

THE EUROPEAN NPM PROJECT

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION



COUNCIL
OF EUROPE CONSEIL
DE L'EUROPE

Implemented
by the Council of Europe

A COUNCIL OF EUROPE/ EUROPEAN COMMISSION JOINT PROGRAMME:
“Setting up an active network of national preventive mechanisms against torture,
an activity of the Peer-to-Peer Network”

co-funded by the
HUMAN RIGHTS TRUST FUND

Implementing partner:



The European NPM Newsletter

Issue No. 28 / 29

May - June 2012

Prepared by
Francesca Gordon
Silvia Casale Consultants,
under the aegis of
Human Rights Directorate,
DGI-Human Rights and Rule of Law,
Council of Europe

Table of Contents

1. European NPM Project	4
1.1. Objectives of the Project	4
1.2. Recent European NPM Project events.....	4
1.3. Forthcoming European NPM Project activities for 2012	5
2. European NPM Network	5
2.1. News from NPMs	5
2.1.1. News from the NPM of Serbia.....	5
2.1.2. News from the NPM of Austria.....	6
2.1.3. News from the NPM of "the former Yugoslav Republic of Macedonia"	6
2.1.4. News from the NPM of Slovenia	7
2.1.5. News from the NPM of Armenia	7
2.1.6. News from the NPM of the Czech Republic	8
2.1.7. News from Ukraine	8
3. United Nations	8
3.1. UN Sub-Committee on Prevention of Torture (SPT) news.....	8
3.2. Recent OPCAT news	9
3.2.1. Visit report: Brazil	9
3.2.2. SPT June Plenary Session	9
3.3. Forthcoming OPCAT events	9
3.4. UN Committee against Torture (CAT)	10
3.5. UN Special Rapporteur on Torture	10
3.6. World Health Organisation (WHO)	10
4. Council of Europe	10
4.1. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)	10
4.2. Selected Article 3 cases before the European Court of Human Rights: May/June 2012	12
5. European Commission and Agencies	13
5.1. European Commission	13
5.2. European Union Agency for Fundamental Rights (FRA).....	14
5.2.1. FRA - Fundamental rights: challenges and achievements in 2011	14
5.2.2. FRA: Involuntary placement and involuntary treatment of persons with mental health problems	14
6. News from NGOs	14
6.1. The Association for the Prevention of Torture, Geneva (APT).....	14
6.2. Penal Reform International (PRI)	15
7. Special topic of this Newsletter Issue: "NPM co-operation with other domestic oversight mechanisms"	16
7.1. Introduction.....	16
7.2. Overview and summary of the replies from the European NPM Network.....	16
7.3. Contribution from the SPT	19
8.1. Question from the NPM of Poland	20
8.2. Response from the European NPM Network	20
APPENDIX 1	22
Detailed responses and contributions from the European NPM community to the discussion on the special topic: "NPM co-operation with other domestic oversight mechanisms".....	22
APPENDIX 2	28
Selected European Court of Human Rights' Article 3 case summaries for May 2012	28

INTRODUCTION

The “European NPM Newsletter” is a review of information deemed relevant for National Preventive Mechanisms against torture (NPMs)¹ in the Council of Europe region.

The publication of the “European NPM Newsletter” is part of the “European NPM Project”, which is funded by a joint European Union - Council of Europe Project entitled the “Peer-to-Peer II Project”, with co-funding from the Human Rights Trust Fund².

The European NPM Newsletter has been prepared by Francesca Gordon of Silvia Casale Consultants, London, under the aegis of the Directorate General of Human Rights and Rule of Law of the Council of Europe, in conjunction with the Migration Co-ordination Division of the Directorate of Human Rights and Antidiscrimination, Council of Europe.

The purpose of the Newsletter is to keep the NPMs aware on an on-going basis of developments regarding their community and thus to nurture an active network of European NPMs.

Each Newsletter Issue covers retrospective news and information, but also contains information on forthcoming activities and events, including those under the European NPM Project, and provides updates regarding the establishment, the legislative bases and the functioning of NPMs in the Council of Europe region. In addition, each Newsletter Issue presents an issue considered to be of topical concern for the European NPM Network for discussion by members of the Network and associated experts.

NPMs are cordially invited to contribute to the “European NPM Newsletter” by sending information they wish to see circulated to Francesca Gordon, Project Manager of the European NPM Project, at: fgordon@cescaonline.com. The Newsletter is sent to subscribers electronically.

The Directorate General of Human Rights and Rule of Law in conjunction with the Migration Co-ordination Division of the Directorate of Human Rights and Antidiscrimination of the Council of Europe, and the compilers of the European NPM Newsletter, are responsible for the selection of news items and drafting of case summaries presented in the Newsletter. Other contributors are responsible for materials sent in for inclusion in the Newsletter from the European NPM Network. The compilers of the Newsletter retain the discretion to make linguistic changes for clarity if necessary.

Observations and proposals as to the format of the Newsletter are very welcome.

We hope that you will find this European NPM Newsletter to be of use and interest.

¹ As foreseen by the Optional Protocol of the UN Convention Against Torture (OPCAT). OPCAT obliges State parties to set up an NPM within one year of ratification.

² The Human Rights Trust Fund (HRTF) was established in March 2008 as an agreement between the Ministry of Foreign Affairs of Norway as founding contributor, the Council of Europe and the Council of Europe Development Bank. Germany and the Netherlands have joined in as contributors.

1. European NPM Project

1.1. Objectives of the Project

The Directorate General of Human Rights and Rule of Law of the Council of Europe has developed the European NPM Project with the aim to create an active network of the NPMs in the Council of Europe region to foster peer exchange and provide a forum for cooperation between this network and international actors, such as the United Nations Sub-Committee on the Prevention of Torture (SPT) and the European Committee for the Prevention of Torture (CPT). The ultimate guiding principle is to strengthen the prevention of torture at national level in all Council of Europe member States.

The project focuses on four main areas of activity:

- Creating an active network of NPMs in Europe to foster peer exchange, critical reflection and creative thinking on NPM work;
- Promoting awareness of CPT and SPT standards and working methods within the European NPM network;
- Promoting the cooperation between the SPT, the CPT and the NPMs; and
- Promoting the ratification of the OPCAT and the establishment of OPCAT compliant NPMs where they do not exist.

The European NPM Project is managed by the Directorate of Human Rights of the Council of Europe. The Association for the Prevention of Torture (APT), a non-governmental organisation with longstanding, universal experience in torture prevention, is the Implementing Partner for the Project. Silvia Casale from the UK, who combines experience as former President of both the CPT and the SPT, serves as the Project Adviser.

1.2. Recent European NPM Project events

European NPM Project 9th Thematic NPM Workshop: “Irregular migrants, Frontex and the NPMs”, Belgrade, Serbia 12-13 June 2012

The Project’s 9th and final NPM thematic workshop under the European NPM Project on “Irregular migrants, Frontex and the NPMs” was held in Belgrade on 12-13 June 2012. This two-day NPM thematic workshop, was hosted by the Office of the Protector of Citizens, the Ombudsman of the Republic of Serbia (and NPM of Serbia) within the framework of the European NPM Project, and was geared at NPMs and international monitoring bodies, as well as thematic experts, involved in the monitoring of risks of torture or ill-treatment during the removal process and the deportation by air of irregular migrants. It also explored NPM issues during arrivals, re-admission, interceptions and push-back of irregular migrants, over land and at sea. The workshop involved those experts working together with members of the UN’s Sub-Committee on Prevention (SPT), the European Committee Against Torture (CPT), the NGO and Project Implementing Partner, the Association for the Prevention of Torture (APT), as well as representatives from the International Organisation for Migration and Frontex. Representatives of a Russian Public Monitoring Committee of places of detention (PMC) and of the nascent NPM of Austria and future NPM of Greece attended as observers. The workshop comprised two days of discussions on three areas in two working sessions. The first working session built on discussions and results from the previous European NPM Project’s 8th thematic workshop on 'monitoring enforced removals' and focused on discussions between NPMs, Frontex and the international prevention bodies on monitoring joint enforced returns by air. The second working session focused on the issues for consideration by NPMs and the risks of ill-treatment concerning arrivals by land and interception at sea.

The working documents of the workshop including the programme, briefing paper presentations, etc. are available on the Council of Europe’s website at: http://www.coe.int/t/dghl/cooperation/capacitybuilding/nhrs_en.asp

European NPM Project Inter-NPM Onsite Exchange of Experiences: joint visit by representatives of the NPMs of Albania, "the former Yugoslav Republic of Macedonia", Serbia and Slovenia, Tirana, 4-6 June 2012

The third additional inter-NPM Onsite Exchange of Experiences was hosted by the Albanian NPM with their colleagues from Serbia, Slovenia and "the former Yugoslav Republic of Macedonia" attending, from 4-7 June 2012. This was a fruitful experience between the four NPMs, which built upon the second inter-NPM Onsite between the same NPMs held in February 2012. This time the Onsite had a primary focus on conducting a joint monitoring visit and sharing perspectives and methodologies on monitoring psychiatric institutions. A full Debriefing Report is available to be shared with the whole of the NPM community on the Council of Europe's website at: http://www.coe.int/t/dghl/cooperation/capacitybuilding/nhrs_en.asp, which outlines the concrete follow-up recommendations as to developing the four NPMs' monitoring methodologies in this area.

1.3. Forthcoming European NPM Project activities for 2012

As the European NPM Project comes to the end of its funding on the 30th June 2012, the activities since the Project's inception will have all been completed. Owing to popular demand however the European NPM Newsletter will continue under the funding of the Council of Europe's Directorate General of Human Rights and Rule of Law and the Migration Co-ordination Division of the Directorate of Human Rights and Antidiscrimination.

2. European NPM Network

2.1. News from NPMs

2.1.1. News from the NPM of Serbia

Serbian NPM: 'Mari Amos member of SPT, visited the Serbian NPM on June 14, 2012. On that occasion, Serbian NPM team undertook several unannounced visits to detention institutions: one psychiatric hospital, two police stations and one gerontology center. Visiting team comprised: Ms Mari Amos, Mr Miloš Janković, Deputy ombudsman in charge of protection of persons deprived of liberty and NPM, one employee in Ombudsman and two experts, one doctor of forensics and one psychiatrist. Before the visit, preparation was undertaken and the theme was determined for every institution.

The first visit was around 4 am to the psychiatric hospital „Dr. Laza Lazarević“, at the outskirts of Belgrade. Focal points were:

1. Relations between number of employees and number of residents (*allocation of employees in different parts of the hospital; employees on duty by qualifications; location of employees at the time of arrival of NPM*);
2. Use of restraints at the time of the arrival (*physical - by kind, registers, locked doors; chemical - by kind, registers; legal basis, documentation*);
3. Use of CCTV (*protection of sensitive personal data; location of cameras and monitors; taping; audio surveillance; access to picture and sound; informing about use of CCTV*);
4. Overall, picture of safety and security during night.

