

THE NATIONAL PREVENTIVE MECHANISM OF SLOVENIA – a case of cooperation with NGOs

International Conference "Global, regional and national mechanisms for the prevention of torture and inhuman or degrading treatment: learning from one other"

Celebrating 25 years of the European Committee for the Prevention of Torture

12-13 November, Riga, Latvia

Slovenia



National preventive mechanism in Slovenia

Ivan Šelih, a deputy Ombudsman, the Human Rights Ombudsman of Slovenia
-judicial procedures and restrictions of personal liberty
-also lead, perform and coordinate the national prevention mechanism activities in Slovenia.

The Human Rights Ombudsman of the Republic of Slovenia was established in 1995. *Now, we have 40 employees (Ombudsman - appointed by the parliament for a term of 6 years and 4 deputies ombudsman, expert service (20 experts) and other staff needed).*





Ratification Act

- Slovenia ratified the Optional Protocol to the UN Convention against torture (OPCAT) in year 2006 by an Ratification Act, adopted by the National Assembly of the Republic of Slovenia (on 29th September 2006). It entered into force on 1st January 2007.
- The Ratification Act was prepared by the Ministry of Justice in cooperation with the Ministry of Foreign Affairs, the representative of the Human Rights Ombudsman and several NGOs.

- Article 4 of the Act specifies that the competencies and duties of the national preventive mechanism under Article 17 of the Optional Protocol are performed by the Ombudsman and in agreement with the Ombudsman also by non-governmental organisations registered in Slovenia and organisations which have obtained the status of a humanitarian organisation in Slovenia.

- The main reason for the Ombudsman's designation as the NPM is our independent status, guaranteed by the Constitution, and our very broad mandate, composition and methods of work with respect to visiting places of detention. But in addition, cooperation with NGOs should also guarantee a mix of relevant expertise.

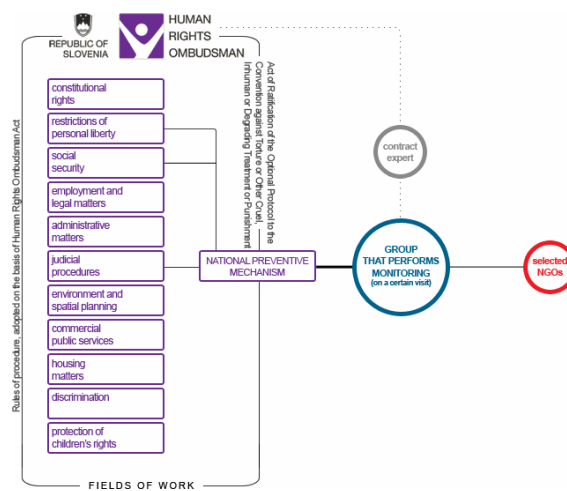
PLACES OF DEPRIVATION OF LIBERTY IN SLOVENIA

- Immigration centers (Centre for foreigners and Asylum home)
- Around 50 Police stations with detention premises
- 13 Prisons locations+ 1 juvenile correctional home
- Around 90 Homes for elderly (with special social homes)
- 6 Psychiatric hospitals (with one department of psychiatry)
- 10 Care homes for children
- 1 Centre for military detention
- Others ?

Activities and preparations for implementation of the OPCAT

A reorganization of the Ombudsman's expert service – 8+1 officers in NPM unit

Organigram of NPM



Selection

- A public tender
- NGOs that are registered in the Republic of Slovenia
- organizations which have obtained the status of humanitarian organizations in the Republic of Slovenia

Application

- a brief presentation of work
- NGOs - a certificate of registration
- a certificate granting the status of a humanitarian organization and on entry into the register of humanitarian organizations

- An additional **statement** - that persons who would participate in a supervisory visits had not been:
 - the subject of a conviction by final judgment for a criminal offence prosecuted *ex officio*, or
 - the subject of a conviction to a final sentence of unconditional imprisonment for a duration of more than 3 months.
- Persons, against whom a final indictment was lodged for a criminal offence prosecuted *ex officio*, would also be excluded.

Criteria for selection

- experience
- in the field of human rights or fundamental freedom protection
- particularly in the field of preventing torture or other cruel, inhuman or degrading punishment or treatment

Selected organizations – now 4

- Legal informational centre for non-governmental organizations Slovenia (general, legal aid, migrants - 5 members)
- Primus Institut (general, 5 members)
- Novi Paradoks (fields of work: people with mental health problems (3 members)
- Slovenian federation of pensioners associations (fields of work – elderly, 7 members)

Cooperation agreement

- regulates the mutual relations of the contracting parties in more detail
- first: valid until 31 December 2008
- now: annex until the end of 2014

The methods of work

Mixed groups for visits

- Representatives of the Human Rights Ombudsman and persons from selected organizations

- The place and the time of supervision and the number of members of each supervisory group are determined by the Ombudsman on a case-by-case basis.
- The smallest group consists of three members: one representative of the Human Rights Ombudsman and one person from each selected organization :
 - 1+1+1+1 or
 - 2+1+1+1 or
 - 3+1+1...
 -

Written statement

- The persons from the selected organizations have to make a preliminary written statement (prior to the time they start monitoring), that they shall:
 - perform their tasks and exercise their powers under the instructions of the Ombudsman and
 - follow the rules on protection concerning personal and confidential data (confidentiality agreement) as this applies to the Ombudsman, his Deputies and employees.

