

THE EUROPEAN NPM PROJECT

**Council of Europe
Conseil de l'Europe**



**European Union
Union européenne**

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

co-funded by the
HUMAN RIGHTS TRUST FUND

Implementing partner:



Strasbourg, 12 January 2010

LHRCB/NPM (2010)2

DESCRIPTION OF “THE EUROPEAN NPM PROJECT

I. Genesis of the Project

The idea of the European NPM Project dates back to the early months of 2008.

On 18 January 2008 the French *Médiateur de la République* and the Council of Europe Commissioner for Human Rights convened a colloquy in Paris entitled “Deprivation of liberty and the protection of human rights”. Having ratified the Optional Protocol to the UN Convention against Torture (OPCAT), France was about to adopt legislation to set up a *Contrôleur général des lieux de privation de liberté* (general inspector of places where people are deprived of liberty) who was to be the National Preventive Mechanism against torture (NPM) in conformity with Article 17 of the OPCAT. The question arose who - the ombudsman or a new mechanism – would be entrusted with this new function.

The *Médiateur de la République* and the Commissioner wished to debate the issue on a Europe-wide level and invited a large number of ombudsmen but also of national human rights commissions or institutions to attend, as well as attorneys and other legal professionals. Members of the UN Sub-Committee against Torture (SPT), the Council of Europe’s European Committee for the Prevention of Torture (CPT) and the Association for the Prevention of Torture (APT, Geneva) explained the tasks of an NPM as well as the OPCAT requirements as to its designation and functioning. The findings of the colloquy were that there was not a uniform answer to the question of who was to be the NPM. This depended on the organisation of each country and the mandates of the pre-existing bodies, namely. But it had been made clear that the functions of an NPM were clearly distinct from those of an ombudsman who deals with complaints from persons deprived of their liberty.

Soon afterwards the so-called Peer-to-Peer Project, a joint European Union – Council of Europe Project for the years 2008 and 2009, started. The purpose of that project was to create an active network of the national human rights structures (NHRs, i.e. ombudsmen and national human rights commissions or institutions) in the Council of Europe member States where specialised staff would exchange practical experiences in concrete areas of human rights protection by way of thematic workshops.

At the request of the NHRs, the very first workshop of the project (held Padua, Italy, on 9-10 April 2008) was dedicated to the subject “The Rights of persons deprived of their liberty : The role of national human rights structures which are OPCAT mechanisms and of those which are not”. With the help of CPT and SPT members the findings of the Paris colloquy were further examined by senior staff of NHRs who had just been or were poised to be tasked with responsibility for NPM work of their institutions. It became evident, that there was a huge need of communication between them and their colleagues on the one side and the CPT and SPT experts on the other side in order to discuss their respective functions and working methods as well as the future communication between them.

The idea of creating a specific branch of the Peer-to-Peer network dedicated to NPM issues was born. The Council of Europe’s NHR Unit (part of the Office of the Council of Europe Commissioner for Human Rights until April 2009 and since then part of the Directorate General of Human Rights and Legal Affairs) asked Council of Europe member States for voluntary contributions to finance a pilot project for tri-partite cooperation between the CPT, the SPT and the NPMs. Germany and Liechtenstein accepted to finance pilot activities for 2008 and 2009 in Geneva, Chisinau, Tallinn and Strasbourg. These activities enabled a conclusion that the project was feasible. It allowed a definition of its ingredients and the opportunity to sketch the components of an adequate project team.

The European Commission and the newly created Human Rights Trust Fund were approached for co-funding of a large project. Both replied positively.

A contract with the EU Commission for the so-called "Peer-to-Peer II Project" is to be signed shortly. Its largest component serves to fund the European NPM Project.

As to the Human Rights Trust Fund, its Assembly of Contributors (made presently of Norway, Germany and the Netherlands) has accepted the co-funding of the European NPM project under an urgency procedure and financing has already been made available.

In addition, the Government of Liechtenstein, has agreed to support the project with another voluntary contribution, after having already sponsored the Pilot Project (see above).

As a result, the funding of the European NPM Project is ensured until at least the Spring 2012.

The First Meeting of European NPM Network on 5 November 2009 marked the start of the European NPM Project, as the institutions present (i.e. 17 of the 19 NPMs that were operational at that moment in time in the Council of Europe member states) expressed their keen interest in the Project.

The European NPM Project was also explained and, to some extent, discussed at the conference to commemorate the 20th anniversary of the CPT, on 6 November 2009 in Strasbourg. It was widely hailed by the participants as an extremely promising avenue for optimizing the prevention of torture in the Council of Europe region.

On 20 November 2009 the European NPM Project was discussed with the plenary of the SPT in Geneva, some of whose members had been involved in the design of the Project as well as in the activities under the pilot project for testing the feasibility and usefulness of the actual Project. In light of its members' reports on these pilot activities and the first in-depth discussion with the Project Team, the SPT confirmed its readiness to strongly contribute to the European NPM Project which it perceives as creating a win-win situation for all actors involved, for the ultimate benefit of persons deprived of their liberty. The modalities of the SPT's input in the Project, the channels for ongoing communication with the Project Team and for progress evaluation as well as the desired volume of activities for the first year of the Project (2010) were agreed upon. The SPT underlined its willingness in principle to contribute to all types of project activities (see below) and it requested that SPT members from other continents be not excluded from the European NPM Project, in line with the SPT's universal mandate.