Around 6 am the NPM team visited police station Cukarica, and around 7 am police station Zemun. The reason of this selection was in order to make recommendations from last year visits of Ombudsman and CPT, when it had been found that the relevant standards were not fulfilled. Focal points were:

1. Preliminary medical check-up (*availability; routines; performers; documentation*);
2. Availability of medical care (*application procedures; evaluation; proceedings; medical aid kit and training; availability and distribution of medicines; documentation*);
3. Registers (*documenting arrival; condition on arrival; informing about rights; access to lawyer; complaints by detainees*).

Around 8 am gerontology center „Bežanijska Kosa“ was visited, special attention was provided to Department for accommodation of mentally-ill persons. Focal points were:

1. Relation between number of employees and number of residents (*allocation of employees in different parts of the institution; employees on duty by qualifications; location of employees at the time of arrival of NPM*);
2. Existence of proper diets (*different diseases; meals etc; evaluation of the nutrition of meals*);
3. Time foreseen for a meal (*length vs. conditions of the residents*);
4. Actual feeding help rendered to residents by employees (*existence; system; special training*); and
5. Documentation (*amount of the food and liquids consumed per day; frequency of changing diapers*).

After the visit, in premises of the Ombudsman, visitors from earlier that morning and rest of NPM team, debriefed together for 3 hours. Themes for the debriefing were: lessons learnt on methodology, main observations and problems, content and form of feedback.

In the afternoon, a two-hour meeting was held with visitors from earlier that morning, NPM team and NGOs (who are part of the Serbian NPM). During the meeting we had an exchange of ideas. Exercise started with a short feedback from the morning visit in order to update the NGOs. Discussions were had on the main areas of interest of the NPM. Previously following topics have been pointed out: visiting methodology, using data collected during visits and compiling it into the report, structure of the reports (*how detailed, should it be published*), periodical reports, follow-up of recommendations, role of NPM in prevention of torture, relation between NPM and SPT/other bodies (CPT, CAT etc).

The report will be made based on the observations during the visits to all the institutions, and submitted to back to the institutions. ’

2.1.2. News from the NPM of Austria

The Austrian NPM will be operational from 1 July 2012. ‘The Austrian Ombudsman Board (AOB) forms a central part in the implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT, signed by Austria on 25 September 2003) as well as the Convention on the Rights of Persons with Disabilities (CPRD, ratified by Austria on 26 September 2008) in Austria. As of 1 July 2012 the AOB takes on the function of National Preventive Mechanism (NPM).

The new constitutional mandate of the AOB now explicitly includes the protection and promotion of human rights. This is the most profound reform and expansion of AOB responsibilities since its establishment in 1977 and requires a new understanding of the office. While it previously concentrated on an ex-post control of the public administration based on reviewing complaints initiated by individuals, the brief of the new AOB is to expand its previous responsibilities by undertaking preventive monitoring tasks. In this context, the long-term strategic aim of the AOB is to move towards becoming the “human rights house of the Republic of Austria”.’ Please see the website: www.volksanwaltschaft.gv.at for more details.

2.1.3. News from the NPM of "the former Yugoslav Republic of Macedonia"

‘On May 30 The Ombudsman of Republic of Macedonia presented the Annual Report of the National Preventive Mechanism.

Representative from the NPM participated at the working meeting between the National Preventive Mechanisms of Albania, Macedonia, Slovenia and Serbia that took place in Tirana, Republic of Albania, in the period 05-07 June 2012. The meeting was organized within the framework of the Council of Europe’s NPM Peer-to-Peer project aimed towards strengthening the cooperation and the capacities of the European NPMs and was hosted by the Albanian Ombudsman.

During the first day of the meeting the NPMs exchanged experience regarding their methodologies on visits to psychiatric institutions, while the second day they visited one psychiatric clinic in Tirana and afterwards prepared recommendations for overcoming the identified shortcomings.

In the period between 11 and 15 of June 2012, representative of the National Preventive Mechanism took part in the study visit to the Ombudsman of the Kingdom of Spain, organized under the umbrella

of the twinning project for strengthening the capacities of the Ombudsman of the Republic of Macedonia. During the visit the NPM representative met the Spanish National Preventive Mechanism and exchanged experiences regarding the preventive visits to places of deprivation of liberty and jointly visited a juvenile correctional center in Madrid. At the visit the NPMs identified risks that might cause acts of torture or other cruel, inhuman or degrading treatment or punishment and issued recommendations for improving the conditions and treatment of persons deprived of their liberty.'

2.1.4. News from the NPM of Slovenia

NPM of Slovenia: 'Slovenian Human Rights Ombudsman dr. Zdenka Čebašek-Travnik and Deputy Ombudsman Ivan Šelih met with representatives of the Subcommittee on Prevention of Torture (SPT) on 18th June 2012 in Geneva, Switzerland. The purpose of the meeting was to present views, experiences and challenges of the Slovenian NPM to the SPT. Mrs. Čebašek-Travnik and Mr. Šelih presented in detail the so called 'Ombudsman Plus' model, as carried out in the Republic of Slovenia. Beside the overall evaluation (advantages, shortcomings, further development,...), several questions regarding the selection process of NGOs (transparency, promotion of active participation,...), ways of training NGO experts and NGO participation in monitoring (role in the monitoring process, pre-visiting briefing, post-monitoring debriefing, reporting,...) and other NPM activities (participation in writing the NPM annual report, promotional activities,...) were answered.

According to the Slovenian representatives the 'Ombudsman plus' NPM model is overall the best approach, due to multidisciplinary, plurality, transparency, partnership (cooperation between a state authority and non-governmental organisations), and exchange of experience, information and working methods. Nevertheless, existing possibilities should regularly be examined and verified as it is necessary to envisage the number of required visits, and plan the right number of personnel and resources for the NPM operation accordingly. Last but not least, it should also be stressed, that the NPM cannot operate efficiently without adequate personnel and the necessary resources.

The meeting was a welcome way of direct contact between SPT and NPMs (Article 11(b) of the OPCAT). Such opportunities should therefore be maintained also in the future.'

SPT response: *Comments from Mari Amos, head of the European regional task force as well as rapporteur of the NPM relations working group*

'SPT would like to sincerely express its gratitude to Slovenian NPM who kindly accepted the proposal to join SPT in Geneva during its 17th session in order to have intense exchange of ideas exercise with the members of the European regional task force. Meeting with Slovenian NPM was very useful for the SPT, as we could learn the specificities of such model from one of the oldest OM+ NPMs. As the atmosphere was honest and constructive, SPT could also have information about actual advantages and downsides of the model in question. SPT will send its feedback to Slovenian NPM in due course. This was first such targeted meeting with NPMs for SPT. As such a format proved to be beneficial, SPT considers to apply same methodology also in the future'.

2.1.5. News from the NPM of Armenia

Ombudsman Office and Embassy of the Federal Republic of Germany Launch a Project on Enhancing Access to Legal Aid for Victims of Torture and Ill-Treatment in Detention. On July 04 Ombudsman of Armenia Karen Andreasyan and Christoph Breuning, Chargé d'affaires of the Embassy of the Federal Republic of Germany in Armenia signed the Agreement commencing a joint project "Access to Legal Aid for Victims of Torture and Ill-Treatment in Places of Deprivation of Liberty". Project aims at enhancing access to free legal aid and advocacy for victims of torture and ill-treatment identified through the Ombudsman's National Preventative Mechanism team, in the military and places of deprivation of liberty, including penitentiary institutions, police stations, orphanages, psychiatric hospitals, etc. The programme will be implemented in partnership with Human Rights House NGO. The amount of the financial contribution of German Embassy is 22.300 EUR. The Projects envisages establishment of a "Travelling Advocate" scheme in partnership with HRH NGO to visit places of deprivation of liberty and provide free legal assistance to victims of torture and ill-treatment. It is expected to result in increased accountability in the military and places of deprivation of liberty for incidents of torture and ill-treatment, improved access to the courts and legal complaints mechanisms and raised awareness among persons in places of deprivation of liberty of their rights and the support services available to them. For more details email: s_harutyunyan@ombuds.am.

2.1.6. News from the NPM of the Czech Republic

'After a series of visits of facilities where children are held (in institutional care: children's homes and corrective facilities for minors) Czech NPM has recently issued quite an extensive summary report. It covers findings from visits of 20 facilities, ombudsman's legal assessment of institutional care in the Czech Republic and results of discussions with experts on two round tables held by NPM. To strengthen the preventive effect of its visits NPM has – for the first time – issued also Standards of care of endangered children and their families. Standards are a brief document summarizing NPM's findings and recommendations in fields of state policy, right on family life, social-legal protection of children in facilities, placement children into institutions and their transfers, material conditions, right on privacy, external contacts and communication, education, disciplinary measures, specific needs of some children and staff topics. The aim of Standards is to lay down some quality requirements which will be always asked by NPM and can be also used by children and their families, professional, NGOs and authorities too. NPM is going to continue in this strategy, as same as in formulating information leaflets for general public (lastly on the topic of malnutrition) to enable complainers and inmates of institution to defend their rights.'

2.1.7. News from Ukraine

NPM preparations

In June 'a working meeting on the establishment of the National Preventive Mechanism was held in the Office of the Ukrainian Parliament Commissioner for Human Rights. The meeting was attended by the representatives of Kharkiv Institute for Social Researches, ministries and state bodies. As a result of the meeting, important decisions were taken which will help to implement a National Preventive Mechanism and its establishment in particular.

Firstly, it is important to appoint staff responsible for the coordination work on the establishment of a National Preventive Mechanism. Secondly, a schedule of regular visits to places of detention will be arranged by the end of June. The schedule of visits will be elaborated by the Department for the establishment of the National Preventive Mechanism of the Office of the Ukrainian Parliament Commissioner for Human Rights in partnership with Kharkiv Institute for Social Researches. In order to prevent torture and other cruel, inhuman or degrading treatment in places of detention, all visits will be carried in the presence of the NGOs (non-governmental organizations) representatives.

The representatives of the Minister of Internal Affairs, Security Service of Ukraine, State Tax Administration, State Penitentiary Administration, Ministry of Defence, State Boundary Administration, State Judicial Administration, Ministry of Health and Ministry of Social Policy took part in the meeting.

The National Preventive Mechanism has to be established in order to fulfil the requirements provided by the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by the Verkhovna Rada of Ukraine on 21 July, 2012'.

Ukrainian Parliament Commissioner for Human Rights; for more details please see: <http://www.theioi.org/news/ukraine-important-npm-preparations> .

3. United Nations

3.1. UN Sub-Committee on Prevention of Torture (SPT) news

Training day with the Serbian NPM

'According to the article 11 of the OPCAT the SPT is obliged to offer training and technical assistance to NPMs as well as provide advise and assistance to them in the evaluation of needs and means. Despite of the lacking human and financial resources SPT is constantly trying to find ways how to actually implement this obligation. Participation at the Council of Europe NPM network event in Belgrade gave me good opportunity to prolong my stay and have interactions with the local NPM.

Following NPM doing 4 ad hoc visits outside of the normal working hours to different places of detention was very interesting and educational exercise. After visits there was immediate debriefing done with both members of visiting team as well as whole NPM team present. During the debriefing different aspects of visiting methodology as well as findings in the places of detention were analysed. After this intensive exercise also NGOs participating in the Serbian NPM joined the meeting. During the expanded workshop role of NGOs as well as activities relating prevention were discussed. It was very satisfying to see the professionalism and commitment of the NGOs that belong to the NPM.

