

The concept of preventive monitoring

The role of the CPT

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Promotion and protection of human rights

- Promotion: Agreeing on human rights principles in form of conventional obligations or catalogues of minimum standards - normative approach
- Protection: Introducing procedures to supervise the implementation of human rights norms and standards (reporting procedures) and guarantee their enforcement (complaints procedures)



Reactive/repressive procedures based on complaints

- At global level the UN CAT receives complaints - Friendly settlement procedure - the views expressed by the expert body are not legally binding.
- The UN Special Rapporteur on Torture also reacts to information on situations where torture and ill-treatment may occur



Reactive procedures at European level

- At European regional level the European Court on Human Rights reacts to complaints and provides legally binding judgments
- The CE Commissioner on Human Rights reacts to information of situations where torture and ill-treatment may occur

Reactive procedures at national level

- National courts
- Ombudsmen receiving and processing complaints
- NGO's receiving and processing complaints

The concept of preventive monitoring

- ‘Prevention is better than cure’ – a new approach with regards to human rights violations
- Curative Treatment is hardly possible if torture or ill-treatment has been inflicted
- Prevention is therefore the only viable solution

Prevention of torture and ill-treatment at European, universal and national level

- The Council of Europe took a pioneer role in this field by establishing a preventive system of on-site inspections through the CPT
- Followed by the UN by adopting a similar system (SPT) paired with the obligation of establishing
- NPM's at national level

Overlap between cure/reaction to and prevention of ill-treatment

Courts' judgements have a deterrent and thus preventive effect

Preventive bodies select inspection places following information of situations where ill-treatment may have occurred and receive and react to complaints

Pioneer role of the CPT in developing procedural and substantive standards for the prevention of ill-treatment

Pioneer role of the CPT: Procedural standards

Visiting techniques

- Preparation of the visit
- Carrying out of the visit
- Giving immediate feedback
- Producing a report with a summary of the facts found followed by recommendations
- Establishing an on-going dialogue



Pioneer role of the CPT: Substantive standards

- Benchmarks for the assessment of detention situations with the aim of protection
- Standards which are within the threshold of the prohibition of torture principle - *implementation standards* or *core standards*
- These standards are also applied by the ECHR and should be applied by national courts and have thus a normative character

Pioneer role of the CPT: Substantive standards

- Benchmarks for the assessment of detention situations with the aim of prevention
- Standards which were developed by the expert body empirically in reaction to critical situations found in European states which have proven to be effective for the prevention of ill-treatment preventive *key standards*

Pioneer role of the CPT: Informing standards for good detention management

- Over the years the CPT has developed recommendations which can be considered as good management advice but may go beyond the strict needs of prevention
- For the future the CPT may also consider to report on best practices to contribute further to the development of European detention standards

New partnership for torture prevention in Europe 2009 Strasbourg Conference

- Promoting the sharing of information
between the preventive bodies:
SPT-CPT -NPMs
- Facilitating the coherence of standards
- Ensuring the effective implementation of
the recommendations of the preventive
bodies



Facilitating the coherence of procedural and substantive standards in Europe

- Is there an identity of roles of the three preventive structures – universal – regional –national
- Is there a need for coherence of visiting techniques and substantive recommendations/standards?



Coherence of visiting techniques

- The SPT's visits to European states - compared with the CPT- may well be rarer, shorter and focused more on the dialogue with the NPM.
- The CPT may well have to review its visiting practice for more frequent, shorter and more targeted visits and seeking close cooperation with the NPMs.

Coherence concerning substantive standards in Europe

- The CPT's protective core standards which are part of the prohibition of torture principle have to be applied by all bodies
- The CPT's preventive key standards which have been developed over the last 20 years should not be lowered by other bodies and thus undermine the already reached level of prevention in Europe



Standards for good detention management

- Good management advice and best practices should rather be formulated by the NPMs and may inspire the further development of preventive key standards in Europe which will consequently be applied by the CPT as well as the SPT

Coordination of activities between SPT and CPT

- Planning visits
- Exchange of information
- Applying common protective core and preventive key standards

Interplay between CPT and NPM

- The CPT will certainly continue to exist
Instead of competition CPT and NPMs
should strive for synergy and
complementarity
 1. Coordination of activities
 2. exchange of information
 3. maintenance of consistent standards

Coordination of activities between CPT and NPM

- **Planning of the visits**
- CPT delegations study the NPM's reports as well as the collection of complaints and their adjudication and follow up on deficiencies encountered
- NPM studies the CPT reports and follow up the deficiencies encountered



Coordination of activities between CPT and NPM

- **Exchange of information**
- The CPT is bound to confidentiality until the findings are published but the NPM may support quick publication of the reports
- The CPT may arrange a meeting with the NPM whenever a visit is carried out and discuss issues of common interest and concern
- The NPM may forward information to the CPT by sending its reports and other relevant material

Coordination of activities between CPT and NPM

- **Other possible areas of cooperation
would include exchange of views on**
 - Follow – up of recommendations made
by the CPT
 - Follow –up of public statements
 - Training of the members of the NPMs