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HUMAN RIGHTS



Treaty Series No. 54 (1991)

European Convention

for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Strasbourg, 26 November 1987

[The Convention entered into force on 1 February 1989]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 1991*

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Cm 1634

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

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 Freedoms¹;

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.

¹ Treaty Series No. 71 (1953), Cmd. 8969.

ARTICLE 5

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.

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 only be re-elected once. 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.

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.

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

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 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.

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 1949¹ and the Additional Protocols of 8 June 1977² thereto.

CHAPTER V

ARTICLE 18

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.

ARTICLE 19

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 18³.
2. In respect of any member 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 or approval.

ARTICLE 20

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

¹ Treaty Series No. 39 (1958), Cmnd. 550.

² Miscellaneous No. 19 (1977), Cmnd. 6927.

³ The Convention entered into force on 1 February 1989.

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

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (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, this 26th day of 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.

[For signatures and ratifications see page 7]

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, insofar 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.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of Ratification, Acceptance (Ac) or Approval (Ap)</i>
Austria *	23 Nov. 1987	6 Jan. 1989
Belgium	26 Nov. 1987	
Cyprus *	26 Nov. 1987	3 Apr. 1989
Denmark *	26 Nov. 1987	2 May 1989
Finland *	16 Nov. 1989	20 Dec. 1990
France *	26 Nov. 1987	9 Jan. 1989 (Ap)
Germany F.R.*	26 Nov. 1987	21 Feb. 1990
Greece	26 Nov. 1987	
Iceland	26 Nov. 1987	19 June 1990
Ireland Republic of*	14 Mar. 1988	14 Mar. 1988
Italy *	26 Nov. 1987	29 Dec. 1988
Liechtenstein	26 Nov. 1987	
Luxembourg *	26 Nov. 1987	6 Sept. 1988
Malta *	26 Nov. 1987	7 Mar. 1988
Netherlands * †	26 Nov. 1987	12 Oct. 1988 (Ac)
Norway *	26 Nov. 1987	21 Apr. 1989
Portugal	26 Nov. 1987	29 Mar. 1990
San Marino *	16 Nov. 1989	31 Jan. 1990
Spain	26 Nov. 1987	2 May 1989
Sweden *	26 Nov. 1987	21 June 1988
Switzerland *	26 Nov. 1987	7 Oct. 1988
Turkey*	11 Jan. 1988	24 June 1988
United Kingdom * † §	26 Nov. 1987	24 June 1988

* For declarations and reservations see page 8.

† The instrument of acceptance by the Netherlands was in respect of the Kingdom in Europe, Netherlands Antilles and Aruba.

‡ The United Kingdom instrument of ratification included the Bailiwick of Jersey and the Isle of Man.

§ In a notification dated 5 September 1988 the United Kingdom informed the Secretary General of the Council of Europe that as from 5 September 1988 the Convention would be extended to Gibraltar.

DECLARATIONS, RESERVATIONS AND NOTIFICATION OF COMPETENT
AUTHORITY AND LIAISON OFFICER UNDER ARTICLE 15

Council of Europe Notification dated 24 May 1989

AUSTRIA

Competent Authority: Völkerrechtsbüro—Abt. I.7
Bundesministerium für auswärtige Angelegenheiten
Ballhausplatz 1
A-1010 WIEN

Liaison Officer: Ambassador Helmut TÜRK
Völkerrechtsbüro—Abt. I.7
Bundesministerium für auswärtige Angelegenheiten
Ballhausplatz 1
A-1010 WIEN

Council of Europe Notification dated 26 April 1990

CYPRUS

Competent Authority: First Political Division
Ministry for Foreign Affairs
NICOSIA
CYPRUS
Tel: 40-3562 Nicosia
Telefax: 451881 Nicosia

Liaison Officer: Mrs. Myrna Y. KLEOPAS
First Political Division
Ministry for Foreign Affairs
NICOSIA
CYPRUS

Council of Europe Notification dated 16 October 1990

DENMARK

Competent Authority: Ministry of Foreign Affairs
Asiatisk Plads 2
DK-1448 København K

