6 November 2012

Original: English

Open-ended intergovernmental expert group on the Standard Minimum Rules for the Treatment of Prisoners
Buenos Aires, Argentina, 11-13 December 2012

Working paper prepared by the Secretariat

1. Background

The General Assembly, in operative paragraph 10 of its resolution 65/230 of 21 December 2010, entitled "Twelfth United Nations Congress on Crime Prevention and Criminal Justice", requested the Commission on Crime Prevention and Criminal Justice to establish an open-ended intergovernmental expert group ("the Expert Group") to exchange information on best practices, as well as national legislation and existing international law, and on the revision of the existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on possible next steps.

The first meeting of the Expert Group was held in Vienna from 31 January to 2 February 2012 (see documentation: UNODC/CCPCJ/EG.6/2012/1, E/CN.15/2012/CRP.1 and E/CN.15/2012/CRP.2). The Secretariat reported on the work of the Expert Group to the twenty-first session of the Commission on Crime Prevention and Criminal Justice (E/CN.15/2012/18), which approved a resolution for adoption by the General Assembly (Economic and Social Council resolution E/RES/2012/13 of 26 July 2012). Operative paragraph 8 of this resolution authorized the Expert Group to continue its work, within its mandate, with a view to reporting on its progress to the Commission on Crime Prevention and Criminal Justice at its twenty-second session in 2013.

At the invitation of the Government of Argentina, the second meeting of the Expert Group will be held in Buenos Aires, Argentina, from 11 to 13 December 2012. At this meeting, the Expert Group will consider the following preliminary areas identified at its first meeting for possible consideration:

(a) Respect for prisoners' inherent dignity and value as human beings;

(b) Medical and health services;

V.12-57278 (E)

(c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet;

(d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners;

(e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances;

(f) The right of access to legal representation;

(g) Complaints and independent inspection;

(h) The replacement of outdated terminology; and

(i) Training of relevant staff to implement the Standard Minimum Rules.

2. Preparatory work for the intergovernmental expert group meeting: replies from Member States

The Secretariat has received a number of responses to its request for information on the issues raised in General Assembly resolution 65/230, and Economic and Social Council resolution 2012/13, all of which are posted on the UNODC official website.

In order to assist as far as possible, the work of the Expert Meeting, and in preparing the working paper for the Meeting, the Secretariat has looked at the preliminary areas for possible consideration identified by the Commission, listed in ECOSOC resolution 2012/13 (operative paragraph 6, (a) to (i)) and examined in detail, for relevance and comparison, a comprehensive variety of international conventions, declarations, covenants, protocols and pacts; internationally recognized standards, principles, guidelines, measures, rules and codes of conduct and of ethics; resolutions and decisions of international bodies; specialized reports, comments and observations, conclusions and recommendations; international statements; and a variety of toolkits, handbooks and manuals; a full list of which is contained in the reference list annexed to the working paper.

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(a) Respect for prisoners' inherent dignity and value as human beings	– Rule 6(1)
Background information based on international standards and norms	**Proposals for discussion among Member States**
Rule 6(1) is a component of Part I of the SMR – *Rules of General Application*. Several international standards and norms as well as other international declarations relevant to the management of prisons and the treatment of prisoners include a broader elaboration of both (i) the grounds on which discrimination should be prohibited; and (ii) the basic principles guiding the interpretation of the respective text as a whole. ➢ **Non-discrimination** In its current form, Rule 6(1) of the SMRs addresses the issue of non-discrimination and impartial application of the Rules. Subsequently adopted international standards and norms as well as other references may provide guidance on additional areas which should be protected from discrimination (CoESCRb, RPJDL, PPPDI, PBPA*, PCLA*, YP*). In this regard, it is important to recognize that the principle underlying Rule 6(1) means that no prisoner should be treated in a disadvantageous manner in respect of any of the listed criteria. This does not imply, however, that there is a prohibition against different treatment of prisoners for specific reasons and in line with their special needs. ➲ For more information on vulnerable groups in prison settings, please refer to area (e) *Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances* ➢ **Principles of general application** Part I and Rule 6 of the SMRs do not list core principles which would provide overall guidance to prison administrations in interpreting the rules as a whole. Most importantly, and as opposed to the International Covenant on Civil and Political Rights (CCPR-10/1; see also BPTP-1, PPPDI-1/6), no reference is made to treating prisoners with respect for the inherent dignity and value as human beings and, as a closely associated result, an absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment (CAT-2, CCPR-7, CRC-37a, CRPD-15,	⇨ *In Rule 6(1), Member States may wish to consider extending the grounds on which discrimination should be prohibited, such as*: • age; (POP-14,18, CoESCRb-29, RPJDL-4, PBPA-II*, PCLA*-1/1) • ethnic origin; (RPJDL-4, PPPDI-5/1, POP-18, PBPA-II*) • cultural beliefs and practices; (RPJDL-4) • disability; (CRPD-4(1e)/5, CoESCRb-28, RPJDL-4, POP-18, PBPA-II*, PCLA*-1/1) • gender identity and sexual orientation. (RHCHR-II.B.4, VII-84e, CoESCRb-32, PBPA-II*, PCLA*-1/2, YP*) ⇨ *Member States may wish to consider re-allocating existing SMR provisions to become principles of general application in an amended Rule 6 (Basic principles)*: • Rule 57: prison systems to avoid aggravation of suffering inherent to imprisonment

CPMW-10, PPPDI-6, DPAPT-6, PBPA*-I, ACHR-5/2*, ACHPR-5*, ECHR-3*). Other important principles related to the spirit in which penal institutions should be administered and the purposes at which they should aim currently appear in Part II of the SMR – *Rules Applicable to Special Categories* – A. Prisoners under Sentence/Guiding Principles (56-64) and Treatment (65-66). Notwithstanding preliminary observation 4(2) of the SMRs, and without prejudice to the different legal status of pretrial detainees compared to sentenced prisoners, it would seem appropriate to apply these principles more prominently to all imprisoned or detained persons. This would also reflect the fact that in many parts of the world, a great proportion of prisoner are awaiting trial, sometimes for several years (KD). On a regional basis, the European Prison Rules provide that in dealing with untried prisoners, prison authorities shall be guided by the rules that apply to all prisoners, while adhering to additional safeguards and privileges reserved for untried prisoners (EPR-95/3*).	• Rule 58/59: ultimate purpose of imprisonment and linkage to rehabilitation and social reintegration of offenders (CCPR-10(3), HRCoPDL-10, EPR-6*, PBPA-Preamble*) • Rules 60(1): minimization of differences between prison life and life in the community ⇧ *Member States may wish to consider adding further overall principles of general application to an amended Rule 6 (Basic principles), which are recognized in other international standards and norms:* • treatment of prisoners with respect for the inherent dignity and value of the human person (CCPR-10(1), HRCoPDL-3, BPTP-1, PPPDI-1, PBPA*-I, EPR-1*); • absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment (CAT-2, CCPR-7, CRC-37a, CRPD-15, CPMW-10, PPPDI-6, DPAPT-6, PBPA*-I, ACHR-5/2*, ACHPR-5*, ECHR-3*); • retention of prisoners' human rights and fundamental freedoms except for those limitations demonstrably necessitated by fact of incarceration (BPTP-5, PPPDI-3, KD-2, HRCoPDL-3, PBPA-VIII*, EPR-2*); • condition of imprisonment and treatment of prisoners to ensure the personal safety of prisoners (CCPR-9(1), UDHL-3, EPR-52/2*, PCLA-21*); • allocation of prisoners to prisons close to their homes or places of social rehabilitation to the extent possible (PPPDI-20, BR-4, EPR-17/1*); • prison conditions which contravene the treatment of prisoners with humanity and respect for their dignity cannot be justified by a lack of resources (HRCoPDL-4), states of emergency or other exceptional situations (PBPA-I*, EPR-4*, PCLA-1/4*).

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(b) Medical and Health Services	– Rules 22-26, Rule 52, Rule 62, Rule 71(2)
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Equivalence of care** Everyone, including prisoners, has the right to the highest attainable standard of physical and mental health (CESCR-12). In its General Comment No. 14 on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights held that the obligation of States Parties to respect the right to health implies to refrain from "denying or limiting equal access for all persons, including prisoners or detainees (…) to preventive, curative and palliative health services …" (CoESCRa-34). Prisoners therefore enjoy the same health-care rights as all other people, and should have access to the health services available in the country without discrimination on the grounds of their legal situation (BPTP-9, PMEHP-1, BR-10, WHO–HIV-1, CoEHC*–10-12, EPR-40/3*, ECoPT*-III.b, WMA–DL-1*). All norms, standards, guidelines and monitoring systems used in the community apply also to health facilities, staffing, diagnosis, and therapeutic guidelines in prisons. As opposed to other international standards and norms, this principle of equivalence of health care is not explicitly anchored in the SMRs. The same applies for the principle that medical treatment and care in prisons should be provided free of charge (PPPDI-24). Besides the fact that in general terms, the health profile of many people in prison is poor, there are often specific problems relating to mental illness, drug or alcohol problems, HIV or AIDS, hepatitis and tuberculosis. Various studies estimate that the percentage of individuals reporting problematic substance misuse as well as the prevalence of infectious diseases, such as HIV, TB and hepatitis are comparatively higher in prison than in the community. Whereas subsequent international standards and norms address HIV prevention, treatment, care and support as well as substance abuse treatment programmes in prison settings (RPJDL-54, BR-8d/e; see also WHO–HIV-3, HIV/HR-4/21e, WMA–DE-3*), the SMRs are silent on these issues.	⇨ *In Rule 22, Member States may wish to consider adding reference to the principle of equivalence of health care, which is recognized in other international and regional standards and norms* (CESCR-12/1, BPTP-9, PMEHP-1, BR-10, WHO–HIV-1, ODC-HIVa, WMA–DL-1*, CoEHC*–10-12, EPR-40/3*). ⇨ *In Rule 22, Member States may further wish to consider clarifying that in line with international standards and norms, health-care services in prison settings are to be provided free of charge* (PPPDI-24; see also PCLA*-13/1). ⇨ *In Rule 22, Member States may further wish to consider referring to the need of having in place evidence-based HIV prevention, treatment, care and support services as well as to substance abuse treatment programmes in prison settings which are complementary to and compatible with those in the community* (RPJDL-54, BR-8d/e, WHO–HIV-3, ODC–HIVa, ODC–HIVb, HIV/HR-4/21e, CoETD-1*, WMA–DE-3*).

