

ONLINE CONFERENCE

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# Enforcing Rights and Accessing Justice from Pre-Trial Detention: European Perspectives

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**Effective Complaint Procedures and  
Inspection Bodies in Prisons: The Approach  
of the European Committee for the  
Prevention of Torture**

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# I. CORE PROPOSITION

- **Complaint mechanisms** and **inspection mechanisms** form a **single preventive architecture**
- **Complaints** reveal individual and systemic failures; **inspections** test whether those failures are being prevented, investigated and remedied
- Neither mechanism is effective without **confidentiality**, **protection from reprisals**, **follow-up** and **institutional independence**

## II. COMPLAINTS





# COMPLAINING IS A PROTECTED RIGHT, NOT A PRIVILEGE

- Every prisoner must be able to complain as of right and at any time
- The mechanism must be genuinely available in practice

*Denmark, 2002: 63; Georgia, 2014: 126;*

*"The former Yugoslav Republic of Macedonia", 2006: 103*





## ACCESSIBILITY REQUIRES INFORMATION AND PRACTICAL CHANNELS

- Prisoners must receive **clear information**, in a language they understand, about internal and external complaint bodies, the procedure for submitting a complaint and the safeguards surrounding it
- Access must be **practical**: sealed envelopes; locked complaint boxes in accommodation units, opened only by specially designated persons



## ACCESSIBILITY REQUIRES INFORMATION AND PRACTICAL CHANNELS

- Confidential routes to prison management, lawyers, ombudspersons, national preventive mechanisms and international human rights bodies
- No CCTV
- Not near the administration buildings or security posts

*Estonia, 2012: 102; Georgia, 2001: 142; Georgia, 2014: 126; Moldova, 2011: 49-51; Austria, 2004: 106; Ukraine, 2009: 155; "The former Yugoslav Republic of Macedonia", 2006: 103*



# CONFIDENTIALITY MUST COVER THE ENTIRE COMMUNICATION CHAIN

- **Confidentiality** is not satisfied merely by allowing a prisoner to write a complaint
- Submission, transmission, receipt, examination and all subsequent correspondence must remain protected
- Prison staff must not open, read, delay or require the open submission of correspondence addressed to competent national or international bodies

*Austria, 2004: 106; Ukraine, 2009: 155;  
Hungary, 2025: 29-30; Georgia, 2014: 125*





# PROTECTION FROM REPRISALS IS AN ABSOLUTE OPERATIONAL REQUIREMENT

- **No prisoner** may be threatened, assaulted, punished, disciplined, pressured to withdraw a complaint or warned of adverse 'consequences'
- Protection must extend to retaliation by prison staff and by **informal prisoner hierarchies**
- Credible **allegations of retaliation** must be investigated and sanctioned, and staff must receive an unequivocal message that obstruction or intimidation will not be tolerated

*Czech Republic, 2010: 83-84; Georgia, 2014: 125; Hungary, 2025: 29-30; Spain, September 2007: 110; Romania, 2018: 58; Moldova, 2011: 49-51; Hungary, 2013: 117*



# EVERY COMPLAINT MUST ENTER A RELIABLE RECORD

- Every complaint must be acknowledged, correctly classified and registered
- Confidential procedures must also produce a complete written record of the outcome
- Registers for complaints, requests and appeals must be clearly organised so that submissions are correctly classified and traceable

*Denmark, 2002: 63; Czech Republic, 2010: 83-84; Spain, 2011: 97; Georgia, 2014: 126; Austria, 2004: 106; Spain, September 2007: 116; United Kingdom, 2012: 85*



