AN OVERVIEW OF TORTURE PREVENTION SYSTEMS in Russia, Lithuania, Sweden and Norway
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The right to liberty and security of each person is a fundamental human right, yet it is not absolute. State bodies may detain people and deprive them of their freedom; however, the grounds for such actions are strictly limited, they must be based on the law and often need to be authorised by a court decision. Both national and international laws prohibit arbitrary detention. People deprived of their liberty are in a particularly vulnerable position and the state is entrusted with the responsibility for their well-being. Therefore, independent monitoring of the observance of human rights in places of detention, as well as the conditions of detention is an important part of the system of human rights protection.

The Optional Protocol to the UN Convention against Torture (OPCAT) has established the obligation of the state parties to create visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, i.e. the National Preventive Mechanisms (NPMs). Most of the Baltic and Nordic countries have ratified this protocol, with the exception of Latvia and Russia.

The human rights situation in one country affects the whole region, as countries have common borders, people have the freedom of movement, and cross-border activities thrive in general. Therefore, the prevention and final eradication of torture is a shared responsibility. Violence is a threat to stability and sustainable development of all states.

For this reason, four non-governmental human rights organisations (Citizens' Watch (Russia), Human Rights Monitoring Institute (Lithuania), Civil Rights Defenders (Sweden) and Norwegian Helsinki Committee) joined their efforts to work on a project “Prevention of Torture: Practices, Standards and Regulations in Russia, Nordic and Baltic Countries.” The project aims to make the system of torture prevention in the region more effective by uniting stakeholders, sharing best practices and learning from experts.

This report is an overview of the independent mechanisms for the prevention of torture in Russia, Lithuania, Sweden and Norway. Lithuania, Sweden and Norway have similar systems of the prevention of torture as they have all ratified the OPCAT and established NPMs. Russia has not signed the OPCAT and thus has not created NPMs. However, Russia established Public Oversight Commissions (POCs) in 2008, which have similar purposes and functions as NPMs and, at first glance, seem to be equivalent bodies to NPMs. Therefore, POCs will be analysed according to the same criteria as NPMs in this report.
Russia, Lithuania, Sweden, and Norway are all criticised for the way in which their legislation prohibits torture, although the gravity of the criticism varies. Mostly, the Committee against Torture is dissatisfied when states do not criminalise torture as a specific crime. The NPMs of the countries which ratified the OPCAT (Lithuania, Sweden and Norway) have stronger legal guarantees for independence and effectiveness than Russia, which is the only country of the four that has not ratified the OPCAT. In view of a particularly serious situation with torture and inhuman and degrading treatment in Russia, it is highly advisable to ratify the OPCAT and establish an independent and efficient NPM system.

Torture is not criminalised in the Criminal Code of Russia (CC RF) as a specific crime. Such crimes usually fall under Article 286 CC RF “Abuse of Authority,” which goes contrary to the Convention against Torture. The consequence of this situation is that official statistics do not provide information on the specific number of complaints about torture and ill-treatment, nor about the number of related criminal cases or the number of convicted persons. In practice, the number of cases and allegations of torture and ill-treatment is high. However, even though Russia has not signed the OPCAT, it has introduced its own system of torture prevention. It mainly consists of Public Oversight Commissions (POCs) established in 2008, with limited mandate as monitors cannot visit all places of detention as Article 4 of the OPCAT prescribes. POCs function with limited independence: firstly, the system and criteria of selection and appointment is not transparent or inclusive; secondly, members of the POCs are not paid or reimbursed for their expenses. Moreover, the authorities of places of detention often prevent them from exercising their duties. Thus, the effectiveness of POCs is significantly questioned and compromised by the flaws of the national legislation.

Similarly to Russia, Lithuanian national laws do not include a specific definition of torture stipulated by Article 1 of the Convention against Torture (CAT). Instead, specific acts of violence that can be considered constituting torture are prohibited and criminalised under the Criminal Code of the Republic of Lithuania. Lithuania ratified the OPCAT in 2014. The Human Rights Division of the Seimas Ombudsmen’s Office performs the functions of the NPM along with the functions of the National Human Rights Institution. The Human Rights Division does not have a separate budget and its staff is limited, therefore it is challenging for the Division to reach its goals of carrying out the annual number of regular visits and follow-up visits of places of detention.
Sweden is also criticised for not having criminalised torture as a specific crime. Currently Sweden works on adopting the necessary legislative changes. Sweden ratified the OPCAT in 2005, and the originally created system of NPM was changed in 2013. Since then, the Parliamentary Ombudsman is the only NPM in Sweden. This is clearly set in the law; the mandate meets the requirements of Article 19 of the OPCAT, he has sufficient powers in line with Article 20 of the OPCAT. International bodies have criticised the Swedish NPM for the insufficient number of staff and the inability to visit a significant number of places of detention on a regular basis. Generally, the state tends to comply with the recommendations made by the NPM.

Unlike the three countries described above, Norway does have a legal provision on a specific crime of torture in its Criminal Code. However, the Committee against Torture urges Norway to amend its legislation as it does not have a reference to “discrimination of any kind.” International bodies reporting on Norway are mostly concerned with the use of solitary confinement and the lack of appropriate mental health care. Nevertheless, the general situation in Norwegian places of detention is satisfactory. In 2013, Norway ratified the OPCAT and designated the Parliamentary Ombudsman to perform the functions of the NPM. The Parliamentary Ombudsman Act contains all necessary provisions for the effective work of the Ombudsman. The number of visits to places of detention in the sense of Article 4 of the OPCAT tends to be sufficient. The work of the Ombudsman is a good example of interaction and collaboration with public opinion, and it has received broad national and local media coverage. Civil society, in particular the Norwegian Helsinki Committee, regards the work of the Norwegian NPM favourably.
Legislation on torture

In Russia, torture is not criminalised in the Criminal Code of Russia (CC RF) as a specific crime. According to paragraph 2(d) of Article 117 CC RF “torment”, torture is an aggravated circumstance. This Article defines torture in a way, which the Committee against Torture finds unsatisfactory, as it does not contain all the elements set out in Article 1 of the CAT. In Russia, such crimes usually fall under Article 286 CC RF Abuse of Authority. The Committee against Torture urges Russia to criminalise torture, as Article 286 CC RF does not correspond to the grave nature of torture and prevents collecting statistics, disaggregated data and monitoring investigation of torture. Charges under paragraph 2(d) of Article 117 CR RF vary from 3 to 7 years of imprisonment and, under paragraph 3 of Article 286 CC RF (Abuse of Powers with the Use of Violence), from 3 to 10 years of imprisonment.

