Article 14

1 The names of persons assisting the Committee shall be specified in the notification under Article 8, paragraph 1.

2 Experts shall act on the instructions and under the authority of the Committee. They shall have particular knowledge and experience in the areas covered by this Convention and shall be bound by the same duties of independence, impartiality and availability as the members of the Committee.

3 A Party may exceptionally declare that an expert or other person assisting the Committee may not be allowed to take part in a visit to a place within its jurisdiction.

Chapter IV

Article 15

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.

1 *Text amended according to the provisions of Protocol No. 1 (ETS No. 151).*

Article 16

The Committee, its members and experts referred to in Article 7, paragraph 2 shall enjoy the privileges and immunities set out in the annex to this Convention.

Article 17

1 This Convention shall not prejudice the provisions of domestic law or any international agreement which provide greater protection for persons deprived of their liberty.

2 Nothing in this Convention shall be construed as limiting or derogating from the competence of the organs of the European Convention on Human Rights or from the obligations assumed by the Parties under that Convention.

3 The Committee shall not visit places which representatives or delegates of Protecting Powers or the International Committee of the Red Cross effectively visit on a regular basis by virtue of the Geneva Conventions of 12 August 1949 and the Additional Protocols of 8 June 1977 thereto.

Chapter V

Article 18 [1]

1 This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 The Committee of Ministers of the Council of Europe may invite any non-member State of the Council of Europe to accede to the Convention.

Article 19 [1]

1 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which seven member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 18.

2 In respect of any State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance, approval or accession.

Article 20 [1]

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

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1 *Text amended according to the provisions of Protocol No. 1 (ETS No. 151).*

2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 21

No reservation may be made in respect of the provisions of this Convention.

Article 22

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of the notification by the Secretary General.

Article 23 [1]

The Secretary General of the Council of Europe shall notify the member States and any non-member State of the Council of Europe party to the Convention of:

a any signature;

b the deposit of any instrument of ratification, acceptance, approval or accession;

c any date of entry into force of this Convention in accordance with Articles 19 and 20;

d any other act, notification or communication relating to this Convention, except for action taken in pursuance of Articles 8 and 10.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, the 26 November 1987, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

1 *Text amended according to the provisions of Protocol No. 1 (ETS No. 151).*

Annex

Privileges and immunities

(Article 16)

1 For the purpose of this annex, references to members of the Committee shall be deemed to include references to experts mentioned in Article 7, paragraph 2.

2 The members of the Committee shall, while exercising their functions and during journeys made in the exercise of their functions, enjoy the following privileges and immunities:

a immunity from personal arrest or detention and from seizure of their personal baggage and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

b exemption from any restrictions on their freedom of movement on exit from and return to their country of residence, and entry into and exit from the country in which they exercise their functions, and from alien registration in the country which they are visiting or through which they are passing in the exercise of their functions.

3 In the course of journeys undertaken in the exercise of their functions, the members of the Committee shall, in the matter of customs and exchange control, be accorded:

a by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty;

b by the Governments of other Parties, the same facilities as those accorded to representatives of foreign Governments on temporary official duty.

4 Documents and papers of the Committee, in so far as they relate to the business of the Committee, shall be inviolable.

The official correspondence and other official communications of the Committee may not be held up or subjected to censorship.

5 In order to secure for the members of the Committee complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

6 Privileges and immunities are accorded to the members of the Committee, not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions. The Committee alone shall be competent to waive the immunity of its members; it has not only the right, but is under a duty, to waive the immunity of one of its members in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.