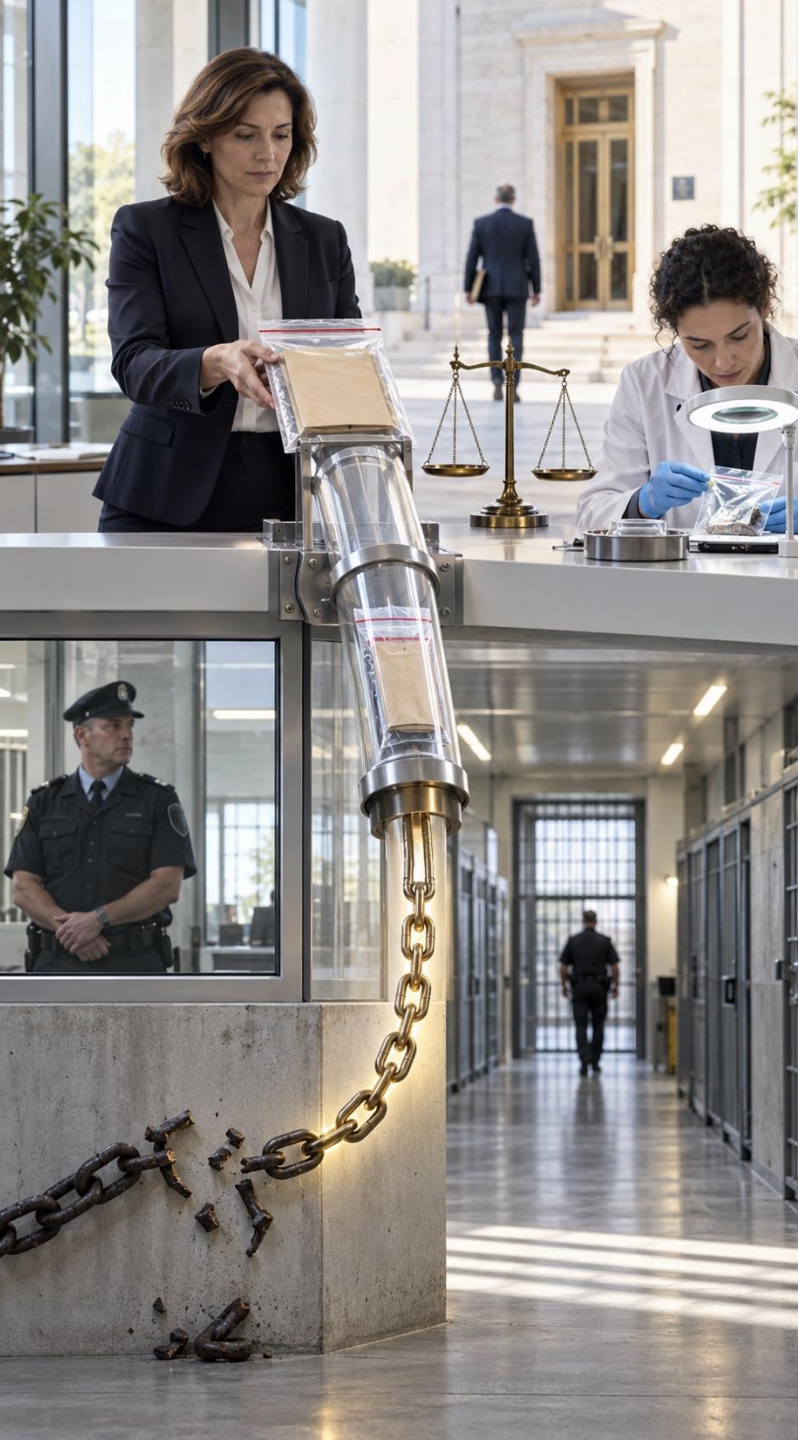


# EXAMINATION MUST BE PROMPT, THOROUGH AND REASONED

- Complaints must be examined seriously and promptly, within clear or reasonable time limits
- The prisoner must receive a reasoned written response, whether the outcome is positive or negative, together with confirmation that the complaint was received
- Silence and unexplained delay deprive the procedure of effectiveness and destroy confidence in it

*Denmark, 2002: 63; Czech Republic, 2010: 83-84; Spain, 2011: 97; Georgia, 2014: 126; Austria, 2004: 106; Spain, September 2007: 116; "The former Yugoslav Republic of Macedonia", 2006: 103*





# SERIOUS ALLEGATIONS REQUIRE AN INDEPENDENT INVESTIGATION

- Impunity undermines the prohibition of torture
- Any suspicion of **ill-treatment** must be reported to the prosecutor or the police
- Allegations must be referred without delay to an authority independent of the establishment concerned and preferably independent of the prison system as a whole
- Ill-treatment by prison staff is a **criminal offence** and must be punished