Observations of International Bodies

In Russia, official statistics do not provide information about the number of specific complaints on torture and ill-treatment, nor on the number of related criminal cases and the number of convicted persons, since torture per se is not criminalised. Meanwhile, the mass media and human rights defenders are seriously concerned. In July 2017, Novaya Gazeta published a report on abductions and killings of gay men in Chechnya. In January 2019, a new wave of killings and torture of homosexual men and women was reported. In August 2018, a leaked video of torture at a correctional facility in Yaroslavl sparked a discussion on the use of torture by Russian law-enforcement bodies. The persecution of several young people charged with participation in terrorist groups (the “Penza” and “Novoye Velichiye” cases) prompted the discussion of torture by the Federal Security Service. The Committee against Torture shares concerns of the Russian civil society and urges the Russian authorities to install effective safeguards and investigate all allegations of torture and ill-treatment. In 2019, the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in the view of the failure of Russia to eradicate torture, issued a public statement calling Russia to investigate allegations of torture in Chechnya. The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment noted in his Report on the visit to Ukraine published in January 2019 that he met with people who had fled Crimea, who consistently reported torture and ill-treatment in Crimea, aimed mostly at journalists, bloggers, civil society activists and Crimean Tatars.
The System of the Prevention of Torture

Russia has not signed the OPCAT, therefore it has not created the NPM system. In 2018, the Presidential Council for Civil Society and Human Rights supported the idea of the Ombudsman to create NPMs, but no actions followed this statement. ¹ Instead, Russia established a system for monitoring of detention facilities of its own design. In 2008, the State Duma of the RF adopted Federal law of 10.06.2008 No. 76-FZ «On public oversight to ensure human rights in places of detention and on assistance to persons held in places of detention.» ² For this purpose, the new law prescribed creation of a Public Oversight Commission (POC) in each constituent entity (subject) of the Russian Federation. The POCs can visit places of detention overseen by the Federal Penitentiary Service and the Ministry of Internal Affairs and exercise “public control” over the protection of human rights of persons deprived of their liberty. This report examines the POCs in order to analyse whether they are in fact a preventive mechanism in the sense of the OPCAT.

The mandate of the POCs is outlined in Article 6 of Federal law No. 76. It is threefold: exercising public control over the conditions of detention in Russia; drafting reports and recommendations based on the exercise of public control; and assisting in cooperation between non-governmental associations, socially oriented non-profit organisations, administration bodies of places of detention, state authorities of the subjects of the Russian Federation, and local self-government bodies. Article 15 of Federal law No. 76 clarifies that the POCs have the right to visit places of detention, consider complaints from persons deprived of liberty, draft recommendations and non-binding decisions for the administration of places of detention, and disseminate information on its activities to various state institutions, human rights bodies and mass media. However, the mandate lacks detail, as it does not define public control and does not say anything on the prevention of torture and inhuman and degrading treatment or punishment.

Moreover, the mandate of the POCs is limited when compared with Articles 4 and 19 of the OPCAT. Members of the POCs are not entitled to visit segregated residential social care facilities; not all places of detention of persons with psychosocial and/or intellectual disabilities are open to visits of the members of the POCs. There are limitations even in those places of detention which national laws do allow to visit. For example, Article 16 (1(1)) of Federal Law No. 76 lists the facilities POCs that are entitled to visit (i.e. cells, disciplinary confinement rooms, yards, libraries and prison canteens), with a disclaimer that there are some premises, which POCs can only visit, provided consent of the administration of the specific place of detention.


² Federal law from 10 June 2008 г. N 76-FZ «Ob obshchestvennom kontrole za obespecheniyem prav cheloveka v mestakh prinuditel’nogo soderzhaniya i o sodeystvii litsam, nakhodyashchimysya v mestakh prinuditel’nogo soderzhaniya [On public oversight of ensuring human rights in places of detention and on assistance to persons in places of detention]”, available at http://base.garant.ru/12160914/#ixzz5oZBsr3bM.
**The Number of Places of Detention**

The Federal Penitentiary Service oversees prisons, including prisons for minors and places of pre-trial detention. As of 1 March 2019, there were 8 prisons, 705 correctional facilities, 123 settlement-colonies, 211 pre-trial detention facilities (SIZO) and 23 juvenile correctional facilities. In total, there are 1,070 places of detention supervised by the Federal Penitentiary Service in Russia.

In addition to places of detention overseen by the Federal Penitentiary Service, there are cells for detainees at police stations (isolators of temporary confinement) overseen by the Ministry of Internal Affairs (MIA) of the Russian Federation. In Russia, in 2019 there were 3,412 police stations, therefore 3,412 isolators of temporary confinement.

In 2017, there were 4,468 medical institutions with inpatient care. They are overseen by the Ministry of Health.

There are 85 temporary detention centres for foreign citizens created in each subject of Russia. They are overseen by the Ministry of Internal Affairs.

There is no public information on the exact number of the following places of detention:

- special educational institutions for children and adolescents with challenging behaviour (special vocational closed-type schools) overseen by the Federal Agency for Education;
- detention facilities under the control of border authorities overseen by the Federal Security Service;
- guardrooms overseen by the Minister of Defence of the Russian Federation.

**The Process of Selection and Appointment of the POCs**

POCs have been created in each subject of the Russian Federation. There are 85 subjects of the Russian Federation, which means 85 POCs. Each POC can have from 5 to 40 members. The number of members for each POC is set by the Public Chamber of the Russian Federation.

