Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 16509
03 November 2026

Improving the selection and election procedure of CPT members

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Ms Octavie MODERT, Luxembourg, Group of the European People's Party

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1. Reference to committee: Doc.16038, Reference 4838 of 29 November 2024.

A. Draft resolution[2]

1. The absolute prohibition of torture and inhuman or degrading treatment or punishment, set out in Article 3 of the European Convention on Human Rights (ETS No. 5), is one of the core values of the Council of Europe and a non-derogable right. The Parliamentary Assembly reiterates that this principle must be respected without exception, even in the most difficult circumstances and even in time of war.

2. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126, "the Convention") and the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) play a fundamental role in preventing and eradicating torture and inhuman or degrading treatment across Council of Europe member States and are widely regarded as one of the Organisation's greatest achievements.

3. The Assembly congratulates the CPT for its outstanding work and dedication for over 35 years. This work has been made possible thanks to the Convention's unique preventive mechanism which gives the CPT unhindered access to places of detention in all Council of Europe member States, and the possibility to interview persons deprived of their liberty in private. Since the CPT was established in 1989, the Assembly has consistently supported its work, taking its conclusions and recommendations into account in numerous reports and resolutions.

4. The effectiveness and authority of the CPT depend on the professional expertise, independence, impartiality and availability of its members. The Assembly has a particular responsibility in the process leading to the election of CPT members, by ensuring that national delegations propose qualified and independent candidates to the Assembly and by establishing an order of preference to be transmitted to the Committee of Ministers, which is the organ that ultimately elects a CPT member in respect of each State Party.

5. The Assembly recalls its earlier texts on the CPT, in particular Resolution 1248 (2001) "European Committee for the Prevention of Torture (CPT): composition of the Committee", Resolution 1540 (2007) "Improving selection procedures for CPT members" and Resolution 2160 (2017) "25 years of the CPT: achievements and areas for improvement". It notes that, since 2007, the Assembly's practice has evolved and consolidated, while national selection procedures have significantly improved, including through the wider use of public calls, interviews of shortlisted candidates, more balanced selection bodies, more frequent involvement of the national delegation to the Assembly and greater attention to the assessment of candidates' language skills. However, it observes that practice remains uneven and that in some States selection procedures still fall short of the fairness and transparency requirements set by the Assembly's previous resolutions.

6. With regard to national selection procedures, and building on good practices identified in recent years, the Assembly calls on the national delegations to the Assembly and, where applicable, governments of member States to:

6.1. organise an open, adequately publicised call for candidatures, accessible to all suitably qualified persons, using a wide range of dissemination channels (including official journals, government and parliamentary websites, professional associations, civil society organisations and social media), and ensure that the application period is not less than one month;

6.2. ensure that the selection body has a balanced composition, including representatives of the national delegation to the Assembly, representatives of relevant governmental bodies and ministries (for example, justice, interior, health or foreign affairs) and independent experts with relevant experience (for example, in national human rights institutions, ombudsperson office, the judiciary, civil society or academia); national delegations to the Assembly should play an active role in the selection process;

6.3. systematically organise interviews of shortlisted candidates by the selection body; failure to do so should, in principle, lead to the rejection of the list by the Assembly;

6.4. ensure that candidates' language skills are effectively assessed, including by conducting part of the interview in one or both official languages of the Council of Europe and/or by involving language experts;

6.5. provide, together with the list of three candidates, a detailed description of the national selection procedure followed, including the composition of the selection body, the modalities of the public call, the assessment criteria used, the use of interviews and language assessment;

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2. Draft resolution adopted unanimously by the committee on 29 September 2026.

6.6. co-operate fully with the Assembly and its Committee on Legal Affairs and Human Rights by submitting lists of candidates in due time, and by responding promptly to requests for additional information.

7. As regards the criteria for the selection and election of CPT members, the Assembly:

7.1. calls on national delegations to the Assembly and governments of member States to pay due attention to the professional profiles needed by the CPT at the time of the call, including, for example, prison and forensic doctors, civil psychiatrists and persons with experience in prison management or policing, and ensure that all candidates proposed possess the necessary resilience, physical and psychological fitness to participate in on-site visits and are genuinely available to devote at least approximately 40 days per year to the work of the CPT;

7.2. clarifies that lists of candidates should, as a rule, include at least one man and one woman, except when all candidates on the list are of the sex under-represented in the CPT (less than 40% of the total number of CPT members); a list that does not conform to this rule shall be rejected by the Assembly, save in exceptional circumstances when the State concerned has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes; national selection bodies should give preference, in cases of equal merit, to candidates of the sex under-represented in the CPT;

7.3. recalls its long-standing requirements regarding the independence and impartiality of candidates and clarifies that member States should refrain from nominating sitting members of the Assembly or persons whose national parliamentary or governmental responsibilities would prevent them from maintaining the appearance of independence and impartiality required and/or from being sufficiently available for CPT work;

7.4. recalls that, for the purposes of interpretating Article 4.3 of the Convention, dual nationals holding the nationality of the State presenting the list and that of another member State may stand as candidates and be elected to the CPT.