# SERIOUS ALLEGATIONS REQUIRE AN INDEPENDENT INVESTIGATION

- Staff implicated in a formal investigation should be **temporarily reassigned** to duties involving no direct contact with prisoners
- Thorough medical examinations of prisoners involved in violent incidents or uses of force are essential safeguards against ill-treatment and impunity
- Senior prison managers must be held accountable for preventing and immediately addressing any ill-treatment by staff

*Latvia, 2009: 8; Estonia, 2012: 47; "The former Yugoslav Republic of Macedonia", 2010: 34; Romania, 2014: 52; Romania, 2018: 58*

# COMPLAINTS MUST GENERATE INSTITUTIONAL LEARNING

- Complaint data must be systematically analysed to identify recurring problems and broader areas of prisoner discontent
- An **unusually low number of complaints** may indicate fear or distrust rather than good conditions
- **Conversely, self-harm, hunger strikes and other extreme forms of protest** may signal that ordinary complaint channels are inaccessible or ineffective

*Denmark, 2002: 63; Czech Republic, 2010: 83-84;*

*Georgia, 2014: 126; Georgia, 2001: 142*



## II. PRINCIPLES GOVERNING PENITENTIARY INSPECTIONS



**COMPLAINTS MUST GENERATE  
INSTITUTIONAL LEARNING**

**INSPECTION MUST SCRUTINISE COERCION,  
DISCIPLINE AND ACCOUNTABILITY**



# COMPLAINTS MUST GENERATE INSTITUTIONAL LEARNING

- All prisons and detention areas must be subject to regular scrutiny by bodies independent of the establishments inspected
- Prosecutorial or judicial supervision should be supplemented by independent external monitoring, including ombudspersons, NPMs and civil society bodies
- Monitoring bodies must be empowered not only to visit detention areas but also to receive complaints and take appropriate action upon them

*Andorra, 1998: 52; Spain, September 2007: 117; Georgia, 2014: 125; Moldova, 2011: 49-51; Ukraine, 2009: 156-157*





# COMPLAINTS MUST GENERATE INSTITUTIONAL LEARNING

- An inspection must **not** stop at files and registers, or at prisoners who are **willing to talk**
- Inspectors must enter detention areas, observe actual practice, conduct spot checks, speak directly with prisoners and staff
- Contact with prisoners must be proactive

*Andorra, 1998: 52; Spain, September 2007: 117; Italy, 2008: 118*



# COMPLAINTS MUST GENERATE INSTITUTIONAL LEARNING

- Interviews with prisoners must normally take place out of the hearing and presence of prison staff
- Supervising prosecutors, judges and independent monitors must use their power to conduct private interviews regularly
- Confidential contact is essential both to the reliability of inspection findings and to protection against intimidation or reprisals

*Slovak Republic, 2013: 115; Romania, 2014: 52; Moldova, 2011: 49-51; Ukraine, 2009: 156-157; Hungary, 2013: 117*



# INSPECTION MUST SCRUTINISE COERCION, DISCIPLINE AND ACCOUNTABILITY

- Oversight bodies must closely examine every use of force and determine whether it was strictly necessary and never punitive
- Force must cease once a prisoner is under control, and relevant staff must receive proper control-and-restraint training
- Oversight must also cover restraints, disciplinary measures, indications of unofficial punishment and CCTV coverage of vulnerable areas



# INSPECTION MUST SCRUTINISE COERCION, DISCIPLINE AND ACCOUNTABILITY

- Prisons should maintain a special **use-of-force register**, and formal disciplinary procedures must contain clear rules and safeguards
- Judges must refer all allegations of ill-treatment by prison staff for impartial investigation; specific credible allegations must be investigated promptly
- Prison management and staff must cooperate fully with prosecuting and monitoring bodies, and staff responsible for obstruction, intimidation or retaliation must be punished

***Bulgaria, 2010: 59; Spain, September 2007: 117; Romania, 2014: 52; Romania, 2018: 58; Hungary, 2025: 30; Hungary, 2013: 117***