Overall this exercise was extremely beneficial for SPT for actually engaging itself with NPM related work as well as for monitoring how main agents of the OPCAT – NPMs – are actually performing

their tasks. In the spirit of advice and cooperation NPM was also given analytical feedback regarding visiting and workshop. Therefore SPT encourages also other NPMs who consider that they could benefit of similar or other activity to contact either the Secretary of the SPT Patrice Gillibert (pgillibert@ohchr.org) or SPT focal point for Europe Mari Amos (mari.amos@gmx.com).¹

Mari Amos, Member of SPT, Focal point for Europe

3.2. Recent OPCAT news

3.2.1. Visit report: Brazil

The SPT visit report to Brazil in 2011 has now been made public by the Brazilian authorities and is available in the web page of the Brazilian Human Rights Secretariat [http://www.sdh.gov.br/acessoainformacao/acoes-e-programas/relatorio do SPT.pdf](http://www.sdh.gov.br/acessoainformacao/acoes-e-programas/relatorio_do_SPT.pdf)

In conformity with article 16, para. 2 of the Optional Protocol to the Convention and with established practice, the SPT Secretariat is requesting official confirmation from the Permanent Mission of Brazil about it and a request to process the report as a public document.

As of 15 June 2012, out of a total of 14 visit reports, 7 have been published.

3.2.2. SPT June Plenary Session

The SPT held their 17th Plenary session from 18 to 22 June 2012, for more information please see: <http://www2.ohchr.org/english/bodies/cat/opcat/index.htm>.

3.3. Forthcoming OPCAT events

Elections of members to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

'Fourth Meeting of States Parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: the fourth meeting of States parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) will be held on 25 October 2012, at the United Nations Office at Geneva. The purpose of the meeting is to elect twelve members of the Subcommittee on Prevention of Torture, to replace those whose terms of office will expire on 31 December 2012.

The election of candidates for membership in the Subcommittee on Prevention of Torture shall take place in accordance with articles 5 through 9 of the OPCAT.

Nominations

In accordance with articles 6 and 7 of the OPCAT; the Secretary-General, in a note verbale dated 9 May 2012, invited the States parties to submit their nominations of candidates for the election of members to the Subcommittee on Prevention of Torture within three months, i.e. by 9 August 2012. Nominations and biographical data should be submitted, using the relevant form, to the Secretary-General, c/o. Office of the High Commissioner for Human Rights, United Nations Office at Geneva, 1211 Geneva 10, Switzerland, and in electronic Word version to ybabuzhina@ohchr.org , with copy to evaldiviadeifye@ohchr.org , by 9 August 2012 at the latest¹.

'List of candidates nominated by States Parties to OPCAT

Filip Glotzmann, Czech Republic

Paul Lam Shang Leen, Mauritius

Hans-Jorg Victor Bannwart, Switzerland

Malcolm Evans, United Kingdom of Great Britain and Northern Ireland

Suzanne Jabbour, Lebanon

Christian Pross, Germany

Gnambi Garba Kodjo, Togo'

Please see <http://www2.ohchr.org/english/bodies/cat/opcat/elections2012.htm> for more details

3.4. UN Committee against Torture (CAT)

Forthcoming event:

Committee against Torture's 48th session was held from 7 May to 1 June 2012, for more information please see: <http://www2.ohchr.org/english/bodies/cat/cats48.htm>

3.5. UN Special Rapporteur on Torture

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez - Addendum - Follow-up to the recommendations made by the Special Rapporteur visits to China, Denmark, Equatorial Guinea, Georgia, Greece, Indonesia, Jamaica, Jordan, Kazakhstan, Mongolia, Nepal, Nigeria, Paraguay, Papua New Guinea, the Republic of Moldova, Spain, Sri Lanka, Togo, Uruguay and Uzbekistan. Ref: A/HRC/19/61/Add.3, 1 March 2012. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/111/23/PDF/G1211123.pdf?OpenElement>

3.6. World Health Organisation (WHO)

The Mental Health Policy and Service Development (MHP) are pleased to announce that the **International Diploma in Mental Health Law and Human Rights is currently accepting applications for 2012 - 2013.**

The Diploma, now in its fifth year, is a collaboration between WHO and the ILS Law College in Pune, India. The course builds the capacity of students to advocate for human rights and to influence national legislative and policy and service reform in line with the UN Convention on the Rights of Persons with Disabilities and other key international human rights standards. It is a one year Diploma and includes two residential sessions and distance learning. Students to date have comprised health and mental health professionals, lawyers, mental health service users and survivors, government officials, social workers, human rights defenders and families and carers. The course is taught by a faculty of renowned international experts in the area.

More information about the Diploma is also available at: www.mentalhealthlaw.in. Applications can be submitted online at: <http://www.mentalhealthlaw.in/content/online-application>. For more information contact: Natalie Drew, Mental Health Policy and Service Development (MHP), Department of Mental Health and Substance Abuse, World Health Organization, 20 Avenue Appia, CH-1211 Geneva 27, drewn@who.int; WHO MIND website: http://www.who.int/mental_health/policy/en/

4. Council of Europe

For the 60th anniversary of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR), the Directorate of Communication, in cooperation with many of the Directorates of the Council of Europe, has launched a website dedicated to the ECHR. The aim of the website is to make information on the ECHR's content and impact on daily life more accessible and available to the general public; it also has an educational aspect for students and actors in the field of human rights. The website is structured so as to allow easy access to all relevant resources and information concerning the ECHR.

The website is available in English and French: <http://human-rights-convention.org/>

4.1. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

The CPT visited Bulgaria (14.05.2012)

The CPT carried out an ad hoc visit to Bulgaria from 4 to 10 May 2012. The main objective of the visit was to review the current situation as regards the treatment and conditions of prisoners in

establishments under the responsibility of the Ministry of Justice. For this purpose, the CPT's delegation visited Burgas and Varna Prisons. The delegation held consultations with Plamen GEORGIEV, Deputy Minister of Justice and Mitko DIMITROV, General Director of the General Directorate of Execution of Sanctions, as well as with other senior officials from the Ministries of Justice and Health. At the end of the visit, the delegation presented its preliminary observations to the Bulgarian authorities. Read more: <http://www.cpt.coe.int/documents/bgr/2012-05-14-eng.htm>

The CPT visited Italy (31.05.2012)

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to Italy from 13 to 25 May 2012. During the visit, the delegation reviewed the measures taken by the Italian authorities in response to recommendations made by the Committee after previous visits. Particular attention was paid to the treatment and fundamental safeguards applied to persons deprived of their liberty by law enforcement agencies and the conditions under which foreign nationals are held in an identification and expulsion centre. The delegation also examined in detail various issues related to prisons, including prison health care and the situation of prisoners who are subject to a maximum security regime (so-called "41-bis regime"). In addition, it also carried out visits to a judicial psychiatric hospital (OPG) and a civil psychiatric department of a general hospital where patients may be subjected to "involuntary medical treatment" (TSO). For the first time in Italy, the delegation visited a residential institution (therapeutic community centre) where forensic patients are held on an involuntary basis.

At the end of the visit, the delegation presented its preliminary observations to the Italian authorities. Read more at: <http://www.cpt.coe.int/documents/ita/2012-05-31-eng.htm>

The CPT visited the Russian Federation (07.06.2012) A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to the Russian Federation from 21 May to 4 June 2012. During the visit, the CPT's delegation assessed progress made since previous visits and in particular the extent to which the Committee's recommendations have been implemented in the areas of police custody and pre-trial detention. The delegation also visited a closed-type prison (t'yurma), in Vladimir region, and paid a follow-up visit to Yagul Strict-Regime Colony No. 1 in the Republic of Udmurtia. The CPT's delegation met Aleksandr GOROVOY, First Deputy Minister of Internal Affairs, Aleksandr SMIRNOV, Deputy Minister of Justice, and Aleksandr BASTRYKIN, Chairman of the Investigative Committee of the Russian Federation. It also had consultations with senior officials from the various ministries and agencies concerned, including the General Prosecution Service. The delegation had meetings with representatives of the Office of the Human Rights Commissioner of the Russian Federation. It also had discussions with members of the Council of the Civic Chamber of the Russian Federation, and held consultations with members of the Public Monitoring Commissions for the city of Moscow and Moscow region, Saint Petersburg and Leningrad region, the Republics of Bashkortostan, Tatarstan and Udmurtia as well as for Vladimir region. In addition, meetings were held with representatives of several non-governmental organisations active in areas of concern to the CPT, namely the All-Russian Public Movement "For Human Rights", the Committee Against Torture, the Moscow Centre for Prison Reform and the Moscow Helsinki Group. At the end of the visit, the delegation presented its preliminary observations to the Russian federal authorities in Moscow. Read more at: <http://www.cpt.coe.int/documents/rus/2012-06-07-eng.htm>

The CPT visited Estonia (12.06.2012)

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to Estonia from 30 May to 6 June 2012. The CPT's delegation assessed progress made since the previous visit in 2007, in particular as regards conditions in police detention facilities and at Tallinn Prison. A first-time visit was carried out to Viru Prison, which had opened in 2008, the delegation paying particular attention to the juvenile and maximum security units. The delegation also examined the treatment of involuntary patients at the country's largest psychiatric hospital and of residents at a social care home. In the course of the visit, the delegation had consultations with Hanno PEVKUR, Minister of Social Affairs, Margus SARAPUU and Priit KAMA, respectively Secretary General and Deputy Secretary General of the Ministry of Justice, and Tarmo TÜRKSÖN, Secretary General of the Ministry of the Interior, as well as with other senior officials from these Ministries. The delegation also held meetings with Indrek TEDER, Chancellor of Justice, and representatives of non-governmental organisations active in areas of concern to the CPT. At the end of the visit, the delegation presented

its preliminary observations to the Estonian authorities. Read more at: <http://www.cpt.coe.int/documents/est/2012-06-12-eng.htm>

The CPT visited Spain (26.06.2012)

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Spain from 19 to 22 June 2012. The main objective of the visit was to examine the action taken to improve the conditions of detention at Barcelona Prison for Men (La Modelo) in the light of the recommendations made by the CPT after previous visits. In the course of the visit, the CPT's delegation held consultations with Ramon PARÉS GALLÉS, the Director General of Prisons, Department of Justice of the Generalitat de Catalunya. It also met with the Catalan Ombudsman, Mr Rafael RIBO I MASSO and held discussions with representatives of non-governmental organisations active in areas of concern to the CPT. Read more at: <http://www.cpt.coe.int/documents/esp/2012-06-26-eng.htm>

The CPT visited Turkey (02.07.2012)

