



PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA



Measuring and Enhancing the Impact of the National Preventive Mechanism

A high-level conference hosted by the Public Defender of Georgia on the occasion of the 10th Anniversary of its National Preventive Mechanism

16-17 October 2019
Ceremonial Palace of Georgia, Tbilisi, Georgia

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1. Introduction

In 2009, the Public Defender (Ombudsman) of Georgia became the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). In 2019, this institution marked the 10th anniversary of the designation of the Public Defender of Georgia as the NPM.

Considering the importance of the NPM and the extensive work of the Public Defender in this field, the Public Defender's Office (PDO) celebrated the 10th anniversary by organizing a high-level international conference on "Measuring and Enhancing the Impact of National Preventive Mechanisms", which took place in Tbilisi, Georgia on October 16-17, 2019.

This two-day conference brought together representatives of the UN Subcommittee on Prevention of Torture (SPT) and the Council of Europe Committee for the Prevention of Torture (CPT), as well as members of the NPMs, the representatives of authoritative international organizations, national ombuds' institutions and globally-recognized independent experts in the field of torture prevention.

The conference was opened by the Public Defender of Georgia Ms. Nino Lomjaria and representatives of various ministries of Georgia¹, as well as the Ambassador of the European Union to Georgia H.E. Carl Hartzell, UN Resident Coordinator in Georgia Dr. Sabine Machl, Head of the Council of Europe Office in Georgia Mr. Cristian Urse and The Director of Open Society Georgia Foundation Ms. Keti Khutsishvili.

The first day of the conference consisted of two sessions. The first part of the session was moderated by the Deputy Public Defender of Georgia Mr. Giorgi Burjanadze, and aimed to highlight the work of the Georgian NPM and its impact on torture prevention over the last ten years. The second session of the conference was moderated by former Public Defender of Georgia Mr. George Tugushi and was devoted to the Global System of Torture Prevention.

The first session was opened by Mr. Nika Kvaratskhelia, Head of the National Preventive Mechanism Department of the PDO, who shared the experiences the Georgian NPM has accumulated over the last 10 years.

During the session, the results of an independent research was introduced – "Does the Georgian NPM Work?" The introduction was conducted by international experts Richard Carver and Lisa Handley from Oxford Brookes University, who were supported by the Open Society Georgia Foundation.

¹Ministry of Justice of Georgia, Ministry of Internal Affairs of Georgia and Ministry of Internally Displaced persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

At the end of the first session, former member of the Subcommittee on the Prevention of Torture (SPT) Ms. Mari Amos spoke about the long-standing international cooperation with the Georgian NPM and shared her impressions. The discussions of the first session evolved from the findings of the independent research and on to the achievements and challenges faced by the Georgian NPM.

The second session of the conference was opened by the representatives of the SPT, CPT and the Association for the Prevention of Torture (APT), who provided insight into their experience and the ways leading forward in order to increase the impact on torture prevention globally. The topics presented covered the following issues: The Vice-Chairperson of the UN Subcommittee on the Prevention of Torture (SPT) Mr. Victor Zaharia spoke about the prospects of torture prevention on the global level, SPT's cooperation with NPMs and CPT and the ways to achieve synergy among them. Representative of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Mr. Borys Wodz, spoke about the prospects of torture prevention at the European level and representative of the Association for the Prevention of Torture (APT) Ms. Eva Csergö spoke about the process of establishing NPMs worldwide.

Final speeches were delivered by the Human Rights Defender of the Republic of Armenia, Mr. Arman Tatoyan; Deputy Human Rights Ombudsman of the Republic of Slovenia Mr. Ivan Šelih; Deputy Ombudsman of Greece Mr. Georgios Nikolopoulos and representative of the Office of the Public Defender of Rights of the Czech Republic Ms. Marie Lukasová, who spoke about the experience of their NPMs in achieving change and on their relationship with the CPT and SPT.

The second day of the conference was fully devoted to NPMs and their current challenges. Since the objective of the conference was to measure and enhance the impact of NPMs, which included sharing practical experience and knowledge, group discussions centered around the independent research "Does Georgian NPM work?" and the assessment of the 10-year torture prevention project, as well as the following questions:

- What are the key factors that contributed to the change in your experience? What should an effective communication strategies include?
- What do we mean by strategic planning and what elements should it include?
- Is there a need for the prioritization of our recommendations? Is it reasonable to classify recommendations according to urgency and impact on torture prevention?
- How to follow-up effectively and track progress?
- How can we achieve synergy among the CPT, SPT and NPMs?

2. Day One

2.1 Opening session and welcoming remarks



The Public Defender of Georgia Ms. Nino Lomjaria welcomed the participants and provided them with a brief overview of the past and current situation in Georgia in terms of prevention of torture and ill-treatment. Ms. Lomjaria outlined that the time period of founding of the NPM coincided with that very period when the state exercised the Zero Tolerance Policy. The state was heavily criticized for overcrowding in penitentiary establishments and poor sanitary hygiene conditions. The repressive methods used by the administration in order to maintain order and security in penitentiary establishments was especially alarming. The National Preventive Mechanism has repeatedly emphasized and urged the relevant authorities to duly respond to these cases. However, it was not until the publication of the video footage of prisoners being tortured and ill-treated at Gldani Prison No. 8 in 2012, that the community has taken on the responsibility to combat the repressive approach.