Programme of visits

- a visit to the every prison, psychiatric institution, aliens' centre and asylum home at least once a year,
- a visit to the police stations with detention premises at least once every two years.
- also, visits to a few dozen of retirement homes with so-called "closed departments" are planned every year,
- others...

The visit

(regular, special circumstances, follow up)

- Preparation
- Visit itself
- Reporting

Preparation on visit

- A brief consultation with the participants from the selected organization.
- Reports on previous visits, carried out by the Ombudsman and complaints dealt with in reference to the supervised institution, have to be studied.

Execution of the visit

- introductory talks,
- examination of the living facilities,
- interviews with persons and personnel,
- overview of the documentation and
- closing talks.

After the visit

A report with the proposals for elimination of the irregularities and on how to remedy the situation is made.

- A brief written report on his/her findings and any recommendations with the aim of strengthening the protection of persons deprived of their liberty, and improving the treatment and living conditions of detained persons.
- part of the (final) comprehensive report on the visit.
- a separate opinion of a selected organization.
- Short report: website
- Annual report
- www.varuh-rs.si

The Rules on reimbursement of costs and on payment of remunerations

- reimbursement of travel, food and accommodation expenses & earnings lost during the period of supervision
- remunerations: the payment for drawing up a comprehensive report on the performed supervision & a symbolic earning for every hour of participation in supervision activities.

- The first visit to a supervised institution (Radeče Re-education Centre-an institution for young offenders) in cooperation with the representatives of NGOs on 19 March 2008.
- Since then, up to five visits a month have been planned.
- 2008: 35 visits
- ...
- 2013: 48
- 2014: 48 (only 8 announced)

Conclusion

- a good stimulation for future work
- the persons from the selected NGOs contribute to the purpose for which the NPM was established
- the places of deprivation of liberty and treatment of persons, who have been deprived of liberty, are checked on a regular basis in order to strengthen the protection against torture and other forms of cruel, inhuman or degrading treatment or punishment.

- The cooperation with NGOs also ensures gender balance, multi professional visiting teams, different professional knowledge...(article 18 of the OPCT).

- six years of successful NPM work, resulting in numerous improvements of conditions at all categories of places of detention;
- six published annual NPM reports (simultaneously in Slovenian and English language); reports on individual visits published on-line (some of the most interesting ones also translated to English),
- elaborate pre-visit questionnaire for social care institutions,
- elaborate methodology of NPM operation(s)

SLOVENIAN NPM [OM+ model] – ACHIEVEMENTS

- cooperation between a state authority and non-governmental organizations (multidisciplinarity, plurality, transparency, and partnership are the keywords),
- exchange of experience, information, working methods,
- possibility of creating several visiting teams - consisting of at least one representative of the Ombudsman in each, and one or more NGO representative(s),
- every category of places of detention is being monitored multiple times a year and on different locations.
- majority of prison locations, Asylum home and Centre for Foreigners are visited at least once a year, psychiatric hospitals at least once per year or two years, as are generally also police stations (due to the sheer number of social care institutes, the same ones can not be visited as frequently).

Challenges

- additional (unpaid) workload for the Ombudsman's employees on the NPM team (NPM duties are being carried out in addition to work on complaints to the Ombudsman; **special NPM division within the Ombudsman's office, dealing only with these duties, is yet to be established**),
- work in regards to carrying out NPM duties for the Ombudsman's employees on the NPM team is not just about applying professional knowledge, but also about quite a lot of dull **administrative work** (preparing all the needed confirmations of cooperation for the participating NGO representatives, other documentation needed for issuing decisions on the reimbursement of costs and remuneration, etc.),
- **difficulties at keeping the monitoring of certain places of detention regular** (e.g. there are around 100 social care institutes alone, that are known to have security departments - while only a couple of Ombudsman's employees on the NPM team are committed to carrying out NPM duties for this area, along with all other not NPM-related work),
- **limited set of potential NGOs, really competent for co-operation**, let alone of those which then actually apply and would represent a quality addition,

- **lack of specialization and qualification of individual NGO representatives in certain areas**, even after years of participation (ever-changing participants for the same category of places of detention,...),
- **motivation, ability, or professionalism on the part of the NGOs sometimes seem somewhat lacking** (e.g. unresponsiveness, passiveness, overall impression of uninterestedness, little to no actual contribution at visit and post-visit activities, delivering critiques that point more to questionable proficiency of the author than actual irregularities, etc.)
- **interestingly enough, possibility of special monetary rewards does not seem to be much of a motivating factor in regards to increasing the output of participating NGO representatives** (e.g. Rules on the reimbursement of costs and other rewards stipulate, that an NGO representative "shall receive remuneration of 100 EUR for producing a report on monitoring performed" - but still, there is (generally speaking) very little interest in this activity on their part; Ombudsman's employees on the NPM team on the other hand, do not get any extra payment for this or any other NPM activity).

- There is also the **question about the experts** who are not part of the staff of Ombudsman or NGOs (e.g. psychiatrist or other professionals with more specific knowledge about certain categories).

The end

- Thank you for your attention!