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Turkey from 21 to 28 June 2012. The main objective of the visit was to examine the treatment and conditions of detention of juveniles held in prisons, taking into account the recent allegations of ill-treatment of juvenile prisoners at Pozantı Prison. The delegation visited Ankara-Sincan Juvenile Prison, to which all the juveniles previously held at Pozantı Prison had been transferred, as well as Istanbul-Maltepe Juvenile Prison and the juvenile units of Diyarbakır and Gaziantep E-type Prisons. The delegation also discussed with the Turkish authorities the fires which had broken out in June in several prisons in central and south-eastern Turkey, resulting in a number of severe casualties. Further, the delegation raised various issues related to the situation of Abdullah Öcalan and other prisoners held at İmralı F-type High-Security Closed Prison. Particular attention was paid to the possibility in practice for these prisoners to receive visits from relatives and lawyers. In the course of the visit, the delegation held consultations with Sadullah ERGIN, Minister of Justice, and senior officials from the Ministries of Justice and Foreign Affairs. Discussions were also held with representatives of the Ankara Office of the United Nations Children's Fund (UNICEF) and two Turkish NGOs, the Human Rights Association and the Human Rights Foundation. At the end of the visit, the delegation presented its preliminary observations to the Turkish authorities. Read more at: <http://www.cpt.coe.int/documents/tur/2012-07-02-eng.htm>

4.2. Selected Article 3 cases before the European Court of Human Rights: May/June 2012

Kaverzin v. Ukraine (no. 23892/03) – 15 May 2012 – Four violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody; lack of adequate medical care; unjustified handcuffing of a blind person while in detention and (ii) lack of an effective investigation into allegations of torture – Application of Article 46 – Domestic authorities' obligation to put in place specific reforms in the legal system to ensure that the practice of ill-treatment in police custody is eradicated and that effective investigations are carried out into every single case where there is an arguable complaint of ill-treatment

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{"dmdocnumber":\["908129"\],"itemid":\["001-110921"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{)

Labsi v. Slovakia (no. 33809/08) – 15 May 2012 – Violation of Article 3 – Ill-treatment resulting from the applicant's deportation to Algeria – Violation of Article 13 – Deprivation of the applicant's right to attempt to obtain redress of a Supreme Court's judgment by means of constitutional complaint – Violation of Article 34 – Deportation of the applicant in violation of interim measures issued by the Court

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{"dmdocnumber":\["908131"\],"itemid":\["001-110924"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{)

S.F. and others v. Sweden (no. 52077/10) - 15 May 2012 – Violation of Article 3 – Risk of ill-treatment in case of deportation to Iran

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{"dmdocnumber":\["908129"\],"itemid":\["001-110921"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{)

5. European Commission and Agencies

5.1. European Commission

European Commission proposal giving citizens the right to information in criminal proceedings to become law: "You have the right to... - a Letter of Rights".

Soon this will be the reality for anyone who is arrested or detained anywhere in the European Union. EU Justice Ministers adopted in May a new law that the European Commission had proposed to ensure defendants' right to information during criminal proceedings. Under the 'Directive on the right to information in criminal proceedings', suspects of a criminal offence will be informed of their rights in a language they understand. The measure will ensure that EU countries will give anyone arrested – or subject to a European Arrest Warrant – a Letter of Rights listing their basic rights during criminal proceedings. Once it will have entered into force (two years after it is published in the EU's Official Journal – which is expected to take place within a few weeks), the new legislation will apply to an estimated 8 million criminal proceedings every year in all EU 27 Member States. Currently this right only exists in about one third of Member States.

Background

The European Commission proposed the new legislation in July 2010 (IP/10/989) as part of a series of fair trial rights to be applied throughout the EU. It is the second measure, initiated by EU Justice Commissioner Reding, designed to set common EU minimum standards in criminal cases. This will give confidence in the EU's area of justice. The European Parliament and Council approved the first proposal, which gave suspects the right to translation and interpretation, (IP/10/1305) in October 2010. The Directive will ensure that police and prosecutors provide suspects with information about their rights. Following an arrest, authorities will give this information in writing – in a Letter of Rights – drafted in simple, every-day language. It will be provided to suspects upon arrest in all cases, whether they ask for it or not, and it will be translated if needed. EU countries are free to choose the exact wording of the Letter, the Commission proposed a model in 22 EU languages. This will provide consistency for people crossing borders and limit translation costs.

The Letter of Rights will contain practical details about the rights of persons arrested or detained, such as the right:

- to remain silent;
- to a lawyer;
- to be informed of the charge;
- to interpretation and translation in any language for those who do not understand the language of the proceedings;
- to be brought promptly before a court following arrest;
- to inform someone else about the arrest or detention.

The Letter of Rights will help to avoid miscarriages of justice and reduce the number of appeals.

At the moment, the chances that citizens will be properly informed of their rights if they are arrested and face criminal charges vary across the EU. In some Member States, suspects only receive oral information about their procedural rights, and in others the written information is not given unless requested.

Under Article 82(2) of the Treaty on the Functioning of the European Union, and with a view to facilitating the mutual recognition of judicial decisions and improving police and judicial cooperation on criminal matters, the EU can adopt measures to strengthen the rights of EU citizens, based on the EU Charter of Fundamental Rights. The right to a fair trial and the right to a defence are set out in Articles 47 and 48 of the EU Charter of Fundamental Rights; as well as in Article 6 of the European Convention on Human Rights. In June 2011, the Commission put forward a third measure to guarantee access to a lawyer and to communicate with relatives (IP/11/689). The proposal is currently under discussion in the European Parliament and in the Council.

For more information

Homepage of Vice-President Viviane Reding, EU Justice Commissioner:

<http://ec.europa.eu/reding>

5.2. European Union Agency for Fundamental Rights (FRA)

5.2.1. FRA - Fundamental rights: challenges and achievements in 2011

June 2012: 'to secure and safeguard the fundamental rights of everyone in the European Union (EU), the EU and its 27 Member States pressed forward with a number of initiatives in 2011. The EU adopted key legislative and policy measures in, for example, the areas of victim protection, human trafficking and the integration of Roma, and, for the first time, was itself directly bound to an international human rights treaty - the United Nations Convention on the Rights of Persons with Disabilities. Various EU Member States, among other steps, reformed their child protection systems and made efforts to combat violence against women and shorten the length of court proceedings. Challenges, however, remain. The areas of racism, equality and non-discrimination will continue to be core concerns. The year 2012 will also be crucial to the finalisation of the Common European Asylum System and the debate on the new EU data protection framework. This year's FRA annual report chronicles the positive developments made in 2011 as well as the challenges facing the EU and its Member States in the field of fundamental rights, drawing on objective, reliable and comparable socio-legal data. It examines progress on EU and Member State rights obligations under the EU Charter of Fundamental Rights, covering the following topics: asylum, immigration and integration; border control and visa policy; information society and data protection; the rights of the child and protection of children; equality and non-discrimination; racism and ethnic discrimination; participation of EU citizens in the Union's democratic functioning; access to efficient and independent justice; and rights of crime victims'.

For more information, the report and highlights of the report please see: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2012/pub-annual-report-2012_en.htm

5.2.2. FRA: Involuntary placement and involuntary treatment of persons with mental health problems

07/06/2012: 'This report, based on fieldwork in nine EU Member States, summarises the experiences of involuntary placement and involuntary treatment of persons with mental health problems.

Involuntary placement and involuntary treatment of persons with mental health problems affects the most fundamental of rights, including the right to liberty and the right to freedom from torture. Strict safeguards at United Nations and European level attempt to limit undue interference with such rights. The legal approach to this field is evolving rapidly, driven in part by the Convention on the Rights of Persons with Disabilities (CRPD), to which the European Union (EU) and 20 EU Member States have acceded and all Member States have signed. Far more than a repackaging of existing rights, the CRPD represents a sea-change, a move from a charity-based to a rights-based approach characterised by non-discrimination, autonomy and inclusion.

This report of the European Union Agency for Fundamental Rights (FRA) analyses the shifting legal panorama and, informed by fieldwork in nine EU Member States on the actual experiences of those involuntarily placed and treated and other stakeholders, points to the need for a renewed discussion of compulsory placement and treatment in the EU'.

For more information and for the report and Factsheet please see: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/pub_involuntary-placement-treatment_en.htm

6. News from NGOs

6.1. The Association for the Prevention of Torture, Geneva (APT)

APT OPCAT Briefing Series - October 2012 Elections to the Subcommittee on Prevention of Torture Guidance on the selection of candidates at the domestic level

The UN Subcommittee on Prevention of Torture (SPT) is the largest and most operational UN treaty body. It comprises 25 independent experts and elections take place once every two years to renew

the membership. The next elections will take place in October 2012 in Geneva, Switzerland. To assist national actors in identifying the best candidates at the domestic level, the APT has published: *Guidance on the selection of candidates at the domestic level* - it describes the role of an SPT member, the practical aspects of the mandate, the specific skills and expertise needed to be an SPT member as well as guidance on the selection process at the domestic level.

Available in English and French at: <http://www.apr.ch/>

APT e-Bulletin N°21, June 2012

The APT has published in June its e-Bulletin with a focus on prevention of torture in times of transition. See <http://www.apr.ch/> for more details. Topics cover: the role of national actors after democratic transitions, as well as the APT resources on prevention of torture in the MENA region including 'Eight Building Blocks for a Torture-free Future: The prevention of torture and other ill-treatment in times of transition' available in Arabic and in English on the APT website.

6.2. Penal Reform International (PRI)

Cross-Regional Conference on Torture Prevention in the South Caucasus 25-26 June 2012, Sheraton Metechi Palace Hotel, 20 Telavi Street, Tbilisi, Georgia

On 25 and 26 June, Penal Reform International (PRI), organised a cross-regional conference on torture prevention in Tbilisi, Georgia. The conference was streamed live via webcast. The cross-regional conference provided opportunities for inter-country learning and exchanges of experience, and sought to provide recommendations for the authorities in all participating countries aimed at improving the ability of state agencies to prevent torture and ill-treatment in their respective institutions. During the conference expert-level discussion focused on the problematic issues of torture prevention in nine former Soviet countries. The event was attended by experts representing UN SPT, CAT, OHCHR, CoE, CPT, government officials, representatives of national human rights institutions, National Preventive Mechanisms, as well as civil society from Ukraine, Belarus, Russia, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan and Tajikistan. The regional forum is organised in the framework of PRI's project on strengthening institutions and building civil society capacity to combat torture in nine post-Soviet countries, funded by the European Union. During the conference PRI launched reports on each of the nine project countries and a Synthesis Report which provides analysis of the main issues in torture prevention and also provides valuable recommendations for reforming the existing systems. These publications will shortly be made available on PRI's website [Together Against Torture](#). To find out more or to receive a free copy of these reports in English or Russian please email publications@penalreform.org or [Take a tour of the Together Against Torture website](#) .

For further information and details please contact: Mushegh Yekmalyan: myekmalyan@penalreform.org or Tsira Chanturia tchanturia@penalreform.org .