NGOs meeting certain criteria have the right to appoint candidates for the members of POCs. They send their nomination applications with a package of application documents to the Public Chamber of the Russian Federation. The regional Public Chamber and Ombudsman can send their recommendations to the Federal Public Chamber. The Public Chamber verifies the information on the specific candidate provided by an NGO and checks the latter. Based on the information obtained, it decides whether to appoint the nominated member of the POC or not. Federal Law No. 76 says that the period in office of a member of a POC terminates with the expiration of the terms of office of the POC (Article 10 (14)). The term of office of a POC is three years (Article 10 (11)). The grounds for dismissal are set out in Article 14 of Federal Law No. 76.

The process of selection and appointment of members of POCs is non-public, opaque and exclusive. The criteria for NGOs which have the right to appoint a candidate include a requirement that an NGO should not have the status of a ‘foreign agent.’ Thus, the NGOs with the ‘foreign agent’ status are excluded from the process, which is a discriminatory and not proportionate restriction of their rights.

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3 Ministry of Internal Affairs of the Russian Federation, the list of territorial bodies of the MIA on a regional level, available at https://мвд.рф/opendata/7727739372-MVDOY.

Federal law No. 76 does not contain specific diversity requirements for candidates, nor does it set requirements to take into account gender and/or ethnicity perspectives in the process of appointing members of the POCs.

The Law does not specify the requirement to improve skills or provide possibilities for professional training and professional development. NGOs occasionally organise trainings for members of POCs, but there are no systemic programmes for this. This undermines the ability of POC members to regularly review and update their working methods and improve their skills.

The Independence of POCs

The main obstacle in the work of POCs is that members are not paid for their work or reimbursed for their expenses. All members of POCs carry out their activities on a voluntary basis. Federal law No. 76 allows regional authorities to provide financial, informational and other support to POCs. Moreover, the Law specifies that POCs are entitled to get financing in any way not prohibited by the law. It is unclear, however, what legal opportunities are available for POCs to obtain financing for their activities, as a POC does not have the status of a legal entity and its members are not individual entrepreneurs. The procedural rules of POCs in Saint-Petersburg provide that a member of the POC can ask the NGO that nominated him/her to apply for grants for his/her activities as a member of the POC. This might be burdensome for NGOs whose activities are not specifically connected with the protection of the rights of persons deprived of their liberty.

The independence of POCs is further limited as there are no supporting staff. Members of POCs enjoy no privileges or immunities, which complicates their work. For instance, POCs carry out their activities on a voluntary basis. Federal law No. 76 allows regional authorities to provide financial, informational and other support to POCs. Moreover, the Law specifies that POCs are entitled to get financing in any way not prohibited by the law. It is unclear, however, what legal opportunities are available for POCs to obtain financing for their activities, as a POC does not have the status of a legal entity and its members are not individual entrepreneurs. The procedural rules of POCs in Saint-Petersburg provide that a member of the POC can ask the NGO that nominated him/her to apply for grants for his/her activities as a member of the POC. This might be burdensome for NGOs whose activities are not specifically connected with the protection of the rights of persons deprived of their liberty.

The independence of POCs is further limited as there are no supporting staff. Members of POCs enjoy no privileges or immunities, which complicates their work. For instance, POCs have the right to ask administration bodies of places of detention to provide information and documents necessary for exercising public control (Article 16 (5) of Federal Law No. 76). However, members of the POC of Saint-Petersburg have stated that the authorities of detention places prevent them from accessing the files of inmates and video recordings from CCTV cameras inside certain places of detention.

Independence of POCs is also undermined by the fact that in addition to the main function of POCs, members of POC act as mediators between inmates, their relatives and the administration of the place of detention: Article 22 (15) of Federal Law No. 76 says that non-governmental associations can offer material support to places of detention in order to strengthen their material and technical base. In practice this provision works in the following way: a relative of an inmate asks a member of the POC to help him/her to pass a fridge, a kettle or a TV-set over to the inmate, and the member of the POC discusses this “material support” with the administration. Members of the POC can only guarantee that the fridge will be placed in a particular cell but they cannot give it to a particular inmate. If the inmate is lucky, he/she will have this fridge or TV-set in his/her camera. This kind of activity of a POC might endanger the independence of the POC and cause doubts about the impartiality of its members.

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5 In 2015-2018 trainings were organised within joint project of the Ombudsperson for Human Rights in the Russian Federation and the Directorate for the Protection of Human Rights of the Council of Europe with the assistance of the Public Chamber of the Russian Federation and the Council under the President of the Russian Federation on the development of civil society and human rights, called “Russian POCs – new generation”. In 2018 these training are discontinued.


The Rules for Monitoring Visits

At its first meeting, each POC adopts its own procedural rules. Neither Federal law No. 76, nor the procedural rules of the POC of Saint-Petersburg, taken as an example, include guidelines for selecting themes of visits, conducting private interviews, developing policies for dealing with vulnerable groups of inmates or ensuring that the information from all available sources has been collected.

In practice, the ability to visit places of detention is limited, as POCs can only visit a place of detention if the body overseeing the specific facility has adopted an order on the rules for such visits. Currently, there are six orders on the rules for monitoring visits: for facilities of temporary confinement of foreign citizens,8 for special educational institutions for children and adolescents with challenging behaviour (special vocational closed-type schools9), isolators of temporary confinement,10 detention facilities under the control of border authorities,11 guardrooms12 and places of detention overseen by the Federal Penitentiary system.13 In the meantime, the Ministry of Health has not adopted the rules for visiting medical institutions, therefore POCs cannot visit places of detention of this category.

Visiting teams consist of no less than 2 persons who might be accompanied by external psychologists, doctors, and/or interpreters.

Administration bodies of detention places are obliged to provide the POC with a possibility to interview persons of their choice individually. However, Article 16 (3) of Federal Law No. 76 says that the interview must be stopped in case of discussion of issues not related to the protection of the rights of inmates (Rule 13). This has already happened at least once to the members of the POC of Saint-Petersburg.

