



PERMANENT MISSION OF THE RÉPUBLIC OF SLOVENIA

No.: 22/09

NOTE VERBALE

The Permanent Mission of the Republic of Slovenia to the United Nations Office and other International Organisations in Geneva presents its compliments to the Secretariat of the Subcommittee on Prevention of Torture (SPT) and with the reference to the latter's communication of 2 December 2008 regarding the designation of work of the national preventive mechanism (NPM) has the honour to enclose hereby the reply of the Government of the Republic of Slovenia.

As also mentioned in the attached reply the Permanent Mission of the Republic of Slovenia would like to inform that in the Republic of Slovenia on the basis of Article 5 of the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (*Official Gazette of the Republic of Slovenia, No. 114/2006, International Treaties No. 20/2006*) the Human Rights Ombudsman was designated as the national preventive mechanism. The Act ratifying the Optional Protocol was adopted by the National Assembly of the Republic of Slovenia on 29 September 2006 and entered into force on 1 January 2007.

The Permanent Mission of the Republic of Slovenia to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Secretariat of the Subcommittee on Prevention of Torture (SPT) the assurances of its highest consideration.

Geneva, 4 March 2009



**OHCHR
SUBCOMMITTEE ON THE PREVENTION OF TORTURE
GENEVA**

OHCHR REGISTRY

5 - MAR 2009

Recipients : OPCAT

.....
.....
.....



PERMANENT MISSION OF SLOVENIA GENEVA

The Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Uradni list RS, No. 114/2006, Mednarodne pogodbe No. 20/2006) designates the Human Rights Ombudsman (hereafter: the Ombudsman) as the national preventive mechanism in the Republic of Slovenia. The draft of the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter: the Optional Protocol) was drawn up by the Ministry of Justice of the Republic of Slovenia together with the Ministry of Foreign Affairs of the Republic of Slovenia and the Ombudsman, with the great involvement of non-governmental organisations (in particular Amnesty International Slovenia, the Peace Institute (*Mirovni inštitut*) and New Paradox (*Novi paradoks*)). The cooperation of a wider circle of relevant actors connected with the protection of persons deprived of their liberty against torture and other forms of cruel, inhuman and degrading treatment or punishment ensured that the Paris Principles have also been taken into account when creating the national preventive mechanism. The Act ratifying the Optional Protocol was adopted by the National Assembly of the Republic of Slovenia on 29 September 2006 and entered into force on 1 January 2007.

In the Republic of Slovenia, the Ombudsman is a state body, founded on the basis of Article 159 of the Constitution. The Ombudsman's duty is to protect the individual's human rights and fundamental freedoms in relation to state bodies, local government and the holders of public powers. The main reason for determining the Ombudsman as the national preventive mechanism was the Ombudsman's independence (functional, personal and financial), which is guaranteed by the Constitution, the Ombudsman's extensive competences, appropriate human resources and an established way of acting when visiting places where there are persons who have been deprived of their liberty.

On the basis of the tasks and competences given to this state body by the Constitution, the Ombudsman had, even prior to the ratification of the Optional Protocol, been carrying out supervision by visiting the places where persons deprived of their liberty are being held. As the legislator was aware of the importance of non-governmental organisations active in the area of the protection of human rights, the Act on the ratification also specified the manner in which the Ombudsman is to cooperate with non-governmental organisations with regard to implementing the competences and tasks specified by the Optional Protocol. Article 4 of this Act states that the competences and tasks of the national preventive mechanism, in line with the Optional Protocol and in accordance with Article 17, shall be carried out by the Ombudsman and in agreement with the Ombudsman also by non-governmental organisations that are registered in the Republic of Slovenia and organisations that have acquired the status of a humanitarian organisation in the Republic of Slovenia.

In this way, non-governmental organisations have become a part of the national preventive mechanism in the widest possible sense, whilst at the same time this solution in the Republic of Slovenia represents something new in the introduction of public-private partnership.

All the activities connected with the implementation of the Optional Protocol in the Republic of Slovenia have thus in practice been taken on by the Ombudsman as the national preventive mechanism.

As the criteria for the activities of the national preventive mechanisms are stricter than those applying before the ratification of the Optional Protocol, in particular with regard to the frequency of visits and the composition of the delegations carrying out these visits, the Ombudsman began in 2006 to prepare for the envisaged additional tasks and competences specified by the Optional Protocol by planning the resources for additional employees, for the provision of additional premises and equipment, and for non-governmental and humanitarian organisations. The re-organisation of the specialised services of the Ombudsman in 2007 meant that the field of "Administration of justice" was joined by the field of the "Optional Protocol", whilst six civil servants, including the head of the field, have been appointed. Four of these civil servants are lawyers, one has a doctorate in psychology and one graduated from the Faculty of Criminal Justice and Security. An additional civil servant was also employed. All these civil servants, in addition to the tasks and competences connected with the national preventive mechanism, carry out tasks related to the original competence of the Ombudsman.

The reorganisation was followed by the selection of non-governmental and humanitarian organisations which would cooperate with the Ombudsman in the implementation of the competences and tasks of the national preventive mechanism. The Ombudsman thus drew up and published in the Official Gazette of the Republic of Slovenia No. 90/2007, dated 5 October 2007, a public invitation for cooperation between the Ombudsman and non-governmental organisations registered in the Republic of Slovenia and organisations that have acquired the status of a humanitarian organisation in the Republic of Slovenia, in the implementation of the competences and tasks of the national preventive mechanism according to the Optional Protocol.