Take a tour of PRI's Together Against Torture website

Our Torture Prevention Project Manager has put together an audiovisual tour of the site, guiding you through each page and how to use it. [Find it here](#)

Together Against Torture newsletters

South Caucasus Newsletter no. 13 has been drafted and translated into Russian, and contains the following themes:

- Penal Reform International holds a regional forum on torture prevention and rehabilitation*
- Armenian Justice Ministry has to Change its Tactics, Says the Prison Monitoring Group*
- Issues in Armenia's Prisons 'Copy-Pasted' in Every Report Because They Remain Unresolved: Observer*

For more information see PRI E-Newsletter: May 2012

7. Special topic of this Newsletter Issue: “NPM co-operation with other domestic oversight mechanisms”

7.1. Introduction

The thematic section for this Newsletter will be based on area of NPM co-operation with other domestic oversight mechanisms and on NPMs' experiences. The aim of this section is to analyse the experiences of each NPM associated with this type of co-operation and highlight any issues that NPMs might wish to share with each other and the wider prevention community. The Council of Europe's European NPM Project team sought to understand the European NPM Network's collective experience and views on this topic and posed a series of five questions to the Network.

In particular the NPMs of the European NPM Network were asked:

- to describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;
- whether the NPMs have ongoing co-operation with different regional or national ombudsmen; and what form this co-operation took;
- to give a brief overview of the NPMs' inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms;
- whether the European Network of NPMs undertook any joint training with civil society monitors; and
- to give a brief description generally of the relations with any other domestic public oversight mechanisms.

Many NPMs of the European NPM Network responded with full and insightful contributions on their views and experiences to the above questions posed on this topic and their responses are summarised in an overview below. The full answers are appended to this Newsletter in Annex I.

7.2. Overview and summary³ of the replies⁴ from the European NPM Network

- **Co-operation: with CRPD article 33 bodies** either generally or in relation to visiting in particular

Although a few of NPMs have initiated and opened formal channels of communication with CRPD article 33 bodies, many NPMs have yet to establish regular and effective co-operation. Nevertheless, some NPMs are in active contact with related authorities in this area including the Ministry of Health, Labour and Social Affairs (in some cases these are designated as the competent authorities to carry out implementation of CRPD).

Additionally, one responding NPM underlined that 'besides the role as National Preventive Mechanism, the Ombudsman has two other specialized units: for non-discrimination and equitable representation and for protection of children and persons with disabilities, which should be more adequate to follow-up on the CRPD implementation through participation in the monitoring mechanisms under art.33 CRPD'. However the NPM stressed that 'until this date, however, such mechanism/framework, according to the information available to the NPM, has not yet been established.' Further, another NPM highlighted that in their country there was no designated independent mechanism in charge of the implementation CRPD, as such as the Ombudsman Office is linked to the performance of the function of the NPM, 'he has sent several recommendations that related to conditions of accommodation for persons with disabilities; getting proper health care to persons with mental disorder etc. and [this] NPM continuously visits places – accommodation for the people with disabilities'.

A few NPMs underlined that while there were various agencies and authorities already comprehensively involved with working with persons with disabilities, however, they pointed out that there were no independent mechanisms to promote, protect and monitor the implementation of the Convention in their respective countries. Further, in one case, the NPM said that it was 'not engaged in any co-operation whatsoever with the [relevant other] bodies'. In another case, although the NPM stated that it did 'not [as yet] have any cooperation with CRPD art 33 bodies, however, the national Ombudsman, who is also the NPM has been granted by a new law some competencies within the

³ Summary of NPM responses prepared by Francesca Gordon, European NPM Project Manager.

⁴ Full replies to the special topic of surveillance for this Newsletter Issue are listed in Appendix 1.

CRPD-induced process.’ This NPM gave an example of this new focus and emphasised that ‘a first meeting, organized by the Ombudsman, with national representatives of NGOs specialized in the field of disabilities has already taken place. Further cooperation will take place, for the moment, the Ombudsman is strongly applying the NGOs’ request for public finding in order to open a permanent office in charge of the coordination of all actors, public and private that are active in the field of disabilities. The NGOs that the Ombudsman met on this occasion assured him their cooperation in the domain of liberty privation if their experience should be required in specific cases.’

One other NPM underlined that although ‘there is no particular cooperation in this field (yet), however, [the Ombudsman], the National Council of Disabled People’s Organisations and the National Council of [the state], have organised a working consultation entitled ‘The Role of Disabled People and the State in Overseeing Implementation of the Convention on the Rights of Disabled Persons’. The consultation sought to answer the following questions in particular: how is the Convention being implemented? Do disabled persons, in fact, enjoy all the rights defined? Has [the relevant state] established adequate mechanisms to promote, implement and oversee the implementation of the Convention? The Equalisation of Opportunities for Persons with Disabilities Act, specifies that this role is performed by the Council for the Disabled Persons of the [relevant state], which has not been constituted yet.’

Of note, some states of the European NPM Network have not yet ratified the CRPD or have only recently ratified and therefore not yet started their co-operation with CRPD article 33 bodies yet.

- Co-operation: do NPMs of the European NPM Network have ongoing **co-operation with different regional or national ombudsmen**; and what form does this co-operation take?

In many cases the NPMs’ responses underlined that that their respective NPM was linked or formed part of the national Ombudsman office. In some countries different thematic Ombudsmen also exist (e.g. Ombuds-Committee for the rights of children or Patients’ Rights Ombudsman) and the NPM/national Ombudsman remain in close co-operation and share information with such bodies.

While many NPMs highlighted that they were in close contact with the regional offices of their national Ombudsman/NPM, some countries did not have many separate regional ombudsmen in existence. One responding NPM underlined that in their country ‘there is only one regional ombudsman, in [the capital]. Although, the position was established already a while ago, the [capital’s] City Council appointed the very first [capital] Ombudsman into office just recently. So far, the [national Ombudsman] has not yet had any contact with him. However this NPM underscored their co-operation activities on the international level between different Ombudsmen giving the following examples: ‘On the international level we have had many good cooperation projects with other countries’ ombudsmen. For instance, in 2011 study visit groups from Slovenia and Croatia visited us in NPM matters and they also participated as observers in our inspection visits to prison, police detention centre, psychiatric hospital or care home. We ourselves had study visits to French Ombudsman’s office in the matters of children’s rights and police. In 2012, a group from Finnish Parliamentary Ombudsman’s and Finnish Children’s Ombudsman’s offices participated as observers in our inspection visit to a children’s home. We also had an intensive two days seminar on children’s rights with the Lithuanian Ombudsman for Children’s Rights and Latvian ombudsman. In this spring we will have study visits on children’s rights to the offices of the Finnish Parliamentary Ombudsman, Finnish Children’s Ombudsman, Norwegian Parliamentary Ombudsman and Norwegian Children’s Ombudsman’.

Another NPM highlighted that in their country different organisations co-operated under an umbrella NPM: ‘The ombudsman is one of the associates in the [national] NPM system. The government decided that, to avoid gaps in coverage of detention places without establishing a new organisation, all organisations with an official task regarding monitoring detention should have a place at the table. Not all of those organisations complied with all of the OPCAT requirements, the Ombudsman being one of them. That is why the decision was made that besides appointing NPMs some additional organisations were to be selected as associates. Those associates are formally appointed by the government and are allowed to join the NPM meetings and deliver input. With regards to cooperation in the area of legal protections of detained persons the National ombudsman has a backstopping function alongside the existing system of inspections for detained persons. In those situations where inspections and other institutions cannot give a substantive opinion, the National ombudsman is normally competent to investigate complaints. Such is the case, for instance, when the complaint is not about a decision but about actual behaviour or treatment and in those cases where a third party complains. In addition the National ombudsman can have a preventive role. For example when he

makes recommendations on the basis of complaints or when he starts an investigation on his own initiative.'

· Overview of the NPMs' inter-relations with state authorities in light of **NPM co-operation with other national oversight bodies**: for example, with **internal supervision mechanisms**

Many NPMs pointed to good co-operative relations with the relevant authorities and internal supervisory mechanisms in their respective states. As well as regular contact and co-operation many NPMs pointed out that they regular contact the internal oversight mechanisms systematically before and after a visit. One NPM highlighted that 'before each cycle of visits of certain types of detention facilities, the NPM always contacts relevant oversight inter-state mechanisms, asks for information and tips for visits and invites them for mutual co-operation (e. g. during evaluation of findings).'

One NPM highlighted examples of these good relations: 'for instance, the [Ombudsman] has turned to the internal audit of the prisons department of the Ministry of Justice and the Prosecutor's Office in case of suspicion of ill-treatment by prison or special school officials towards prisoners or students. The institutions have started investigation based on [Ombudsman]'s applications'. Further, the NPM highlighted 'Before [an] investigation visit to an authority, the [Ombudsman] often gets acquainted with the latest investigation reports of other supervision authorities (e.g. county governments, Health Board, Rescue Board, etc). Based on the results of inspection visits, the [Ombudsman] has also made proposals to other supervision authorities to start an investigation (f. ex. on organization of education in prisons and rehabilitation centers).'

Many NPMs emphasised the regularity and types of co-operation activities that take place with internal oversight and supervision bodies. One NPM underlined that that 'after the establishment of the NPM, it conducted meetings with other internal supervision mechanisms (the Internal Oversight Mechanism of the Ministry of Interior and the Unit for Execution of Sanction within the Ministry of Justice) and explained its mandate and powers. The NPM on regular basis submits the separate reports from the visits, including recommendations, to both internal supervision mechanisms herein mentioned. The NPM in the first year organized 4 round tables with staff from police stations, prisons and other detention places with support from their internal oversight mechanisms, whose representatives took part as speakers and participants discussing the rights of persons deprived of liberty' amongst many other co-operation activities and regular contact with other national international oversight bodies. Another NPM stressed that cooperation happened systematically with these mechanisms: 'we have regular meetings and we exchange information with the Complaints Sector at the Ministry of the Interior, the General Prison Administration and other services at ministries performing internal control.'

Lastly one of the responding NPMs that co-operation was systematic as 'it was part of the internal supervisory mechanism (however the inspectorate one of multiples parts of the NPM) and highlighted that 'the [...] coordinating NPM, [...] is part of a ministry, in this case the Ministry of Security and Justice. The relation is budget wise. The [...] has a protocol which regulates its independency in activities and judgements.'

One NPM however stressed that although in their experience 'effective corporation has not been established' with these bodies, however, 'in next [few] days, we are going to meet with representatives of internal control mechanisms of Ministry of interior (for police), Directorate for Enforcement of Penal Sanctions (for prisons), Ministry of health (for Psychiatric hospitals) and Ministry of social welfare (for stationary institutions of social welfare). We will begin the process of continuous dialogue with them, with the aim of promotion rights of persons deprived of their liberty'.

· Do the European Network of NPMs regularly undertake **any joint training with civil society monitors**?