The Rules of Internal Conduct

The Public Chamber of the Russian Federation adopted the Code of Ethics for Members of the POCs. The Code sets requirements for behaviour of members of POCs as follows: to comply with the laws and regulations of the places of detention; to show restraint and correctness

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in relation to ideological and moral beliefs of inmates, their culture and tradition; not to discriminate, be impartial; to treat colleagues respectfully and work as a team; to show correctness and respect during interactions with the administration of places of detention; and not to act and make any statements on behalf of the POC without authorisation. It also requires members of the POCs not to make any promises to persons deprived of their liberty beyond the mandate of the POCs. Thus, the Code of Ethics provides some guidance on how to communicate with inmates and administration but does not contain any rules on how to conduct interviews, handle security and safety issues, manage internal debriefings in order to coordinate and cross-check collected data or prepare for the closing of the visit.

The Code of Ethics also refers to the law on the protection of personal data and provides some regulations on confidentiality. However, these regulations contain just a reference to the law, without any recommendations on how to ensure confidentiality in practice.

The Rules of Conduct of the POC of Saint-Petersburg contain a paragraph on the processing of complaints and requests: all complaints and requests should be registered. However, the Rules do not say anything specific about handling of complaints; they only specify that during the verification of the complaint members of POCs can meet with the complainant confidentially.

The rules on the prevention of conflict of interest are as follows: Federal Law No. 76 prohibits defence lawyers, prosecutors, governmental and local officials from being members of POCs. Moreover, a person with a criminal record or a person having a relative in prison cannot become a member of a POC. The same person cannot be appointed a member of the POC of one subject of the Russian Federation more than three times consequently. However, there have been a number of scandals concerning the conflict of interest in POCs. In 2016, many ex-officials of the Federal Penitentiary Service and other law enforcement agencies were appointed members of POCs instead of human rights defenders. In November 2018 all members of the POC of the Amyrskaya Oblast resigned due to the scandal provoked by a post in social media by the now retired chair of the POC. She called a detainee convicted for participating in an organised criminal group leading to a murder of a family of 12 people “a philanthropist” and claimed that he was innocent. Prior to that, photos of this person eating caviar at the correctional facility had been published. In Saint-Petersburg, members of local POCs were unsuccessfully sued for defamation several times by the administration of places of detention. The reason of failure of proceedings against the POCs was that the members of the POCs documented all complaints submitted to them by the inmates and published accurate accounts of the complaints in the mass media without claiming that the content was verified. Moreover, a member of the POC of Saint-Petersburg became a target of a smearing campaign in the state-controlled mass media.
The internal rules of POCs do not touch upon the issue of reprisals or any other threats associated with the activities of POCs or specific rules for reporting cases of deliberate ill-treatment. This is a drawback, as the issue of reprisals is important in Russia. Some indicators show that persons deprived of their liberty fear reprisals. For instance, the former Chair of the POC of the Altay Region commented on the fact that the number of complaints had decreased by half by saying that the inmates might have feared reprisals and therefore they did not seek help from the members of the POC.19

In summary, the Code of Ethics and the Code of Conduct of the POC of Saint-Petersburg provide some regulations but overlook the issues of security and safety, internal debriefings for coordination and crosscheck of the collected data and preparation for the closing of visits.

### Reporting and Follow-Up

Following a visit, POC members write up a report on the visit and send it to the administration of the monitored place of detention. The place of detention is then expected to give feedback on the report. Further meetings might follow. For instance, in 2018 a meeting was held with the Head of the Federal Penitentiary Service, the members of the POC of Saint-Petersburg, and the St Petersburg Ombudsman. The meeting was called to discuss the published report on the use of torture and inhuman and degrading treatment in places of detention in Saint-Petersburg.

The POCs publish the news and reports on visits on the federal20 and regional websites.21 Individual members of POCs can publish posts about their activities on social media. The regional22 and federal23 mass media also cover activities of POCs. However, the reports of the POCs are not discussed by the Parliament. The POCs submit their annual report to the Public Chamber of the Russian Federation but there is no open discussion on the matter. In addition, POCs occasionally participate in meetings and conferences with representatives of places of detention, the Federal Penitentiary Service and Ombudsmen.

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19 «Komissiya ushla – a lyudi ostayutsya»: pochemu zaklyuchennyye v Altayskom kraye ne doveryayut ONK [“The commission has gone - but people stay”: why prisoners in the Altai region do not trust the POC], 19 May 2019, AKOO «ZPGPI», available at http://akoo-zpgpi.ru/?p=539.


22 «Ne rabotayet ventilyatsiya, nakureno sil’no». Mamaev pozhalovalsya na usloviya perevozki v avtozake [“Ventilation does not work, it is a lot of smoke there.” Mamaev complained about the conditions of transportation in the police van], 15 April 2019, Fontanka, available at https://www.fontanka.ru/2019/04/15/087/.

Legislation on Torture

Lithuanian national laws do not include a definition of torture such as the one found in Article 1 of the CAT. Instead, separate acts of violence that can be considered constituting torture are prohibited and criminalised under the Criminal Code. Reacting to criticism from the Committee against Torture, in April 2019 the Ministry of Justice introduced draft amendments to the Criminal Code that would specifically criminalise acts of torture. These draft amendments are yet to be adopted. Currently, sanctions range from community service, restriction of liberty or prison sentences up to 1 year for negligible health impairment to imprisonment up to 20 years or a life sentence for murder under aggravating circumstances.

The Number of Places of Detention

In Lithuania, there are around 400 places of detention (402 by the end of 2018, according to the NPM’s data). These facilities are overseen by different authorities, depending on their type, as follows:

- Prisons (both regular and remand prisons) are overseen by the Prison Department which is in turn subordinate to the Ministry of Justice.
- Police arrest houses are overseen by the Police Department, subordinate to the Ministry of Interior;
- Migrant detention places are run by the State Border Guard Service under the Ministry of Interior;
- Psychiatric facilities are overseen by the Ministry of Health;
- Social care homes are overseen by the Ministry of Social Security and Labour, and some of them are overseen directly by Municipalities.

The System of the Prevention of Torture

Lithuania ratified the OPCAT on 1 January 2014. At the same time, the NPM functions were conferred upon the Seimas Ombudsmen’s Office, a pre-existing institution, established in 1994. Specific NPM functions are exercised by the “Human Rights Division” in the Office of the Ombudsmen.