8. With regard to its own procedure, the Assembly decides to further develop and clarify its practice as follows:

8.1. lists of candidates shall be examined on the basis of the documents submitted by national delegations (curricula vitae and detailed information on the national selection procedure, including the composition of the national selection body, interviews and language assessments); national delegations to the Assembly shall be invited to present a list orally before the Sub-Committee on Human Rights only where there is a genuine issue to be clarified on procedural or substantive grounds;

8.2. in exceptional circumstances, as set out in paragraph 7.2, the Sub-Committee on Human Rights may accept single-sex lists of candidates belonging to the sex that is not under-represented in the CPT; such an exception to the general rule shall require the support of a two-thirds majority of the votes cast by the members of the Committee on Legal Affairs and Human Rights and shall in any case be subject to ratification by the Bureau of the Assembly;

8.3. the recommendation on the order of preference transmitted to the Bureau and then to the Committee of Ministers shall be accompanied by succinct reasons for such order, including, where appropriate, an indication that one or two candidates are considered to be significantly more qualified than the other(s);

8.4. once the deadline set by the Assembly for the submission of the lists has expired, national delegations shall not be authorised to withdraw or modify their list, except in cases where a candidate withdraws. In such cases, the procedure shall be suspended and the delegation invited to complete the list by replacing the candidate who has withdrawn;

8.5. in respect of States Parties to the Convention that are not member States of the Council of Europe, the Bureau of the Assembly shall invite the parliament concerned to put forward three candidates, in accordance with Article 5, paragraph 1, of the Convention; where that parliament enjoys observer or partnership for democracy status with the Assembly, the procedure before the Assembly should, as far as possible, follow the same features and requirements applicable to member States;

8.6. in respect of member States which, for a prolonged period, have no delegation in the Assembly due to the non-submission or non-ratification of credentials, the invitation to submit lists of candidates should be addressed directly to the national parliament concerned, and the procedure should, as far as possible, continue its course before the Assembly and the Committee of Ministers;

8.7. the Secretary General of the Assembly should publish a consolidated information document reflecting the revised procedure relating to the examination of lists of candidates to the CPT and the requirements on the selection and election procedures.

9. The Assembly invites the CPT to continue its close co-operation with the Assembly, in particular by informing it, through its Bureau and secretariat, of the professional profiles most needed at a given time, of the availability and work of incumbent CPT members seeking re-election, of its preferences or views on lists of candidates, and of its views on possible improvements to the selection and election procedures.

B. Draft recommendation[3]

1. The Parliamentary Assembly draws the Committee of Ministers' attention to Resolution … (2026) "Improving the selection and election procedure of CPT members", which develops and clarifies the Assembly's requirements for the selection and election of CPT members.

2. The Assembly invites the Committee of Ministers to:

2.1. systematically follow the order of preference indicated by the Assembly when electing CPT members and, in the exceptional case where it considers departing from it, consult the Assembly in advance;

2.2. reconsider the application of Article 4.3 of the Convention, which prevents two CPT members from being nationals of the same State, with a view to allowing States to propose candidates who are nationals of other Council of Europe member States, along the lines of the rules applicable to the election of judges to the European Court of Human Rights; to this end, examine the feasibility of an amending protocol to the European Convention on Human Rights (ETS No. 5) or any other appropriate legal solution;

2.3. continue to support the CPT, ensuring that it has the necessary human and financial resources and visibility to carry out its mandate effectively and that the position of CPT member remains attractive for potential candidates across member States;

2.4. ensure that procedures are in place for the election of CPT members in respect of States which may in the future become Parties to the Convention but are not member States of the Council of Europe, in consultation with the Assembly where the parliament of the State concerned has observer or partnership for democracy status with the Assembly.

3. Draft recommendation adopted unanimously by the committee on 29 September 2026.

C. Explanatory memorandum by Ms Octavie Modert, rapporteur[4]

1. Introduction

1. The fundamental right to be free from torture and inhuman or degrading treatment, as enshrined in Article 3 of the European Convention on Human Rights (ETS No. 5) ("ECHR"), is of paramount importance. In 1987, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) ("the Convention") was adopted,[5] establishing the European Committee for the Prevention of Torture. The CPT is widely regarded as one of the Council of Europe's greatest achievements in promoting the principles of Article 3 of the ECHR. Mandated to carry out periodic and ad hoc visits to all places of detention within the jurisdiction of the contracting parties, the CPT plays a crucial practical role in eradicating torture and inhuman or degrading treatment across all States that are party to the Convention. Therefore, it is essential to ensure that the members of the CPT have the necessary moral standing, professional qualifications, personal implication, independence, impartiality and commitment to contribute to the effective a functioning of the CPT.

2. The Assembly should take stock and re-examine the national procedure for the selection of candidates to the CPT, the procedure within the Council of Europe, and the criteria followed in the selection/election of the members of the CPT. The latest reports that the Assembly prepared on this topic were adopted in 2017 (Resolution 2160 (2017) "25 years of the CPT: achievements and areas for improvement"), in 2011 (Resolution 1808 (2011) "Strengthening torture prevention mechanisms in Europe") and in 2007 (Resolution 1540 (2007) "Improving selection procedures for CPT members"). Although the practice of the Assembly on the selection/election of CPT members has evolved and consolidated over the years, there is still need for greater clarity and transparency for the involved stakeholders. While the Assembly has recently applied, by analogy, certain rules governing the election of judges to the European Court of Human Rights, it is now time to incorporate those rules explicitly into a text directly applicable to the selection and election of members of the CPT.

3. My considerations and proposals in this report will be primarily informed by my experience as former Chair of the Sub-Committee on Human Rights (2024-2025). This role gave me considerable insight into the procedure for selecting/electing CPT members. The Sub-Committee is the main body within the Assembly responsible for examining the lists of CPT candidates submitted by national delegations and recommending an order of preference for each list. This recommendation must subsequently be endorsed by the Committee on Legal Affairs and Human Rights and by the Assembly's Bureau, before being transmitted to the Committee of Ministers for the purpose of electing one candidate in respect of each member State. During the preparation of this report, the committee held an exchange of views with Mr Alan Mitchell, President of the CPT, on 1 December 2025 in London. I would like to thank Mr Mitchell for very valuable insights into the selection/election process, as well as the criteria required to become a CPT member and the associated challenges.