Two NPMs highlighted that many civil society monitors and/or NGOs formed part of their NPM structure, and therefore did not systematically undertake joint training with other civil society monitors. However one of these NPMs 'does cooperate with the commissions of oversight, using their input before visiting prisons for example. Furthermore the NPM supports and encourages the professionalization of civil monitoring boards. Both the commissions of oversight for the penitentiaries and the commissions of oversight for the police cells are at the moment setting up a sounding board group. This overarching body tries to make an inventory of the main problems and tries to solve them, and safeguard the independent position and working methods of each separate commission'. Another NPM said that while they did not regularly partake in such joint training with civil society occasionally they have been involved with NGO training abroad. One more NPM also said that they did not partake in joint training on a regular basis

Some responding NPMs however underlined that they did regularly partake in civil society joint training – whether domestically or internationally. NPMs pointed to the importance of the process of awareness raising of the NPMs’ own mandate amongst all stakeholders, including domestic civil society. As one NPM highlighted that they focussed on ‘raising the awareness about the significance of this new role of the Ombudsman for the stakeholders. Thus, in 2009, with the support of the [relevant] OSCE Mission, two conferences and three round tables were organized dedicated to the implementation of the Optional Protocol, while in 2010, the Ombudsman, in cooperation with the NGO sector (Coalition “All for Fair Trials” under the auspices of the Human Rights Support Project – HRSP) conducted and actively participated in four trainings for the police officials and employees of the penitentiary-correctional institutions.’

- Concrete examples of NPM relations with **any other domestic public oversight mechanisms**

All of the responding NPMs underlined that they considered co-operation with domestic public oversight mechanisms as extremely important. Co-operation was either actively pursued by the NPM, by virtue of a multi-body NPM structure where it is undertaken within the framework of respective NPMs or by NPMs pro-actively reaching out to domestic public oversight mechanisms. Generally the NPMs found that such co-operation has been positive and useful.

One NPM summarises the positive and co-operative relations in their experience: ‘we are in permanent contact with all public mechanisms assuming any kind of supervision in public or private institutions charged with liberty privation. There are specialized institutions for the police forces (IGP: Inspectorate general of the Police), for detention issues (Attorney general’s office), for psychiatric privation of liberty (Ministry of Health, Directorate for Health), but also institutions assuming a transversal role: CCDH (National consultative commission on human rights), CET (Centre for equal treatment, in charge of gender, religious, racial, sexual orientation etc- based discrimination) and as mentioned the ORK (national Ombuds-committee for the rights of the children). With the ORK for example, we closely cooperate on any case submitted to the Ombudsman and concerning children (deprived of liberty and others) combining by that way our different legal possibilities to investigate and to force action. The same happens with the IGP in case of any suspicion of ill-treatment by police forces.’

Other NPMs co-operate along thematic lines with other domestic oversight bodies. In this respect an NPM gave an example of their co-operation: ‘after a series of visits of facilities where children are held (in institutional care: children’s homes and corrective facilities for minors) the NPM has recently issued quite an extensive summary report. It covers findings from visits of 20 facilities, ombudsman’s legal assessment of institutional care in the [country] and results of discussions with experts on two round tables held by NPM. To strengthen the preventive effect of its visits NPM has – for the first time – issued also Standards of care of endangered children and their families. Standards are a brief document summarizing NPM’s findings and recommendations in fields of state policy, right on family life, social-legal protection of children in facilities, placement of children into institutions and their transfers, material conditions, right on privacy, external contacts and communication, education, disciplinary measures, specific needs of some children and staff topics. The aim of Standards is to lay down some quality requirements that will be always asked by NPM and can be also used by children and their families, professional, NGOs and authorities too. NPM is going to continue in this strategy, as same as in formulating information leaflets for general public (lastly on the topic of malnutrition) to enable complainers and inmates of institution to defend their rights.’

7.3. Contribution from the SPT

NPM co-operation with other domestic oversight mechanisms

The Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT) proscribes that the national preventive mechanism (NPM) needs to visit the places of detention in order to prevent torture and other cruel, inhuman and degrading treatment or punishment.

The regular monitoring of all the places where the persons are, or may be deprived of their liberty through unannounced and regular visits is one of the most efficient tools for prevention of torture and the other forms of ill treatment.

In accordance with OPCAT, the National Preventive Mechanism (NPM) regularly investigates the treatment of the persons deprived of their liberty in the places of detention in order to strengthen to the degree necessary, their protection from torture and other cruel, inhuman and degrading

treatment or punishment and shall deliver recommendations to the competent authorities for the improvement of the treatment and the conditions of the persons deprived of liberty and to prevent torture and other cruel, inhuman and degrading treatment or punishment, taking in to consideration the appropriate norms of the United Nations for which the supervising bodies are obligated to review and undertake measures.

In order to implement the recommendations, the National Preventive Mechanism (NPM) it is necessary to enter in to dialogue with the government bodies and institutions in order establish a mechanism for communication and cooperation with the relevant national authorities for implementing the recommendations, including the emergency action of procedures (which implies communication with relevant government ministries and with those responsible for the administration and the management of the detention places).

Also, it is necessary that the preventive mechanism is to be in a communication and develop a network of cooperation with other relevant national players in the field of prevention of torture (institutional internal mechanism for control and supervision, monitoring bodies, ombudsman) and other public supervisory mechanisms, as well as relevant organizations of the civil society for:

- Promote the public, transparent and inter-sector dialogue of effective implementation of the OPCAT
- The exchange of information for all the places where the persons are deprived of their liberty and the treatment of the persons deprived of their liberty,
- Providing the effective frame for prevention of torture,
- Undertaking coordinated activities with a special focus on the Optional Protocol for the Convention of the United National against torture and other cruel, inhuman and degrading treatment or punishment (OPCAT),
- Conducting trainings for human rights, specifically prevention of torture and ill treatment where all factors are included,
- Organizing workshops and seminars,
- Promotion of the culture and prevention of torture with a wide range of all the relevant players including the non-government organizations through public campaigns.
- As well as coordination on the issues from the field of prevention of torture

By Aneta Stancevska, member of the European NPM working group and SPT member

8. Additional question asked of the European NPM Network concerning NPM annual report strategy?

8.1. Question from the NPM of Poland

In the previous Issue of the European NPM Newsletter, the Polish NPM asked the European NPM Network their views and any similar experiences on the following:

'The government has written to the Polish NPM with a request to send them the NPM annual report before its publication, so they can take a stand to the NPM's findings (just like the CPT does). What do you think about that practice? The Polish NPM's opinion is that they send the authorities every post visit report to take a stand and the NPM always puts it in content of the annual report, so there is no use to do this again. However, they still refer to the practice of CPT. Do any NPMs have an opinion about this? Do other NPMs of the European NPM Network send their annual report to the government before its publication?'

8.2. Response from the European NPM Network

Response of the Slovenian NPM to the Polish NPM's question regarding annual report strategy:

'In our view, it is up to the NPM to find the best way to carry out publishing and dissemination, mentioned in Article 23 of the Protocol. After all, in accordance with Article 17, an NPM is to be

independent, first and foremost; and there is no way that the matter at hand could not be seen as a matter of independence.

Slovenian NPM does not send its annual report to the government before its publication. Thus far, our practice was to publish NPM's annual report as a separate publication and to also include it as a special chapter of the Ombudsman's general annual report (in regards to the latter it is to be stressed, that in accordance with Article 5 of the Human Rights Ombudsman Act, the Ombudsman lays before the Parliament general annual reports). Given the fact that the NPM sends the authorities (specifically, competent minister's cabinet) every post-visit report, together with suggestion that they take a stand on our findings, and that NPM's annual reports are written on the basis of reports on these visits, we see no justifiable reason for sending the annual reports to the government before its publication.

In regards to referring to practice of CPT, it seems that that is not a good analogy, since it's not CPT's annual general report (equivalent being NPM's annual report) that is being sent in advance, it's report on a visit of a certain country (equivalent being NPM's report on the visit of a certain place of detention).

In the end, we would also like to point out, that also the SPT already recommended that the NPM adopt a strategy for dissemination of the annual report at the domestic level, which includes dialogue with the relevant stakeholders and in particular the authorities; NPMs could envisage sending their annual report in advance to the authorities to trigger a dialogue on the contents of the report (see APT Series of OPCAT Briefings from April 2012). However, as already explained above, we see no need for such practice, at least in our case.'

Ivan Selih, Slovenian NPM

APPENDIX 1

Detailed responses and contributions from the European NPM community to the discussion on the special topic: "NPM co-operation with other domestic oversight mechanisms".

NPM of Czech Republic

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;

Even though certain formal contacts has been established, there is no current effective co-operation. Czech NPM is in a frequent contact with the Ministry of Health and the Ministry of Social Affairs.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

In the Czech Republic, there is only one national Ombudsman which acts as the NPM and also as the anti-discrimination point.

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms.

Our relations with State inspection of Social services: Inspectorates are based in each region and work independently on others. However, they require the same standards of quality. The NPM periodically holds meetings with them (round tables) in order to share experience and discuss legal and also practical questions. Through these meetings we can inform inspectors of our findings concerning mistreatment in certain facilities and provide them with information on practices which we are not able to deal with completely due to our limited powers.

Relations with State Prosecutors: State Prosecutors carry out specific inspections in certain kind of detention facilities that are visited also by the NPM. We initiated several joint meetings in order to share information and discuss strategies of our mutual cooperation. The NPM also regularly informs representatives of State Prosecution of its findings. Unfortunately, State Prosecutors are during their inspection focused mainly on compliance of internal documents with legislation and they are not very interested in closer co-operation.

Occasionally, we cooperate with the Office for Personal Data Protection. This co-operation is quite useful. Usually they contact us when they find some significant violations in the area of personal data protection in detention facilities. Similarly, our co-operation with national (private) body for accreditation in health care facilities is quite successful and mutually helpful.

Before each cycle of systematic visits of certain type of detention facilities, the NPM always contacts relevant oversight inter-state mechanisms, asks for information and tips for visits and invites them for mutual co-operation (e. g. during evaluation of findings).

- Do you undertake any joint training with civil society monitors?

Not systematically. However, due to co-operation with NGOs some members of NPM staff attended such trainings abroad.

- Please describe generally the relations with any other domestics public oversight mechanisms, giving one example.

Mentioned above

NPM of Estonia

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular.

As Estonia ratified the CRPD just recently, we have not had a chance to cooperate with the art 33 bodies, yet.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

In Estonia there is only one regional ombudsman, in Tallinn. Although, the position was established already a while ago, the Tallinn City Council appointed the very first Tallinn Ombudsman into office just recently. So far, the Chancellor of Justice has not had any contact with him.

On the international level we have had many good cooperation projects with other countries' ombudsmen. For instance, in 2011 study visit groups from Slovenia and Croatia visited us in NPM matters and they also participated as observers in our inspection visits to prison, police detention centre, psychiatric hospital or care home. We ourselves had study visits to French Ombudsman's office in the matters of children's rights and police. In 2012, a group from Finnish Parliamentary Ombudsman's and Finnish Children's Ombudsman's offices

was participating as observers in our inspection visit to a children's home. We also had an intensive two days seminar on children's rights with the Lithuanian Ombudsman for Children's Rights and Latvian ombudsman. In this spring we will have study visits on children's rights to the offices of the Finnish Parliamentary Ombudsman, Finnish Children's Ombudsman, Norwegian Parliamentary Ombudsman and Norwegian Children's Ombudsman.

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms.

We have had good cooperation with other supervision authorities. For instance, the Chancellor of Justice has turned to the internal audit of the prisons department of the Ministry of Justice and the Prosecutor's Office in case of suspicion of ill-treatment by prison or special school officials towards prisoners or students. The institutions have started investigation based on Chancellor's applications.