➢ **The inter-linkage between prison health and public health** Neglecting the above health issues may result in the transfer of prison health problems, including blood and airborne viruses into the wider community, just as community health problems can enter prisons. In this context, it has been acknowledged that the lack of adequate health-care services in prisons not only significantly hinders the social reintegration of prisoners, but also risks leading to the spread of transmissible and life-threatening diseases in prisons and the community (E/2004/35). Another challenge relates to ensuring continuity of care for each prisoner, including with respect to medication, upon admission to prison, upon transfer to another facility, and/or upon release. It has been recognized that the isolation of health services from the general health services in the community constitutes an obstacle to an equivalence of care, to continuity of care, and to the independence of health-care personnel in prison settings. Rule 22(1) of the SMRs partially acknowledges this recognition by pointing to the need to organize medical services in prisons in close relationship to the general health administration of the community or nation. Various regional instruments have interpreted this principle to include that health policies in prisons should be integrated into, or at least be compatible with, national health policy (PBPA-X*, EPR-40/2*; see also WHO-PH, PCLA-13/1*, CoEHC-I.B.10*).	⇨ *In Rule 22(1), Member States may further wish to consider adding a sentence to the effect that health policy in prisons should be integrated into, and compatible with, national health policy* (WHO-PH, PBPA-X*, EPR-40/2*, PCLA-13/1*, CoEHC-I.B.10*).
➢ **Medical ethics in prison settings** *Fundamental principles*: The relationship between physicians and prisoners is governed by the same ethical principles as those between the physician and any other patient. Accordingly, the primary duty of medical and health-care staff in prisons is to treat prisoners as patients, to base health-care decisions on clinical grounds, and to act in line with the normal principles of their profession. These include, among other matters, the obligation to observe confidentiality of medical information, the autonomy of patients with respect to their own health, and informed consent in the doctor-patient relationship (PMEHP-1/3, CoESCRa-8, BR-8, SRH-III, WHO-HIV-10/31, IP–63-65*, ECoPT-III.c*). Any exceptions to these principles shall be determined by law or by the regulation of the competent administrative authority. The World Medical Association, for example, considers it ethical for physicians to disclose confidential information without the patient's consent "… when there is a real and imminent threat of harm to the patient or to others and this threat can be only removed by a breach of confidentiality" (WMA-ME*). The Office of the High Commissioner for	⇨ *In Rule 25(1), Member States may wish to consider elaborating on the primary duties and obligations of health-care staff in prison settings, in particular to act in line with medical ethics as reflected in the following internationally recognized core principles*: • to provide patients, in a professionally independent manner, with protection of their physical and mental health, and to not be involved in any relationship with prisoners the purpose of which is not solely to evaluate, protect or improve their health (PMEHP-1/3, ICN-PS*, CPMS-OA*, CoEHC-19/23*, ECoPT-III.f*, WMA–RT-5*); • to respect the principle of informed consent in the doctor-patient relationship and the autonomy of patients with regards to their own health, including in the case of HIV testing, the screening of a prisoner's reproductive health history, etc. (CoESCRa-8, BR-8, SRH-III, WHO–HIV-10*, WPA–DH-5/6*, WMA–DL-3*, WMA–DT-6*, WMA–DM-2*, ICN-PS*, CoEHC–14-17/32*, ECoPT-III.c.i*, PBPA-X*, PCLA-13/1*);

Human Rights adds situations where failure to do so is likely to result in a "serious perversion of justice" (IP-65). Finally, health personnel should not have any involvement in the management of prisoners or in security matters, except insofar as they concern the health needs of prisoners (PMEHP-3).	• to respect the confidentiality of medical information, unless doing so would result in a real and imminent threat of harm to the patient or to others (BR-8, WHO–HIV-31*, WMA–DL-8*, WPA–DH-8*, CPMS–OA-4*, CoEHC–13/18*; PBPA-X*, EPR-42/3a*, ECoPT-III.c.ii*, WMA-ME*, PCLA-13/1*,);
Torture and other ill-treatment: As regards the specific issue of torture and other cruel, inhuman or degrading treatment of punishment, the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1982) provide that "it is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment of punishment" (PMEPH-2). Various declarations and position statements of the World Medical Association and the International Council of Prison Medical Services also prohibit physicians from "… countenancing, condoning or participating in the practice of torture or other forms of cruel, inhuman or degrading procedures for any reasons" (WMA–DT-1*; see also WMA–DHb-1*, CPMS–OA-2*).	• to abstain, under all circumstances, from engaging, actively or passively, in acts which may constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment of punishment (PMEPH-2, WMA–DH-1*, WMA–DT-1*, CPMS–OA-2*).
Rule 24 of the SMRs requires the medical officer to see and examine all prisoners as soon as possible after their admission in order to document their condition upon arrival, and thereafter as necessary (see also PPPDI-24). In this regard, prison health services have a vital role in the documentation and denunciation of torture or other ill-treatment, as health-care personnel are likely to have prisoners with physical injuries and/or psychological or psychiatric disturbances referred to them. Such injuries may have resulted from the actions of other prisoners or prison staff, or have been sustained before the prisoner arrived at the prison, e.g. whilst in police custody. It is important for physicians and nurses to duly record such injuries and, in principle, to pass information to the relevant authorities when there is cause for concern. In this regard, the World Medical Association noted that doing so would contribute to the protection of the physical and mental integrity of victims, whereas "… the absence of documenting and denouncing acts of torture may be considered a form of tolerance thereof and of non-assistance to victims" (WMA–DH-Preamble1/4*). As such, it supports national ethical rules and legislative provisions which affirm an ethical obligation of physicians to report or	⇨ *In Rule 24, Member States may wish to consider adding a second paragraph which would confirm the ethical obligation of physicians and nurses in prisons to record all signs of torture and other cruel, inhuman or degrading treatment of which they may become aware in the context of medical examinations upon admission, or when providing medical care to prisoners any time thereafter, using the necessary procedural safeguards, and to report such cases to the competent medical, administrative or judicial authority* (WMA–RT-1, 9/1*; ICN-PS*): • after having obtained the explicit consent of the patient concerned (IP-72*, WMA–RT-8,9/2*, CoEHC*-30/31); • in exceptional circumstances, without the explicit consent of the patient concerned in case he or she is unable to express himself or herself freely, and without putting the life and safety of the patient and/or associated persons at risk (WMA–RT-9/2,3*; IP-69/72*; CoEHC*-32).

denounce acts of torture or other ill-treatment (WMA–RT-9/1*; see also ICN-PS*). A dilemma stemming from dual obligation may arise, however, in case patients refuse to give consent to being examined for such purposes or to having the information gained from examinations disclosed to others, e.g. due to a perceived risk of reprisals for themselves or their families. In such a scenario, the physician has a dual obligation to society at large, which has an interest in ensuring that perpetrators of abuse are brought to justice, and his or her duty to respect the confidentiality of medical information unless the patient agrees to do otherwise. In such situations, doctors must bear in mind the best interests of the patient and the overall fundamental principle of avoiding harm to the prisoner or associated others. As a general rule, health-care professionals should seek solutions that promote justice without breaking the individual's right to confidentiality (IP-69*; CoEHC*-30/31). At the same time, a physician also needs to take into consideration that prisoners, in particular, are often unable to effectively denounce evident maltreatment. Therefore, and while cautioning physicians "… to avoid putting individuals in danger by reporting on a named basis a victim who is deprived of freedom", the World Medical Association supports "ethical and legislative exceptions to professional confidentiality that allows the physician to report abuses … in certain circumstances where the victim is unable to express him/herself freely, without explicit consent" (WMA–RT-9/2,3*; see also IS-69/72*, CoEHC*-32).	
Medical research: In its Declaration of Helsinki regarding ethical principles for medical research involving human subjects, the World Medical Association emphasizes that all medical research is subject to ethical standards that promote respect for all human subjects and protect their health and rights (WMA–DH-9/11*). As in all health-care matters, the participation by competent individuals as subjects in medical research must be voluntary and based on informed consent (WMA–DH-22*). Further, the Declaration of Helsinki provides that "Medical research involving a disadvantaged or vulnerable population or community is only justified if the research is responsive to the health needs and priorities of this population or community and if there is a reasonable likelihood that his population or community stands to benefit from the results of the research" (WMA–DH-17*). In the case of medical research with prisoners, it is internationally acknowledged that a very cautious approach must be followed in order to	⇨ *Member States may wish to consider adding a new Rule 26bis. to the SMRs which would*: • allow for the participation of prisoners in clinical trials and other health research only in case it is expected to produce a direct and significant benefit to their health, includes a requirement for procedural safeguards to ensure free and informed consent, and is complemented by external review (CoEMR-7*, PCLA-18/1*; WMA–DH-17*; ECPT-48*); • prohibit a detained or imprisoned person, even with his or her consent, from being subjected to any form of medical or scientific experimentation which may be detrimental to his or her health (BPPPI-22, HRCoT-7, PCLA-18/2*, PGLAA-M.7f*).

account for the risk that the consent of prisoners to participate may be influenced by their penal situation. Therefore, strict safeguards should exist to ensure that any prisoner concerned has given his or her free and informed consent, e.g. complemented by the obligatory involvement of a board of ethics (ECoPT-48*) or court approval (PCLA-18/1*). The Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (1988) provide that "No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health" (BPPPI-22; see also PCLA-18/2*). On a regional level, the Council of Europe's Principles concerning Medical Research on Human Beings (1990) prohibit persons deprived of liberty from undergoing medical research unless it is expected to produce a direct and significant benefit to their health (CoEMR-7*). Further, the European Committee on the Prevention of Torture indicated a preference for research concerning custodial pathology or epidemiology or other aspects specific to the conditions of prisoners (ECPT-48*).	
➢ **Confidentiality of medical files**	
Medical information relating to the prisoner should be kept separately from the general file and stored in a separate location, such as the health centre. Medical personnel should hold exclusive responsibility for the organization and maintenance of accurate, up-to-date and confidential medical files on all patients, including a respective register. All patients should have access to their file any time, and receive copies of parts or all of the record upon request (WMA–DL-7*). To ensure continuity of care, a copy of the file should further accompany the patient upon transfer and/or release (CoEHC-18*). Although as a rule, medical files should not be made available to non-medical staff, the medical officer may provide information to prison managers or judicial authorities which will assist in the treatment and care of the patient after obtaining the consent of the patient (WHO–HIV-31). Sharing medical information without the consent of the patient should be governed by standards of medical ethics as outlined above.	⇨ *In Rule 22, Member States may wish to consider adding the need to prepare and maintain accurate, up-to-date and confidential medical files of all prisoners, and under the exclusive responsibility of the health centre/health-care personnel* (WHO–HIV-31*, WMA–DL-8*).
➢ **Gender-specific health care**	
The distinct health-care needs and requirements of women prisoners, including children of women in prisons, have been acknowledged in the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (2011). More specifically, gender-specific health-care services at least equivalent to those available in	⇨ *In Rule 23(1), Member States may wish to consider clarifying that beyond pre- and post-natal care, a broad range of gender-specific health-care services should be available to women prisoners* (BR–10-18, CoEHC-8*, PBPA-X*).

	⇨ *In Rule 23(2), Member States may wish to consider including some text which provides for the need to provide ongoing health-care services to children living with their mothers in prison* (CRC-24, BR-51/1, PBPA-X*).
the community shall be provided to women prisoners, including trauma-informed mental health-care programmes, HIV prevention, treatment, care and support, substance abuse treatment programmes, suicide and self-harm prevention, as well as other preventive health-care services (BR–10-18). Children living with their mothers in prisons shall be provided with ongoing health-care services, including monitoring of their development by specialists, in collaboration with community health services (BR-51/1).	