The public invitation included selection criteria. Priority was given to non-governmental and humanitarian organisations with more extensive experience in the area of the protection of human rights and fundamental freedoms, in particular in the prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment. Organisations proved this experience through a description of their most important activities.

The selection was made by the Ombudsman, who chose the two non-governmental organisations that applied: the Peace Institute and the Legal Information Centre (*Pravno informacijski center - PIC*), which both fulfilled all the criteria specified in the public invitation.

On the basis of paragraph 4 in Article 5 of the Act ratifying the Optional Protocol and following a prior agreement by the minister responsible for finance, the Ombudsman issued Rules on the reimbursement of costs and on awards to persons from the organisations carrying out the tasks and implementing the competences stipulated by the provisions of the Optional Protocol. These Rules were published in the Official Gazette of the Republic of Slovenia, No. 17/2008, dated 19 February 2008.

On 11 March 2008, the Ombudsman signed an agreement with the chosen non-governmental organisations, which governs in detail the mutual obligations of the contracting parties. The agreement was valid for the period until 31 December 2008. On the basis of a public invitation (published in the Official Gazette of the RS No. 107/2008) the following non-

governmental organisations were chosen for cooperation until 31 December 2010 (with the possibility of extending the agreement for a year): PIC, Red Cross Slovenia (*Rdeči križ Slovenije*) and the Primus Institute (*Inštitut Primus*).

The chosen organisations perform their supervisory tasks and competences via their representatives trained for individual areas of supervision, as members of a group put together by the Ombudsman for carrying out supervision in places where certain persons are deprived of their liberty and for monitoring the treatment of these persons. The group carrying out supervision consists of representatives from the Ombudsman and the chosen organisations. Thus non-governmental (and humanitarian) organisations are a part of the national preventive mechanism, whilst this also ensures the additional multi-disciplinary nature and professionalism of the supervision. Moreover, the legitimacy of the supervision is in this way strengthened.

In cooperation with the chosen organisations the Ombudsman has drawn up a programme of visits, which stipulates at least one annual visit to every prison, psychiatric institution, aliens centre and asylum centre, as well as visits every two years to those police stations that have special premises for detention. These are preventive visits, the aim of which is to prevent the occurrence of torture or unsuitable treatment.

Representatives of the chosen non-governmental or humanitarian organisations perform supervision in line with the provisions of the Optional Protocol and the Ombudsman's instructions. After they have performed supervision, they produce a short report on their findings, together with suggestions for the elimination of any irregularities found, and this report is a part of the final report on the supervision. In addition, the Ombudsman may also decide that the final report about the supervision carried out will be drawn up by a representative of one of the chosen organisations.

Persons from the organisations chosen to perform supervision in line with the provisions of the Optional Protocol are entitled to have their travelling expenses, sustenance and accommodation costs reimbursed, as well as to an award for drawing up the report on the supervision they have carried out, to a wage compensation or compensation for lost income and to a symbolic award in line with the Rules on the reimbursement of costs and on the awards to persons from the organisations carrying out the tasks and implementing the competences stipulated by the provisions of the Optional Protocol.

The first visit by the Ombudsman in the function of the national preventive mechanism was carried out at the Radeče Correction Home on 19 March 2008 and the last one in the Pegasus Home in Rogaška Slatina on 17 December 2008. Altogether, 35 visits were carried out in 2008, whilst 50 such visits are planned for 2009.

After every visit to a supervised institution a report was written containing suggestions for the elimination of shortcomings and irregularities, as well as recommendations for the improvement of conditions. Representatives of the chosen non-governmental and humanitarian organisations also created a short report of their own findings with suggestions for the elimination of irregularities and this report is a part of every final supervision report, whilst the Ombudsman may also specify that the final report be drawn up by a representative from the chosen organisation.

We have established that our findings, suggestions and recommendations for the

improvement of conditions (summaries of these are published on the Ombudsman's website: www.varuh-rs.si) often result in improved conditions for and better treatment of persons who have been deprived of their liberty. In our report for 2008 we will comment on some of the main findings from these visits (the report is planned for release in May).

....

We can thus state that with the implementation of the Optional Protocol in Slovenia the Ombudsman has ensured the efficient performance of the tasks and powers of the national preventive mechanism. The inclusion of non-governmental organisations has increased the transparency of the Ombudsman's activities in this area, which guarantees greater quality in the performance of the tasks the state has taken on with the ratification of the Optional Protocol. In the Republic of Slovenia this represents something new relating to the introduction of a public-private partnership and can serve as a guideline for changes in the activities of other state bodies, whilst internationally it represents one of the possible successful models of the implementation of the Optional Protocol. According to the available data, Slovenia is the only European country where the Ombudsman as a state body cooperates with non-governmental organisations in the implementation of the tasks and powers of the national preventive mechanism. Information about the implementation of the Optional Protocol has thus already been conveyed at various international meetings and conferences (in Paris, Padua, Sudak in Ukraine, in the Czech Republic and in Ankara), as well as to representatives from Montenegro and Macedonia.