2. Selection and election procedure of the members of CPT

4. The selection/election procedure is partly regulated in the Convention and partly in Recommendation 1323 (1997), Resolution 1248 (2001), Resolution 1540 (2007), Resolution 1808 (2011), and Resolution 2160 (2017) of the Parliamentary Assembly. There are some aspects of the procedure that cannot be found in writing but have developed into common practice over the years.

5. Article 5 of the Convention establishes that members of the CPT are elected for a term of four years and may be re-elected twice. Typically, the Committee is divided into two groups (Group A and Group B), each comprising approximately half of the members, to ensure that half of the Committee is renewed every two years. To maintain this balance, the Convention determines that the Committee of Ministers may decide, prior to any election, that some new members shall serve terms other than four years. However, such terms must not be shorter than two years or longer than six years.

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4. This explanatory memorandum is drawn up under the responsibility of the rapporteur.

5. In 1993, Protocols No 1 (ETS No. 151) and No. 2 (ETS No. 152) to the Convention were opened for signature. They entered into force in March 2002. Protocol No.1 added the possibility of non-member States joining the Convention and Protocol No. 2 provided for the orderly renewal of the Committee's members and the possibility for them to be re-elected twice.

6. The selection of the members of the CPT starts at the national level, when each State Party to the Convention selects three candidates, and national delegations to the Parliamentary Assembly submit the list of three candidates to the Assembly. Subsequently, the Sub-Committee on Human Rights of the Committee on Legal Affairs and Human Rights will examine the list on the basis of the candidates' CVs. It can then either accept the list and rank the candidates in order of preference or recommend to reject it for substantive or procedural reasons. The Sub-Committee's recommendation must then be endorsed by the plenary Committee on Legal Affairs and Human Rights, and afterwards by the Bureau of the Assembly. It is at this stage that the Bureau draws up the list of candidates to be transmitted to the Committee of Ministers, in accordance with Article 5.1 of the Convention. Only if the list is forwarded by the Secretary General of the Parliamentary Assembly (with the order of preference as approved by the Bureau) to the Committee of Ministers, can one of the candidates be elected by the Committee of Ministers. If there is a recommendation for a rejection of the list (which must also be endorsed by the Committee and the Bureau), the Secretary General of the Parliamentary Assembly will ask the national delegation to put forward a fresh list. This will inevitably delay the election of a member by the Committee of Ministers. In this section I will first address the selection of the three candidates at the national level. I will then examine the procedure once these are proposed to the Council of Europe.

2.1. Selection of candidates at the national level

7. According to Article 5.1 of the Convention, each national delegation must put forward three candidates. How they should do it is established in various texts of the Assembly.

8. Resolution 1540 (2007) called for national selection procedures to:

– include a public call for candidatures;

– include a consultation on suitable candidates with relevant State and non-governmental bodies (for example, ministries of justice, interior and health, prison administration, academic institutions and NGOs active in the fight against torture and in assistance to persons deprived of their liberty);

– assess the qualifications, motivation, availability, and languages of candidates through interviews, if possible, done by an independent panel of experts;

– have the national delegation to the Parliamentary Assembly play an active role in the final phase of the selection;

– promote the use of a standard CV.

9. Resolution 1808 (2011) called on national delegations to make the procedure more transparent, according to the indications in Resolution 1540 (2007). In this regard, Resolution 2160 (2017) established that national delegations should provide an explanation of the procedure they followed, along with the CVs of the shortlisted candidates. This is done in practice through the letter that the national delegation sends when submitting the list. Resolution 2160 (2017) also called on national delegations to ensure that the candidates have an excellent command of at least one of the official languages of the Council of Europe, and at least a passive knowledge of the second official language.

10. With the purpose of getting a comprehensive understanding of the various national selection procedures, the secretariat has prepared a table that I attach to this report as Appendix I. It has been completed with the information provided to the Assembly by each national delegation in the past three years (2023-2026), without doing additional inquiries. It contains information on the selection body, the call for applications, and the criteria/process that countries use to evaluate the candidates. When the information is available, I have also indicated the period that candidates have to submit their applications, and how languages are assessed.

11. The CPT should in principle have 47 members, one for each State Party to the Convention. The 46 member States of the Council of Europe and the Russian Federation, which is still a State Party to the Convention (until 1 November 2026).[6] Currently there are four vacant seats: Bosnia and Herzegovina, Bulgaria, Georgia and the Russian Federation. The observations below are based on the last selection procedures conducted by all 46 member States of the Council of Europe during the period 2023-2026.

6. Russia withdraws from the Council of Europe's Anti-Torture Convention – CPT.

12. From these 46 national procedures, the information that I have varies greatly from one to another. While some national delegations provide the Assembly with many details on the procedure, others do not share enough for me to get a clear picture of its functioning. This already demonstrates that each national delegation fulfils the obligation of providing information about the national procedure (Resolution 2160 (2017)) and of making it more transparent (Resolution 1808 (2011)) to varying degrees.

13. The comparative table in the Appendix focusses on the following aspects: the selection body; the participation of the national delegation of the Parliamentary Assembly in the procedure; consultations with State and non-State entities in choosing the three candidates; the way of announcing the call for applications; the use of interviews to assess candidates; the evaluation of language skills; and the length of the application period.