The Ombudsmen themselves are appointed by the Parliament. The person is required to have impeccable reputation, a master’s degree (or higher) in law, and at least 10 years of experience in practicing or teaching law.

One of the Ombudsmen acts as the Head of Office. The Head of Office is responsible for

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hiring the Office staff, including staff working in the Human Rights Division. In May 2019, the Seimas Ombudsmen’s Office Human Rights Division had 7 employees; most of them had a legal background.

There are no legal requirements to take into account gender and/or ethnicity perspectives in the process of NPM members’ appointment.

The Independence of the NPM

The Human Rights Division has dedicated staff who work full-time and is tasked with carrying out NPM functions, as well as the functions of the National Human Rights Institution. It does not have a separate budget. The budget is governed by the Law on Seimas Ombudsmen\(^\text{26}\), under which the budget is approved by the Parliament.

The Internal Rules of the NPM

The NPM does not have any official and publically accessible rules or guidelines for conducting visits to places of detention. There are no NPM-specific rules on the prevention of the conflict of interests, apart from the general rules for government employees. Under the Law on Seimas Ombudsmen, the ombudsmen are required to uphold the principle of impartiality at all times when carrying out its functions. The same rules apply to all Seimas Ombudsmen’s Office employees, under the internal rules or regulations of the Seimas Ombudsmen’s Office. External experts accompanying the NPM staff for monitoring visits always sign a declaration of impartiality.

Under the Law on Seimas Ombudsmen, the Ombudsmen and all employees of the Office are required to maintain confidentiality of any state, service, commercial or bank secrets and personal data protected by law, which they become aware of while carrying out their functions.

The Rules for Monitoring Visits

A typical visiting team consists of 3-4 NPM staff members, mostly lawyers, but it can also include a psychologist. An external legal, social care, mental health or other expert with relevant knowledge and experience may also accompany the team. Typically, it is one external expert at a time. As the staff with NPM functions are limited (7 staff members), they can at time lack human resources and relevant expertise to conduct all-encompassing visits on their own.

In its NPM activities programme\(^\text{27}\), the Seimas Ombudsmen’s Office indicates that it seeks to visit each place of detention at least once every 3 years. Other than that, the selection criteria are not published. In the period of 2014-2018, the NPM representatives conducted 244 visits to 183 institutions. That is over 60 visits or over 40 institutions per year, a significant number. However, taking into account the overall number of such institutions in Lithuania – over 400 – that still falls short of the “visit every 3 years,” the goal the NPM has set for itself. Therefore, the NPM, taking into account its limited staff, currently lacks resources to conduct regular and sufficient number of visits to all detention places in Lithuania.


Reporting and Follow-Up

The NPM regularly publishes visit reports, which include a summary of the findings, on their website in English and Lithuanian. They also publish an annual report in their general capacity as the Seimas Ombudsman’s Office. This report includes a separate section on NPM activities. The annual report is submitted to and considered by the Parliament. The report is also published on the Office’s website.

Generally, the NPM has an intention to follow-up with relevant institutions and administration bodies of detention places on how their recommendations are implemented. Typically, following a monitoring visit, the NPM submits the visit report to relevant State institutions and the administration of the visited detention place, and collects their responses. These responses are sometimes published on the Seimas Ombudmen’s Office website. In some instances, the NPM conducts follow-up visits to see how well their recommendations have been implemented. For example, the Seimas Ombudsman’s Office representatives visited Alytus Correction House on 27 June 2016. On 2 March 2017, they conducted a follow-up visit and released a report on the results of this visit. However, these follow-up visits are not always the case largely due to limited staff and resources.

The Seimas Ombudsmen’s Office regularly submits suggestions for legislative amendments to state institutions, such as the Ministry of Justice, including suggestions related to the NPM mandate. For example, according to the Seimas Ombudsmen’s Office’s 2018 annual report, the Office made 58 proposals for changes to legislation, 17 of which relating to the NPM mandate.

Public Relations and Public Attitudes

The NPM periodically invites representatives of human rights NGOs to participate in the visits as external experts. The Seimas Ombudsmen’s Office occasionally organises meetings with multiple individual human rights NGOs to exchange views and information and discuss potential cooperation. Together with state institutions and human rights NGOs, it participates in organising a large annual human rights event, the Human Rights Forum held on December 10, the International Human Rights Day.

The Seimas Ombudsmen’s Office issues press releases on various topics, including those covered by the NPM mandate. The Office also publishes a monthly newsletter, which covers a variety of issues, including those falling within the NPM mandate.

According to the public opinion poll ordered by the Seimas Ombudsmen’s Office and conducted in January 2018, around 44% of the population are aware of the Office’s activities related to human rights. However, the trust in this institution is relatively low – only 7% of respondents said they would apply to the Office for assistance. It should be noted though that Lithuanians have little trust in any institutions dealing with human rights issues, with the courts having the highest trust rate at 13.5%.

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Legislation on Torture

Sweden has been commended by the Committee against Torture for its intent to change the legislation, which does not criminalise torture as a specific crime. Currently a ministerial memorandum “A specific provision on torture?” is being considered by the Government Offices, which proposes to criminalise torture as a specific crime. Moreover, it proposes that the crime is made subject to universal jurisdiction and be exempt from the statute of limitations.

Observations of International Bodies

The Committee against Torture (CAT) and other UN bodies such as the UN Committee on the Rights of Persons with Disabilities evaluate Sweden on a regular basis.31 The European Committee for the prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) conducts periodic visits to Sweden.32 NPMs were also mentioned in the Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2015.33 The CPT delegation had the impression that the staff of the OPCAT Unit was making genuine efforts to visit as many establishments as possible, and to cover the widest possible range of the types of places of deprivation of liberty. However, the Unit’s very limited staff resources (three lawyers and a former police officer) prevented it from effectively fulfilling its functions. Furthermore, the CPT delegation noticed that some of the establishments were visited a relatively long time ago if at all. For example, Malmö Remand Prison had last been visited about 2 years before, Falun Remand Prison approximately 3 years before, and there had never been a visit by the OPCAT Unit to the Regional Forensic Psychiatric Clinic in Växjö. In its recommendations, the CPT stated that in order for the OPCAT Unit to perform efficiently, the Unit needs increased financial and human resources.