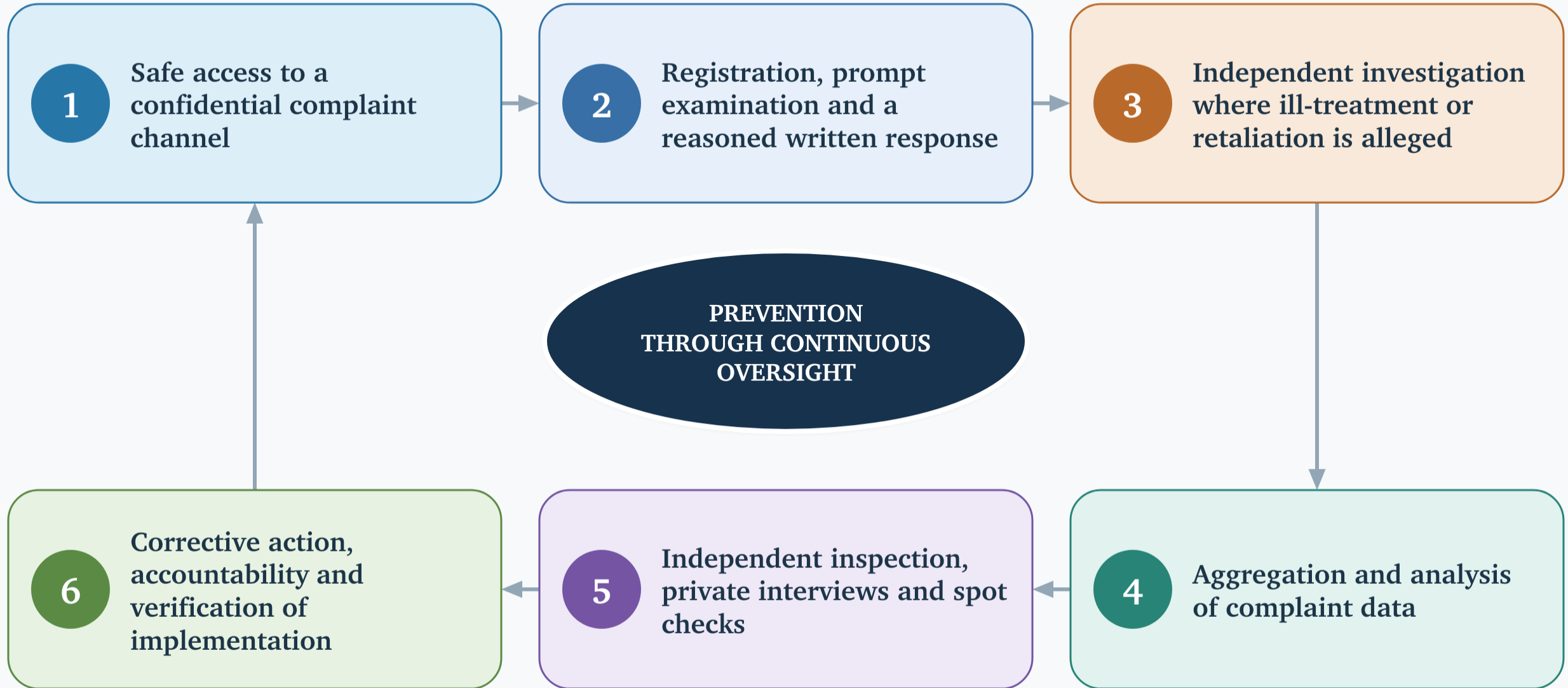


### III. THE INTEGRATED MODEL

- **The two systems are mutually reinforcing**
- A **complaint mechanism** provides a protected route from individual experience to institutional attention
- **Independent inspection** tests whether that route is safe and effective, receives and acts upon complaints, verifies conditions and practices that prisoners may be afraid to report, and follows recurring complaints to their systemic causes

*Effective prevention therefore requires a continuous cycle*

*Effective prevention therefore requires a continuous cycle*



# IV. REFERENCES

- Denmark, 2002: 63
- Spain, 2011: 97
- Georgia, 2014: 126
- Hungary, 2025: 30
- Romania, 2018: 58
- Hungary, 2025: 29-30
- Spain, September 2007: 116
- Estonia, 2012: 102
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# THANK YOU FOR YOUR ATTENTION

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