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IMPROVING DETENTION CONDITIONS THROUGH EFFECTIVE MONITORING AND STANDARD-SETTING

SPEECH

by

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Mr Chairman, M.me Deputy Secretary General, Distinguished Participants

Only few months ago, in November, the Ministers participating in the 30th Council of Europe Conference of the European Ministers of Justice, adopted a Resolution inviting the Council of Europe bodies operating in the crucial area of prison sanctions and protection of fundamental rights, to identify problems faced by the prisons administrations which may require guidance through standard-setting.

The European Committee for the Prevention of Torture (CPT), that I have the honour to represent here today, was requested to cooperate for such a purpose, on the basis of its more than twenty years experience of visiting prisons and making recommendations to the States party to the Convention.

As you all are aware, the CPT is entrusted by a treaty, the European Convention for the prevention of torture, opened to signature in 1987 and to date ratified by all 47 member states of the Council of Europe. The Convention provides a non-judicial machinery of a preventive character, whose task is to examine the treatment of detained persons, by carrying out visits to places of deprivation of liberty of every possible kind. The Committee's role is to assess the overall situation of deprivation of liberty in order to identify unfavourable elements, potentially conducive of violations.

Basing on its continuous monitoring and the subsequent confidential dialogue with the national authorities, the CPT is in the unique position to have a clear and up-to-date picture of detention conditions all over Europe and to distil, from its empirical findings and the recommendations flowing from them, a body of standards for the region.

Let me be quite frank: conditions of detention in places of deprivation of liberty in Europe often leave much to be desired and in numerous establishments of various types visited by the CPT, they are quite simply wretched. This is just as true for EU member states as it is for other European countries. And the problem is certainly not confined to prisons, but extends to detention centres for irregular migrants, police custody areas, and even, on occasion, psychiatric hospitals.

In addition, prisons systems in Europe are more and more affected by a number of additional problems: first, the lack of any strategic plan to manage a complex situation as a prison is. This is a crucial element often not well understood by some European prison administrations, which mainly focus on the well known challenge given by the present overcrowding. Actually overcrowding is just one of a number of often interrelated challenges confronting prisons in today's Europe; the excessive recourse to – and the excessive length of – pre-trial detention, is another as they are the growing number of foreign nationals and the lack of a meaningful regime provided to prisoners, enabling them to return to the external community. Not mentioning the violence in some prisons that are not in fully control by the staff.

Only two days ago the CPT resorted to the exceptional measure provided by the Convention and issued a public statement concerning one of the States party to it since the very beginning of the Committee's work: Greece. One of the two issues mentioned in that statement is the situation in prisons: the CPT has identified a number of structural deficiencies which include the lack of any strategy approach to management of prisons, the absence of an effective system of reporting and supervision and inadequate management of staff. They are problems which in various measures are present in many European prisons. Recent judgments of the European Court of Human Rights and CPT reports attest to this.

In the preamble of the Resolution adopted in November, the Justice Ministers reaffirmed that prison conditions in general and treatment of prisoners in particular are an important indicator of the level of protection of human rights and fundamental freedoms in a country. Basing on this principle and its inherent commitment, the Justice Ministers advocated a comprehensive assessment of the current situation and invited the Committee of Ministers of the Council of Europe to take stock of the problems faced by prison administrations, and consider whether there is a need to reinforce the existing legal framework.

The long-standing idea of a legally binding European instrument on certain prison-related matters has been put back on the table. One of the ideas behind the Seminar we are opening to-day is to explore such a possibility. The pro and cons of a binding instrument certainly deserve to be looked at once again, as such an instrument could be an indispensable component of a strategy capable of transforming prison conditions in Europe.

Moreover the Justice Ministers invited the competent bodies of the European Union to take due account of the Council of Europe's experience in setting standards in the prison field and with mechanisms for monitoring their implementation, in order to ensure coherence and avoid duplication. This is a timely invitation, given that the EU Commission is currently preparing a Green Paper on detention issues in the European Union. The Union has a clear interest in having satisfactory prison conditions in its member States, in order in particular to ensure the smooth functioning of mutual recognition instruments in the area of judicial cooperation. I believe this can be an opportunity, provided that the EU and the Council of Europe work in harmony. Together, the two organisations are capable of having a major impact on the treatment of prisoners throughout Europe.

The Seminar we are opening today wants to reflect on some aspects of imprisonment: the legal implications of custodial measures, the effectiveness of rights enshrined in the relevant legislations, the conditions of detention, the maintenance of ties with the outside world, the peculiar necessities of some targets of prisoners, the provision of prompt, effective and independent health care. These elements could constitute the areas of core standards to be rigorously implemented in all the European countries. The long standing experience of the CPT can help in identifying this kernel of standards to put together with the set of European Prison Rules. While the latter indicates the direction to improve our prison systems – the future rather than the present – the former should indicate measures to be immediately taken, as matter of priority.

Distinguished Participants,

All of us are aware that with few exceptions, prison populations are rising in Europe, often at an alarming rate. The result in many countries is prisons bursting at the seams: overcrowding – I already said – has become a scourge that Europe has not yet found the means to eradicate. However the situation is by no means unremittingly bleak. Significant initiatives are being taken in many parts of Europe to promote the use of alternative sanctions and ensure that imprisonment is a measure of last resort. There are well-functioning prisons preparing inmates for life in the community. Further, good practices involving local communities and civil society organisations, both in working with inmates in prison and in assisting them when they are released, can be found.

The challenge is to build upon these good practices and initiatives. Endless prison construction in the hope – usually vain hope – of keeping pace with the number of persons being sent to prison is not a viable alternative. Such an approach runs counter to what should be the purpose of prison in today's world.

Providing the necessary resources so that detention facilities offer decent conditions and rehabilitative programmes may not be an obvious vote-winner, but I believe that it will be a good long-term investment for our societies.

Distinguished Participants,

it is an honour to open today, together with you, this Seminar. As most of you are aware I had the privilege to chair the Committee for several years until the end of last week when the Committee elected a new Bureau and I considered inappropriate to be nominated as candidate as my last term will expire at the end of this year.

I am in the process of leaving the CPT, but I do believe that all of us, from our various positions – in the national administration, university centres, non-governmental organisations or directly working in a prison – have and will have the chance to contribute to the success of the Europe Committee for the Prevention of Torture and, more in general ,to the action incessantly carried out by the Council of Europe to ensuring full respect of rights of persons deprived of their liberty and positive detention conditions, while rigorously safeguarding safety of the community at large.