The SPT conducted a visit to Sweden in February 2008. The outcomes of the visit are stated in the report, which can be found at the SPT website.34

33 Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 May 2015, available at https://www.jo.se/Global/CPT-rapport_2016-01-inf-eng_2.pdf
### The Number of Places of Detention

<table>
<thead>
<tr>
<th>Establishment Type</th>
<th>Number</th>
<th>Places</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison establishments</td>
<td>45</td>
<td>4,200</td>
<td>The Swedish Prison and Probation Service</td>
</tr>
<tr>
<td>Remand prisons</td>
<td>32</td>
<td>1,900</td>
<td>The Swedish Prison and Probation Service</td>
</tr>
<tr>
<td>Police custody facilities</td>
<td>120</td>
<td>1,350</td>
<td>The Swedish Police Authority</td>
</tr>
<tr>
<td>LVU residential homes</td>
<td>24</td>
<td>700</td>
<td>National Board of Institutional Care</td>
</tr>
<tr>
<td>LVM residential homes</td>
<td>11</td>
<td>380</td>
<td>National Board of Institutional Care</td>
</tr>
<tr>
<td>Institutions for compulsory psychiatric care and forensic psychiatric care</td>
<td>approx. 80</td>
<td>approx. 4,000</td>
<td>Local self-government regions where the institutions are located, and the National Board of Forensic Medicine</td>
</tr>
<tr>
<td>Migration detention centres</td>
<td>6</td>
<td>approx. 450</td>
<td>The Swedish Migration Authority</td>
</tr>
</tbody>
</table>

### The System of the Prevention of Torture

Sweden ratified the OPCAT in 2005, and in 2006 the Parliamentary Ombudsmen and the Chancellor of Justice were appointed as NPMs. As of 1st July 2011 the Parliamentary Ombudsmen have a special OPCAT unit. Since 2013, the Parliamentary Ombudsmen are the only NPMs in Sweden. Their mandate is clearly set in the law and meets the requirements of Article 19 of the OPCAT, it also has sufficient powers in line with Article 20 of the OPCAT.

The four Parliamentary Ombudsmen get appointed directly by the Parliament and are elected individually for a period of four years. The Parliament Committee on the Constitution prepares the election of the Parliamentary Ombudsmen. There are no expressed professional requirements to be met in order to be appointed as Ombudsman. In practice, all appointed Ombudsmen are experienced and distinguished lawyers who also have served as judges in Swedish superior courts.

The unit consists of the head of unit, a deputy head of unit, four legal advisers and a medical expert. The OPCAT unit abides under the Chief Parliamentary Ombudsman. The unit has its own staff. They work full-time with NPM matters.

The Parliament funds the Ombudsmen on a yearly basis and funding for the NPM is included. The Ombudsmen decide the budget of the NPM, which ensures its independence.

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35 An explanatory note on the abbreviations LVU and LVM used in the table above: “The National Board of Institutional care (SiS) is responsible for running facilities where compulsory care is provided in accordance with the Care of Young Persons Act (LVU), the Act on the Enforcement of Institutional Care of Young Persons (LSU) and the Care of Abusers Act (LVM). Care pursuant to LVU and LSU is provided at special residential homes for young people (youth facilities) and, at the end of 2017, there were 24 such facilities with more than 700 places. Care pursuant to LVM is provided at LVM residential homes and, at the end of 2017, there were 11 residential homes with more than 380 places. During 2015 to 2017, four LVM residential homes and three LVU residential homes were inspected” (http://www.jo.se/Global/Opcat_Report_2015-2017_webb.pdf (p. 33)).
The Internal Rules of the NPM

The Act with Instructions for the Parliamentary Ombudsmen applies to the activities of the NPM as well as the Public Access to Information and Secrecy Act and the General Data Protection Regulation (GDPR).

The administrative directives for the Parliamentary Ombudsmen contain a section with regulations for the OPCAT unit and certain members of its staff. Moreover, the Ombudsmen have issued guidelines for the OPCAT unit. In its turn, the unit has developed guidelines regarding the specifics of its activities.

The Ombudsmen have internal guidelines regarding conflicts of interest.

The NPM has not developed a strategy for preventing reprisals and threats, including against members and staff of the NPM.

The Rules for Monitoring Visits

The OPCAT unit has developed guidelines regarding the specifics of its operational activities. There are approximately 318 detention facilities that the OPCAT unit can inspect. The total number of places is approximately 12,980. With regard to the limited staff at the OPCAT unit, detention facilities that have many places and include many detainees are prioritised for regular visits. Detention facilities which have been inspected and where the Ombudsmen have remarked on any particular matters are also prioritised for follow-up visits.

The following criteria were applied for selecting the places/objects of inspections to be visited in 2019.

- The object is expected to be of importance for ongoing thematic reviews.
- The object has never before been inspected by the Parliamentary Ombudsmen.
- The object has relatively many places and the activity at the institution includes many persons deprived of their liberty.
- The object is geographically located in a part of Sweden that the Ombudsmen rarely visit.
- Prior inspections have revealed circumstances that make a follow-up inspection necessary.
- Information has been revealed (for example by reports in media) that make an inspection necessary.

In general, if there are youths, juveniles, older people or women at the inspected detention facilities, they are particularly approached for interviews.

Cases of deliberate ill-treatment are immediately reported to the concerned Ombudsman.

The typical composition of a visiting team varies depending on the size of the detention facility to be visited. Smaller facilities typically require a team of two (one leader of the inspection and one recording clerk). Larger facilities require additional staff.

Reporting, Follow-Up and Interaction with Public Opinion

The OPCAT unit compiles annual reports and has recently begun work on NPM’s first thematic report. The reports cover relevant topics from the findings of completed inspections.