2.1.1. Participation of the national delegation to the Parliamentary Assembly in the national selection procedure

14. Regarding the involvement of national delegations to the Assembly in the national selection procedure – as outlined in Resolution 1540 (2007) – the comparative overview reveals the following: In 11 national procedures, the delegation plays no decision-making role in the selection process. In these cases, its role may be limited to publishing the public call or transmitting the list to the Parliamentary Assembly. In 20 member States, the national delegation – or part of it – participates in the process alongside other entities or individuals (including parliamentary committees or other MPs not part of the delegation to the Assembly), either as part of a panel or committee, or by taking the final decision after receiving advice from a third party (e.g. a committee of experts or a governmental body). In some of these cases, the interview with the shortlisted candidates is only conducted by the advisory body and not by the delegation itself (France). In others, the delegation also meets the shortlisted candidates following interviews by the selection or advisory panel (Lithuania and the United Kingdom). In 10 national procedures, the national delegation alone is responsible for selecting the three candidates at the national level. If we take into account those countries where the delegation plays an important role in the process, a majority of member States (at least 30) now involve the national delegation to the Assembly in a substantial way in the national selection process, and not merely as a channel of transmission. This development is welcome and should be further encouraged as good practice to be followed by the 11 States where the delegation seems to play no substantial role.

15. With regard to other member States (5), the information provided is scarce or does not permit a clear assessment of the delegation's involvement in the selection process.

2.1.2. Participation of other State and non-State bodies

16. The comparative table also includes information on the extent to which consultations with State and non-Sate bodies are conducted during the selection of candidates, as encouraged by Resolution 1540 (2007). In the 10 instances where only the national delegation is involved in the selection procedure, no such consultations take place, except in Cyprus where the Office of the Ombudsman is consulted. However, consultations with different State and non-State bodies are present in other national selection procedures, mostly through their participation in the selection committee itself.

17. The following are examples of State and non-State bodies participating in the national selection procedure: the ministries of justice (in at least 15 member States), interior (in at least 8 member States), foreign affairs (10 member States) or health (5 member States), prison administration (3 member States), national human rights institutions, including those with a specific focus on persons deprived of liberty (9 member States), representatives of non-governmental organisations (NGOs) (6 member States) and academics (3 member States). In some countries, the judiciary can also be represented in the selection committee or participate in the procedure by nominating candidates (Lithuania and Portugal).

18. In my opinion, the national selection body should have a balanced composition and include both governmental and non-governmental experts in the fields covered by the CPT, as well as members of the delegation to the Assembly. The interviews should always be conducted by this body, rather than only by the delegation or a purely governmental selection panel. This would help to ensure the necessary expertise, independence and transparency when assessing the candidates' qualifications, professional experience and motivation. Balanced, multi-stakeholder panels of this kind, can be found, for example, in Croatia, the Netherlands and Spain. For the legitimacy of the selection procedure, it is crucial that panel members be independent from candidates and recuse themselves in the event of any conflict of interest.

2.1.3. Public call for candidatures

19. When looking at the use of a public call for candidatures (Resolution 1540 (2007)) to start the selection procedure, at least 40 countries have done so. From the six remaining, two seem not to have made a public call, and four do not provide enough information to make an assessment. This represents a substantial improvement compared with the situation in 2007, when a previous Assembly rapporteur carried out a similar comparative survey and found that only four States organised some kind of public call for candidatures.[7] At our committee hearing, Mr Mitchell stated that publication in an official journal alone seems insufficient to reach suitable candidates. He noted that calls should also be disseminated through social media, professional networks, and trade unions, especially those representing relevant practitioners.

2.1.4. Interviews

20. The use of interviews in national procedures (Resolution 1540 (2007)) has become an extended practice. 36 countries did so, 8 countries did not,[8] and 2 have not provided clear information. This is again an important development, given that in 2007 less than half of the countries participating in the survey organised interviews with shortlisted candidates (around 13). I consider that interviews by the selection panel should be mandatory for all countries. Failure to organise them should from now on lead to a systematic rejection of the list by the Assembly.[9]

2.1.5. Language assessment

21. Most of the countries that gave details on the criteria they followed to select the three candidates included their language skills, as stipulated by Resolution 1540 (2007) and Resolution 2160 (2017). Only 13 specify how they assess such level. The candidates either do part of the interview in English or French, a level test, or there is a language expert present. On this issue, I also believe that interviews by the selection panel should always include an assessment, with the assistance of language experts, of at least one of the official languages of the Council of Europe, English or French. Good command of at least of these languages is essential for carrying out visits to member States and for participating in CPT's deliberations.

2.1.6. Application period

22. The length of the application period is crucial to ensuring that the call for candidates reaches as many people as possible and provides a genuine opportunity to apply. However, many national delegations have not shared this information with the Assembly and this issue has not been mentioned in any Recommendation or Resolution by the Assembly. While there is no objection to long application periods – since they only increase accessibility – a minimum duration should be established for the submission of applications in all national procedures. Based on the available data from national procedures that include a public call, three States publish the call for 15 days or less, which appears too short for an open and inclusive selection process. Drawing on the Assembly's recommendations regarding national selection procedures for the position of Judge at the European Court of Human Rights,[10] I consider that the minimum application period should be one month.

2.2. Procedure before the Council of Europe statutory organs

23. Article 5.1 of the Convention provides that, once each national delegation submits three candidates, the Assembly (its Bureau) draws up a list of names. The Committee of Ministers then elects the member of the CPT from this list.

24. Article 5.1 of the Convention also regulates the election of a member in respect of a non-member State of the Council of Europe which is a State Party to the Convention. It establishes that the Bureau of the Assembly shall invite the Parliament of the State to put forward three candidates. The election by the Committee of Ministers shall take place after consultation with the Party concerned. This procedure has not been put in place for the Russian Federation, which is the only State Party to the Convention that is not a member State (since 2022 and only until 1 November 2026).