Before investigation visit to an authority, the Chancellor of Justice often get acquainted with the latest investigation reports of other supervision authorities (e.g. county governments, Health Board, Rescue Board, etc). Based on the results of inspection visits, the Chancellor of Justice has also made proposals to other supervision authorities to start an investigation (f. ex. on organization of education in prisons and rehabilitation centers).

- Do you undertake any joint training with civil society monitors?

Unfortunately, we have not had much joint trainings with the civil society monitors. In 2011 only one such training was carried out. Training for child protection specialists and social workers from various regions of Estonia was organized in cooperation with the Estonian Union for Child Welfare.

- Please describe generally the relations with any other domestics public oversight mechanisms, giving one example.

The cooperation with other oversight mechanisms has been good. The Chancellor of Justice has always got background information from other supervision authorities, if needed, and the authorities have taken the proposals to start an investigation submitted by the Chancellor of Justice most seriously.

NPM of Luxembourg

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;

We actually do not have any cooperation with CRPD art 33 bodies. However the national Ombudsman, who is also the NPM has been granted by a new law some competencies within the CRPD-induced process.

A first meeting, organized by the Ombudsman, with national representatives of NGO's specialized in the field of disabilities took already place. Further cooperation will take place, for the moment, the Ombudsman in strongly applying the NGO's request for public finding in order to open a permanent office in charge of the coordination of all actors, public and private that are active in the field of disabilities.

The NGO's that the Ombudsman met on this occasion assured him their cooperation in the domain of liberty privation if their experience should be required in specific cases.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

In Luxemburg, the Ombudsman is also the national NPM. There are no other public mediation organisms except the ORK (Ombuds-committee for the rights of children). We closely cooperate with this institution whenever needed.

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms.

When conducting a visit, we always meet the internal supervision mechanisms if there are any. We also cooperate with any other external (but public) supervision mechanism working on liberty privation.

- Do you undertake any joint training with civil society monitors?

No.

- Please describe generally the relations with any other domestics public oversight mechanisms, giving one example.

We are in permanent contact with all public mechanisms assuming any kind of supervision in public or private institutions charged with liberty privation. There are specialized institutions for the police forces (IGP: Inspectorate general of the Police), for detention issues (Attorney general's office), for psychiatric privation of liberty (Ministry of Health, Directorate for Health), but also institutions assuming a transversal role: CCDH (National consultative commission on human rights), CET (Centre for equal treatment, in charge of gender, religious, racial, sexual orientation etc- based discrimination) and as mentioned the ORK (national Ombudscommittee for the rights of the children).

With the ORK for example, we closely cooperate on any case submitted to the Ombudsman and concerning children (prived of liberty and others) combining by that way our different legal possibilities to investigate and to force action.

The same happens with the IGP in case of any suspicion of ill-treatment by police forces.

These cooperations are very productive and welcomed by all concerned actors.

NPM of Serbia

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;

In Serbia there is no deterrent independent mechanism in charge of the implementation UN Convention on the Rights of Persons with Disabilities. Protector of citizens is performing the function of NPM and he sent several recommendations that relate to conditions of accommodation for persons with disabilities; getting proper health care to persons with mental disorder etc. NPM continuously visits places – accommodation for the people with disabilities.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

There is very good cooperation with Slovenian, Spanish and Albanian Ombudsman. During visit to Ljubljana, Madrid and Tirana, employees of Serbian Ombudsman went with their colleagues to detention places (Prison, police station and psychiatric hospital) where they were introduced with their methodology of visits, structure of reports, and had brain-storming.

Also, Serbian Ombudsman has good cooperation with Ombudsman of Macedonia, Montenegro, Greek, Netherland, Austria, Azerbaijan, Croatia, Bosnia and Herzegovina...

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanism

Till the present day, effective corporation has not been established.

Although, in next days, we are going to meet with representatives of internal control mechanisms of Ministry of interior (for police), Directorate for Enforcement of Penal Sanctions (for prisons), Ministry of health (for Psychiatric hospitals) and Ministry of social welfare (for stationary institutions of social welfare).

We will begin with continuously dialog with them, in the aim of promotion rights of persons deprived of their liberty.

- Do you undertake any joint training with civil society monitors?

For now we had trainings with representatives of several international associations: Eric Rosenthal, from MDRI, on subject Protecting people with disabilities from Torture; with Matthew Pringl from APT on subject Setting up NPM, with Renzo Bonn from on subject deinstitutionalization of psychiatric hospitals.

We organized joint trainings with high number domestic civil society monitors.

- Please describe generally the relations with any other domestics public oversight mechanisms, giving one example.

Protector of citizen is in charge of Serbian NPM in co-operation with several domestic associations, such as regional Ombudsman and nine NGO. All of NGO which participate in NPM have its own responsibilities. One NGO is responsible for police stations, one for prisons, one for psychiatric hospitals, rights of women, rights of juveniles...Here is the list of NGOs Belgrade Center for Human Rights, Victimology Society of Serbia, Dialogue – Valjevo, Mental Disability Rights Initiative of Serbia (MDRI-S), Committee of Lawyers for Human Rights (YUCOM), International Assistance Network (IAN), Committee for Human Rights – Valjevo, Helsinki Committee for Human Rights in Serbia, Center for Human Rights - Niš.

NPM of Slovenia

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;

There is no particular cooperation in this field (yet). However, the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman), the National Council of Disabled People's Organisations and the National Council of the Republic of Slovenia, under the patronage of the President of the Republic of Slovenia, Dr Danilo Türk, organised a working consultation entitled 'The Role of Disabled People and the State in Overseeing Implementation of the Convention on the Rights of Disabled Persons'. The consultation sought to answer the following questions in particular: how is the Convention being implemented? Do disabled persons, in fact, enjoy all the rights defined? Has the Republic of Slovenia established adequate mechanisms to promote, implement and oversee the implementation of the Convention? The Equalisation of Opportunities for Persons with

Disabilities Act, adopted in Slovenia in November 2010, specifies that this role is performed by the Council for the Disabled Persons of the Republic of Slovenia, which has not been constituted yet.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

At present, there are no other Ombudsmen in Slovenia. There is a Patients' Rights Ombudsman in the city of Maribor, but he has no legal basis for his activities. We monitor his activities (he sends us his annual reports).

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms.

We regularly cooperate with these mechanisms. We have regular meetings and we exchange information with the Complaints Sector at the Ministry of the Interior, the General Prison Administration and other services at ministries performing internal control. This is how we exchange our findings. During our visits to places of incarceration, we also verify the findings of each inspection service arising from monitoring the visited institutions, and particularly the implementation of their measures.

- Do you undertake any joint training with civil society monitors?

Individual non-governmental organisations (five such organisations this year) are part of the National Preventive Mechanism. No joint training has been performed thus far.

- Please describe generally the relations with any other domestic public oversight mechanisms, giving one example.

If necessary, we communicate our findings to the presidents of the courts which supervise the treatment of detainees or prisoners. For individual explanations or actions, we also contact the competent inspection services (e.g. social inspection, health inspection) or bodies exercising control of a particular activity in institutions which are considered places of incarceration.

NPM of Sweden

1.

Art 33 (1) The Swedish Agency for Disability Policy Coordination (HANDISAM) has the task of raising awareness of the rights of persons with disabilities among others.

Art 33 (2) There are no independent mechanisms to promote, protect and monitor the implementation of the Convention in Sweden.

Art 33 (3) The Swedish Disability Federation is the umbrella organization for organizations of persons with disabilities in Sweden. It represents over 43 organizations of persons with disabilities.

The Ombudsmen (the "old" Ombudsmen as well as the "NPM-ombudsmen") is not engaged in any co-operation whatsoever with the above mentioned bodies.

2.

Besides the Parliamentary Ombudsmen, Sweden has an Equality Ombudsman (DO) (a government agency that seeks to combat discrimination on grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age) and an Ombudsman for Children in Sweden (a government agency tasked with representing children as regards their rights and interests on the basis of the UN Convention on the Rights of the Child). The Chancellor of Justice is sometime mentioned as an Ombudsman.

Occasionally we share information with these Ombudsmen. No other form of co-operation.

3. We try to coordinate our visits with other monitoring mechanisms (with regard to dates, not methods or focus).

4. No, we don't.

5. We try to coordinate our visits. We also regularly share visit reports.

NPM of "the former Yugoslav Republic of Macedonia"

- Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular;

The Republic of Macedonia ratified CRPD on December 14, 2011 where Ministry of labor and social policy is designated as competent authority that will carry about implementation and execution of the convention and protocol. Macedonian NPM in the past met representatives from this Ministry and presented NPM mandate. Besides the role as National Preventive Mechanism, the Ombudsman has two other specialized units: for non-discrimination and equitable representation and for protection of children and persons with disabilities, which should be more adequate to follow-up on the CRPD implementation through participation in the monitoring

mechanisms under art.33 CRPD. Until this date, such mechanism/framework, according to the information available to the NPM, has not yet been established.

- Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

There are no other regional or national Ombudsmen in Macedonia. The Ombudsman office itself, with aim to increase its visibility and ease the citizens' access to its services, in 2005 opened 6 regional offices throughout Macedonia, each headed by a Deputy Ombudsman, all under direct supervision by the Ombudsman of the Republic of Macedonia.

- Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms. Please describe generally the relations with any other domestic public oversight mechanisms, giving one example.

In June-July 2011, after the establishment of the NPM, it conducted meetings with other internal supervision mechanisms (the Internal Oversight Mechanism of the Ministry of Interior and the Unit for Execution of Sanction within the Ministry of Justice) and explained its mandate and powers. The NPM on regular basis submits the separate reports from the visits, including recommendations, to both internal supervision mechanisms herein mentioned. The NPM in the first year organized 4 round tables with staff from police stations, prisons and other detention places with support from their internal oversight mechanisms, whose representatives took part as speakers and participants discussing the rights of persons deprived of liberty. The NPM established informal contacts with the State commission on oversight of the correctional-educational institutions in Macedonia, established by a Decision of the Government in 2010 – according to the information accessible to the NPM, this commission has not been very active nor has been conducting visits on regular basis, nor producing reports on their findings. This commission, according to the decision is composed of 5 members - Supreme Court justice and 4 state secretaries in the governmental ministries (Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Health and Ministry of Economy). For us, the biggest problem here is the appointment of a Supreme Court Justice by the Government as a member (in this case even president) of a inter-ministerial commission - this might not be fully in correlation and in compliance with the principle on independence of judiciary.

- Do you undertake any joint training with civil society monitors?

Following the designation of the Ombudsman as a national preventive mechanism in the Republic of Macedonia, the institution began to work on raising the awareness about the significance of this new role of the Ombudsman for the stakeholders. Thus, in 2009, with the support of the OSCE Mission to Skopje, two conferences and three round tables were organized dedicated to the implementation of the Optional Protocol, while in 2010, the Ombudsman, in cooperation with the NGO sector (Coalition "All for Fair Trials" under the auspices of the Human Rights Support Project – HRSP) conducted and took active participation in four trainings for the police officials and employees of the penitentiary-correctional institutions.