NPM reports are available at the Ombudsmen’s website. Annual reports are presented to the Parliament and they are published on the website of the SPT.
If needed, the OPCAT unit can initiate and maintain follow-up dialogues with relevant authorities regarding findings during their inspections. The OPCAT unit invites the relevant authorities to meetings in order to have a dialogue regarding the outcomes of completed inspections, and in order to promote and protect human rights.

In general, the state does comply with recommendations made by the NPM. For example, in connection with an inspection of one remand prison in 2012 it was observed how women were subject to protective searches by male wardens as they returned from walks. This led to women refraining from walks. The Parliamentary Ombudsmen stated that protective searches of inmates must be carried out by persons of the same gender. It was recommended that the remand prison create routines and administrate suitable staffing so that protective searches are carried out in dignified forms for all inmates, regardless of gender. At a new inspection of the same remand prison in 2015, the Parliamentary Ombudsman was able to conclude that the women no longer expressed complaints about this issue.37

For evaluation of its effectiveness, the NPM uses the evaluation matrix found on the website of the SPT.38 Also, for evaluation purposes, the NPM uses annual reports to the Parliament and dialogue meetings with relevant authorities.

The public is addressed primarily through the official website of the Parliamentary Ombudsmen. NPM reports are also published on the Ombudsmen’s website. Press-releases may be issued if and when needed.

37 The information was received from the NPM
Legislation on Torture

Norwegian law contains strong safeguards against torture and inhuman treatment, including a constitutional provision (Article 93) and sections 174 and 175 of Norwegian Penal Code. However, the Committee against torture urges Norway to amend its legislation, as it does not have a reference to “discrimination of any kind.” A person found guilty of torture can be sentenced up to 15 years, and up to 21 years for aggravated torture (the longest prison sentence in Norway).

Observations of International Bodies

The European Committee for the prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made a generally positive conclusion on its last visit to Norway in 2018. The CPT found worrisome the practice of handcuffing and strip-searching inmates in Trandum (Police Immigration Detention Centre) and the practice of placing inmates in de facto solitary-confinement-type facilities. The CPT highlighted the following problems in Norwegian penitentiary system: prolonged detention in police cells, isolation in pre-trial detention and use of solitary confinement, lack of appropriate psychiatric health care, use of coercive measures in psychiatric health care, high rate of incidences of violence against women, insufficient protection measures of asylum-seeking minors and treatment of foreign citizens in the Trandum Holding Centre.

The System of the Prevention of Torture

The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was signed by Norway in 2003. On 21 June 2013, Norway ratified the OPCAT and the Parliamentary Ombudsman was designated as the National Preventive Mechanism (NPM). The Ombudsman is appointed by the Norwegian Parliament for a term of four years. The NPM unit is comprised of 8 employees: four lawyers, one sociologist, two psychologists and a researcher in Peace and Conflict studies.

The mandate of the Ombudsman meets the criteria of the OPCAT. Section 3a on NPM of the Act relating to the Parliamentary Ombudsman for Public Administration (the Parliamentary Ombudsman Act) refers to Article 3 of the OPCAT. According to section 1 of the Instruction for the Parliamentary Ombudsman for Public Administration, the Ombudsman seeks to ensure that citizens are not unjustly treated by public officials and “others engaged in the service of the public administration” fulfil their duties. Section 4 of the Parliamentary Ombudsman Act cov-

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40 Staff / https://www.sivilombudsmannen.no/en/torturforebygging/staff-members/.
The Ombudsman must satisfy the same conditions for appointment as a Supreme Court Judge and not be a member of the Parliament. The NPM has an interdisciplinary composition. It includes employees with degrees in the fields of law, criminology, sociology, psychology, social science and human rights.

To ensure the diversity of background, capabilities and professional knowledge, the Ombudsman consults the advisory committee, which is comprised of 14 expert organisations. The mandate of the Ombudsman meets requirements of the OPCAT and provides access to all places of detention and their installations and facilities. According to section 8 of the Parliamentary Ombudsman Act “Access to premises, places of service, etc.,” “the Ombudsman is entitled to access to places of service, offices and other premises of any administrative agency and any enterprise that comes within his sphere of responsibility.”

Diversity of Background, Capabilities and Professional Knowledge

The Ombudsman must satisfy the same conditions for appointment as a Supreme Court Judge and not be a member of the Parliament. The NPM has an interdisciplinary composition. It includes employees with degrees in the fields of law, criminology, sociology, psychology, social science and human rights.

To ensure the diversity of background, capabilities and professional knowledge, the Ombudsman consults the advisory committee, which is comprised of 14 expert organisations. According to section 8a of the Instruction for the Parliamentary Ombudsman for Public Administration, experts should have knowledge in the fields of children, human rights and psychiatry. In 2019, the committee comprised representatives of more than 10 human rights, legal, and mental health organisations and institutions. In 2018 there were three meetings with the advisory committee concerning the CPT visit to Norway, the CAT examination of Norway in 2018, and mental health care.

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42 Act relating to the Parliamentary Ombudsman for Public Administration (the Parliamentary Ombudsman Act), section 1.

43 The National Human Rights Institution, the Equality and Anti-Discrimination Ombudsman, the Ombudsman for Children, the Norwegian Bar Association’s Human Rights Committee, the Norwegian Medical Association, represented by the Norwegian Psychiatric Association, the Norwegian Psychological Association’s Human Rights Committee, the Norwegian Organisation for Asylum Seekers (NOAS), the Norwegian Association for Persons with Developmental Disabilities (NFU), Juss-Buss (free legal aid service run by law students), the Norwegian Association of Youth Mental Health, “We Shall Overcome”, the Norwegian Research Network on Coercion in Mental Health Care (TvangsForsk), the Norwegian Helsinki Committee (NHC), the Retretten Foundation and Amnesty International Norway.

The Number of Places of Detention

In Norway, according to the 2018 NPM report, there are:

- 65 prisons and transitional housing overseen by the Directorate of Norwegian Correctional Service;
- Approximately 130 police custody facilities and places with interrogation rooms and one Police Immigration Detention Centre (Trandum) are overseen by the Police;
- Approximately 20 customs and excise’s detention premises;
- 9 armed forces custody facilities;
- 17 institutions for involuntary treatment of people with substance abuse;
- Approximately 1,000 nursing homes;
- Approximately 120 mental health care institutions;
- Yet unknown number of housing for people with developmental disabilities; and
- Approximately 150 child welfare institutions.