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7. Improving selection procedures for CPT members (rapporteur: Mr Erol Aslan Cebeci, Turkey, Group of the European People's Party).
8. This includes Estonia where there was no assessment process as there were only three applications submitted.
9. This would imply incorporating a rule that already applies to the procedure for the election of Judges to the European Court of Human Rights.
10. See Resolution 2648 (2026), paragraph 7.1.

2.2.1. Procedure within the Assembly: Sub-Committee on Human Rights, Committee on Legal Affairs and Human Rights and Bureau of the Assembly

25. In practice, in the procedure within the Assembly, the Bureau does not examine the candidatures itself to ensure they meet the criteria set by the Assembly or those established by the Convention. Instead, this responsibility is delegated to the Committee on Legal Affairs and Human Rights, which further delegates the task to its Sub-Committee on Human Rights. The delegation from the Bureau to the Committee was endorsed in Resolution 1248 (2001). According to the text of a motion for a resolution dated March 2005 (Doc. 10471) the Sub-Committee on Human Rights had already been entrusted with this responsibility by that time,[11] a responsibility that still holds nowadays, in accordance with its terms of reference.

26. In relation to the procedure within the Sub-Committee on Human Rights, Resolution 1540 (2007) encouraged the Sub-Committee to give particular weight to the preferences expressed by national delegations, provided that the national selection procedures are deemed satisfactory. In this context, the resolution also encouraged the Sub-Committee to systematically invite the heads of national delegations to meetings concerning lists of candidates, in order to provide additional information on both the candidates and the national selection procedures. Both recommendations are applied in practice, although heads of delegations can be represented by other members of the national delegation. If a national delegation cannot participate in the meeting to present the list, the Sub-Committee cannot proceed to its examination. In the light of my experience as former Chair of the Sub-Committee, I believe we should only invite the head of a national delegation to present the list and the national procedure orally where there is a genuine issue to be discussed in terms of procedure or merits of the candidates. Otherwise, the assessment could be based exclusively on the CVs and the information obtained from the national delegations, if necessary through additional written questions from the secretariat and the Chair. This would also enable the Sub-Committee to carry out other work within its wider mandate, such as exchanges of views with experts on human rights issues and maintaining relations with UN human rights bodies.

27. Resolution 1540 (2007) encouraged the Sub-Committee to collect, through its chair, objective facts such as availability or language skills relating to the work of incumbent members seeking re-election, in particular from the CPT's Bureau. It is understandable that the CPT may wish to continue to benefit from the accumulated experience of incumbent members, rather than having a new member every four years (the term of office, which can be renewed twice). This information sharing is established practice and implemented through the regular exchanges between the secretariat of the Sub-Committee and the secretariat of the CPT. However, these exchanges are not limited to information on incumbent members seeking re-election but have in practice evolved to include systematically the CPT Bureau's preferences on the lists of candidates, which are generally taken into account by the Sub-Committee. These preferences are communicated by the Chair of the Sub-Committee to the national delegation concerned.

28. Resolution 1248 (2001) established that the Committee on Legal Affairs and Human Rights must ensure that candidates proposed by national delegations meet the criteria set out in Recommendation 1323 (1997) – namely professional background, gender, and age, having regard to the need for a more balanced composition of the CPT. If these criteria are not met, the Committee is to recommend that the Bureau request a new list of candidates. The Assembly also instructed the Committee to rank the candidates in order of preference and draw up a recommendation to the Assembly Bureau with this order. Furthermore, Resolution 1540 (2007) encouraged the Sub-Committee to reject lists of candidates when relevant information is missing, when not all candidates fulfil the minimum requirements under the Convention (rejection on substantive grounds), and when the list does not include at least one man and one woman, except when all candidates on the list are of the sex under-represented on the CPT (less than 40%). Finally, Resolution 2160 (2017) established that the Assembly should reject any list put forward in which the national selection procedure does not comply with the Assembly resolutions (rejection on procedural grounds), as well as any list where a candidate holds a position giving rise to a potential conflict of interest and does not commit to relinquish that position if elected.

29. In practice, the Sub-Committee has recommended to reject lists on substantive and procedural grounds on several occasions, although this does not happen very often.

30. The Sub-Committee has also accepted single-sex lists when the relevant gender was not under-represented (e.g. all-female lists from Armenia, Sweden and Bosnia and Herzegovina recently). This has been done by applying the rules on the election of judges to the ECHR *mutatis mutandis*.[12] In my view, some aspects of the procedure could be codified or regulated more explicitly for the CPT procedure, possibly by

11. See also Resolution 1540 (2007), paragraph 3.

incorporating or adapting some of the rules foreseen for the election of judges. In this regard, the rules applicable to the election of judges to the Court provide that in exceptional circumstances, when a State has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes, the committee (on the Election of Judges to the European Court of Human Rights) may consider a single-sex list even when the candidates do not belong to the underrepresented sex. Such exceptional circumstances must be duly considered by a two-thirds majority of the votes cast by the members of the committee, and this must be ratified by the Assembly in the framework of the Progress Report of the Bureau. A similar rule could be established for lists of candidates to the CPT, but with ratification by the Bureau, the body responsible for transmitting the list to the Committee of Ministers. In any event, exceptions should be applied cautiously, and the general rule should be that the list must contain candidates of both sexes. This applies even when neither sex is under-represented on the CPT, as is currently the case (see Appendix II: CPT membership as of 13 July 2026).

31. The recommendation (for rejection or ranking the candidates in order of preference) drawn up by the Sub-Committee on Human Rights must be endorsed by the full Committee on Legal Affairs and Human Rights. Subsequently, it must be approved by the Bureau of the Assembly. In Resolution 1540 (2007), the Sub-Committee and the Bureau were encouraged to provide succinct reasons for their respective recommendations. This is now done through the tables presented by the Chair of the Sub-Committee to the Committee, which are later forwarded by the Secretary General of the Assembly to the Committee of Ministers. These tables contain a short summary of the candidates' professional background and may give an idea of the reasons behind the Sub-Committee's proposal. In my view, we could also indicate more clearly in future whether one or two candidates are considered to be significantly more qualified than the other(s). This would provide the Committee of Ministers more information to help them make their final decision and avoid, for example, electing the candidate deemed least qualified by the Assembly.