Liaison Officers: Mr. Martin Kofod
Head of Division
Ministry of Foreign Affairs

Mr. William Rentzmann
Deputy Secretary General
Direktoratet for Kriminalforsorgen
Klareboderne 1
DK-1115 København K

Mr. C. C. Duus
Deputy Commissioner of Police
Polititorvet 14
DK-1588 København V

Council of Europe Notification dated 27 May 1991

FINLAND

Competent Authority: Ministry of Justice
Eteläesplanadi 10
00130 HELSINKI
Finland
Tel: 358-0-18251
Fax: 358-0-1825430

Liaison Officer: Mr. Hannu Taimisto
Senior Ministerial Secretary
General Department
Ministry of Justice

Council of Europe Notification dated 13 February 1991

FRANCE

Competent Authorities: Mr. Maurice GRIMAUD
Head of the French Republic
Ombudsman's Office
53, avenue d'Iéna
75116 Paris
Tel: 45 01 86 56

Mr. Jean-Pierre PUISSOCHET
Director of Legal Affairs
Ministry of Foreign Affairs
37, Quai d'Orsay
75700 Paris
Tel: 47 53 53 00

GERMANY, FEDERAL REPUBLIC OF

Declaration contained in a letter from the Permanent Representative of the Federal Republic of Germany handed to the Secretary General at the time of deposit of the instrument of ratification on 21 February 1990:

“In connection with the deposit today of the instrument of ratification to the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987, I have the honour to declare on behalf of the Government of the Federal Republic of Germany that the said Convention shall apply to Land Berlin with effect from the date on which it enters into force for the Federal Republic of Germany.”

Council of Europe Notification dated 15 January 1990

REPUBLIC OF IRELAND

Competent Authority: Department of Justice
72-76 St Stephen's Green
Dublin 2
Ireland
Tel: (01) 787 911
Telex: 93910
Telefax: 767 797

Liaison Officer: Mr. Tim Dalton
Assistant Secretary
Head of Prisons

ITALY

Declaration contained in a letter from the Permanent Representative of Italy, dated 27 January 1989, registered at the Secretariat General on 30 January 1989:

“The Italian government declares that paragraph 2(a) of the Annex on Privileges and Immunities should not be interpreted as excluding any police or customs check of the luggage of the members of the Committee, provided the check is carried out in compliance with the rules on confidentiality set forth in Article 11 of the Convention.”

Explanatory note:

“In its explanatory report to the Senate of the Republic, dated 4 July 1988, on the ratification of the Convention, the Italian Government had indicated that “at the time of deposit of the instrument of ratification, [the Government] shall make a declaration of interpretation of paragraph 2(a) of the Annex on Privileges and Immunities, under which the said paragraph 2(a) should not be interpreted as excluding any police or customs check of the luggage of the members of the Committee, provided the check is carried out in compliance with the rules on confidentiality set forth in Article II of the Convention.

Due to an omission, the declaration was not made to the Secretary General, depository of the treaty, upon deposit of the instrument of ratification on 29 December 1988.

The Government of Italy corrects today this clerical mistake by forwarding to the Secretary General the text of the above mentioned declaration, to take effect at the date of entry into force of the Convention in respect of Italy.”

Council of Europe Notification dated 18 May 1990

Competent Authority: Head of Office IX, Directorate General for Emigration and Social Affairs (Capo dell'Ufficio IX della Direzione Generale per l'emigrazione e gli affari sociali)
Ministry for Foreign Affairs
Piazzale della Farnesina, 1
I-00194 ROME
Tel: 39.6.3961214

Liaison Officer: Mr. Federico PALOMBA
Judge
Director of the Office for Studies, Research and Documentation of the Directorate General for Institutions of prevention and punishment (Direttore dell'Ufficio studi, ricerche et documentazione della Direzione generale per gli Istituti di prevenzione e pena)
Via Silvestri 252
I-00164 ROMA
Tel: 39.6.625620
Fax: 39.6.6261736

Council of Europe Notification dated 21 February 1990

LUXEMBOURG

Competent Authority: Ministry for Foreign Affairs
5, rue Notre Dame
L-2911 LUXEMBOURG

Liaison Officer: Mr. Pierre SCHMIT
Director for Prison Establishments
(Délégué aux établissements pénitentiaires et maisons d'éducation)

Declaration contained in a letter from the Permanent Representative of Luxembourg dated 24 July 1990.