The Rules for Monitoring Visiting

In 2014, the Ombudsman developed handbooks for visiting places of detention. They include the planning and procedure of the visit, rules for interviewing, drafting and follow-up on reports. The Report of the NPM of 2014 notes that the criteria for choosing places of detention are as follows: the risk of violation (primary criterion), the work done by the SPT, the CPT and supervisory bodies, information received from complaints or mass media reports, geographical spread of visits and an assumed impact.45

The NPM visits detention facilities quite regularly; the number of visits seems to be sufficient:

- In autumn 2014, the NPM made 5 visits to prisons and police custody facilities.
- In 2015, 14 visits: 5 to prisons, 3 to mental health care institutions, 3 to police custody facilities, 2 to the police immigration detention centre at Trandum and the deportation centre at Gardermoen, 1 to Customs and Excise’s detention premises.
- In 2016, 11 visits: 6 to prisons, 2 to child welfare institutions, 2 to mental health care institutions, 1 to police custody facilities.
- In 2017, 13 visits: 4 to prisons, 4 to mental health care institutions, 4 to child welfare institutions, 1 to the immigration detention centre at Trandum.
- In 2018, 11 visits: 5 to mental health care institutions, 3 to child welfare institutions, 3 to prisons.

The Internal Rules of the NPM

Section 9 of the Parliamentary Ombudsman Act provides that “The Ombudsman has a duty of confidentiality as regards information concerning matters of a personal nature to which he becomes party to during the course of his duties. The duty of confidentiality also applies to information concerning operational and commercial secrets, and information that is classified under the Security Act or the Protection Instructions. The duty of confidentiality continues to apply after the Ombudsman has left his position. The same duty of confidentiality applies to his staff and others who provide assistance.” According to section 12 of the Instruction for the Parliamentary Ombudsman for Public Administration, the Ombudsman should not include confidential information and names in annual reports.

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The Ombudsman submits an annual report on his activities to the Parliament and a separate report on NPM activities. The Ombudsman also produces thematic reports. After each visit the NPM publishes a report with findings, which can be found at www.sivilombudsmannen.no/en/visit-reports/.

The Parliamentary Ombudsman issues recommendations to the place of detention. Under Article 22 of the OPCAT and section 10 of the Parliamentary Ombudsman Act, the authorities have a duty to examine these recommendations and answer them. According to section 10 of the Parliamentary Ombudsman Act, “the ombudsman is entitled to express his opinion on matters within his sphere of responsibility.” The Ombudsman can inform the prosecuting authority about errors or negligence in public administration and inform the executive organ in charge about the situation.

The NPM regularly holds meetings and engages in dialogue with state organs and public officials. For example, in 2016 the NPM had meetings with the Directorate of the Correctional Services, the Norwegian Board of Health Supervision, the Director General of Public Prosecutions, the County Governor of Oslo and Akershus, the Ministry of Foreign Affairs and the Ministry of Justice and Public Security, among others.

Moreover, the NPM holds meetings with civil society organisations, gives talks at different events and maintains consultation with the bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights, for instance the Equality and Anti-Discrimination Ombudsman and the Ombudsman for Children are members of the advisory committee.

The Ombudsman engages in international and regional communications and interaction. On the international level the Ombudsman shares information with international bodies, working in the sphere of the prevention of torture. For instance, the Ombudsman refers to findings of the Committee against torture in its reports. In 2018, the NPM provided input to the UN Subcommittee on Prevention of Torture (SPT) in its work to develop a checklist to improve health monitoring in connection with visits under the prevention mandate.

On the regional level, the Ombudsman is a member of the Nordic Prevention Network, which includes the NPMs of all the Nordic countries. The Network meets annually; in 2018 the topic of discussion was confinement and isolation in prisons.

The Ombudsman addresses public opinion with the help of its web page, www.sivilombudsmannen.no where the NPM publishes annual reports, special reports, statements of the Parliamentary Ombudsman, brochures and presentations. The Parliamentary Ombudsman also has public journal that contains publicly available information about the documents sent or received by the Ombudsman. The journal information is available for ten days after the date of publication.


48 The NPM annual report (2018), p. 64.

49 Ibid, p. 63.

The NPM gives lectures and participates in public events on a regular basis. For example, in 2014 the NPM participated in the Ideelt Barnevernforum 2018 conference and gave talk on the NPM’s visits to child welfare institutions, the Working Life Days (Arbeidslivsdagene) at the University of Oslo (UiO) and One-day meeting at the Norwegian Board of Health Supervision where the NPM told about its work.51

The NPM’s work received broad national and local media coverage. In 2015, there were 849 news stories online, in printed media and in broadcast media.52


Citizens’ Watch (Russia) is a human rights NGO initiated in 1992 by a group of Russian human rights activists, lawyers, journalists, and deputies to the Russian Parliament and to the St. Petersburg City Council. Citizens’ Watch sees its strategic priority in bringing the Russian legislation related to human rights and the practice of its application in line with the international legal standards. In 2014, Citizens’ Watch was registered as a foreign agent by the Ministry of Justice of the Russian Federation.
http://www.citwatch.org/

Human Rights Monitoring Institute (Lithuania) is a non-governmental, non-profit human rights organisation. Since its establishment in 2003, HRMI has been advocating for full compliance of national laws and policies with international human rights obligations, and working both in Lithuania and internationally to ensure that human rights are real and effective in practice.
https://hrmi.lt/en/

Norwegian Helsinki Committee is a non-governmental organisation working to ensure that human rights are respected in practice. NHC does this through monitoring, reporting, teaching and support for democracy.
https://www.nhc.no

Civil Rights Defenders (Sweden) partners with and supports human rights defenders who work in some of the world’s most repressive regions on four continents. Through advocacy, litigation, and public campaigns Civil Rights Defenders advances people’s rights globally. The NGO also acts as a Sweden’s watchdog civil rights group.
https://crd.org/