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet	– Rules 27-32
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **<u>Disciplinary action and punishment</u>** Member States have to ensure that prisons are secure, safe and well-ordered but are not run in an oppressive or brutal manner. It is the duty of the prison authorities to implement the sentence of the court, not to impose additional punishment. The term "firmness" in Rule 27 of the SMRs is not to be confused with harshness, but should be understood to mean consistency and fairness in all measures that aim to establish good order and in all disciplinary procedures. On the same basis, firmness should never be understood to imply the use of unnecessary force, the strict limitations of which are explained in Rule 54 of the SMRs. (CCPR-10, RPJDL-66, PCLA-19/24*)	
The SMRs do not provide detailed guidance on how discipline and order should be maintained on a daily basis. There is no reference, for example, to measures that comprise elements of procedural security, and in particular rules governing searches. In order to prevent arbitrariness in decisions to carry out searches, several international and regional standards require that: (i) the principles and procedures that should apply to all types of searches in prisons be defined by national law (PBPA-XXI*, EPR-54/2*); (ii) searches be conducted in a way that respects the dignity of the person being searched, and by qualified personnel of the same sex (HRCoP-8, BR-19, PBPA-XXI*, EPR-54/3*).	⇨ *Member States may wish to consider adding a new subparagraph (d) to Rule 29, which would require that the principles and procedures governing searches be determined by law or by regulation of the competent administrative authority.*
Different principles apply to invasive body searches, which are sometimes referred to as intimate body searches or cavity searches. Such searches can be extremely humiliating and even traumatic, and should only be carried out in very narrowly prescribed circumstances, if at all. Strip searches and intimate body searches should always be authorized by the director of a prison, and the reason for the search shall be put on record. International best practice indicates a preference for alternate methods for the screening of prisoners, e.g. through technological equipment and procedures, such as scans, or arrangements in which the prisoner is kept under close	⇨ *Member States may wish to consider adding a new Rule 29bis. to the SMRs which would govern searches, requesting that*: • body searches should be always conducted by qualified personnel of the same sex, and in a way that respects the dignity of the person being searched (HRCoP-8, BR-19, PBPA-XXI*, EPR-54/3*); • invasive body searches, if carried out at all, should only be used as a last resort, and be conducted by health-care professionals only (WMA-BS*, EPR-54/6,7*);

supervision until such time as any forbidden item is expelled from the body. The World Medical Association Statement on Body Searches of Prisoners (1993) further outlines that such searches, if necessary, should always be conducted by a physician or a person with appropriate medical training in order to protect prisoners from harm. As searches are conducted for security reasons only, they should not be done by the physician who is also in charge of providing medical care to the prisoner (WMA-BS*). The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas totally prohibit intrusive vaginal or anal searches in all cases (PBPA-XXI*). The European Prison Rules prohibit internal physical searches of prisoners' bodies by prison staff. Rather, an intimate examination related to a search may only be conducted by a medical practitioner (EPR-54/6,7*).	• alternate methods of screening prisoners should always be given preference over invasive body searches (BR-20).
➢ **Solitary confinement** Close confinement, or solitary confinement as it is otherwise described, involves confining a prisoner in a closed cell on his or her own. This form of punishment generally involves extensive sensory deprivation. Although Rule 31 of the SMRs prohibits total exclusion of light, solitary confinement will often include deprivation of any human contact or stimulation. It is used by a number of Member States, sometimes for extended time periods, as a form of punishment or for reasons other than punishment. More specifically, the circumstances in which solitary confinement is applied include (i) disciplinary punishment for sentenced prisoners; (ii) isolation of persons remanded in custody during an ongoing criminal investigation; (iii) as an administrative tool for managing specific groups of prisoners; or (iv) as part of a judicial sentence. Solitary confinement, applied for whatever reason, can have extremely harmful psychological, and sometimes physiological, effects, ranging from anxiety, depression, insomnia and confusion to hallucinations and psychosis (RSPT-62-65; ISSC).	
Recognizing the potentially harmful impact of solitary confinement on all prisoners, international standards and norms provide that efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged (BPTP-7). Furthermore, special categories should be exempt altogether from solitary confinement as a form of disciplinary punishment, including juveniles (CoCRC-58/a, CoRC-21/f, RPJDL-67, RSPT-77/86, PBPA-XXII/3*), pregnant women, women with infants and breastfeeding mothers (BR-22, PBPA-XXII/3*), and prisoners with mental disabilities	⇨ *In Rule 31, Member States may wish to consider adding indefinite and prolonged solitary confinement to the list of practices which are completely prohibited as punishments for disciplinary offences* (CoATR-5d, HRCoT-6, RSPT-76/87-88). ⇨ *In Rule 31, Member States may further wish to include a prohibition on imposing solitary confinement as a disciplinary punishment or as specified below, for the following groups of prisoners*: • juveniles (CoCRC-58/a, CoRC-21/f, RPJDL-67, RSPT-77, PBPA-XXII/3*);

(RSPT-78/86, ISSC). Although the focus of both Rule 32 of the SMRs and Principle 7 of the Basic Principles for the Treatment of Prisoners is on solitary confinement applied as punishment, this recommendation is all the more relevant to circumstances where the prisoner concerned is not being punished. The Committee against Torture has recognized the harmful physical and mental effects of solitary confinement, and has expressed concern about its use, including as a preventive measure during pretrial detention as well as a disciplinary measure. The Committee has recommended that the use of solitary confinement be abolished, or, at the least, be applied only in exceptional cases and not for prolonged periods of time (CoATJ-5.6). The United Nations Special Rapporteur on Torture has equally expressed concern at the use of solitary confinement, urging States to prohibit its imposition as punishment, either as a part of a judicially imposed sentence or a disciplinary measure (RSPT-84). Taking further into account that the negative health effects of solitary confinement rise with each additional day spent in such conditions, including a rising risk of serious and irreparable harm to the inmate, both the United Nations Committee against Torture and the United Nations Human Rights Committee have expressed the opinion that prolonged periods of solitary confinement may amount to torture or to cruel, inhuman or degrading treatment or punishment (CoATR-5d, HRCoT-6). According to the United Nations Special Rapporteur on Torture, prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days, constitutes torture or cruel, inhuman or degrading treatment or punishment, depending on the circumstances. Accordingly, he calls on the international community to impose an absolute prohibition on solitary confinement exceeding 15 consecutive days (RSPT-76/88). ➢ **<u>Role of medical staff</u>** Rule 32(1) of the SMRs requires that before a prisoner is punished by close confinement or reduction of diet, the medical officer shall examine the prisoner and certify in writing that the prisoner is fit to sustain such punishment. This is a clear instance in which the developments in good practice provided for in Rule 3 of the SMRs must be applied. The background information on the rules describing the role of health-care personnel in prisons, in particular on Rule 25 of the SMRs, demonstrates that the medical officer's primary responsibility to prisoners is that of doctor to patient (PMEHP-1, ICN-PS*, CPMS-OA*, CoEHC-19/23*). To certify that a prisoner is fit to undergo any punishment, or even more sanctions which may be detrimental to the health of the prisoner, is	• pregnant women, women with infants and breastfeeding mothers (BR-22, PBPA-XXII/3*); • prisoners with mental disabilities (RSPT-78/86, ISSC); • life-sentenced prisoners and prisoners sentenced to death by virtue of their sentence (ISSC); • pretrial detainees as an extortion technique (RSPT-85, ISSC). ⇨ *In Rule 32(1), Member States may wish to consider*: • limiting the imposition of punishment by close confinement to a disposition of last resort, to be applied in exceptional circumstances only and for as short a time as possible; to be further authorized by the competent authority and to be subject to judicial control (BPTP-7, RSPT-84/89, PBPA-XXII/3*, EPR-53,60/5*); • encouraging efforts to increase the level of meaningful social contact for detainees while in solitary confinement (RSPT-83, ISSC). ⇨ *In Rule 32, and in order to comply with principles of medical ethics, Member States may wish to consider deleting the reference to the medical officer examining prisoners and certifying them fit to sustain disciplinary punishment* (PMEHP-3/4b, ECoPT-73*; see also comments on medical ethics in prison settings under area (b) *Medical and health services*).

incompatible with that professional responsibility and with a doctor's medical ethics (PMEHP-3). This certainly includes any form of torture and other degrading, inhuman or degrading treatment or punishment as well as physical punishment (CAT-10/11, PMEHP-2, CPMS-OA-1/2*, WMA-DT-1/2*, CoEHC*-65). In a broader sense, it is further considered a contravention of medical ethics for health personnel "… to certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments" (PMEHP-4/b). A doctor who certifies that a prisoner is fit to undergo solitary confinement or reduction in diet may violate this principle.	
Rule 32(3) of the SMRs requires that the medical officer shall visit daily prisoners undergoing close confinement or reduction of diet or any other punishment that might be prejudicial to the physical or mental health of a prisoner, and shall advise the prison director if he considers the termination or alteration of the punishment necessary on grounds that it is damaging the prisoner's physical or mental health. This situation is less clear cut. By visiting such prisoners daily, particularly if the visit is a cursory one, the doctor may be regarded by the prisoner and by the prison authorities as either condoning or approving the punishment. This would not be professionally acceptable. On the other hand, where prisoners are undergoing such punishment, they remain entitled to medical care and the doctor has a duty to inform the prison director if he or she sees clinical evidence that the prisoner's health is deteriorating as a result of the punishment. On a regional basis, compromise formula have been identified which may require health-care personnel to see, on a daily basis, prisoners held under solitary confinement, but to provide medical assistance and treatment *at the request of such prisoners or the prison staff* (EPR-43*). The latter aspect is also emphasized in the Committee of Ministers of the Council of Europe Recommendation Concerning the Ethical and Organisational Aspects of Health Care in Prison (CoEHC*-66).	⇨ *In Rule 32(3) SMR, Member States may wish to consider clarifying that the medical officer is to provide medical assistance and treatment to a prisoner undergoing the disciplinary punishment described under Rules 32(1) and (2) upon the request of the respective prisoner or prison staff* (CoEHC*-66).

➢ **Reduction of Diet** It is now widely held that a reduction of diet is a form of corporal punishment and as such constitutes inhuman punishment (see HRCoT-5 on the prohibition of corporal punishment). The use of reduction of diet as a punishment contravenes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health as provided in the Covenant on Economic, Social and Cultural Rights (CESCR-12), in addition to being incompatible with the principle of treating prisoners with humanity and respect for the inherent dignity of the human person, as provided in the International Covenant on Civil and Political Rights (CCPR-10/1). In its Comment No. 14, the Committee on Economic, Social and Cultural Rights held that the right to the highest attainable standard of health also implied an obligation on States to "ensure equal access for all to the underlying determinants of health, such as nutritiously safe food and potable drinking water, basic sanitation and adequate housing and living conditions." (CoESCR-36). This principle also applies to Member States where the quality of food available to many law-abiding members of the community may be inadequate. If the State takes from individuals the opportunity to provide for their own basic needs by means of imprisonment, these needs, including access to adequate food, need to be provided by the State. In the context of its consideration of a report submitted under Art. 19 of the Convention against Torture, the Committee on the Convention against Torture expressed its concern at the use of reduced diet as a form of punishment, and asked the State Party to speedily abolish the law and practice on reduced diet (CoAT-15). In the case of juveniles, international standards and norms explicitly prohibit the reduction of diet for any purpose (RPJDL-67). Regional instruments, such as the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, provide for a general prohibition on restricting food as a form of disciplinary punishment (PBPA-XI*).	⇨ *In Rule 32(1) SMR, Member States may wish to consider deleting the reference to reduction of diet as a punishment, which is broadly considered a form of corporal punishment today, thus amounting to inhuman treatment* (CESCR-12, CCPR-10/1, CoESCR-36, CoAT-15, PBPA-XI*, PCLA-27/1*). ⇨ *In Rule 31 SMR, Member States may wish to consider adding reduction of diet to the practices completely prohibited as punishments for disciplinary offences* (CESCR-12, CCPR-10/1, CoESCR-36, CoAT-15, PBPA-XI*, PCLA-27/1*).