"It is high time that we analyze the impact of Georgian NPM on torture prevention and to rethink the strategy, as 10 year have already passed since its establishment."

Nino Lomjaria, Public Defender of Georgia

Currently, the treatment of persons deprived of their freedom is drastically different, however, the public interest in the matter is quite high and we should not overlook any facts and circumstances which may give rise to suspicion of ill-treatment. Ms. Lomjaria also made reference to the findings of the Paris² and Ljubljana³ Conferences and stressed that the independent research results provided by international experts will be both crucial and helpful in the effort to improve the quality and impact of the NPM's work.

² Joint Project on setting up a European NPM Forum Brainstorming meeting: "Trying to Gauge NPM Impact" 7-8 September 2017 Council of Europe, 55 Avenue Kléber, Room 2, 75016 Paris, France.

³ "NPM Impact Assessment" A conference hosted by the NPM of Slovenia on the occasion of its 10th anniversary, co-organized with the Council of Europe 17-18 April 2018, Ljubljana, Slovenia.

The Ombudsperson paid particular attention to the importance of the effective Documentation and Investigation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and existing legal remedies. Hereof, Ms. Lomjaria underlined that newly established State Inspector Service is expected to contribute positively in this process and investigate all the possible facts of alleged ill-treatment and torture.

Mr. Cristian Urse, Head of the Council of Europe Office in Georgia (COE)

Mr. Cristian Urse stressed the importance of the topic and assessed the work carried out by the NPM of Georgia as a successful ten-year span of time in torture prevention. Mr. Cristian Urse underlined that torture prevention is a constant priority for the Council of Europe. He considered the CPT's recommendations as crucial, inspirational and recalled the projects the Council of Europe implemented in this regard. CoE has engaged directly with the Public Defenders' Office in trying to strengthen capacities and to equip the mechanism with monitoring instruments.

"Prevention of ill –treatment is one of the cornerstones of a democratic society, as the way inmates are treated in prisons often indicates the level of state democracy."

Cristian Urse, Head of Council of Europe Office in Georgia

Mr. Urse noted that there is space for improvement in the legislative framework. For instance, the organizational functioning and independence of the mechanism should be in line with international instruments in this field. Including the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Mr. Urse underlined that Coe's activities will continue in Georgia. According to him, there are reasons to be proud on the work that has been done.

He reassured the audience that Council of Europe will continue its projects in Georgia to attain better results.

Ms. Sabine Mahl, UN Resident Coordinator in Georgia

Ms. Sabine Mahl accentuated the peculiarity of the Optional Protocol to the UN Convention against torture as a unique, exclusive preventive instrument among international human rights treaties. In addition, she highlighted that it is the first instrument that entrusts the national bodies with a preventive mandate.

The UN resident coordinator in Georgia mentioned that NPMs have a role to play in complementing international mechanisms for their capacity to regularly monitor detention facilities; must be aware of the internal legislative framework and must have direct contact with authorities on a day-to-day basis. Ms. Mahl also

"The NPM of Georgia reports provide comprehensive information about the existing situation in the places of detention and confinement"

Ms. Sabine Mahl, UN Resident Coordinator in Georgia

reaffirmed the necessity of independence along with need of financial resources in order to effectively accomplish its tasks.

On behalf of the UN in Georgia, the resident coordinator expressed high appreciation towards the Public Defenders' Office for their effective implementation of the NPM mandate. Ms. Mahl also pointed out the international role that the NPM in Georgia is playing and stressed the work performed by the Head of the NPM Mr. Nika Kvaratskhelia in his capacity as SPT member.

H.E. Carl Hartzell, Ambassador of the European Union to Georgia

Mr. Carl Hartzel invoked the results of the independent research and noted that the research answered positively the question - does the Georgian NPM work effectively?

The NPM of Georgia has contributed tremendously to the improvements of penitentiary facilities over the past decade and it continues through its recommendations to push towards even higher standards. Progress has been noted regarding mental health facilities, although a lot more needs to be done on that front. This progress would not have been possible without the political will to enable the NPM to operate properly.

"The Preventive Mechanism is not only a safeguard in the complex system of preventing ill-treatment but it is also certainly a decisive one"

H.E. Carl Hartzell, Ambassador of the European Union to Georgia

The ambassador emphasized the significance of the follow-up process and addressed the issue of selective endorsement of recommendations by the Parliament of Georgia. Mr. Hartzell noted that this must be a topic of future discussions.

Mr. Hartzell concluded that the EU is proud to be a long-standing and major supporter of the NPM operations. However, according to him, the NPM should no longer depend on external funding for its operations and should instead be secured by the government. For that reason, the EU has already taken a decision to gradually phase out its funding of these activities. Nevertheless, the EU remains a close partner and wide supporter of the Office of the Public Defender of Georgia.

Mr. Gocha Lortkipanidze, Deputy Minister of Justice of Georgia

Mr. Lortkipanidze underscored that the Ministry of Justice pays particular attention to the reports and recommendations of the Public Defender of Georgia. According to the deputy minister, many of the recommendations of the NPM were reflected in the actions plans adopted by the minister of justice. The deputy minister agrees with the public defender that torture prevention requires a complex approach. The ministry of justice envisages new waves of reforms and will establish the standards that are fully in compliance with CPT requirements.