I have the honour to enclose herewith an updated version of the list of places in the Grand Duchy of Luxembourg where persons may be deprived of their liberty by a public authority. For each category of establishment, I have given the name of the Liaison Officer who may be contacted.

1. The *Schrassig and Givenich prisons* for the person serving sentence, on remand or placed at the government's disposal;
—the *reform schools* at Dreibern and Schrassig in the case of minors.
—*Liaison Officer*: Mr Pierre SCHMIT, Solicitor General, with responsibility for prisons and reform schools, Public Prosecutor's Office, Luxembourg.
2. The *police stations and gendarmeries* for persons arrested by the police.
—*Liaison Officers*:
 - a. for the *police*: Lieutenant-Colonel Georges RAUCHS, Deputy Director of Police, Directorate of Police, Luxembourg;
 - b. for the *gendarmerie*: Lieutenant-Colonel Charles BOURG, Deputy Commander of the Gendarmerie and Security Officer, Gendarmerie Command, Luxembourg.
3. The *military barracks* at Diekirch in the case of persons detained by decision of the military authorities.
—*Liaison Officer*: Captain Gaston REINIG, Personnel Officer of the Military Instruction Centre, Military Barracks, Diekirch.
4. The *Neuropsychiatric Hospital* at Ettelbruck in the case of the insane.
—*Liaison Officer*: Mr Raymond MOUSTY, First Adviser to the government, Ministry of Health, Luxembourg.

Council of Europe Notification dated 3 June 1991

MALTA

Liaison Officer: Mr. C. Cremona
Ministry of Foreign Affairs and Justice
Palazzo Parisio
Merchants Street
M-Valletta
Tel: 222 407/228 524
Fax: 227 822

Council of Europe Notification dated 15 January 1990

NETHERLANDS

Competent Authority: Ministry of Foreign Affairs
Council of Europe and Scientific Co-operation Department
Council of Europe Section
Bezuidenhoutseweg 67
NL-2594 AC THE HAGUE

Council of Europe Notification dated 19 September 1989

NORWAY

Competent Authority: First Legal Division
Ministry of Foreign Affairs
N-OSLO

Council of Europe Notification dated 5 July 1990

SAN MARINO

Competent Authority
Liaison Officer: The Commissioner for Law
San Marino

Council of Europe Notification dated 7 November 1989

SWEDEN

Competent Authority: Ministry for Foreign Affairs
Box 161 21
S-103 23 STOCKHOLM

Liaison Officer: Mr. Lars MAGNUSON
Assistant Under-Secretary
Ministry for Foreign Affairs

Council of Europe Notification dated 13 February 1991

SWITZERLAND

Competent Authority: Federal Office of Justice
Principal Division, Penal Law and Appeals Office
CH-3003 Berne
Tel: 031 61 41 19/61 41 05
Telefax: 031 61 78 73

Liaison Officers: Mr. Andrea Baechtold
Federal Office of Justice
Professor, Head of Section
Principal Division, Penal Law and Appeals Office
CH-3003 Berne
Tel: 031 61 41 09
Telefax: 031 61 78 73

Mrs. Priska Schürmann
Federal Office of Justice
Head of Section
Principal Division, Penal Law and Appeals Office
CH-3003 Berne
Tel: 031 61 41 71
Telefax: 031 61 78 73

Council of Europe Notification dated 15 October 1990

TURKEY

Liaison Officer: Mr. Erdal GÖLCÜKLÜ
T.C. Disisleri Bakanligi
Insan Haklari Dairesi Baskani
ANKARA/TURKEY

Council of Europe Notification dated 7 November 1989

UNITED KINGDOM

Competent Authority: Western European Department
Room W 61
Foreign and Commonwealth Office
GB-LONDON SW1 2AH
Tel: 01-270 2408
Telex: 297711
Telefax: 01-270 2833

Liaison Officer: Miss Caroline Hart