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners	– Rule 7, Rule 24, Rule 44, Rule 55
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Records of death in custody** In addition to safeguarding the legal status of prisoners, Rule 44 of the SMRs recognizes the right to family life (CCPR-17/23). As such, it involves the right of families and other partners to be aware of matters affecting family members who are in prison. Furthermore, it confirms the right of prisoners to be informed of the death or serious illness of any near relative and, taking account of security requirements, to attend the family member (see also RPJDL-56/57). This being said, Rule 44 of the SMRs should be read in conjunction with Rule 7, which requires that a proper record should be kept of every person who is received into prison. In this regard, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions require that accurate information about the custody and whereabouts of persons deprived of their liberty, including transfers, shall be made available promptly to the prisoner's relatives, lawyers or other persons of confidence (PEASE-7; see also DPPED-10/2). To have such information on record is important in order to maintain up-to-date and complete records of all prisoners, which in itself serves as an important measure to increase transparency and to prevent abuse, e.g. in the form of enforced disappearances. Accordingly, and in case of death in custody, the registry and/or records of prisoners should also include the circumstances and cause of death and the destination of the remains (CAED-17/3g). ➢ **Investigations of deaths in custody** As the most fundamental and basic human right of all, the right to life and the protection against arbitrary deprivation of life is firmly anchored in international law (UDHR-3, CCPR-6, ACHR-4/1, ACHPR-4, ECPHR-2/1). The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (1982) is requested to examine all situations involving acts and omissions of State representatives which may constitute	⇨ *Member States may wish to consider adding a subparagraph (d) to Rule 7, which, in case of death in custody, would require the inclusion into the registration book of information on the circumstances and causes of death of a prisoner as well as the destination of the remains* (CAED-17/3g). ⇨ *Member States may wish to consider adding a new Rules 44bis to the SMRs, which would include the following elements in order to be in line with Member States' heightened duties to ensure and respect the right to life in custodial settings, and the duty of prison administrations to initiate and/or facilitate the below*: • to promptly, thoroughly and impartially investigate all incidents of death in custody or shortly following release, including with

a violation of the general recognition of the right to life, including action in alleged cases of deaths in custody. In this latter context, violations of the right to life occur mainly as a result of torture or other cruel, inhuman or degrading treatment, as well as of neglect, use of force and life-threatening conditions of detention. According to the Special Rapporteur, the controlled character of prisons permits States to exercise comprehensive control of the conduct of government officials, while at the same time allowing for effective and comprehensive measures to prevent abuses by private persons. Further, the State assumes a heightened duty of protection by severely limiting an individual's freedom of movement and capacity for self-defence. In short, therefore, "… the State's two-fold obligation to ensure and respect the right to life, together with its heightened duty and capacity to fulfill this obligation in the custodial environment, justifies a rebuttable presumption of State responsibility in cases of custodial death. One consequence of this presumption is that the State must affirmatively provide evidence that it lacks responsibility to avoid that inference" (RSPE-54). The obligation on States to carry out effective investigations following all deaths in State custody and the presumption of State responsibility have been confirmed by the United Nations Human Rights Committee and the European Court of Human Rights. An obligation to conduct an inquiry in case of both death and disappearance during the period of custody or shortly following release is further included in the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (PPPDI-34). This obligation persists irrespective of whether custodial death seems to have resulted from the involvement of State actors, inter-prisoner violence, self-harm and suicide, or other causes. Accordingly, the United Nations Committee against Torture has repeatedly urged Member States to investigate promptly, thoroughly and impartially all incidents of death in custody, including independent forensic/post mortem examinations; to make the results of investigations public; and to prosecute the persons, if any, responsible for committing violations leading to death (see, for example, CoATR-III.B.61/16a,b; also see RESAEb-96/4). The body conducting the investigation should be independent of the police or prison authorities (RESAEa-141). Following finalization of the investigations, the corpse of a person who dies in custody should be returned to their next of kin.	independent forensic or post mortem examinations, as appropriate (PPPDI-34, RSRT-926g, CoATR1-III.B.61/16a, CoATR2-III.B.57/20, RESAEa-141, RESAEb-96/4); • to make the results of such investigations public (CoATR1-III.B.61/16a, CoATR2-III.B.57/20); • to prosecute persons who appear to be responsible for committing violations leading to the death of prisoners (CoATR-III.B.61/16a, CoATR2-III.B.57/20); • to return the corpse of a person who dies in custody to the next of kin upon completion of the investigation.

➢ **Signs or allegations of torture or other ill-treatment**

As outlined under area (a) *Respect for prisoners' inherent dignity and value as human beings*, the prohibition of torture and ill-treatment under both general international law and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "torture or other ill-treatment") is formulated in absolute terms, i.e. no exceptional circumstances whatsoever, including an order from a superior officer or a public authority, may be invoked as a justification of torture (CAT-2, DPAT-3, HRCoT-3, ACHPR–RI-9-11*). States are under an obligation to ensure that all acts of torture and ill-treatment, including participation, complicity, incitement and attempts, constitute offences under their criminal laws, whether committed by public officials, by other persons acting on behalf of the State, or by private persons (CAT-4, DPAT-7, PPPDI-7, CoHRT-13, ACHPR–RI-16*). As a consequence, national authorities, including prison administrations and other competent bodies, are further required to initiate prompt and impartial investigations whenever there are reasonable grounds to believe that torture or other ill-treatment has been committed (CAT-12, DPAT-9, PPPDI-33,34, CoATR2-III.B.61/8, ACHPR–RI-18*). Any alleged offender is to be subjected to criminal proceedings if an investigation establishes that an act of torture appears to have been committed, and to criminal, disciplinary or other appropriate proceedings in case of other forms of ill-treatment (CAT-7, DPAT-10, ACHPR–RI-16*).

The need for prompt and impartial investigations of all allegations of torture and ill-treatment was equally emphasized by the United Nations General Assembly in its resolution 55/89 (2000), which further stresses that "… those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have taken place" (A/RES/55/89, paragraph 2; see also RSRT-926g). Member States were strongly encouraged to reflect upon the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2000), which were annexed to the resolution. Finally, and in suspected cases of extra-legal, arbitrary and summary executions, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989) also apply to situations in which death occurs in custody. Both sets of principles provide detailed guidance on the purpose, modalities and overall parameters of effective investigations into cases of torture or extra-legal,

⇨ *Member States may wish to consider adding a Rule 54bis to the SMRs to address the obligation of prison administrations or other competent bodies, as appropriate, to initiate prompt and impartial investigations whenever there are reasonable grounds to believe that an act of torture or other ill-treatment has been committed in prison* (CAT-12, DPAT-9, PPPDI-33,34)*, irrespective of whether a complaint as per Rule 36 has been received* (PIDT-2)*, and in order to*:

- clarify the facts and acknowledge individual and State responsibility for the affected victim and the victim's family (PIDT-1/a);
- identify suitable measures to prevent recurrence (PIDT-1/b);
- facilitate prosecution for acts of torture, or criminal, disciplinary or other appropriate proceedings in case of ill-treatment, as appropriate, for those indicated by the investigation as bearing responsibility (PIDT-1/c);
- demonstrate the need for full reparation and redress from the State (PIDT-1/c).

⇨ *Member States may further wish to clarify in Rule 54bis that, based on the Principles for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*:

- investigators involved in alleged cases of torture or other ill-treatment must be competent, impartial and independent of the suspected perpetrators or the agency they serve (PIDT-2, RSRT-926g);
- the investigative authority be provided with the power to obtain all information necessary for the inquiry, including the entitlement to issue summonses to witnesses and to demand the production of evidence (PIDT-3a);
- alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families must be protected from violence, retaliation or any other form of intimidation that may arise pursuant to the investigation (PIDT-3b);
- alleged victims of torture or ill-treatment and their legal representatives shall be informed of, and have access to, any hearing and all information relevant to the investigation, and be entitled to present evidence (PIDT-4);
- the findings of such investigations shall be made public (PIDT-2).

arbitrary and summary executions, including in custodial settings (PIDT, PEASE–9-20). • For the role of health-care personnel in preventing torture and ill-treatment, please refer to area (b) *Medical and Health Services* • For the right of prisoners to file complaints against torture or other ill-treatment, please refer to area (g) *Complaints and Independent Inspection*	

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances	– Rule 6, Rule 8, Rule 21(2), Rule 23, Rule 38, Rule 53, Rule 71(5), Rule 77(1), Rules 82-83, Rule 85(2)
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Separation of different categories of prisoners** Prisoners are not a single homogenous group of people. They are disparate groups of individuals, some of whom have common features and others who are quite distinct on a variety of grounds. In Rule 8, the SMRs recognize the need to separate different categories of prisoners taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. As such, the Rules require to keep in separate institutions or parts of the institution those who have been convicted of committing crimes or criminal offences, those who are awaiting trial and who are therefore still innocent before the law (SMR-8b), those who have been detained as a result of a civil justice rather than a criminal justice process (SMR-8c), and young prisoners (SMR-8d). Men and women shall, so far as possible, be held in separate institutions altogether, or at the least women should be allocated to premises which are entirely separate from those used by men (SMR-8a). Read in conjunction with Rule 4(2) of the SMRs, the principle in all of these cases is that any exception to the provisions of Rule 8 of the SMRs should be made only when it is in the interest of the more vulnerable group (see also CRC-37c, RPJDL-29). ➢ **Vulnerable groups of prisoners** All prisoners are vulnerable to a certain degree, a fact that derives from the very nature of imprisonment, prison conditions and their potential impact on the physical and mental well-being of prisoners. However, there are certain groups that face an increased risk to their safety, security or well-being as a result of imprisonment, and therefore need additional care and protection. These include prisoners who may experience increased suffering due to inadequate facilities and a lack of specialist care available in custodial settings, as in the case of prisoners with mental health-care needs, prisoners with disabilities, drug dependent prisoners, those living with HIV/AIDS, tuberculosis and/or terminal illness, and older prisoners.	

These groups are likely to have their existing problems exacerbated by the prison environment itself. Others may be at risk of humiliation, physical and/or psychological abuse from other prisoners and prison staff based on their ethnicity, nationality, gender and/or sexual orientation. This is often the result of prejudicial attitudes and discriminatory perceptions entrenched in society itself, which are more pronounced in the closed environment of prisons. Finally, prisoners under sentence of death have to deal with the anguish caused by the sentence itself and the intense psychological distress caused by the isolated conditions in which they are held. Many prisoners are, in fact, vulnerable due to more than one reason. They suffer due to their existing special needs, which are intensified in prisons, as well as due to the additional risks they confront, stemming from their particular status. Contrary to the general perception, prisoners with special needs do not constitute a small part of the prison population. Their special needs should therefore become a firm component of prison management policies.

Among the groups of prisoners with special needs which are explicitly addressed in the SMRs are women and juveniles, as well as children living with their mothers in prison, who are not themselves prisoners. All of them are very likely to be confronted with the fact that most prisons are generally organized for the management of adult males. The SMRs recognize the need to not only hold them in dedicated accommodation, but also consider, to some extent, the need for appropriate facilities and services (SMR-8a/d, 21/2, 23, 53, 71/5, 77/1, 85/2). The special needs of these two groups have been further elaborated in distinct international standards and norms for women and juveniles in custodial settings, i.e. the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (2011). The only other vulnerable groups of prisoners which are mentioned in the SMRs are persons with mental disabilities (SMR-82,83) and prisoners who are foreign nationals (SMR-38).

In comparison, the Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas recognize the special needs of, inter alia, women, children, the elderly, those who are sick or suffering from infections such as HIV-AIDS, persons with a physical, mental, or sensory disability; as well as of indigenous peoples, afro-descendants, and minorities (PBPA-II,X*, see also PCLA*-1/2). In its Handbook on Prisoners with Special Needs, the United Nations Office on Drugs and Crime refers to the following groups of prisoners, which have a

⇨ *In Rule 6, Member States may wish to consider adding a paragraph (3), which would exempt from paragraph 1 measures adopted exclusively for the purpose of protecting and promoting the rights of prisoners with special needs, including*:

- women (BR-1, PBPA-II,X*, EPR-34*, PCLA*–77-80);
- children (RPJDL, PBPA-II,X*, EPR-35*);
- older prisoners (POP, PBPA-II,X*, CoEHC-III.C*);
- prisoners with disabilities (CRPD, ODC-PSN, PBPA-II,X*);
- prisoners with mental health-care needs (PPMI-3,20/1, PBPA-II,X*, PCLA*-83, CoEHC-III.D*);
- sick prisoners, in particular those living with HIV/AIDS, tuberculosis, or terminal illness (ODC-PSN, ODC-HIVa, ODC-HIVb, PBPA-II,X*);
- drug dependent prisoners (ODC-PSN, ODC-DDT, CoEHC-III.B*);
- ethnic and racial minorities and indigenous peoples (CCERD-5f, BR-54,55, ODC-PSN, PBPA-II,X*, EPR-38*);
- foreign national prisoners (BR-53, ODC-PSN, PBPA-II,X*, EPR-37*);
- lesbian, gay, bisexual and transgender (LGBT) prisoners (ODC-PSN, RHCHR-III.B, YP*);
- prisoners under sentence of death (ODC-PSN).

particularly vulnerable status in prisons: women; children; prisoners living with HIV/AIDS; drug dependent prisoners; prisoners with mental health-care needs; prisoners with disabilities; ethnic and racial minorities and indigenous peoples; foreign national prisoners; lesbian, gay, bisexual and transgender (LGBT) prisoners; older prisoners; prisoners with terminal illness; and prisoners under sentence of death (ODC-PSN). ⇩ For more information on the requirement of non-discrimination in Rule 6(1), please refer to area (a) *Respect for prisoners' inherent dignity and value as human beings* ⇩ For the SMR terminology used for prisoners with mental disabilities, please refer to area (h) *The replacement of outdated terminology*	⇧ *Member States may wish to reflect on the need to address the rights of prisoners with special needs in further detail in the SMRs, taking into account that:* • some groups, such as women and juveniles, are addressed in separate international standards and norms (RPJDL, BR); • Member States who are States Parties to the Convention on the Rights of Persons with Disabilities (CRPD) are under legally binding obligations as regards the rights of persons with disabilities.

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(f) The right of access to legal representation	– Rules 29-30, Rules 36-37, Rule 93
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Access to legal assistance at the pretrial stage** Rule 93 of the SMRs grants untried prisoners the right to receive visits from their legal advisors for the purpose of their defence, and to prepare and hand to them confidential information. Respective interviews may be within sight but not within hearing of prison staff. Untried prisoners are further entitled to apply for legal aid where such aid is available. The legal basis for Rule 93 of the SMRs is to be found in Article 14(3) of the International Covenant on Civil and Political Rights, which specifies the legal entitlements of all persons faced with criminal charges. These include, inter alia: (i) the right to have adequate time and facilities for the preparation of their defence, and to communicate with counsel of their own choosing; and (ii) the right to defend themselves in person or through legal assistance of their own choosing, to be informed of this right in case they do not have legal assistance, and to have legal assistance assigned to them in any case where the interests of justice so require, and without payment in case of indigence (CCPR-14/3b,d). Although the above guarantees apply to all those who face criminal charges, they are of particular relevance to persons who are arrested or detained in custody while awaiting trial, a fact explicitly acknowledged and elaborated in the Basic Principles on the Role of Lawyers (BPRL–5-8,21; see also RPJDL-17a, SPDP-5, ACHPR–RI-27,31*, LDLA*-3, PGLAA*-M.2f). International standards and norms further prohibit authorities from infringing upon prompt access and/or upon the confidential nature of the professional relationship between lawyers and their clients, subject only to narrowly prescribed circumstances (BPPPI-3, BPRL-22, PBPA-V*, EPR-23/5*). This being said, the purpose of the right of access to a lawyer for detainees goes beyond providing assistance in preparing their defence. The presence of a lawyer also plays an important role in ensuring that the authorities do not exceed their legal powers, while at the same time decreasing the likelihood of unfound allegations of accused persons or detainees. With regards to the first aspect, and as recognized by the Human Rights Committee, access to legal aid constitutes an essential safeguard against	⇨ *In Rule 93, Member States may wish to consider replicating language of international standards and norms to the effect that access of detainees to legal counsel, including consultations and visits, should*: • be granted without delay, interception or censorship and in full confidentiality (PPPDI-18/3, BPRL-7,22, PGLA-44g, PBPA-V*, PGLAA*-N.3e); • comprise adequate time and facilities for consultations and visits, including support mechanisms, such as legal aid, in case detainees do not have sufficient means (PPPDI-18/2, PGLA-44g, PGLAA-M.2e,N.3e*); • be subject to suspension or restriction only in exceptional circumstances to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order (PPPDI-18, EPR-23/5*).

breaches of detainees' fundamental rights, including to be protected from torture and other ill-treatment (HRCT-11; see also PGLAA*-N.2a). Similarly, the United Nations Sub-Committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment holds that "… access to a lawyer is an important safeguard against ill-treatment which is a broader concept than providing legal assistance solely for conducting one's defence … [T]he lawyer is the key person in assisting the person deprived of liberty in exercising his or her rights, including access to complaint mechanisms" (SPTM-62; for women subjected to sexual abuse or other forms of violence before or during detention, see also BR-7).	
➢ **Access to legal assistance as applicable to all prisoners** Further, and as opposed to the SMRs, which restrict the access to lawyers to untried prisoners and for the sole purpose of their defence (SMR-93), subsequent international standards and norms have expanded the entitlement to all persons deprived of their liberty. Respective legal advice may cover both criminal and civil litigation, as well as other matters such as the drafting of a will. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, for example, refers to "detained or imprisoned persons" who should be allowed, inter alia: (i) adequate time and facilities for consultations with their legal counsel, and (ii) to be visited by, and to consult and communicate with their legal counsel without delay or censorship and in full confidentiality (PPPDI-18; see also BPRL-8). The International Convention for the Protection of All Persons from Enforced Disappearance requires States Parties to "Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her … counsel …, subject only to the conditions established by law…" (CAED-17/2d). Finally, the recently adopted United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012) confirm that all imprisoned persons should have access to legal aid, and dedicate Guideline 6 to legal aid at the *post*-trial stage. More specifically, Member States are asked to introduce measures "… to ensure that prisoners have access to legal aid for the purpose of submitting appeals and filing requests related to their treatment and the conditions of their imprisonment, including when facing serious disciplinary charges, and for requests for pardon, in particular for those prisoners facing the death penalty, as well as for applications for parole and representations at parole hearings" (PGLA-47c; see also SPDP-5). On a regional basis, the European Prison Rules are clear in granting "all prisoners" the right to legal advice, including the entitlement to consult with a legal adviser of their own choice and at their own expense "on any legal matter" (EPR-23/1,2*).	⇨ *In Rule 37, Member States may wish to consider adding a paragraph (2) which would grant all prisoners the right to meet and consult with legal counsel of their own choice, and at their own expense, on any legal matter* (CAED-17/2d, PPPDI-18, BPRL-8, EPR-23/1,2*, PCLA-34/1*) *and under similar conditions as established in Rule 93 above, subject only to conditions established by law.*

Disciplinary hearings: A prisoner may only be punished after a formal disciplinary hearing, conducted according to the procedures based on the key principles of natural justice. These include the right to know details of the charge in advance, to be given sufficient time to prepare a proper defence, and to be present at the hearing (SMR-29,30). The above does not imply that prisoners must be accompanied or represented by a lawyer at all disciplinary hearings irrespective of the nature of the charge, as such requirement would render an effective administration of prisons impossible. In many cases, it will be sufficient to give the prisoner the opportunity to tell his or her side of the story, to call any witness in support of this story, and to carefully reflect the respective testimony in the decision. This being said, it has been recognized, including by the European Court of Human Rights, that in case the disciplinary charge is a serious one with the possibility that it might result in the imposition of a heavy penalty, or if the charge involves complicated points of law, provisions should be made for the prisoner to have legal representation (PGLA-47c). The conditions under which legal representation may be granted in disciplinary hearings should be clearly defined in prison regulations, and should also be drawn to the attention of prisoners. Further, this discretion does not apply to cases where a breach of discipline is prosecuted as a crime, in which the prisoners is entitled to all legal safeguards and facilities necessary to defend him- or herself. On a regional basis, the European Prison Rules provide that prisoners charged with a disciplinary offence shall be allowed to defend themselves in person or through legal assistance when the interests of justice so require (EPR-59c*). *Complaints*: International standards and norms provide that detained or imprisoned persons have the right to make a request or complaint, either themselves or through their legal counsel, regarding their treatment, and in particular in case of torture or other ill-treatment (BPPPI-33/1, RPJDL-78, A/RES/55/89-2). As mentioned above, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems ask States to introduce measures to ensure that prisoners have access to legal aid for the purpose of, inter alia, filing requests related to their treatment and the conditions of their imprisonment (PGLA-47c). On a regional level, the European Prison Rules provide that prisoners are entitled to seek legal assistance for the purpose of complaints when the interests of justice so require (EPR-70/7*), whereas the Permanent Committee of Latin America for the Revision and Updating of the SMRs recommends that “Persons deprived of liberty on penal grounds should always have access, if they so	⇨ *In Rule 30, Member States may wish to consider adding two paragraphs (2bis/2 ter), which would provide for a qualified right to legal assistance in the context of disciplinary proceedings*: • prisoners should be granted access to all legal safeguards necessary in case the breach of discipline is prosecuted as a crime, including being granted unimpeded access to legal counsel; • prisoners may be granted access to legal counsel in serious cases involving heavy penalties or complicated points of law in line with clearly defined circumstances to be prescribed by law (PGLA-47c).

desire, to legal assistance and information in the course of the proceedings of petition and complaint" (PCLA-33/8*). ➧ For more information on disciplinary action and punishment, please refer to area (c) *Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet* ➧ For more information on prisoner complaints, please refer to area (g) *Complaints and independent inspection*	

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(g) Complaints and independent inspection	– Rules 35-36, Rule 55
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Requests and complaints of prisoners** Article 2(3) of the International Covenant on Civil and Political Rights provides that each State Party is under an obligation to ensure that any person whose rights or freedoms as recognized in the Covenant are violated shall have an effective remedy, including having "… his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State" (CCPR-2/3b). Rule 36 of the SMRs grants prisoners the right to complain to the prison director or his representative, the inspector of prison during his inspection without the presence of prison staff, or in writing and without censorship to the central prison administration, the judicial authority or other proper authorities through approved channels. Further, Rule 35 of the SMRs provides that the information with which prisoners should be provided upon admission should include information on how to make requests on any matters, and the avenues which are available to them for complaint when they consider that they may have been unfairly treated. This information should be provided in writing, in a language which the prisoner can understand, or orally in case the prisoner cannot read. There are implications of complaints in prisons, though, where those who are complaining live under the control of those about whom many of their complaints may be made. In many countries, prisoners simply do not complain as they may have to face retaliation for making the complaint. Proper safeguards must therefore be in place, which ensure that there are ways in which prisoners can make requests or complaints safely, confidentially, and without the risk of retaliation, intimidation, or other negative consequences (CAT-13, BR-25/1, PPPDI-33/4, EPR-70/4*). Accordingly, guards should face disciplinary measures for the mistreatment of prisoners who have made requests or complaints.	⇨ *In Rule 36, Member States may wish to consider deleting*: • the restriction of prisoners' rights to make requests and complaints only during "each week day", (SMR-36/1), thus excluding the possibility to do so during weekends, a restriction not incorporated in other international standards and norms (PPPDI-33/1, CAT-13, PBPA-VII*; EPR-71/2*); • the possibility to not promptly deal with, or reply to, requests or complaints which are "evidently frivolous or groundless" (SMR-36/4), a restriction not incorporated in other international standards and norms (PPPDI-33/4, PBPA-VII*; PCLA-33/2*), given that an opinion as to whether a complaint is frivolous, and especially groundless, can only be a subjective opinion, without any investigation into the complaint. ⇨ *In Rule 36, Member States may further wish to consider adding a new subparagraph (5) on the need to have in place safeguards which ensure that avenues are available for prisoners to make requests or complaints in a safe and confidential manner, and without any risk of retaliation or other negative consequences* (PPDI-33/2, CAT-13, PIDT-3b, OPCAT-15,21/1, ACHPR–RI-49*).

Compared to the SMRs, the matter of requests and complaints is addressed in more detail in Principle 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which provides that beyond the prisoner and his or her legal counsel, a member of the family of the prisoner or any other person who has knowledge of the case may exercise the right to make a request or complaint on behalf of the prisoner concerned (PPPDI-33/2; see also PBPA-VII*). The Principles further include provisions on the need to respect the confidentiality of the request or complaint, if so requested by the complainant (PPPDI-33/3), and the possibility to bring the request or complaint before a judicial or other authority if it is rejected, or in case of undue delay (PPPDI-33/4; see also PCLA-33/4*, EPR-70/3*).	⇨ *In Rule 36, Member States may further wish to consider adding a new subparagraph (6) which would address the entitlement of prisoners to bring their requests or complaints before a judicial or other (independent) authority in case the initial request or complaint is rejected, or in case of undue delay* (PPPDI-33/4, PCLA-33/4*; EPR-70/3*).
	⇨ *In Rule 36, Member States may further wish to consider adding a sentence to paragraph 3 which would extend the right to make a request or complaint to*: • his or her legal counsel (PPPDI-33/1); and, in case neither the prisoner nor his or her legal counsel are able to exercise this right, to • a member of his or her family, or any other person who has knowledge of the case (PPPDI-33/2; EPR-70/5*).
While all requests and complaints should be dealt with promptly, this applies particularly to prisoner's complaints regarding torture or other cruel, inhuman or degrading treatment or punishment. There should be a formal and open set of procedures which prisoners can use to complain, without any fear of recrimination, to an independent authority against any incidence of torture or other ill-treatment (CAT-13; PIDT-2, HRCoT-14, A/RES/55/89-2, DPAT-8, PPPDI-33/1, ACHPR–RI-17*). The importance of prompt investigations into torture has also been repeatedly emphasized by the United Nations Special Rapporteur on Torture, who stated that "When a detainee or relative or lawyer lodges a torture complaint, an inquiry should always take place … Independent national authorities, such as a national commission or ombudsman with investigatory and/or prosecutorial power, should be established to receive and to investigate complaints. Complaints about torture should be dealt with immediately and should be investigated by an independent authority with no relation to that which is investigating or prosecuting the case against the alleged victim" (RSRT-926g; see also ACHPR–RI-40*).	⇨ *In Rule 36, Member States may wish to consider including explicit reference to allegations of torture, which should be dealt with immediately, and result in a prompt and impartial investigation conducted by an independent national authority as per Rule 54bis proposed under area* (d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners (CAT-13; PIDT-2, RSRT-926g, HRCoT-14, A/RES/55/89-2, DPAT-8, PPPDI-33/1, ACHPR–RI-17*).
➲ For investigations of sign or allegations of torture or other ill-treatment, please refer to area (d) *Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners* ➲ For the right to legal assistance in the context of requests and complaints, please refer to area (f) *The right of access to legal representation*	

➢ **Independent monitoring and inspection of prisons**

All institutions which are managed by or on behalf of the State should be subject to public scrutiny. This principle is all the more valid in the case of prisons due to their coercive nature. The SMRs and various other international standards and norms recognize the need for inspections in prisons (SMR-55, PPPDI-29, RPJDL-72, PEASE-7). By ensuring that proper procedures exist, which are observed by staff at all times, one key function of prison monitoring and inspections is to protect the right of prisoners and their families. This being said, inspections can also be a safeguard for prison staff by protecting them against unjust allegations, and by identifying not only failures, but also good practices. There are two main forms of monitoring and inspection that may complement each other. One is carried out by governmental agencies, and is often a form of audit to ensure that all laws and internal regulations are being observed. The second form of scrutiny is that carried out by independent external bodies. This form of scrutiny can take several forms. In some Member States, it is undertaken by judicial authorities; in others it is done by an ombudsman; in others, there is an independently appointed inspector of prisons.

Various international and regional norms that have been adopted after the SMRs are clear in requiring a form of external inspection of prisons which is independent from the authorities in charge of prisons. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, for example, refers to "qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment" (PPPDI-29; see also RPJDL-72, EPR-93*, ODPR-II.4c*, PGLAA-M.8a*). The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel Inhuman or Degrading Treatment or Punishment in Africa call on States to "Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons, and commissions of parliamentarian, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment …" (ACHPR–RI-41*). Finally, the Optional Protocol to the Convention against Torture establishes a two-fold system of independent monitoring of places of detention, consisting of an international component in the form of the Sub-Committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (OPCAT-5/6,35), and

⇨ *In Rule 55, Member States may wish to consider referring to the desirability of an inspection system comprising both governmental agencies (internal) and external inspection bodies in a complementary way, whereby external inspection bodies should be independent from the authority in charge of the administration of places of detention or imprisonment* (OPCAT-5/6,17,35; PPPDI-29, PEASE-7, RPJDL-72, RSRT-926c**,** PBPA-VI*, EPR-93*, ACHPR–RI-41*, PCLA-57/2*, PGLAA-M.8a*).

a national component in form of independent national preventive mechanisms (OPCAT-17,35).	
Independent inspection mechanisms should be granted the authority to conduct visits to all places of detention, including unannounced visits on their own initiative (RPJDL-72, PEASE-7), to make recommendations to the national authorities, and to submit proposals and observations regarding relevant legislation (OPCAT-19). The Optional Protocol on the Prevention of Torture provides that for an independent inspection mechanism to be able to perform its functions effectively, it should be granted access to: (i) all information on numbers of both persons deprived of their liberty and places of detention, including location; (ii) all information relevant to the treatment of persons deprived of their liberty as well as conditions of detention; and (iii) all places of detention, including installations and facilities. It should further have the authority to (iv) conduct private interviews with persons deprived of their liberty; and to (v) freely choose which places of detention to visit, and which persons deprived of liberty to interview (OPCAT-20; see also PBPA-XXIV*). Finally, and although Rule 36(2) of the SMRs grants prisoners the right to make requests or complaints to the inspector of prisons or inspecting officer during their inspections without the director or other members of the staff being present, subsequent standards have further clarified that prisoners must have the possibility to communicate with such persons in private, "freely and in full confidentiality" (PPPDI-29/2; see also RPJDL-73, OPCAT-14d,20d, PBPA-XXIV*, PGLAA-M.8b*), and only "... subject to reasonable conditions to ensure security and good order in such places" (PPPDI-29/2).	⇨ *In Rule 55, Member States may further wish to consider adding a new paragraph (1) on the powers of independent inspection mechanisms, which should comprise, at a minimum, the following*: • access to all information on numbers of both persons deprived of their liberty and places of detention, including locations, as well as to all information relevant to the treatment of persons deprived of their liberty, including conditions of detention (OPCAT-20, PEASE-7, PBPA-XXIV*, ACHPR–RI-41*); • power to freely choose which places of detention to visit (OPCAT-20), including unannounced visits at their own initiative, and which persons deprived of liberty to interview (RPJDL-72, PEASE-7); • authority to conduct private and fully confidential interviews with persons deprived of their liberty in the course of visits (OPCAT-14d,20d, PPPDI-29/2, RPJDL-73, RSRT-926c, PBPA-XXIV*, PGLAA-M.8b*). ⇨ *In Rule 36(2), Member States may wish to consider emphasizing the confidential nature of communications between prisoners and representatives of inspection bodies. Accordingly, the current text related to conversations "without the director or other members of staff being present" could be replaced with text indicating that such conversations should be conducted "freely and in full confidentiality"* (PPPDI-29/2; see also PBPA-XXIV*, OPCAT-14d,20d).
As regards the composition of inspection teams, international standards and norms provide for medical and health-care specialists to participate in prison inspections in order to, inter alia, evaluate compliance with standards related to the physical environment, hygiene, accommodation, food, exercise, and medical services in prisons, including other aspects that could have an impact on physical and mental health (RPJDL-73, PEASE-7). Further, and in line with the Bangkok Rules for the Treatment of Women Prisoners and the Non-custodial Measures for Women Offenders, a suitable gender balance should be reflected in the context of prison monitoring and inspection which involves women prisoners, i.e. "… inspectorates, visiting or monitoring boards or supervisory bodies shall include women members" (BR-25/3).	⇨ *In Rule 55, Member States may further wish to consider adding text to the effect of including, as much as possible, female and health-care specialists into the "qualified and experienced inspectors appointed by a competent authority". Female specialists should always be included as far as prisons housing women are concerned* (RPJDL-73, PEASE-7, BR-25/3).

Finally, any inspection should result in the submission of a report on the findings of the visit(s), which should indicate: (i) an evaluation of compliance of the respective prisons or prison administration with both relevant provisions in national law and the SMRs; and (ii) recommendations on reform steps to be taken in order to improve compliance (RPJDL-74). In his report of 1995, the Special Rapporteur on Torture further emphasized that inspection teams should report publicly on their findings, a provision which has found its way into, inter alia, the European Prison Rules (RSRT-926c, EPR-93/1*; also PCLA-57/2*). This being said, and in order to adhere to the overall principle of avoiding harm, no personal data of prisoners should be included in such reports unless the respective individual has given express consent to have personal data published (OPCAT-21/2).	⇨ *In Rule 55, Member States may wish to consider a new paragraph (2) which would indicate that any inspection should be followed by a written report to be submitted to the competent authority*: • which should include an assessment of compliance of penal institutions and services with national law and relevant international standards, as well as recommended reform steps to improve compliance (RPJDL-74); • the findings of which should be made public, excluding any personal data of a prisoner without his or her express consent (RSRT-926c, OPCAT-21/2, EPR-93/1*, PCLA-57/2*).

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(h) The replacement of outdated terminology	– Rules 82-83, Rules 22-26, Rule 62, various others
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **Prisoners with mental disabilities** The chapeau of Rules 82 and 83 of the SMRs ("Insane and mentally abnormal prisoners") reflects the thinking which was prevalent in 1957. In some Member States, the term "insane" may still have legal standing. The term "mentally abnormal", however, is no longer acceptable, in particular following the adoption of the Convention on the Rights of People with Disabilities, including its commitment to combat stereotypes and prejudices related to persons with disabilities (CRPD-8/1b, 5/2). The Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health has acknowledged that the absence of agreement on the most appropriate terminology complicates discussions on mental health and mental disability, but adopted the generic term "mental disability" as an umbrella term which includes both psychiatric and intellectual disabilities (RSRH-19; also see PBPA-III.3*). This is without prejudice to the fact that this term encompasses a wide range of profoundly different conditions, which are distinct in their causes and effects, and thus have a crucial bearing on how these prisoners' right to health must be interpreted and implemented. ➲ For the special needs of vulnerable groups, including prisoners with mental disabilities, please refer to area (e) *Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances* ➢ **Medical and health services** Rules 22-26 of the SMRs are summarized under the chapeau of "Medical services", which was a term in common use in 1957. Best practice in the 21st century is to look beyond this terminology, which may indicate a preference for responding to ill health and illness, and to focus on "health services", a term which generally indicates a proactive attitude to the maintenance of good health and includes preventive, curative and palliative care.	⇨ *For Rules 82 and 83, Member States may wish to consider changing the chapeau from "Insane and mentally abnormal prisoners" to "Prisoners with mental disabilities"* (RSRH-19). ⇨ *In Rule 82(1), Member States may wish to consider replacing the term "insane" with "seriously or acutely mentally ill"* (TS), *and the term "mental institutions" to "mental health facilities"* (PPMI-def.b). ⇨ *In Rule 82(2), Member States may wish to consider replacing the text "prisoners who suffer from other mental diseases or abnormalities" with "other prisoners with mental disabilities"* (RSRH-19). ⇨ *In Rule 22(1), Member States may wish to consider replacing the text "treatment of states of mental abnormality" with "treatment of prisoners with mental disabilities"* (RSRH-19). ⇨ *For Rules 22 to 26, Member States may wish to consider changing the chapeau from "Medical services" to "Health services". Rule 22(1) and Rule 62, which also make reference to medical services should be changed in a similar way.* ⇨ *In Rules 22(1), 25(2), and 26(2), Member States may wish to consider changing the term "medical officer" to "physician".*