Ms. Nino Javakhadze, Deputy Minister of Internal Affairs of Georgia

Ms. Javakhadze spoke about the implementation of NPM recommendations. Furthermore, she highlighted the ongoing productive cooperation between the Ministry of Internal Affairs and the Public Defender's Office which, according to her, also contributed to the positive changes. She also underlined the positive evaluations of the Police System by CPT and a good cooperation with the Ombudsman's Office.

Ms. Tamar Gabunia, Deputy Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

Ms. Tamar Gabunia spoke about the correlation of ill-treatment risks and mental health issues. She emphasized the necessity of precaution, as the ministry is working with particularly vulnerable groups. The deputy minister assessed the cooperation between the ministry and the Public Defender as positive. Ms. Gabunia mentioned that the ministry is currently working on remodeling the mental health system. The basic objective is to improve the living space of the psychiatric patients and provide them with bio-psycho-social rehabilitation. In order to overcome social stigma, the new model envisages the establishment of community-based services. The deputy minister assessed positively the existence of the civil society platform.

Ms. Ketik Khutsishvili, Director, Open Society Georgia Foundation

Ms. Ketik Khutsishvili emphasized the importance of assessing NPM impact ten years after it began operating. It bears huge importance to see how the NPM works in Georgia and to have completely impartial and independent research results. Nevertheless, while the research responded positively to the question, challenges remain at both the institutional and practical level. She drew particular attention to the ineffective investigation of crimes committed by law enforcement officers. She spoke on how the draft law on the State Inspector which is supposed to investigate crimes committed by police officers has been canceled numerous times and on the importance of implementing this mechanism with consistency.⁴ Ms. Khutsishvili assessed positively, that under the given circumstances when the government is attempting to control some institutions, the Public Defender's Office managed to stay independent and objective.

⁴State Inspector's Service is an independent state authority that started to operate officially in Georgia since 1 November, 2019. According to Article 19 of the Law of Georgia on the State Inspector Service, Investigative jurisdiction of the State Inspector's Service shall apply to: a) the crimes provided for by Articles 144¹ – 144³, Article 332(3)(b) and (c), Article 333(3)(b) and (c), Article 335 and/or Article 378(2) of the Criminal Code of Georgia if they are committed by the representatives of law enforcement body, officers or persons equal to them; b) other crimes committed by the representatives of law enforcement body, officers or persons equal to them which caused the death of a person and when committing it, this person was in the temporary detention isolator or in penitentiary institution or in any other place, where he/she was forbidden to leave the place against his/her will by a representative of a law enforcement body, an officer or a person equal to him/her, and/or this person was otherwise under the effective control of the state, Available at: <https://matsne.gov.ge/en/document/download/4276790/3/en/pdf> [last seen: 25.12.19].

2.2 Session I: Lessons Learned from Georgia – How was the first 10 Years of NPM

Moderator: Mr. Giorgi BURJANADZE
Deputy Public Defender of Georgia



The Public Defender's Office of Georgia (PDO) was designated with the function of NPM 10 years ago. The first decade was full of challenges and emerging needs. Currently, the NPM of Georgia has a good reputation at the international and national level. With the support of Open Society Georgia Foundation (OSGF), the independent research report on the impact of the Georgian NPM on torture prevention was prepared by Richard Carver and Lisa Handley and presented at the conference.

Mr. Nika Kvaratskhelia, Head of the NPM of Georgia, Member of the UN Subcommittee on Prevention of Torture

Nika Kvaratskhelia explained to the audience the structure and *modus operandi* of the NPM of Georgia and spoke about the figures reflecting its activities over the last ten years. He mentioned that compared to 2017, in 2018, a relatively high number of recommendations were endorsed by the Parliament. As for future plans, Mr. Kvaratskhelia pointed out the following issues that would constitute the core elements of Georgian NPM development: ensuring sustainability of the mechanism; maintaining consistency in its work; attracting sufficient resources; ensuring regularity of visits and spending more time on pre and post visit activities; conducting effective strategic planning (resource distribution, defining objectives and envisaging strategies to attain these objectives).

Mr. Richard Carver, International Expert, Oxford-Brooks University

Mr. Richard Carver presented the independent research conducted with Lisa Handley over the issue of impact of Georgian NPM on torture prevention. The research was conducted using specially elaborated cluster methodologies that assessed the overall performance and impact of the NPM. The research demonstrated a positive score for the Georgian NPM. However, he stressed

that the efforts to address the challenges that obstruct the NPM of Georgia need to be more effective.

“The ultimate measure of an NPM’s effectiveness might appear to be whether the incidence of torture and ill-treatment has been reduced. Based on our interviews, the consensus seems to be that it has. Big steps have been made to reduce torture within the police and during pre-trial custody before the creation of the NPM, but in the past decade the significant improvements have been made in conditions in penitentiaries. The situation in psychiatric hospitals is where the least amount of progress has been made in the past decade.”⁵

Budgetary issues and material resources are the major challenges identified by the independent researchers. The authors argue that the lack of a designated independent budget and the dependence on outside financial sources creates serious risks in the future and can affect the NPM’s efficiency.

