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**EUROPEAN COMMITTEE FOR THE PREVENTION
OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT**

(CPT)

EXAMINATION OF BODILY ORIFICES

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EXAMINATION OF BODILY ORIFICES

1. During a CPT visit to the Customs Service detention facilities at Frankfurt am Main airport in 1998 the delegation was, probably for the first time, confronted with some questions concerning examination of bodily orifices. The delegation entered into a discussion with the staff about how to handle persons who were suspected of smuggling drugs. If a suspicion arose that a person tried to smuggle drugs inside his/her body or tried to hide drugs in the cavities of vagina and/or rectum, who could then order and/or make a physical, intimate examination of the suspect?

2. This paper intends to discuss some ethical, medical and juridical aspects of examination of bodily orifices and propose some rules for the work. This paper is not at all complete but may be used for discussion in the CPT's medical group. Concerning ethical aspects of the work of medical personnel, I allow myself to refer to different international rules and conventions.

3. With bodily orifices are meant:

vagina
rectum
meatus urethrae
the oral cavity
nose
ears.

Only vagina and rectum are of interest for this discussion.

4. An external examination of the body (and clothes) can be made by any law enforcement officer, customs officer or prison officer involved in examination of a certain case without any obstacles of medico-legal character.

5. The police can, without the permission of a prosecutor, perform an examination of the oral cavity and alcotest by exhalation. The police can likewise collect samples of spontaneously voided urine.

6. A physical, intimate examination/exploration can be made when there are adequate grounds to believe that a person will commit an offence which legally will lead to a sentence of imprisonment, when it is of importance for collection of information and when the intervention is not disproportionate to the suspicion or possible offence.

7. Without consent of the suspect, the physical, intimate examination of the body can only take place after permission of the prosecutor. The prosecutor can decide that the Court should give permission to the examination. Before the decision is taken, the suspect shall, if possible, be given opportunity to express his opinion.

8. A physical, intimate examination (exploration) can only take place as long as there is no hazard to the suspect's health or the suspect will experience considerable pain during the exploration. Examination of the stomach (gastroscopy) cannot be made. Urine cannot be sampled with the help of a catheter-equipment.

9. The physical examination shall always be made as carefully as possible trying not to violate the person's integrity.

10. Force can only be used as long as it is necessary in order to make the examination satisfactory. No more force than necessary can be used, and not at such an extent that there is risk of hazard to one's health or considerable pain will be experienced.

11. The following examinations can only be made by qualified health care personnel:

collection of blood samples

examination with the help of X-ray

examination/exploration of vagina or rectum

examination with the help of enema (an enema is an injection of fluid into the lower bowel through the rectum. The type of enema most commonly used is the soap-and-water enema for cleansing and evacuating the bowel)

examination with the help of emetic or purgative

other examinations where medical competence is needed. Scraping off a tiny bit of the mucous membrane of the oral cavity with a spatula for DNA-examination/identification can technically be done by anyone without problems, but can have important fundamental implications.

12. If, or when other persons than doctors are making examinations with the help of enema, emetics or purgatives, the examinations must always be supervised by health care personnel, preferentially a doctor.

13. The prosecutor's permission or the court order shall be read aloud to the suspect before the physical, intimate examination can take place.

14. By the physical, intimate examination shall only those persons be present who are needed for the examination. The persons present shall, if possible, be of the same gender as the suspect in order to protect decency. An independent witness shall, if possibly, be present. Everyone present has the duty to keep confidence about the examination.

15. After the examination a report has to be drawn up which shall contain:

the name and other data of the suspect
the reason for suspicion
the prosecutor's verdict or the court's order
who made the examination and when it was made
what kind of examination was made and the eventual results.

16. The report shall be made available to the suspect and his eventual lawyer.

June 2001, Ingrid Lycke Ellingsen