A first meeting of the European NPM Contact Persons will be convened on 27-28 January 2010 in Padua (Italy). At that meeting the work programme under the European NPM Project for the coming two years will be decided upon, especially as concerns the themes, places and dates of the thematic workshops (see below at III). The heads of the European NPMs were invited to designate the Contact Persons for their respective institutions by 1 December 2009. All of the operating European NPMs have now appointed a Contact Person.

II. Detailed rationale of the Project

The absolute prohibition of torture and any other cruel, inhuman or degrading treatment or punishment is enshrined in the Universal Declaration of Human Rights as well as in the European Convention on Human Rights and the European Convention for the Prevention of Torture. However, the European Court of Human Rights still finds a significant number of violations of this basic human rights norm.

Three years ago, in June 2006, the OPCAT entered into force. Parties take the commitment to set up within one year a NPM mandated and able to carry out independent preventive visits to all places where people are or might be deprived of their liberty. To date 26 Council of Europe member States have ratified the OPCAT and 12 more have signed it; the latter are expected to ratify in the coming few years. In Europe, 20 countries have adopted legislation setting up an NPM as required by the OPCAT and 19 NPMs have started operating, many of them as of recently only.

The OPCAT foresees co-operation between the NPMs and the SPT, itself also authorised to inspect places of detention in the States Parties, but *de facto* (i.e. mainly for financial reasons) unable to conduct more than half a dozen visits or so per year, world-wide. The OPCAT also tasks the SPT to advise the NPMs, but there exists presently no or almost no budget for that activity.

In two decades the CPT has accumulated what is probably the world's most intensive international experience in the planning and conduct of and reporting on independent, unannounced in-depth inspection visits to the various sorts of places where human beings can be deprived of their liberty, including (police) custody cells, prisons or remand prisons, closed centers for minors or for irregular aliens, psychiatric hospitals, wards for elderly people, etc. Since long before the OPCAT, the CPT has called for the setting-up of preventive mechanisms at national level.

The challenge, however, is to elaborate a coherent approaches of the SPT, the CPT and the NPMs as regards their respective tasks. Significantly different perceptions by these three independent actors could lead to double work and, worse, contradiction of their findings.

The overall objective of the project is to strengthen the prevention of torture at national level in all Council of Europe member States. The project focuses on four main areas of activities:

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

III. Project activities

During the two years of the (initial) European NPM Project (2010-2011) the following activities will be carried out with the funding that is presently available. Additional funding will be used to increase the number of activities, especially the thematic workshops and the on-site exchanges of experiences (see below).

At least six thematic two-day workshops will be organised with the possibility for at least one participant per NPM to attend. Each workshop will focus on a specific issue, which the NPMs deem relevant to their work. The list of themes will be agreed upon together with the Contact Persons. In the workshops the applicable ECHR, CPT and SPT norms and practices will be explained, NPMs will exchange their experiences and together they will reflect on possible additional or alternative measures that could be taken. Debriefing papers of the workshops will be circulated. The working languages of the workshops will be adapted to the needs of participants and most often comprise English, Russian and Serbo-Croatian. NPMs will have the possibility to host such workshops with full funding under the Project in order to raise their domestic and

international visibility. In such case they will co-organise the workshop with the European NPM Project team in Strasbourg.

Interested NPMs can request on-site exchanges of experiences in their countries. Four such exchanges are foreseen in 2010, funding for a larger number is secured for 2011. These meetings will as a rule last four days each and will be organised jointly by the Project Team and the NPM. They will consist of joint visits by the host NPM's staff and experts with personal CPT, SPT or APT experience during which the participants will share and compare their visiting methodology and experience. The first day of the module will serve to analyse the strengths, weaknesses and needs of the NPM in general, as regards its mandate, designation and functioning. The three other days will be dedicated to specific training. On the second day participants will recall applicable standards and prepare the details of the visit to several places of deprivation of liberty that will be conducted together on the third day, while the last day will be for joint debriefing. Essential training material will be prepared in the language of the NPM and handed over in sufficient numbers to its staff.

A monthly newsletter in English will be addressed to the members of the network as well as to interested institutions and individuals. It will inform the NPMs, the international instances, academia and the public at large of the activities of the NPM network, including those under the European NPM Project, and provide updates regarding the setting-up, legislative bases and the functioning of NPMs in Europe. The newsletters will also be posted on specific sections of the websites of the Council of Europe's Directorate General of Human Rights and Legal Affairs and of the APT.

Every year, there will be a meeting of the NPM Contact Persons to assess the work of the past year and adapt and organise the work of the NPM network for the following year.

There will also be annual meetings of the heads of NPMs – possibly accompanied by the NPM Contact Persons – as well as of CPT and SPT members and their respective Secretariats for work at a more political, as opposed to technical, level.

The members of the European NPM network will be expected to stand ready for providing technical advice to national authorities who envisage to sign or ratify the OPCAT and/or to set up an NPM. The Project team will be there to organise any meetings or missions for such purposes.

The Project Team will endeavour to keep close contact with the members of the network on an ongoing basis to be of service as may be required.

IV. The Project team

The European NPM Project will be managed by the NHRS Unit of the Directorate General of Human Rights and Legal Affairs (Directorate of Cooperation, Legal and Human Rights Capacity Building Department, Legislative Support and NHRS Division). A Project Supervisor, a Project Manager and a Project Assistant with adequate backgrounds and hired at appropriate grade levels will be fully dedicated to the European NPM Project.

The APT, a non-governmental organisation with longstanding, universal experience in torture prevention, has agreed to be the implementing partner for the Project.

Ms. Silvia Casale from the UK, who combines personal experience as former President of both the CPT and the SPT, has agreed to serve as Project Advisor.