Ms. Mari AMOS, Former Member of the Subcommittee on the Prevention of Torture (SPT), editor of the CoE NPM newsletter

The focus of Ms. Mari Amos speech was the long-standing communication between the SPT and NPM. She recalled the first steps of the Georgian NPM. According to her, at the beginning, the activities of the NPM of Georgia were characterized by substantial flaws such as capacities, skills and ethics. However, the situation has changed drastically over time. The Georgian NPM is a fast-developing mechanism and is becoming a contributor rather than a beneficiary. The Georgian NPM representatives even provide high-quality training to other NPMs.

Ms. Amos mentioned that the SPT-NPM has always had fruitful communication. From the point of view of the SPT, the NPM of Georgia still struggles with some challenges such as the irrationally high number of visits and a lack of visibility.

⁵ Richard Carver, Lisa Handley, *Does the Georgian NPM Work? An assessment of 10 Years of Torture Prevention 2019*, available at <http://www.ombudsman.ge/eng/190307075330spetsialuri-angarishebi/mushaobs-tu-ara-sakartvelos-preventsiis-erovnuli-mekanizmi-tsamebis-preventsiis-10-tslis-shefaseba> [last seen: 26.11.2019].

2.3 Session II: Global System of Torture Prevention – Is it Result-Oriented at Different Levels?

Moderator: Mr. George TUGUSHI
Former Public Defender of Georgia



Mr. Victor ZAHARIA, Vice-Chairperson of the Subcommittee on the Prevention of Torture (SPT)

Mr. Victor Zaharia briefly presented the torture prevention system at global level. Underlying the good trends, he also mentioned temporary challenges in torture prevention. The budgetary limitations had a huge impact on the visiting program of the SPT. According to him, in 2018, the SPT visited 6 State Parties to the OPCAT instead of usual planning of 10 visits. However, there are alternative ways to maintain the dialogue with the NPMs and state authorities.

90 states have ratified OPCAT so far. He also mentioned the postponements and reluctance of some states to ratify OPCAT. Some already established NPMs do not benefit of sufficient attention from the state parties authorities and face functional challenges that differ from state to state. Some NPMs encounter problems with regard to their independence and even their existence, not to mention the difficulties in the dialogue with authorities concerning implementation of the NPM recommendations, budgetary limitations and insufficiency of resources.

Mr. Zaharia pointed out few aspects to improve cooperation. Endorsement by SPT and CPT of the NPM recommendations will be beneficial for NPMs as it persuades the authorities that NPM is also an important actor in torture prevention process. Another aspect concerns the need for improved collaboration with professional associations like Bar Associations, medical unions, and academia etc. These entities have potential to contribute positively in torture prevention system.

Mr. Borys WODZ, Head of the Division of the CPT Secretariat, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Mr. Borys Wodz discussed the prospects of torture prevention at the European level. One of the major positive aspects of the CPT is that it is considered a body of standards. However, it is very difficult to quantify and measure how successful CPT-NPM cooperation is. Perhaps, one of the indicators of successful cooperation is the positive reaction and implementation of the CPT recommendations.

One of the fruitful ways of collaboration can be intensifying the dialogue with state authorities and high level talks with the countries whose torture prevention activities are assessed negatively.

Since the principle of confidentiality is a core element and since the CPT is authorized to discuss the findings publicly only after consulting the public authorities (with the exception of public statements), sometimes the CPT is unable to speak as loud as it would like to.

A memorandum of understanding has been recently signed with the SPT and there is the expectation that the cooperation will become more intensified, supportive and structured. From the point of view of the CPT, the SPT should reinforce cooperation with the NPMs on the European level in lieu of conducting visits *per se*. The CPT and the SPT are also encouraged to check each other's recommendation in order to avoid possible contradictions and redundancies.

Contrary to the SPT, it is not the mandate of the CPT to evaluate the performance of the NPMs. Nevertheless, the CPT is able to support the NPMs, help to make the instrument more visible and assist in raising certain topics during high level talks.

The CPT always welcomes the participation of NPM representatives on the final talks with the authorities. It can be an excellent opportunity for the NPMs to know what the preliminary observations of the CPT are after the visit and before the report is published, which may take several months or maybe even delayed by the governments for even a year.

The Process of establishing NPMs worldwide

Ms. Eva CSERGÖ, Europe and Central Asia Program Officer, Association for the Prevention of Torture (APT)

Ms. Eva Csergö spoke about the process of establishing NPMs on the global level and identified the major aspects that need to be taken into account for the proper functioning of the torture prevention mechanisms, which include independence, unrestricted access to information, sufficient resources and multidisciplinary approaches.

In addition to the above-mentioned characteristics, Ms. Eva Csergo emphasized the three most important factors that can make NPMs more impactful.

1. Clear strategy: Having a clear strategy may be deemed a simple task, but as a matter of fact, it is a hard mission to accomplish. Clear strategy englobes in itself a well-defined monitoring agenda, as well as follow-up instruments.
2. Clear processes and procedures: This criterion implies clarity at all stages - including visits, staff and team selection, follow-up procedures, dialogue with authorities and external bodies.
3. Effective allocation of time and resources: This suggests the efficient use of existing resources that, among others, comprise the ability to mobilize media and international bodies.

