

ACT ON THE NATIONAL PREVENTIVE MECHANISM FOR THE PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(Consolidated version)

Article 1

The purpose of this Act is to determine the body competent for the performance of activities of the National Preventive Mechanism for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: National Preventive Mechanism) pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette - International Treaties 2/05, hereinafter: Optional Protocol).

Article 2 (OG 33/15)

(8) Activities of the National Preventive Mechanism shall be performed by the ombudsman.

(9) For the purpose of performing the activities of the National Preventive Mechanism, the ombudsman shall collaborate with associations registered for activities that fall within the field of human rights protection, which associations shall be selected by the ombudsman through a public call.

(10) For the purpose of performing the activities of the National Preventive Mechanism, the ombudsman shall also engage, when necessary, other independent experts pursuant to Article 18, paragraph 2 of the Optional Protocol.

(11) For the purpose of performing the activities of the National Preventive Mechanism, the ombudsman shall collaborate, when necessary, with specialized ombudsmen.

Article 3 (OG 33/15)

(4) Activities of the National Preventive Mechanism shall be:

- visits to premises occupied by or potentially occupied by persons deprived of liberty for the purpose of strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment,
- offering recommendations to competent authorities and institutions in order to ensure improvement of treatment of persons deprived of liberty as well as the conditions of their accommodation, for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment,
- offering proposals of and comments about laws and other regulations, as well as draft laws and other regulations, in order to promote protection of persons deprived of liberty

– cooperation with United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: Subcommittee on Prevention of Torture), sending information to and organizing meetings with the Subcommittee on Prevention of Torture.

(4) Deleted.

Article 4 (OG 33/15)

For the purposes of this Act, persons deprived of liberty shall mean persons who have been confined, detained or accommodated within a place under public supervision, and who may not leave such a place at will.

Article 5

Persons who participate in the performance of activities of the National Preventive Mechanism shall have the following powers:

- perform unannounced visits to bodies or institutions and inspect premises occupied by persons deprived of liberty,
- freely access information about bodies and institutions where persons deprived of liberty are situated,
- freely access information on the number of persons deprived of liberty placed in the visited body or institution,
- freely access all information about the manner in which persons deprived of liberty are treated, in accordance with the law,
- talk to persons deprived of liberty, having chosen such persons themselves and in the absence of the officers working in the body or institution being visited,
- talk to other persons that may provide them with necessary information in connection with suspected human rights violation resulting from the treatment received by such people from the body or institution being visited.

Article 6 (OG 33/15)

(6) By virtue of an ordinance, the ombudsman shall stipulate the procedure for the selection of associations registered for operations that fall within the field of human rights protection, referred to in Article 2, paragraph 2 of this Act, as well as the manner of proceeding for their members while performing activities of the National Preventive Mechanism.

(7) By virtue of the Ordinance referred to in paragraph 1 of this Article, the ombudsman shall stipulate the selection procedure for independent experts referred to in Article 2, paragraph 3 of this Act, as well as the manner of their proceeding when performing activities of the National Preventive Mechanism.

Article 7

Persons who participate in the performance of activities of the National Preventive Mechanism are obligated to preserve the confidentiality of personal information on persons deprived of liberty, disclosed during performance of the said activities.

Article 8 (OG 33/15)

(7) Person who participates in the visit referred to in Article 3, subparagraph 1 of this Act, shall prepare a record on the conducted visit and shall deliver it to the ombudsman.

(8) Based on the record referred to in paragraph 1 of this Article, the ombudsman shall prepare a report on the conducted visit and deliver it to the visited body or institution, and in case certain irregularities are established, also to the body competent for the supervision of the visited body or institution.

(9) If instances of torture and other cruel, inhuman or degrading treatment or punishment are established within a body or institution, the ombudsman shall duly warn the body or institution within which such a violation has been detected and provide related recommendations. The body or institution where such a violation has been established is obligated to undertake measures in response to the ombudsman's warning or recommendations within the time limit specified in the report and notify the ombudsman without delay on the undertaken measures. If the body or institution fails to act in accordance with the ombudsman's request or fails to act in line with his recommendations within the prescribed time limit, the ombudsman shall notify the Croatian Parliament thereupon.

(10) Deleted.

Article 9

The ombudsman shall prepare and publish the annual report on the performance of activities of the National Preventive Mechanism. The ombudsman shall submit the report for the previous year to the Croatian Parliament by 1 July of the current year.

Article 10

Funds for the performance of activities of the National Preventive Mechanism shall be allocated from the state budget, recorded under a separate item within the ombudsman's budget.

Article 11 (OG 33/15)

9. Members of the selected associations registered for operations that fall within the field of human rights protection referred to in Article 2, paragraph 2, who participate in the performance of activities of the National Preventive Mechanism, as well as independent experts referred to in Article 2, paragraph 3 of the Act, shall be entitled to equitable remuneration for the performed activities of the National Preventive Mechanism.

10. The amount of the remuneration referred to in paragraph 1 of this Article shall be determined by the ombudsman by virtue of a special decision.

Article 12

The ombudsman shall adopt the regulation referred to in Article 6 of this Act within two months from the date of entry into force of this Act.

Article 13

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette.

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Zagreb, 28 January 2011

Transitional and final provisions from OG 33/15

Article 7

3. The representatives of associations registered for operations that fall within the field of human rights protection and representatives of the academic community who have been appointed pursuant to the Act on the National Preventive Mechanism for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette 18/11), shall perform the activities of the National Preventive Mechanism until associations registered for operations that fall within the field of human rights protection have been selected pursuant to the provisions of this Act.

4. The ombudsman shall adopt the Ordinance referred to in Article 4 of this Act within two months from the date of entry into force of this Act.

5. Until the Ordinance referred to in paragraph 2 of this Article has entered into force, the Ordinance on the Appointment Procedure and Manner of Proceeding of the Representatives of Associations and Representatives of the Academic Community in the National Preventive Mechanism for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette 22/12), shall remain in force.

(3) The ombudsman shall issue a public call for the selection of associations registered for operations that fall within the field of human rights protection no later than one month from the date of entry into force of the ordinance referred to in paragraph 2 of this Article.

Article 8

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette.