

Table of Contents

Preface by the editors of the studies series.....	3
A Introduction.....	9
B History	13
1 A Historical Retrospective	13
1.1 The History of Origin of the CAT and its OP	13
1.2 Europe's Role as an Outrider in the Development of a Preventive Instrument against Torture	16
1.3 The Further Development of the Optional Protocol to the UN Convention against Torture.....	20
1.3.1 The Austrian Committee against Torture	20
1.3.2 Universalism versus Regionalism	21
1.3.3 The Revision of the Costa Rica Draft.....	22
1.3.3.1 The weak points of the Costa Rica Draft.....	23
1.3.3.2 Presenting a New Idea.....	24
1.3.3.3 The instalment of a Working Group.....	25
2 The Development of the Text	26
2.1 A drafting process session by session	26
2.1.1 The first reading of the text – a variety of issues.....	26
2.1.2 The second reading – drafting on key provisions.....	31
2.1.3 GRULAC's alternative draft proposal – a breakthrough	34
2.1.4 The session of 2002 – a climate of tension	36
2.1.5 The proposal presented by the Chairperson-Rapporteur.....	40
2.2 The UN adoption process	42
C The Text of the OPCAT	45
1 The preambular part of the Optional Protocol.....	45
1.1 Preventing people from being tortured – a significant aim	45
1.2 Prevention before Repression.....	46
2 The General Principles of the Optional Protocol.....	47
Article 1	47
Article 2	52
Article 3	56

Article 4	57
3 The Subcommittee on Prevention	60
Article 5	60
Article 6	64
Article 7	66
Article 8	68
Article 9	69
Article 10	70
4 The Mandate of the Subcommittee.....	72
Article 11	72
Article 12	77
Article 13	81
Article 14	86
Article 15	91
Article 16	92
5 The National Preventive Mechanisms – starting from a dual approach.....	96
Article 17	97
Article 18	99
Article 19	102
Article 20	104
Article 21	106
Article 22	107
Article 23	108
6 Declaration	109
Article 24	109
7 Financial Resources – the Funding of the Subcommittee on Prevention	110
Article 25	110
Article 26	111
8 Final Provisions	112
Article 27	112
Article 28	114

Article 29	115
Article 30	117
Article 31	119
Article 32	122
Article 33	125
Article 34	126
Article 35	127
Article 36	128
Article 37	129
9 The new system's guiding principles	130
9.1 Prevention	130
9.2 Dialogue and Co-operation	131
9.2.1 Co-operation between the States parties and the visiting bodies	131
9.2.2 Co-operation among the visiting bodies	132
9.2.3 Co-operation between the States parties, the Subcommittee and the Committee against Torture	133
9.2.4 Co-operation between the Subcommittee and regional bodies	133
9.2.5 Co-operation between the Subcommittee and the International Committee of the Red Cross	133
D The Austrian perspective	135
1 The Austrian Human Rights Advisory Board – how does it fit into the new system?	135
1.1 History of origins	135
1.1.1 The CPT's postulation	135
1.1.2 The triggering moment	136
1.1.3 The legal basis	136
1.2 Composition and legal status	137
1.3 The duties and responsibilities of the HRAB and their fulfilment from a conceptional point of view	138
1.4 The Commissions of the Human Rights Advisory Board	139
1.4.1 Structure and Functioning	140
1.4.2 The visiting system	142
1.4.3 International human rights standards as a basis for the Commissions' work	143
1.4.4 The Commissions' focuses and recent findings	145
1.5 Reports and recommendations	145
1.6 The Human Rights Advisory Board as a model for a National Preventive Mechanism under the OPCAT?	147

E. Conclusions..... 159

Select Bibliography 161

Index 169