The NPM of Armenia, its Experience of Key Achievements and the Biggest Obstacles in Achieving the Change; the Role of the CPT and SPT with regard to NPM in Armenia

Mr. Arman TATOYAN, Human Rights Defender of the Republic of Armenia, Member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

For its part, prevention assumes continuous and coordinated measures, both at the legislative and practical levels, and is in line with international requirements. Civil society, in line with its fundamental role of democratic oversight, should also necessarily be involved.

In Armenia, it took a long legislative process to clearly define the scope and mandate of the NPM and how it would operate as a constituent part of the Public Defender's Office. Due to the constitutional reforms made on December 6, 2015 and pursuant to Article 2, Part 2 of the Constitutional Law, the defender shall be entrusted with the mandate of the National Preventive Mechanism envisaged by the Optional Protocol.

The Human Rights Defender as the National Preventive Mechanism, has adopted principles and approaches that have fundamental importance, including the principles of the baseline approach and confidentiality. In parallel, the NPM of Armenia has activated two internationally accepted types of recommendations:

- 1) Immediate recommendations made straight at the point, and;
- 2) Written claims or recommendations made to the competent authority as a result of the observations conducted.

Mr. Tatoyan discussed the eligibility of the NPM to get involved directly into the law-drafting process for the purpose of implementing the recommendations. The new practice of reflecting monitoring results in the draft laws by the HRD Office is being exercised. The draft laws are presented and discussed with the representatives of the relevant NGOs, and are later published on official websites and are largely disseminated via the media. On November 1, 2018, the Government of Armenia gave its approval for the draft law and presented it for the consideration of the Parliament.

The NPM of Armenia commenced the practice of elaborating legal standards based on legal analysis and international standards. The Legal Standards of the Human Rights Defender will be published soon in the Armenian and English languages.

The NPM of Armenia successfully leverages modern technologies such as the Facebook Messenger application called "Legal Counsel for Detainee". The Chat bot provides legal consultations to persons deprived of liberty, their family members or any other persons who feel their rights have been violated. The automated system includes approximately 300 questions and answers about early conditional release, medical care, visits, correspondence, telephone and video calls, penalties and incentives, granting short leave, conditions of detention in penitentiary institutions and so on.

The NPM of Slovenia, its Experience of Key Achievements and the Biggest Obstacles in Achieving the Change; the Role of the CPT and SPT with regard to NPM in Slovenia

Mr. Ivan ŠELIH, Deputy Ombudsman, Office of Human Rights Ombudsman of the Republic of Slovenia

Mr. Ivan Selih informed the audience that the NPM of Slovenia celebrated its 10 year anniversary in 2018 and that the conference report is available on its website. As for the peculiarities of the NPM of Slovenia, all visits in closed institutions are carried out with mixed groups with the representatives of NGOs. The NPM of Slovenia enjoys functional and financial independence along with visibility in public. Preventive and reactive activities were separated in 2015. The practice demonstrated that it was the correct decision, as nowadays the work of the NPM is better organized and more efficient. Currently, the NPM unit is comprised of three professionals - two of them are responsible only for monitoring and drafting reports, while the third person partly deals also with complaints.

Mr. Selih discussed successful examples of the NPM recommendations, such as improved conditions at police stations and detention centers, improved capacities to inform the detainees of their rights (in 7 languages), more consistently recorded data and improved medical assistance. Notwithstanding, the NPM of Slovenia significantly contributes to the improvements and still strives for substantive changes with certain ministries. For that reason, the NPM of Slovenia actively uses the format of constitutional litigations, dialogue with authorities and international cooperation with the aim of triggering the change.

The NPM of Slovenia is a founding member of the South-East Europe NPM Network that serves as an opportunity to achieve synergy between member states on the regional level. The network organizes regular meetings and joint visits and issues recommendations.

Mr. Ivan Selih spoke about the need to provide feedback to the CPT and the SPT. The NPMs are encouraged to notify the SPT and the CPT on the implementation of their recommendations.

The NPM of Greece, Its Experience of Key Achievements and the Biggest Obstacles in Achieving the Change; the Role of the CPT and SPT with regard to NPM in Greece

Mr. Georgios NIKOLOPOULOS, Deputy Ombudsman, Greek Ombudsman's Office

Mr. Georgios Nikolopoulos recalled that the OPCAT inaugurates a complementary and cooperative approach between preventive efforts at the national and the international level, creating an innovative "triangular" relationship between national authorities, the SPT and the NPM.

The interplay between national, regional and international monitoring bodies breaks new ground in the detainee protection system in Europe. However, the crucial difference between the SPT's and CPT's protection systems are in the creation by the OPCAT of a permanent external preventive mechanism at the national level (i.e. the NPM), which makes frequent and continuous visits to all detention facilities rather than periodic and ad hoc visits as the CPT does.

Given that there is inevitably a gap between what the law says should happen and what happens in practice, we need a great deal more research - particularly qualitative research - to understand the reality of the impact of these various monitoring bodies and to glean evidence pertaining to their effectiveness to actually drive up standards in detention facilities. If higher standards are to be effectively enforced, the closed world of detention facilities needs both complex accountability mechanisms and clearer rules. We are therefore in need of tools of comparative evaluation on the improvements that have been implemented upon the recommendations of the NPM.