2.2.2. Election by the Committee of Ministers

32. At the final stage, the list of three candidates (in order of preference) drawn up by the Assembly is transmitted to the Committee of Ministers for election. It is possible for the Committee of Ministers to deviate from the order of preference indicated by the Assembly, since the Assembly only recommends and does not take the final decision. This does not happen often. Out of a total of 42 elections in the last three years (2023-2025), it has only happened four times (Croatia, Switzerland and Ukraine in 2025; Italy in 2023). The reasons for such deviations are not always clear. I therefore propose stating in the draft recommendation to the Committee of Ministers that they should be avoided, if we are to take the role of the Assembly in this process seriously.

2.2.3. Withdrawal of lists

33. Regarding the possibility to withdraw a list of candidates once the list is transmitted to the Assembly, the Sub-Committee has applied the rules applicable to the procedure for the election of judges, *mutatis mutandis.*[13] For instance, we considered in one case that the withdrawal of the list was not possible once the deadline given by the Assembly to submit the list had expired. In such a case, the national delegation could not withdraw or modify the list of candidates. This rule could be explicitly codified in the draft resolution. It would be particularly relevant in situations where, for example, a new parliamentary majority seeks to withdraw or modify the list submitted by the previous majority, a practice which should be avoided. However, as with the procedure for the election of judges, if a candidate himself or herself decides to withdraw from the list, the procedure before the Assembly should be interrupted and the national delegation should be invited to complete the list by replacing the candidate who has withdrawn.[14]

2.2.4. Interviewing or electing candidates?

34. It is also worth mentioning that some measures affecting the procedure within the Council of Europe have been included in past resolutions of the Assembly but have never been put into practice.

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12. See "Procedure for the election of judges to the European Court of Human Rights", memorandum prepared by the Secretary General of the Parliamentary Assembly, May 2026, paragraph 11. https://pace.coe.int/en/pages/committee-30/AS-CDH.
13. *Ibid*., paragraph 14.
14. This may also occur once the Assembly has transmitted the list to the Committee of Ministers. In this case, the procedure will restart with the Assembly.

35. In Resolution 1540 (2007), the Assembly encouraged the Sub-Committee on Human Rights to interview candidates on a case-by-case basis if it finds that information provided in the curriculum vitae or by the chair of the national delegation concerned is not sufficient in order to enable it to make an enlightened choice, or if the national pre-selection procedures are considered unsatisfactory.

36. In Resolution 1808 (2011) (and reiterated in Resolution 2160 (2017)), it was proposed to make the Parliamentary Assembly responsible for the election of the members of the CPT. In said resolution, it is argued that it would vest the members of the CPT with enhanced democratic legitimacy and authority and that this way the same body would evaluate the candidates submitted by the national delegations and conduct the election. This would require amending the Convention and would have far-reaching consequences for the Assembly, which would need to be considered.

37. In Resolution 2160 (2017), the Assembly resolved to consider ways and means of improving its own selection procedure with a view to better assessing the language proficiency of the candidates, by refining its model CV for candidates and, if possible, by conducting long-distance interviews with them.

38. I do not propose reiterating these last three proposals, as I consider that they are not realistic at this stage. They would also have considerable budgetary and practical implications for the Assembly and the Committee's work. If the election of CPT members remains within the competence of the Committee of Ministers, given the likely reluctance to amend the Convention, I do not see why the Assembly should increase its investment in the selection process by interviewing candidates, at the risk that the Committee of Ministers may ultimately not follow its recommendations. Furthermore, if interviews of the candidates were to be held, a considerable amount of extra time for Sub-Committee meetings would be required every two years (for the consideration of more than 20 lists with three candidates each).

2.2.5. Special case scenarios: selection and election of CPT members in respect of non-member States of the Council of Europe and member States with no delegation in the Assembly

39. Finally, I would like to address two procedural scenarios which are neither clear nor sufficiently regulated. First, the scenario where a non-member State is a State Party to the Convention. Article 5.1 (second sub-paragraph) of the Convention provides that in such cases the Bureau of the Assembly shall invite the Parliament of the State concerned to put forward three candidates, without referring to the "national delegation" or to the Assembly's Bureau "drawing up" a list of candidates. However, if the State Party is a State whose parliament enjoys an observer or partnership for democracy status with the Assembly, the Assembly could invite the delegation concerned to submit the list and, where appropriate, participate in the meeting of the Sub-Committee, whose recommendations would also need to be endorsed by the Bureau of the Assembly. In such a case, the procedure would not differ significantly from that applicable to Council of Europe member States, save that the Committee of Ministers would need to establish an ad hoc election procedure after consulting the State concerned. If the State concerned has no co-operation status with the Assembly, the procedure could be limited to transmitting an invitation to the parliament concerned and forwarding the list submitted to the Committee of Ministers.

40. Second, as regards member States which do not have a national delegation in the Assembly for a prolonged period (due to the non-submission or non-ratification of credentials), one solution would be for the Assembly to address the invitation directly to the national parliament concerned and for the Committee/Sub-Committee/Bureau to examine the list submitted by that parliament, applying the same rules and requirements. In such a scenario, any question regarding the national selection procedure or the candidates could be discussed either with the ambassador/permanent representative to the Council of Europe or with the national parliament itself. In my view, the political decision not to submit or ratify the credentials of a national delegation should not affect the full participation of the member State concerned in the protection mechanism established by the Convention on the CPT, nor its obligation to submit a list of candidates in full compliance with the Assembly's requirements.

