



**Cour
Pénale
Internationale**

**International
Criminal
Court**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**EXCHANGE OF LETTERS BETWEEN THE INTERNATIONAL CRIMINAL
COURT AND THE EUROPEAN COMMITTEE FOR THE PREVENTION
OF TORTURE AND INHUMAN OR DEGRADING TREATMENT**



Mr Mykola Gnatovskyy
President
European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or
Punishment

Mr Thorbjørn Jagland
Secretary General
Council of Europe

Reference: 2017/PRES/00232

Date: 2 November 2017

Mr President,

Mr Secretary General,

I have the pleasure to refer to discussions held between the International Criminal Court (“ICC”) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“Committee”) concerning the monitoring of the conditions of detention and treatment of certain persons sentenced by the ICC (“Sentenced Persons”). Pursuant to Article 103(1) of the Rome Statute, Sentenced Persons serve their sentences of imprisonment in a State designated from a list of States which have indicated to the ICC their willingness to accept them (“State of Enforcement”).

On behalf of the ICC, I confirm the following understandings:

The Committee agrees, subject to the terms of this letter and your reply (“Exchange of Letters”), to assist the ICC in the monitoring of the conditions of detention and treatment of Sentenced Persons serving their sentences in the territory of a State which is a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“Convention”) and which has specifically indicated the Committee as the competent monitoring body in relation to Sentenced Persons.

It is understood that such monitoring will be performed on the basis of Article 2 of the Convention, according to which parties to the Convention permit visits to any place within their territories where persons are deprived of their liberty by a public authority.

(a) Purpose and scope of the Exchange of Letters

The Exchange of Letters shall regulate matters relating to or arising out of the Committee's monitoring of the conditions of detention and treatment of Sentenced Persons who are serving their sentences in the territory of a State of Enforcement which is a party to the Convention.

(b) Notification

- (1) The ICC shall notify the Committee whenever it concludes with a party to the Convention a bilateral agreement on enforcement of sentences ("Enforcement Agreement") which indicates the Committee as the competent monitoring body in respect of the conditions of detention and treatment of Sentenced Persons and whenever such indication occurs subsequently.
- (2) The ICC shall inform the Committee, in writing, about the transfer of a Sentenced Person to a State of Enforcement that has indicated the Committee as the competent monitoring body in respect of the conditions of detention and treatment of Sentenced Persons.
- (3) Such information shall include: (a) a copy of the relevant judgement; (b) details of the detention facility to which the Sentenced Person is being transferred; and (c) the date of transfer. Other information available to the ICC which is necessary for the Committee to carry out its task shall be provided to the Committee.

(c) Procedure for visits

- (1) The Committee shall organise and conduct visits in accordance with the procedures set out in Article 7 of the Convention.
- (2) The timing and the frequency of the visits shall be determined by the Committee. The Committee shall in principle carry out a visit to a prison in the State of Enforcement holding a Sentenced Person within one year of the Sentenced Person's transfer to such prison. The frequency of subsequent visits shall be in accordance with Article 7(1) of the Convention, and shall take place as required in the circumstances.

- (3) It is understood that notifications to a State of Enforcement by the Committee of its intention to carry out a visit to a Sentenced Person will be communicated to the ICC by the State of Enforcement in accordance with the applicable Enforcement Agreement or by the Committee, with the consent of the State of Enforcement.
- (4) The monitoring of the conditions of detention and treatment of a Sentenced Person in the State of Enforcement shall continue until the Committee has been informed by the ICC that the prison sentence has been completed, terminated, or, if applicable, the Sentenced Person has been transferred to another State of Enforcement.

(d) Reports on visits and principle of confidentiality

- (1) After each visit, the Committee shall produce a report on its findings ("Report"), as provided for in Article 10 of the Convention. In this regard, it is understood that the ICC is particularly interested in the conditions of detention and treatment of the Sentenced Person.
- (2) It is understood by the Committee that each Report, as referred to in paragraph (d)(1), will be provided to the ICC by the State of Enforcement in accordance with the applicable Enforcement Agreement or by the Committee, with the consent of the State of Enforcement.
- (3) The Committee shall treat all information that it receives from the ICC pertaining to the enforcement of a prison sentence with the utmost confidentiality.

(e) Costs

The Committee shall bear all reasonable costs and expenses incurred in sending delegations to carry out visits, as provided for in the Exchange of Letters. The size of the delegations and the length of the visits shall be in accordance with the usual practice of the Committee. The Committee shall not bear the costs for interpretation into or from a language other than English and French when necessary for the purposes of carrying out a visit. In such case, the ICC shall coordinate assistance to facilitate the provision of such interpretation.

(f) Channel of Communication

Unless otherwise designated, the channel of communication between the ICC and the Committee for the purposes of the Exchange of Letters is the Head of the Presidency Legal and Enforcement Unit of the ICC and the Executive Secretary of the Committee.

(g) Amendment and termination

- (1) The agreement concluded by this Exchange of Letters may be amended with the mutual written consent of the Parties.
- (2) The agreement concluded by this Exchange of Letters may be terminated by either the ICC or the Committee on ninety (90) days' written notice to the other. Nevertheless, the provisions of the agreement concluded by this Exchange of Letters shall continue to apply after such termination to the extent necessary to ensure that visits which have already been notified prior to such notice of termination, as well as reports on these visits, are not affected by the termination.
- (3) The obligation relating to confidentiality under paragraph (d) above does not cease upon termination of the agreement concluded by this Exchange of Letters.

I would be grateful if you would confirm by return letter that the above is also the understanding of the Committee.

Please accept, Mr President, Mr Secretary General, the assurances of our highest consideration.



Silvia Fernández de Gurmendi
President

Council of Europe
The Secretary General

Strasbourg, 9 November 2017

Dear President,

We thank you for your letter of 2 November and are pleased to confirm that, subject to the terms of that letter, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is prepared to assist the International Criminal Court (ICC) in the monitoring of the conditions of detention and treatment of persons sentenced by the ICC serving their sentences in the territory of a State which is a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and which has specifically indicated the CPT as the competent monitoring body in relation to such sentenced persons.

The CPT looks forward to continuing its co-operation with the International Criminal Court in the implementation of this Exchange of Letters.

Yours sincerely,



Thorbjørn Jagland

Secretary General of the
Council of Europe



Mykola Gnatovskyy

President of the European
Committee for the Prevention of
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