The Deputy Ombudsman noted that torture not only affects the victims themselves, but it has a toxic effect on societies that tolerate it. In this regard, our working methods and communication strategies not only with stakeholders but also with the public in general, should aim at providing information, awareness-raising and empowerment of the victims in the exercise of their rights.

The NPM of Czech Republic, Its Experience of Key Achievements and the Biggest Obstacles in Achieving the Change; the Role of CPT and SPT with regard to NPM in the Czech Republic

Ms. Marie LUKASOVÁ, Office of the Public Defender of Rights, Division of Supervision over Restrictions of Personal Freedom, Czech Republic

Ms. Marie Lukasová spoke about the improvements in torture prevention and the role of the Czech NPM in this regard. According to her, while some achievements can be attributed to the CPT and other stakeholders, the NPM has also largely contributed to the legal framework for strengthening the basic safeguards against ill-treatment, which were not sufficiently performed 10 years ago. "We definitely helped in setting the legal framework for restraints in psychiatry," said Ms. Lukasová.

Ms. Lukasová also mentioned international pressure from the CPT and the UN bodies as an important element for change. However, according to her, the NPM also „invented“ the benefit of continuous dialogue with the authorities (if possible): to keep sending reports and not holding dialogue is ineffective and frustrating for stakeholders.”

Furthermore, Ms. Lukasová highlighted the importance of actively engaging experts in awareness raising campaigns, which means investing time and resources, organizing trainings, roundtables, seminars, printing reader-friendly reports and promoting standards.

In Ms. Lukasová’s opinion, strategic planning of the institution should last for 2-3 years in advance and not more because it is difficult to foresee for a longer period of time.

Ms. Lukasová underlined that her office does an internal follow-up of the activities and recommendations. In this regard, she emphasized that they do effective follow-ups on systemic recommendations. She also mentioned that they use excels tables. In addition, she highlighted the importance of the prioritization of recommendations, which helps one know when and where to step back while negotiating with authorities.

Finally, Ms. Lukasová spoke about the current level of cooperation between the CPT and SPT. She underscored that they use and promote CPT standards and push the implementation of the CPT recommendations, as well as follow SPT guidelines on national preventive mechanisms. She noted the fact that the CPT encouraged the government to invite the NPM to the final talks and defined the need for more result-oriented and efficient cooperation.

3. Day Two

3.1 Session III: Current and Emerging Needs of NPMs

Since the objective of the conference was to measure and enhance the impact of NPMs, the second day sessions were devoted to NPMs and their current challenges. Participants were divided into five working groups. Each group was rotated and took part in discussions around five tables with five distinct themes moderated respectively by Ms. Marie LUKASOVÁ (Czech NPM); Ms. Mari AMOS (Former Member of SPT); Ms. Eva CSERGÖ (APT); Richard CARVER (Oxford Brookes University) and Mr. Victor ZAHARIA (SPT). The representatives were asked to share their views and experiences.



1. What are the key factors that contributed to the change in your experience? What should the effective communication strategies include? (Moderated by Ms. Marie LUKASOVÁ)

1.1 The participants agreed that the primary determining factor that triggers the change is quality findings. The NPMs shall gather the exact findings, using different mechanisms such as night and unannounced visits. NPMs are encouraged to use all available information sources in order to attain this objective.

1.2. All forms of dialogue are believed to contribute to change, including attending parliamentary committee meetings and involvement in the law-drafting process. Some participants mentioned that NPMs should create platforms to hold effective dialogue and inspire and convince the decision-making authorities. Some participants nonetheless considered that the NPMs should even invest in the training of the police and other high-ranking officials. The representatives underlined the importance of taking a positive approach towards the staff of closed establishments. NPMs should talk about the staff working conditions in their reports.

1.3. The participants did not manage to reach a consensus on the NPM's function to deal with the complaints. Namely, some NPM representatives consider that the function of dealing with complaints should not be attributed to the NPM and that time and energy should be redirected to purely preventive actions. Some participants, however, believe that the function of complaints is underestimated, and it may serve as a source for systemic reflections.

1.4. Moreover, the participants examined the ways to implement an effective communication strategy. The French model of issuing special recommendations in cases of emergency was regarded as an effective and rapid *modus operandi*. From the participants' standpoint, effective dialogue with the public, media and non-governmental organizations is part of an effective communication strategy. Participants underlined the importance of organizing conferences, small reports, infographics and pictures that can efficiently demonstrate the importance of torture prevention. With the purpose of increasing the visibility of the NPM's work and impact, some NPMs established public relations divisions. Other participants further encouraged conducting special trainings for journalists to help to raise awareness.

1.5. The role of NGOs was emphasized in particular - so long as NGOs tend to disseminate reports and have a positive influence on human rights situations. NGO projects may be inspired by NPM recommendations that eventually contribute to positive changes.

2. What do we mean by strategic planning and what elements should it include? (Moderated by Ms. Mari AMOS)

2.1 Group discussions on the content and elements of strategic planning highlighted issues such as the duration of the plan; the participation of other stakeholders in the process of its elaboration; the planning process when NPMs are constituent parts of other institutions and the content of the plan/elements and some observations.