3. Substantive and other criteria followed for the selection and election of the members of the CPT

41. The criteria are established both in the Convention and in the Assembly's resolutions and recommendations. They must be taken into consideration first during the national selection procedures and then by the Council of Europe bodies.

3.1. Professional expertise

42. Article 4.2 of the Convention indicates that 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 experience in the areas covered by the Convention. The Explanatory Report specifies that members "do not have to be lawyers", and that it would be "desirable that the Committee should include members who have experience in matters such as prison administration and the various medical fields relevant to the treatment of persons deprived of their liberty".

43. Resolution 1323 (1997) stated that particular attention should be paid to the criteria of professional background, gender and age, in order to ensure a more balanced composition of the CPT and, in particular, a greater participation of prison specialists and forensic scientists. Resolution 1808 (2011) added that members of the CPT must have high professional qualifications and personal merits. Resolution 2160 (2017) recalled that special qualities and skills are expected of CPT members.

44. In relation to the field of expertise of the candidates, Resolution 1808 (2011) invited national delegations to make the selection procedures better suited to the needs of the CPT. To that end, the Secretary General of the Assembly, in her letters to the Chairpersons of national delegations triggering the procedure for the election of a member, includes indications from the President of the CPT specifying the professional background needed. In 2024, the President expressed a need for the following profiles: prison doctors, forensic psychiatrists, civil psychiatrists (with child/adolescence specialty if possible), and persons with experience of running prisons. At our hearing of 1 December 2025, Mr Mitchell reiterated the need for practitioners, in particular doctors (general practitioners, psychiatrists and forensic doctors), prison and police professionals with operational experience, and specialists in the care of children. There is currently a good representation of practicing lawyers, psychologists and academics (legal and criminology).

3.2. Independence and impartiality

45. Article 4.4 of the Convention determines that members must serve in their individual capacity, be independent and impartial. Recommendation 1323 (1997) specified that the Committee of Ministers should make the office of member of the Parliamentary Assembly of the Council of Europe incompatible with that of CPT member. This may be justified by the fact that the Assembly itself participates in the procedure leading to the election of CPT members, and electing a sitting member of the Assembly could be perceived as giving rise to a potential conflict of interest.[15] Resolution 1540 (2007) established that there should not be members that at central government level are in charge of the definition of national policies in the sector concerned and who could be held politically responsible for any shortcomings. Resolution 2160 (2017) further specified that a candidate holding a decision-making position which implies defining and/or implementing policies at national level or that has any other situation that may give rise to a conflict of interests should in principle not be selected. In case it is considered that a candidate might have a conflict of interest, Resolution 1808 (2011) and Resolution 2160 (2017) established that the person in question shall be required to undertake in writing that he or she will relinquish the functions that give rise to such conflict if elected.

46. The issue of potential conflicts of interest is one of the most difficult to assess, as we have seen recently within the Sub-Committee. It is often hard to draw the line as to whether a senior civil servant or public official holds a "decision-making position which implies defining and/or implementing policies at national level", or not. I believe that a flexible, case-by-case approach should be followed, since the mere fact that a candidate is a public official should not, in itself, exclude them. At the same time, the CPT is not a committee of governmental experts, but of independent experts, and although there is no reason to call into question the subjective independence and impartiality of senior public officials, appearances also matter. The CPT must appear as an independent and impartial body with no link to the governments whose national policies in matters relating to deprivation of liberty are being scrutinised. The CPT carries out an expert-based monitoring through on-site visits and a dialogue with the authorities in order to address shortcomings. While the national CPT members are generally excluded from visiting places of detention in the country in respect of which they have been elected [and even from participating in the deliberations on the draft reports on that country], they are members of a collegial body and may be perceived as having a conflict of interest if they simultaneously hold decision-making positions in specific sectors, particularly those covered by the CPT work.

15. Recently a list submitted by a national delegation included a person who, in the meantime, had been elected as an MP and appointed as a member of the Parliamentary Assembly. The candidate was ultimately withdrawn and replaced on the final list.

47. Another element which must be taken into consideration in this context is the availability of candidates. It is not only a question of appearance of independence and impartiality. It is also essential to assess whether a senior public official can devote sufficient time to CPT work, including being available at short notice and for a minimum of approximately 40 days per year.

48. During the preparation of this report, the question arose whether an MP (not necessarily a member of the Assembly) could serve simultaneously as a CPT member. In my opinion, this should clearly be avoided, not only on grounds of independence and impartiality, but also in terms of availability.

3.3. Availability

49. Article 4.4 of the Convention additionally establishes that members shall be available to serve the Committee effectively. Which is further specified in various resolutions:

– in Recommendation 1323 (1997) the Assembly called the Committee of Ministers to emphasise the criterion of availability in order to ensure the CPT's effectiveness;

– in Resolution 1540 (2007) the Assembly clarified that bearing in mind the time-consuming and physically demanding nature of the CPT's on-site visits, candidates should have sufficient time available for this work and possess the requisite physical capacity. Resolution 2160 (2017) added the requirement of a good mental condition;

– Resolution 2160 (2017) established that members should be able to dedicate at least approximately 40 days a year and be available to work at short notice.

50. At the committee hearing, Mr Mitchell stated that the fitness and overall resilience/availability of candidates should be considered during the selection process. He pointed out that missions are long and intensive, often lasting two weeks, with members possibly involved in several per year. Furthermore, the CPT meets three times per year for week-long sessions. Candidates and their employers should be informed of the need to adjust their professional schedules to accommodate the demanding requirements of CPT membership. I was made aware that CPT members may be required to take (unpaid) leave in order to fulfil their duties. This requirement should be clearly emphasised in the call for candidates.