NPM of the Netherlands

Please describe any co-operation with CRPD art 33 bodies either generally or in relation to visiting in particular

- The Netherlands signed the CRPD treaty on the 30th of March 2007, but did not ratify the agreement yet and therefore did not implement article 33 of CRPD. Consequently the Dutch NPM does not cooperate with any organisations responsible for the implementation of CRPD.

Do you have ongoing co-operation with different regional or national ombudsmen? What form does this co-operation take? Please give examples.

- The ombudsman is one of the associates in the Dutch NPM system. The Dutch government decided that, to avoid gaps in coverage of detention places without establishing a new organisation, all organisations with an official task regarding monitoring detention should have a place at the table. Not all of those organisations complied with all of the OPCAT requirements, the Ombudsman being one of them. That is why the decision was made that besides appointing NPMs some additional organisations were to be selected as associates ('toehoorder'). Those associates are formally appointed by the government and are allowed to join the NPM meetings and deliver input. With regards to cooperation in the area of legal protections of detained persons the National ombudsman has a backstopping function alongside the existing system of inspections for detained persons. In those situations where inspections and other institutions cannot give a substantive opinion, the National ombudsman is normally competent to investigate complaints. Such is the case, for instance, when the complaint is not about a decision but about actual behaviour or treatment and in those cases where a third party complains. In addition the National ombudsman can have a preventive role. For example when he makes recommendations on the basis of complaints or when he starts an investigation on his own initiative.

Please describe your inter-relations with state authorities in light of NPM co-operation with other national oversight bodies: for example, with internal supervision mechanisms.

- As is the case with all national oversight bodies, the Dutch coordinating NPM, the Inspectorate of Security and Justice (IVenJ), is part of a ministry, in this case the Ministry of Security and Justice. The relation is budget wise. The IVenJ has a protocol which regulates its independency in activities and judgements.

Do you undertake any joint training with civil society monitors?

- The commissions of oversight for the penitentiaries, the police cells and military detention are all civil society monitoring boards and part of the Dutch NPM structure as associates (like the Dutch Ombudsman). At the moment the Dutch NPM does not do any joint training with civil society monitoring boards. However the Dutch NPM does cooperate with the commissions of oversight, using their input before visiting prisons for example. Furthermore the Dutch NPM supports and encourages the professionalization of civil monitoring boards. Both the commissions of oversight for the penitentiaries and the commissions of oversight for the police cells are at the moment setting up a sounding board group ('klankbordgroep'). This overarching body tries to make an inventory of the main problems and tries to solve them, and safeguard the independent position and working methods of each separate commission.

Please describe generally the relations with any other domestic public oversight mechanisms, giving one example.

- The Dutch NPM, like the UK NPM, is a multiple organisational body, meaning that it is already very conclusive in its inspection tasks and range. Nonetheless each individual NPM works together with several organisations some of which are not part of the NPM structure. The Inspectorate of Security and Justice for example, finds assistance in its inspections on the domain of the implementation of sanctions by other NPM bodies such as the Health Care Inspectorate and the Youth Care Inspectorate, but also by non NPMs such as the Inspectorate of Education and the Labour inspectorate.

APPENDIX 2

Selected European Court of Human Rights' Article 3 case summaries for May 2012

Kaverzin v. Ukraine (no. 23892/03) – Importance 2 – 15 May 2012 – Four violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody; lack of adequate medical care; unjustified handcuffing of a blind person while in detention and (ii) lack of an effective investigation into allegations of torture – Application of Article 46 – Domestic authorities' obligation to put in place specific reforms in the legal system to ensure that the practice of ill-treatment in police custody is eradicated and that effective investigations are carried out into every single case where there is an arguable complaint of ill-treatment

Considered exceptionally dangerous, the applicant is currently serving a life prison sentence in a high security prison. He alleged that he had been tortured by the police following his arrest in order to make him confess to the crimes of which he stood accused. He also complained that his allegation had not been adequately examined, and that, not given adequate medical care or treatment, he had gone completely blind. Finally, he complained that, despite his disability, he had been handcuffed at all times when leaving his cell.

Article 3 (substantive)

Torture: Given the medical evidence available as well as the parties' submissions, the Court considered that the police were entirely responsible for the applicant's injuries. Moreover, the applicant's allegations, which he had repeatedly insisted on, were plausible overall, in contrast to the Government's arguments which had failed to substantiate their denials of torture. Given the gravity of the applicant's injuries, which had to have been inflicted on him deliberately, the Court found that the ill-treatment to which he had been subjected in police custody had to be classified as torture, in violation of Article 3.

Medical care: The Court noted in particular that the authorities had been responsible for the applicant's eye injury which had eventually led him to go blind. Doctors had only noted the injury about a week after it had allegedly been sustained, had only established that he had gone blind about a month later and had not given him any treatment for the injury or even had him examined by an ophthalmologist until September 2001. Therefore the injury had not actually been treated at all for eight months. The authorities had then failed to react promptly to the applicant's injury or to the deterioration in his eyesight and had not provided him with adequate medical care between January and September 2001. Accordingly, there had been a third violation of Article 3 in that respect.

Handcuffing: The applicant's criminal record and his classification as exceptionally dangerous arguably called for him being held in the highest level of security conditions. However, there was nothing to suggest that he had tried to escape or had been violent during his pre-trial detention or subsequently. His handcuffing, particularly with his hands behind his back, despite his being completely blind had therefore to have caused him suffering and humiliation which had gone beyond that inevitably connected with a particular form of legitimate punishment. The Court therefore found that the use of handcuffs in detention had constituted inhuman and degrading treatment in violation of Article 3.

Article 3 (procedural)

An inquiry into the allegations of torture was carried out by a prosecutor once he had noted the applicant's injuries and it was completed within a relatively short period of time. The prosecutor's findings, however, had been vague and confusing and had not established the course of events or how exactly the applicant had sustained his injuries. The prosecutor had made no attempt whatsoever to look into the lawfulness or proportionality of using force against him during his arrest or indeed into his allegations of torture after his arrest, simply relying on his initial statement denying ill-treatment. Nor did the courts dealing with the applicant's criminal case examine in any way his allegation that his confession had been made under duress. The Court therefore found that the Ukrainian authorities had failed to adequately investigate the applicant's complaints of torture, in further violation of Article 3.

Article 46

The Court noted that the applicant's ill-treatment in police custody reflected a recurring problem in Ukraine. In about 40 of its judgments, the Court had already found that the Ukrainian authorities had been responsible for ill-treatment of people held in police custody and that no effective investigation had been carried out into their allegations of ill-treatment. Currently there are more than 100 other such cases pending. The Court therefore stressed that Ukraine had to urgently put in place specific reforms in its legal system to ensure that the practice of ill-treatment in police custody was eradicated, that effective investigations were carried out into every single case where there was an arguable complaint of ill-treatment and that any shortcomings in such investigations should be effectively remedied at domestic level.

Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant EUR 40,000 in respect of non-pecuniary damages.

Labsi v. Slovakia (no. 33809/08) – Importance 2 – 15 May 2012 – Violation of Article 3 – Ill-treatment

resulting from the applicant's deportation to Algeria – Violation of Article 13 – Deprivation of the applicant's right to attempt to obtain redress of a Supreme Court's judgment by means of constitutional complaint – Violation of Article 34 – Deportation of the applicant in violation of interim measures issued by the Court

The case concerned the expulsion of an Algerian man from Slovakia to Algeria, following his unsuccessful asylum request. The applicant complained that his expulsion exposed him to the threat of being ill-treated by Algerian authorities. He further alleged that he did not have an effective remedy in respect of that complaint. Finally, he complained that the Slovak Government had disregarded the interim measure issued by the Court.

Article 3

The Court noted that the Algerian authorities had indicated to the Slovak Government that, if returned to Algeria, the applicant would have a fair fresh trial in respect of offences which were not punishable by the death penalty, and that torture and other forms of ill-treatment were subject to heavy penalties under Algerian criminal law. Those assurances were of a general nature and had to be considered in the light of the information available at the time of the applicant's expulsion as to the human rights situation in Algeria. In August 2008, the Slovak Supreme Court, with reference to a number of international documents, had found that his extradition was not permissible, concluding that there were justified reasons to fear that he would be exposed to treatment contrary to Article 3 in Algeria. Furthermore, a number of reports from international bodies and organisations had highlighted that individuals suspected of terrorist activities were exposed to a real risk of ill-treatment by the Algerian Department of Intelligence and Security. In view of the documents before it, the Court found no reason for reaching a different conclusion in the applicant's case. Accordingly, at the time of his expulsion, there had been substantial grounds for believing that he faced a real risk of being subjected to treatment contrary to Article 3 in Algeria. The Slovak Government's argument that the expulsion had nevertheless been justified because he represented a security risk could not be accepted, the guarantee under Article 3 being absolute.

Article 13

The Court observed that, expelled to Algeria only one working day after the Supreme Court's judgment of March 2010 upholding the dismissal of his asylum request, the applicant had been effectively prevented from attempting to obtain redress by means of a constitutional complaint.

Article 34

The applicant's expulsion to Algeria, in disregard of the interim measure issued by the Court, had prevented the Court from properly examining his complaints in accordance with its settled practice and from protecting the applicant against treatment contrary to Article 3. His expulsion had occurred prior to the exchange of observations of the parties and his representative has lost contact with him since then. The gathering of evidence in support of his allegations had thus proved more complex. Accordingly, there had been a violation of the applicant's right of individual application as guaranteed by Article 34.

Article 41 (just satisfaction)

The Court held that Slovakia was to pay the applicant EUR 15,000 in respect of non-pecuniary damages and EUR 2,500 in respect of costs and expenses.

S.F. and others v. Sweden (no. 52077/10) – Importance 2 – 15 May 2012 – Violation of Article 3 – Risk of ill-treatment in case of deportation to Iran

The applicants are an Iranian family who fled Iran in fear of persecution because of the involvement of family members with a Kurdish-rights political party. They complained that they would be tortured or otherwise ill-treated if deported to Iran.

With regard to the human rights situation in Iran, the Court observed that it gave rise to grave concern as it appeared to have been deteriorating since the Swedish authorities determined the case. Information available on Iran from a number of international sources showed that the Iranian authorities frequently detained and ill-treated people who peacefully participated in opposition or human rights activities. The Court found that the applicants' activities in Iran were not, on their own, sufficient to conclude that a real and immediate risk existed of them being ill-treated if returned to Iran. On the other hand, the Court found that their activities in Sweden had intensified and grown in importance since 2008. Furthermore, the information available on Iran showed that the Iranian authorities effectively monitored internet communications as well as those critical of the regime, even outside Iran. In addition, given the applicants' activities and incidents in Iran before moving to Sweden, the Court concluded that the Iranian authorities would easily identify them. That conclusion was also supported by the fact that the applicants did not have valid identity documents and had allegedly left Iran illegally. With regard to all the above, the Court held that a real risk existed of the applicants being ill-treated if returned to Iran. There would, therefore, be a violation of Article 3 if Sweden deported them to Iran.

Under Article 41 (just satisfaction), the Court held that Sweden was to pay the applicants EUR 1,240 in respect of costs and expenses.