2.2 Due to the fact that different institutions make use of several approaches related to the duration of the plan, different terms have been put forward. For instance, some NPMs had a preference for long-term plans of five years, while others were in favor of short-term plans of one year and it is either at the end of every year for next year or at the beginning of a particular year. At the same time, it was mentioned that long-term planning can be too general and can only be oriented towards giving directions. On the other hand, an NPM which practices a 3 year-

planning in advance stressed that there is a need to project activities in the longer term, as some changes take time. Some underlined that they have implemented plan of visits on a quarterly basis.

2.3 Participants also underlined that annual plans should be linked to the previous ones to ensure logical continuity and stability. However, it was stated that plans should contain a degree of flexibility and they need to be re-evaluated to see if changes should be introduced. The participants suggested that the involvement of NGOs, experts and other important actors in elaboration of strategic plans should be considered. For example, some NPMs have advisory councils or boards who provide input for the annual strategic plan. In the latter case, it was mentioned by some participants that providing input can be slow and therefore all process of planning and acting upon a plan risk being delayed. However, the involvement of advisory councils or boards is indispensable in giving the process more legitimacy.

2.4 Some NPMs that are part of the Ombudsman institution need to obtain confirmation from the head of institutions. Therefore, issues of independence may arise. On the other hand, NPMs found complaints to the Ombudsman offices to be a good source of inspiration in planning. Many NPMs stated that there is no specific strategic plan for the NPM but NPM activities are included in the general annual plan of the institution that the NPM is part of. One of the benefits of being part of the Ombudsman Office is that the latter can also help NPM observations be implemented and facilitate dialogue through other Ombudsman channels.

2.5 Based on the experiences shared by the session participants, strategic planning may include:

- a) Merely visits (it was mentioned that some NPMs have an obligation to undertake a certain number of visits per year. Visits may be prioritized on the basis of risk-assessment by type of institution);
- b) Awareness raising campaigns on the NPM's mandate for public institutions and visibility issues (newly established NPMs can start with informing places of detention, ministries and the public about the NPM and its mandate);
- c) Dialogue with various bodies;
- d) Working on internal methodologies;
- e) Celebrations of relevant days (for instance, International Day in Support of Victims of Torture);
- f) Elaborating a plan for NPM media communications, cooperation with stakeholders (ministries, but on very specific fields);
- g) Organizing training courses and awareness-raising projects;
- h) The participants noted that the political situation, budget allocations and the capacities of NPMs should be taken into consideration when elaborating any realistic strategic plan.

3. Is there a need for the prioritization of NPM recommendations? Is it reasonable to classify the recommendations according to urgency and impact on torture prevention? (Moderated by Ms. Eva CSERGÖ)

3.1 It must be emphasized that the participants did not reach a consensus on whether the prioritization of recommendations is desirable. The majority regarded that it is important to prioritize recommendations as it would help to force authorities through strategy. However, some NPM representatives believe that this approach could be counter-productive. A common understanding is if the NPMs issue a set of recommendations that are sent to the relevant bodies, the authorities may simply implement the easiest recommendation or neglect the most impactful ones.

3.2 The representatives of the NPM of Montenegro considered prioritization to be unnecessary. The Armenian delegation approved the idea of a recommendation rating system. The representative of Luxembourg mentioned that having a special registry of a recommendation with designated responsible person and time-bound addressing is an important factor.

3.3 Some NPM have already developed the system based on two categories - urgency and impact. Currently, the NPM of Georgia is testing the three level impact system (low, medium and high). Slovenia has developed a system of categorizing recommendations according to: a) Systemic – related to the legal framework; b) Targeted – related to one specific case or institution; and c) General – related to widespread problems.

3.4 Nevertheless, while some NPMs disapprove of the idea of prioritizing recommendations, *de facto* prioritization is taking place. Annual reports may serve as a good example of *de facto* prioritization where NPMs tend to keep the most important recommendation out of numerous recommendations.

3.5 There are some tools that NPMs are using in urgent cases. The NPMs of Greece and Estonia prioritize urgent topics and search for rapid constructive ways to solve the problem as soon as possible. France publishes urgent opinions on issues that necessitate immediate proactive actions.

3.6 Some participants mentioned that the recommendation-drafting-process should also be considered. Participants drew attention to the wording of CPT recommendations. Notwithstanding, CPT recommendations are not supposed to be categorized by their importance, The wording of some recommendations demonstrate that the authors place a special emphasis on certain ones.

4. How to track progress and follow-up effectively? (Moderated by Mr. Richard CARVER)

4.1 As mentioned above, the type of recommendation made determines the follow-up procedure. According to the experience of the participants, the follow-up procedure can be categorized into four general categories: 1. Immediate; 2. Mid-term; 3. Systemic and 4. Legal. As for the reporting format, participants defined major format: 1. immediate verbal, 2. informal dialogue with authorities and 3. Written recommendations in reports – annual, visit, special.