Rule 22 of the SMRs also refers to a qualified medical officer and a qualified dental officer. Modern good practice would further involve the presence of other qualified health staff. The term "qualified" indicates that such staff should hold a valid health qualification which is officially recognized by the Ministry of Health and should be licensed to practice in the community outside prison. By referring to qualified "physicians" and "nurses", other international standards and norms are more specific in requiring medical core functions to be undertaken by qualified medical and health-care personnel (BPPPI-26, RPJDL-50, PMEHP, BR-10/2). The European Prison Rules require that every prison shall have the services of at least one qualified general medical practitioner, and that the services of qualified dentists and opticians shall be available to every prisoner (EPR-41/1,5*; see also CoEHC*–1-9). Rule 26 of the SMRs requests the medical officer to regularly inspect and advise the prison director upon issues related to food, hygiene and cleanliness, sanitation, heating, lighting and ventilation, the suitability and cleanliness of clothing and bedding, as well as the observance of rules concerning physical education and sports. It should be noted that such inspections go beyond purely medical aspects, and may require the expertise of health and safety specialists or related agencies which may provide similar services in the community. The European Prison Rules refer to "the medical officer or other competent authority" conducting such inspections (EPR-44*).	⇨ *In Rule 22(3), Member States may wish to consider changing the term "qualified dental officer" to "qualified dentist".* ⇨ *In Rule 24, Member States may wish to consider changing the term "The medical officer" to "The physician or a fully qualified nurse reporting to such a physician"* (EPR-42/1*). ⇨ *In Rule 25(1), Member States may wish to consider changing the term "medical officer" to "physician and other healthcare staff".* ⇨ *In Rule 26(1), Member States may wish to consider changing the term "The medical officer" to "The physician, preferably together with health and safety specialists,".*
➢ **Gender** When the 1st United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the SMRs in 1955, gender considerations were yet to evolve into a solid component of international instruments, including consideration as a topic per se as well as gender-sensitive drafting. Accordingly, the text of the SMRs refers to persons which are relevant to its subject matter, such as prisoners, prison directors and medical officers, only in their masculine form. Towards the end of the 1980s, it has become standard practice in international conventions, standards and norms to refer to "he or she" and "his or her" whenever gender is indicated in the text, unless the addressed issue is applicable to males or females only (see, for example, CAED, CRC, CPRMW, PEASE, RPJDL, SMRJJ, GAC, SMR-NCM). This practice is further in line with the requirement of the Convention on the Elimination of All Forms of Discrimination against Women to pursue a policy of eliminating discrimination against women, including the establishment of legal protection of the rights of women on an equal basis with men (CEDAW-2c).	⇨ *With a view to render the SMRs a gender-sensitive document, Member States may wish to consider replacing "he" by "he or she", and "his" by "his or her" in all relevant Rules. More specifically, this would apply to the following: 7(1), 17(1,3), 20(2), 24, 25(1,2), 26(2), 30(2,3), 32(1), 32(3), 35(1), 36(2), 41(2,3), 42, 43(1,2), 44, 50, 51(1), 57, 58, 61, 64, 66(1,2), 69, 76(3), 79, 80, 81(2), 88(1,2), 89, 90, 91, 92 and 93.*

Preliminary area identified for possible consideration (E/RES/2012/13)	Reference in the Standard Minimum Rules for the Treatment of Prisoners
(i) Training of relevant staff to implement the Standard Minimum Rules	– Rules 46-47, Rule 50(1), Rule 54(2)
Background information based on international standards and norms	**Proposals for discussion among Member States**
➢ **The tasks of prison personnel** As recognized in Rule 46(2) of the SMRs, prison staff carry out an important public service in terms of contributing to public protection, safety, and the rehabilitation of offenders (see also EPR-8*). Their task is a complex and responsible one, and the reason why prison personnel need to be carefully selected. This applies even more to the task of directing a prison, which is a highly demanding public appointment requiring solid skills in leadership, management and administration. Rule 46(1) of the SMRs identifies the key qualities which the job of prison staff demands, namely integrity, humanity, professional capacity and personal suitability. Integrity implies that there is an ethical dimension to the work and a number of Member States have emphasized this by developing a code of ethics for prison staff (see, for example, CoECE*). The need for humanity rests on the obligation to treat all prisoners with that quality. In this regard, the Code of Conduct for Law Enforcement Officials (1979) provides that in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons (CCLEO-2; see also CoECE*-IV/C, PBPA-XX*, PCLA-49/1*). Prison staff, especially those who work directly with prisoners, deal with a wide cross-section of men and women. Some will be a threat to the public; some will be dangerous and aggressive; others will try very hard to escape; many are likely to be mentally disturbed, to suffer from addictions, to have poor social and educational skills or to come from marginalized groups in society. Each of them has to be dealt with as an individual. In short, and as included in the General Report of the Permanent Committee of Latin America for the Revision and Updating of the SMRs, “The obligations of [prison] staff go beyond merely guarding and must take into account the need to facilitate re-entry into society of persons deprived of liberty on penal grounds once their sentence is finished” (PCLA-49/2*; see also CoECE-IV/D.22*). Similarly, the European Code of Ethics for Prison Staff emphasizes that “Prison staff shall have roles and duties different from those of the police, the military, the prosecution and the judiciary in respect	

of prisoners" (CoECE-III/2*). In order to carry out this difficult and complex work, prison staff need to have suitable personalities and be professionally competent.

➢ **Training of prison personnel**

Rule 47 of the SMRs includes the requirement that prison staff should be trained in their general and specific duties before entering on duty (*entry-level training*), including theoretical and practical tests, and attend, at suitable intervals, training courses during their careers (*in-service training*) in order to maintain and improve their professional capacity (see also EPR-81/1,2*, PBPA-XX*, PCLA-50/2,3*).

Staff need to be taught the basic skills which are required to deal with other human beings – some of whom may be very difficult – in a decent and humane manner. This means that training should cover international and regional human rights standards, including those which deal with issues of cultural diversity and the rights of minorities, as well as issues relating to age or disability, to sexual orientation or gender identity. Special training should be provided for staff who work with particular groups, such as foreign national prisoners or those with mental illness. In some circumstances, staff should be provided with specific training on languages and cultural awareness. Staff should further be provided with the necessary technical training, which should include an awareness of all security matters. Prison is by definition a coercive environment and the possibility of violence is ever present, even in the best managed prisons. Staff need to be taught how to manage violent prisoners in a manner which involves minimum use of force. Staff should also be given special training in preventive techniques which will minimize the likelihood of violence and in methods which can be used to defuse potentially violent situations without recourse to violence. They should be trained in methods for restraining prisoners who are violent with use of minimum force, as well as in techniques for dealing with violence by groups of prisoners.

In accordance with the above, a number of international instruments and other references refer to the need of training prison personnel in: (i) the treatment of special categories of prisoners, such as, inter alia, juveniles, women, or persons belonging to ethnic or racial groups (RPJDL-85, BR-29, CCERD-5b, PCLA-50/4,5*); and (ii) in specific issues of importance in prison settings, such as the prohibition of torture and the use of force (CAT-10, BPUF-19/20). On a regional basis, the European Prison Rules require that prison staff should be trained on relevant international and

⇨ *In Rule 47, Member States may wish to consider adding a paragraph (3) clarifying that the training referred to in paragraphs 1 and 2 should include, at a minimum, instructions in*:

- international and regional human rights instruments as well as relevant national legislation and codes of conduct, as applicable, the provisions of which must guide their work and interactions with inmates (PBPA-XX*, EPR-81/4*, PCLA-50/5*, ADGP-5*, ODPR*-I.4,II.4d);

regional human rights instruments and standards, and that specialized training should be given to prison staff working with specific groups of prisoners, including, inter alia, foreign nationals, women, juveniles, and mentally ill prisoners (EPR-81/3*). The Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas call for a training focus on the social nature of the work of personnel in places of deprivation of liberty, and require, as a minimum, education on human rights, the rights, duties and prohibitions of personnel in the exercise of their functions; and on national and international principles and rules regarding the use of force, firearms and physical restraint (PBPA-XX*). ➲ For more information on vulnerable groups in prison settings, please refer to area (e) *Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances*	• the rights, duties and prohibitions of prison staff in the exercise of their functions, including respect for the human dignity of all prisoners and an absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment (CAT-10, CoECE-IV.C*, PBPA-XX*); • security matters, including the use of force and the management of violent offenders, with a focus on preventive and defusing techniques, such as persuasion, negotiation and mediation (BPUF-19/20, PBPA-XX*). ⇨ *In Rule 47, Member States may wish to consider adding a paragraph (4) requesting that prison staff who are in charge of working with specific groups of offenders, or who are assigned other specialized functions, should receive specialized training* (RPJDL-85, BR-29, CCERD-5b, EPR-81/3*, PCLA-50/4*).

Annex

The below Annex on References is divided into two parts, consisting of "I. United Nations references" and "II. Other references". Each part is structured, in alphabetical order, by the abbreviations used in the text. Documents forming part of part II are marked with an asterix.

Part I — United Nations references includes a variety of United Nations covenants, conventions as well as United Nations standards and norms, principles, declarations, guidelines and resolutions relevant to the treatment of prisoners. No distinction is made as to whether or not these are legally binding upon Member States. This part further contains reports and general comments from United Nations charter-based human rights bodies (i.e. the Human Rights Council and Special Procedures) and United Nations treaty-based human rights bodies (e.g. the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, etc.). Manuals, handbooks, statements, and other publications originating from United Nations organizations (i.e. UNODC, WHO, OHCHR) have been equally considered.

Part II — Other references includes a variety of non-United Nations documents relevant to the treatment of prisoners, which have originated from either regional organizations (e.g. the Council of Europe, the African Union, the Organization of American States, etc.), international professional organizations (e.g. the World Medical Association, the International Council of Prison Medical Services, etc.) or international expert meetings. No distinction is made as to whether or not these are legally binding upon Member States. All documents under part II are marked with an asterix.

