

No. 27161

MULTILATERAL

European Convention for the prevention of torture and inhuman or degrading treatment or punishment (with annex). Concluded at Strasbourg on 26 November 1987

Authentic texts: English and French.

Registered by the Secretary-General of the Council of Europe, acting on behalf of the Parties, on 16 March 1990.

MULTILATÉRAL

Convention européenne pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (avec annexe). Conclue à Strasbourg le 26 novembre 1987

Textes authentiques : anglais et français.

Enregistrée par le Secrétaire général du Conseil de l'Europe, agissant au nom des Parties, le 16 mars 1990.

EUROPEAN CONVENTION¹ 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 Freedoms;²

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;

¹ Came into force on 1 February 1989, i.e., 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 had deposited an instrument of ratification, acceptance or approval with the Secretary-General of the Council of Europe, in accordance with article 19 (1):

<i>State</i>	<i>Date of deposit of the instrument of ratification or acceptance (A)</i>
Ireland.....	14 March 1988
Luxembourg.....	6 September 1988
Malta.....	7 March 1988
Netherlands.....	12 October 1988 A
(For the Kingdom in Europe, the Netherlands Antilles and Aruba.)	
Sweden.....	21 June 1988
Switzerland.....	7 October 1988
Turkey.....	26 February 1988
United Kingdom of Great Britain and Northern Ireland.....	24 June 1988
(In respect of the United Kingdom of Great Britain and Northern Ireland, the Bailiwick of Jersey and the Isle of Man. In addition, the United Kingdom of Great Britain and Northern Ireland made a declaration of territorial application in respect of Gibraltar on 5 September 1988, to take effect on the date of entry into force of the Convention, in accordance with article 20 (2).)	

Subsequently, the Convention came into force in respect of the following States on the first day of the month following the expiration of a period of three months after the date on which they deposited their instrument of ratification, acceptance or approval with the Secretary-General of the Council of Europe, in accordance with article 19 (2):

<i>State</i>	<i>Date of deposit of the instrument of ratification or approval (AA)</i>
Italy*.....	29 December 1988
(With effect from 1 April 1989.)	
Austria.....	6 January 1989
(With effect from 1 May 1989.)	
France.....	9 January 1989 AA
(With effect from 1 May 1989.)	
Cyprus.....	3 April 1989
(With effect from 1 August 1989.)	
Norway.....	21 April 1989
(With effect from 1 August 1989.)	
Denmark	
Spain.....	2 May 1989
(With effect from 1 September 1989.)	

* For the text of the declaration made upon ratification, see p. 383 of this volume.

² United Nations, *Treaty Series*, vol. 213, p. 221.

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. 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.