4.2 Participants enlisted several activities that follow-up procedures may contain:

- a) Specific follow-up visits
- b) Putting pressure on governmental bodies to respond to recommendations within a specified time period (e.g.: Croatia, Montenegro, Slovenia, France – put pressure only for emergency recommendations);
- c) Continuing dialogue with authorities;
- d) Follow-up more or less limited to next scheduled visit (eg. Luxemburg);
- e) Repetition of recommendations (eg. Moldova);

4.3 The majority of participants underlined that the best follow-up practice seems to be engaging in dialogue with authorities at the early stage. This would come before reporting. Some institutions have specific legal power that require authorities to provide a response. The process of dialogue is very important, as it provides a daily update. The question is to what extent should NPMs make this process public. The Polish NPM dialogue process with authorities is completely transparent.

4.4 In the follow-up process, the role of parliament is vital. In the case of Moldova and Ukraine, there are no hearings of recommendations before the parliament. Some parliaments endorse the recommendations in their entirety. However, some tend to be selective and delegitimize some recommendations by not endorsing them all.

4.5 Some participants recommended the effective use of media and NGOs in the follow-up process by monitoring media coverage and encouraging media reporting.

4.6 It was suggested that NPMs elaborate their own internal arrangements to track recommendations. For that purpose NPMs:

- a) Designated individuals/units to follow-up (e.g. Croatia, Armenia, Georgia etc.);
- b) Use Excel or other database formats (e.g.: France, Croatia, Slovenia, Georgia etc.)
- c) Exploring electronic tracking options (e.g. Armenia, Luxemburg)

4.7 Participants raised a rhetorical and practical question - at what stage should tracking finish? It has been suggested that NPMs should look back at all their recommendations and discard the ones that have already been implemented, that are already obsolete and that contradict the most recent recommendations.

5. How can we achieve synergy among the CPT, SPT and NPMs? (Moderated by Mr. Victor ZAHARIA)

5.1 Participants mentioned that synergy is not only about coordination of the visiting plans but also about the NPMs, the SPT and the CPT thinking more to maximize the impact via joint efforts. Additionally, it is about using the advantages, e.g. the NPMs are on the spot and are being updated with all information and context, while the SPT and the CPT can place more pressure on the authorities to implement the recommendations. So, it is not only about written exchanges or direct contacts, but also about the joint activities that are exercised.

5.2 It was suggested by the participants that before the visit of the SPT and CPT to the country or at the beginning of a visit (initial meetings), the NPM can provide the SPT, CPT with the following:

- a) Information on substantive issues (e.g. concerning the practices of the police, prisons, patterns of behavior, problematic areas, challenges);
- b) Suggest the detention facilities that would be advisable to be visited by the SPT and CPT;
- c) notify the SPT and CPT about the detention facilities the NPM intends to visit while the SPT and CPT is in the country in order to avoid being in the same place on a particular day;
- d) Provide additional information (e.g. the information overlooked by the authorities, specific address of a

Particular detention facility, laws, draft laws).

5.3 During the visit, the NPM is advised to provide to the SPT and the CPT the following:

- a) SPT, CPT should be well aware of the recommendations issued by the NPM;
- b) SPT, CPT should encourage the authorities to invite the NPM to participate in the Preliminary observations meeting/final talks;
- c) When SPT, CPT issues recommendations which are similar to the ones formulated by the NPM, then the SPT and the CPT can mention directly that this is also a NPM recommendation/or the fact that they endorse the NPM recommendation, which means they can contribute to the increase of the authority of the NPM.

5.4 After the visit the NPM can provide the SPT and CPT with the following:

- a) When appropriate, the SPT, CPT can inform the NPM about the institutions they visited in order for the NPM to follow-up on the issue of reprisals. In some cases, if appropriate, even specific names can be provided (reprisals, but also eventually humanitarian issues). For the SPT and CPT, it is important to have feedback and updates on the measure taken and the result.
- b) NPM should promote the publication of the SPT, CPT reports.
- c) NPM should promote the idea of automatic publication of the SPT and CPT reports.
- d) NPM can reiterate, remind, make references to the SPT and CPT recommendations and

Follow-up on these.

5.5 Other possible forms of cooperation not linked with the SPT and CPT visits:

- a) Joint events, on thematic issues, e.g. overcrowding, use of restraints;
- b) Using the CPT and SPT standards (the same set of standards or at least corroborated);
- c) NPM can invite SPT and CPT members as experts or consultants in the process of drafting legislation.
- d) SPT and CPT members could share their experience on substantive issues and methodologies during trainings for NPMs.

5.6 Cooperation of the NPM with the SPT

- a) Joint SPT-NPM visits during the SPT country visit;
- b) Capacity-building via trainings and instructive visits;
- c) The NPMs should send their annual reports to the SPT. The SPT should have a prospective approach to the analysis of the annual reports (more support and guidance);
- d) Procedure of communication of the NPMs with SPT is not sufficiently known by all the NPMs. The SPT can convey to the NPMs the modality of interaction or expectancies in a document on the SPT webpage;
- e) The SPT can facilitate more contacts and networking between the NPMs;
- f) NPMs can be more proactive in contacting the SPT, having a permanent and functional focal point in the NPM;
- g) Even in the context of universality, the SPT can offer more specific, contextualized advice; access of the NPMs to the SPT compilation of advice;
- h) NPMs can apply to the Special Fund, in order to organize joint events with the SPT for discussions on the SPT recommendations, trainings and professional capacity-building activities.