3.4. Language skills

51. Also to serve the Committee effectively, Resolution 2160 (2017) emphasised the importance of having an excellent command of French or English, and at least passive knowledge of the other in order to make an effective contribution to CPT visits and meetings. Mr Mitchell indicated the added value of speaking other languages for gathering reliable information during visits.

3.5. Gender balance

52. With regard to gender balance, Resolution 1540 (2007) called for national selection procedures to have the public call for candidatures open equally to male and female candidates, with a preference for candidates of the under-represented sex in the CPT in the case of equal merit. It also called on the Sub-Committee on Human Rights to reject lists of candidates which do not include at least one man and one woman, except when all candidates on the list are of the sex under-represented in the CPT (less than 40%). In this context, I refer to my proposal in paragraph 30 above regarding when and how a single-sex list of candidates of the sex which is not under-represented could be accepted by the Assembly. The CPT was for many years male-dominated,[16] but the situation has considerably changed. As of July 2026, women represent around 58% of members (25 out of 43 elected members). This should be welcomed by the Assembly.

3.6. Nationality

53. In relation to the nationality of the candidates, Article 5.1 of the Convention establishes that among the three candidatures submitted by national delegations, at least two shall be their nationals. Article 4.3 clarifies that there cannot be two nationals of the same State in the CPT. Resolution 1540 (2007) specified that in the case of dual nationality of a candidate, effective nationality for the purpose of the Convention shall be that of the country in which the candidate exercises his or her political rights. These rules on nationality have led the Assembly to declare lists including nationals from other member States inadmissible, unless these persons are dual nationals and can be considered "effective nationals" of the State presenting the list. This has caused

16. For instance, in 2007 women were less than one third of the CPT members.

particular problems for small-sized countries wishing to put forward candidates with the nationality of a neighbouring country or another member State. The Assembly has already (Resolution 1540 (2007)) proposed to the Committee of Ministers to consider taking a decision to cease applying Article 4.3 of the Convention, which it has described as "outdated". I cannot but reiterate this proposal. As Mr Mitchell stated at the committee hearing, the CPT would benefit from having a similar rule to that introduced for the ECHR whereby countries can put forward candidates from other Council of Europe member States even if this results in having two members with the same nationality. In the meantime, I propose that the draft resolution explicitly reiterate the well-established practice whereby dual nationals holding the nationality of the State presenting the list and that of another member State may stand as candidates and be elected to the CPT. This is consistent with the evolution observed in recent years, with an increasing number of persons holding dual nationality in member States and changes in national legislations in this respect.

4. Conclusions and concrete proposals

54. The importance of maintaining the highest quality of members selected and elected to the European Committee for the Prevention of Torture is central to the authority and legitimacy of the CPT. The national selection procedures as well as the procedure within the Council of Europe, have improved over the years. Nonetheless, the time has come to review, refine and codify certain aspects of the practice and/or the rules.

55. Concerns persist that national selection procedures are not sufficiently harmonised or transparent. While some member States follow good practices, such as public calls, independent panels, consultation with different bodies, structured language assessments, and involvement of the national delegation to the Parliamentary Assembly, others provide only minimal information. The uneven implementation of Resolution 2160 (2017), particularly as regards the obligation to report to the Assembly on procedures and the composition of national selection bodies, needs to be addressed. Consistency and fairness across member States must be maintained. The Assembly should codify examples of good practice from recent national selection procedures to help States improve the fairness and transparency of their own procedures, while acknowledging a certain latitude and without imposing a uniform procedure for all countries.

56. The Committee of Ministers should reconsider the application of Article 4.3 of the Convention, which prevents the nomination of candidates who are not nationals of the State concerned and who are nationals of another member State. This provision causes difficulties for small-sized countries wishing to put forward candidates from a neighbouring country or another member State.

57. The Assembly should also establish that single-sex lists can be accepted when the candidates belong to the sex that is not under-represented (currently, neither sex is under-represented in the CPT) if there are "exceptional circumstances", such as when a State has taken all the necessary steps to ensure that the list contains candidates of both sexes. However, this should remain the exception and the general rule should still be that lists must include at least one man and one woman, except when all candidates are of the sex under-represented on the CPT.

58. I also propose that the draft resolution and the draft recommendation should codify or clarify additional aspects of the selection and election procedure for CPT members which need to be more clearly regulated for all stakeholders, with a view to streamlining the procedure at all stages. These include the following:

– codifying when a list of candidates can be withdrawn by the national delegation, at what procedural stage, and under what conditions;

– establishing the procedure to be followed for States Parties to the Convention that are not member States of the Council of Europe, and the role of the Assembly in this process (on the basis of Article 5.1 of the Convention)

– establishing the procedure to be followed for member States that do not have a national delegation in the Assembly for a prolonged period, when the term of office of the sitting CPT member comes to an end;

– changing the current practice and examining lists of candidates on the basis of written files submitted by national delegations (CVs and letter describing the national procedure), inviting national delegations to present them orally only when there is a genuine issue to be discussed (on procedural or substantive grounds);

– clarifying substantive selection criteria and incompatibilities and potential conflicts of interest of candidates;

– calling on the Committee of Ministers to follow systematically the order of preference recommended by the Assembly and to avoid departing from it; in this regard, the Assembly should also strengthen its explanations on the recommended order of preference, particularly when one or two candidates are considered to be substantially more qualified than the third.

Appendix 1 – National selection procedures

Link to the table: National selection procedures

Appendix 2 – CPT composition

Link to the table: CPT composition