➢ I. United Nations References

Abbreviation		Symbol	Title in full
1	**BPTP**	A/RES/45/111	Basic Principles for the Treatment of Prisoners (*1990*)
2	**BPRL**	A/CONF.144/28/Rev.1	Basic Principles on the Role of Lawyers (*UN Congress on the Prevention of Crime and the Treatment of Offenders, 1990*)
3	**BPUF**	A/CONF/144/28/Rev.1	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (*UN Congress on the Prevention of Crime and the Treatment of Offenders, 1990*)
4	**BR**	A/RES/65/229	United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (*2010*)
5	**CAED**	A/RES/61/177	International Convention for the Protection of All Persons from Enforced Disappearance (*2006*)
6	**CAT**	A/RES/39/46	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*1984*)

Abbreviation		Symbol	Title in full
7	**CCERD**	A/60/18	Committee on the Elimination of Racial Discrimination, General Comment XXXI on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System (*2005*)
8	**CCLEO**	A/RES/34/169	Code of Conduct for Law Enforcement Officials (*1979*)
9	**CCPR**	A/RES/2200A(XXI)	International Covenant on Civil and Political Rights (1966)
10	**CEDAW**	A/RES/34/180	Convention on the Elimination of All Forms of Discrimination against Women (*1979*)
11	**CERD**	A/RES/20/2106	International Convention on the Elimination of All Forms of Racial Discrimination (*1965*)
12	**CESCR**	A/RES/2200A(XXI)	International Covenant on Economic, Social and Cultural Rights (*1966*)
13	**CoAT**	A/63/44	Report of the Committee against Torture, 39th and 40th session, Supplement No. 44 (*2008*)
14	**CoATJ**:	CAT/C/32/D/202/2002	Committee Against Torture, Decisions of the Committee Against Torture Under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Communication No. 202/2002, 32nd session (*2004*)
15	**CoATR**	CAT/C/CR/32/4, 2004	Committee against Torture, Consideration of Reports Submitted by States Parties under Art. 19 of the Convention – Conclusions and Recommendations of the Committee against Torture, 32nd session (*2004*)
16	**CoATR1**	A/66/44	Report of the Committee Against Torture, 45th and 46th session (*2011*)
17	**CoATR2**	A/67/44	Report of the Committee Against Torture, 47th and 48th session (*2012*)
18	**CoCRC**	CRC/C/15/Add.273	Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Art. 44 of the Convention, 40th session (*2005*)
19	**CoESCRa**	E/C.12/2000/4	Committee on Economic, Social and Cultural Rights: Substantive Issues in the Implementation of the International Covenant on Economic, Social and Cultural Rights – General Comment No. 14 on the Right to the Highest Attainable Standard of Health (*2000*)
20	**CoESCRb**	CESR E/C.12/GC/20	Committee on Economic, Social and Cultural Rights, General Comment No. 20 concerning Non-discrimination in Economic, Social and Cultural Rights – Art. 2, Para. 2, of the International Covenant on Economic, Social and Cultural Rights (*2009*)
21	**CoRC**	CRC/C/GC/13	Committee on the Rights of the Child, General Comment No. 13 on the Right of the Child to Freedom from All Forms of Violence (*2011*)
22	**CPMW**	A/RES/45/158	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
23	**CRC**	A/RES/44/25	Convention on the Rights of the Child (*1989*)
24	**CRPD**	A/RES/61/106	Convention on the Rights of People with Disabilities (*2006*)

Abbreviation		Symbol	Title in full
25	**DPAT**	3452 (XXX)	Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*1975*)
26	**DPPED**	A/RES/47/133	Declaration on the Protection of All Persons from Enforced Disappearance (*1992*)
27	**GAC**	E/1997/30, annex	Guidelines for Action on Children in the Criminal Justice System (*1997*)
28	**HIV/HR**	HR/PUB/06/9	OHCHR/UNAIDS International Guidelines on HIV/AIDS and Human Rights (*2006*)
29	**HRCoPDL**	HRI/GEN/1/Rev.9 (Vol. I)	UN Human Rights Committee, General Comment 21, replacing General Comment 9 concerning the Humane Treatment of Persons Deprived of Liberty, 44th session (*1992*)
30	**HRCoP**	HRI/GEN/1/Rev.9 (Vol. I)	UN Human Rights Committee, General Comment No. 16, Article 17 – The right to respect of privacy, family, home and correspondence, and protection of honour and reputation, 32nd session (*1988*)
31	**HRCoT**	HRI/GEN/1/Rev.9 (Vol. I)	UN Human Rights Committee, General Comment No. 20, replacing General Comment No. 7 concerning the Prohibition of Torture and Cruel Treatment of Punishment, 44th session (*1992*)
32	**IP**	HR/P/PT/8/Rev.1	UN High Commissioner for Human Rights, Istanbul Protocol – Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Professional Training Series No. 8/Rev. 1 (*2004*)
33	**ISSC**	A/63/175, annex	International Psychological Trauma Symposium, Istanbul Statement on the Use and Effects of Solitary Confinement (*2008*)
34	**KD**	E/1997/36	Kampala Declaration on Prisons Conditions in Africa (*1997*)
35	**ODC-DDT**	–	UN Office on Drugs and Crime, Drug Dependence Treatment: Interventions for Drug Users in Prisons (*2008*)
36	**ODC-HIVa**	–	UN Office on Drugs and Crime/World Health Organization/Joint UN Programme on AIDS: HIV Prevention and Treatment and Care and Support in Prison Settings: A Framework for an Effective National Response (*2006*)
37	**ODC-HIVb**	–	UN Office on Drugs and Crime/World Health Organization/Joint UN Programme on AIDS: HIV and AIDS in Places of Detention: A Toolkit for Policymakers, Programme Mangers, Prison Officers and Health Care Providers in Prison Settings (*2008*)
38	**ODC-PSN**	–	UN Office on Drugs and Crime, Handbook on Prisoners with Special Needs, Criminal Justice Handbook Series (*2009*)
39	**OPCAT**	A/RES/57/199	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (*2002*)
40	**PEASE**	E/1989/65	Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (*1989*)
41	**PGLA**	E/CN.15/2012/17	UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (*2012*)

Abbreviation		Symbol	Title in full
42	**PIDT**	A/RES/55/89	Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*2000*)
43	**PMEHP**	A/RES/37/194	Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*1982*)
44	**POP**	A/RES/46/91, annex	UN Principles for Older Persons (*1991*)
45	**PPMI**	A/RES/46/119	Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (*1991*)
46	**PPPDI**	A/RES/43/173	Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (*1988*)
47	**RESAEa**	E/CN.4/2002/74	Commission on Human Rights, Annual Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 58th session (*2002*)
48	**RESAEb**	E/CN.4/2004/7	Commission on Human Rights, Annual Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 60th session (*2003*)
49	**RHCHR**	A/HRC/19/41	Report of the UN High Commissioner for Human Rights on Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity (*2011*)
50	**RPDJL**	A/RES/45/113	United Nations Rules for the Protection of Juveniles Deprived of their Liberty (*1990*)
51	**RSPT**	A/66/268, 2011	Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (*2011*)
52	**RSRE**	A/61/311	Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (*2006*)
53	**RSRH**	E/CN.4/2005/51	Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health (*2005*)
54	**RSRT**	E/CN.4/1995/34	Report of the Special Rapporteur on Torture (*1995*)
55	**SMRJJ**	A/RES/40/33	UN Standard Minimum Rules for the Administration of Juvenile Justice (*1985*)
56	**SMR-NCM**	A/RES/45/110	UN Standard Minimum Rules for Non-custodial Measures (*1990*)
57	**SPDP**	E/1984/50	Safeguards guaranteeing protection of the rights of those facing the death penalty (*1984*)
58	**SPTM**	CAT/OP/MDV/1	Report on the Visit of the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment to the Maldives (*2009*)
59	**SRH**	A/64/272	Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health (*2009*)

Abbreviation		Symbol	Title in full
60	**TS**	–	World Health Organization, Trenčín Statement on Prisons and Mental Health (*2008*)
61	**UDHL**	A/RES/3/217A	Universal Declaration of Human Rights (*1948*)
62	**WHO-HIV**	–	World Health Organization Guidelines on HIV Infection and AIDS in Prisons (*1993*)
63	**WHO-PH**		World Health Organization Regional Office for Europe, Declaration of Prison Health as a Part of Public Health (*2003*)

➢ II. Other References

Abbreviation		Symbol	Title in full
1	**ACHR***	B32-treaties	Organization of American States, American Convention on Human Rights, "Pact of San José, Costa Rica" (*1969*)
2	**ACHPR***	CAB/LEG/67/3	African Union, African Charter on Human and Peoples' Rights (*1981*)
3	**ACHPR-RI***	Res. 61	African Commission on Human and Peoples' Rights, Guidelines and Measure for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa – The Robben Island Guidelines, 32nd session, (*2002*)
4	**ADGP***	–	4th Conference of the Central, Eastern and Southern African Heads of Correctional Services, Arusha Declaration on Good Prison Practice (*1999*)
5	**CoEHC***	R (98) 7	Council of Europe, Recommendation No. R (98) 7 of the Committee of Ministers to Member States Concerning the Ethical and Organizational Aspects of Health Care in Prisons (*1998*)
6	**CoELS***	Rec (2003) 23	Council of Europe, Recommendation Rec (2003) 23 of the Committee of Ministers to Member States on the Management by Prison Administrations of Life Sentences and Other Long-Term Prisoners (*2003)*
7	**CoEMR***	R (90) 3	Council of Europe, Recommendation No. R (90) 3 of the Committee of Ministers concerning Medical Research on Human Beings (*1990*)
8	**CoETD***	R (93) 6	Council of Europe, Recommendation No. R (93) 6 of the Committee of Ministers to Member States Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases Including AIDS and Related Health Problems in Prison (*1993*)
9	**CPMS-OA***	–	International Council of Prison Medical Services, Oath of Athens – Prison Health Care Practitioners (*1979*)

Abbreviation		Symbol	Title in full
10	**ECHR***	Rome, 4.XI.1950	Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14 (*1950*)
11	**ECoPT***	CPT/Inf (93)12	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 3rd General Report on the CPT's Activities covering the Period of 1 January to 31 December 1992 (*1993*)
12	**EPR***	Rec (2006) 2	Council of Europe, Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules (*2006*)
13	**ICN-PS***	–	International Council of Nurses, Position Statement on Nurses' Roles in the Care of Detainees and Prisoners (*1998*)
14	**IP***	HR/P/PT/8/Rev.1 Sales No. E.04.XIV.3; ISBN 92-1-154156-5; ISSN 1020-1688	UN High Commissioner for Human Rights, Istanbul Protocol – Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Professional Training Series No. 8/Rev.1 (2004)
15	**LDLA***	RES/100	African Commission on Human and Peoples' Rights, Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System, 40th ordinary session (*2006*)
16	**ODPR***	RES/64 2003	African Commission on Human and Peoples' Rights, Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa, 34th ordinary session (*2003*)
17	**PBPA***	OEA/Ser/L/V/II.131 doc. 26, Resolution 1/08	Inter-American Commission on Human Rights, Principles and Best Practices of Persons Deprived of Liberty in the Americas (*2008*)
18	**PCLA***	–	General Report of the Permanent Committee of Latin America for the Revision and Updating of the UN Standard Minimum Rules for the Treatment of Prisoners *(2009)*
19	**PGLAA***	DOC/OS(XXX)247	African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (*2003*)
20	**WMA-BS***	–	World Medical Association, Statement on Body Searches of Prisoners (*1993*)
21	**WMA-DE***	–	World Medical Association, Declaration of Edinburgh on Prison Conditions and the Spread of Tuberculosis and other Communicable Diseases (*2000*)
22	**WMA-DH***	–	World Medical Association, Declaration of Helsinki – Ethical Principles for Medical Research involving Human Subjects (*1964*)

23	**WMA-DHb***	–	World Medical Association, Declaration of Hamburg concerning Support for Medical Doctors Refusing to Participate in, or to Condone, the Use of Torture or Other Forms of Cruel, Inhuman or Degrading Treatment (*1997*)
24	**WMA-DL***	–	World Medical Association, Declaration of Lisbon on the Rights of the Patient (*1981*)
25	**WMA-DM***	–	World Medical Association, Declaration of Malta on Hunger Strikes (*1991*)
26	**WMA-DT***	–	World Medical Association, Declaration of Tokyo on Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment (*1975*)
27	**WMA-ME***		World Medical Association, International Code of Medical Ethics (*1949*)
28	**WMA-RT***		World Medical Association, Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment (*2003*)
29	**WPA-DH***		World Psychiatric Association, Declaration of Hawaii on Ethical Guidelines for Psychiatrists (*1977*)
30	**YP***		Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity *(2006)*