



National Preventive Mechanisms Country-by-Country Status

under the Optional Protocol to
the UN Convention against Torture (“OPCAT”)

7 June 2007

Introduction

The *Optional Protocol to the UN Convention against Torture* (OPCAT) establishes a system of regular visits to places of detention by independent expert bodies, in order to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment. The OPCAT creates a new international body, the UN Subcommittee on Prevention, but also requires each State Party to have its own complementary “national preventive mechanism” (NPM).

The purpose of this NPM Status paper is to provide current information on the status of NPM implementation in each of the States that has signed or acceded to the OPCAT. The first part presents short summaries in the form of a table. The second presents more detailed information about each country. Information is presented on a country-by-country basis by region: Africa, Americas, Asia-Pacific, Europe and Central Asia.

Information about NPM implementation comes primarily from field missions and in-country contacts of APT staff. Population and Area statistics are from the CIA World Factbook. Prison population and number are approximations based on reports by the International Centre for Prison Studies. Prison population figures generally, but do not always, include pre-trial detainees. Background information is derived from a variety of sources.

The content of this NPM Status paper will be constantly changing; the latest version will always be available at www.apr.ch. APT invites you to provide additional information, updates, and comments. To give us information or ask questions about a particular country or region please contact the following APT officers:

- Africa, Jean-Baptiste Niyizurugero jbn@apr.ch
- Americas, Claudia Gerez cerez@apr.ch
- Asia-Pacific, Philippe Tremblay ptremblay@apr.ch
- Europe and Central Asia, Matthew Pringle, mpringle@apr.ch.

For questions about NPMs in general or about this paper as a whole, please contact APT Legal Adviser Matt Pollard at mpollard@apr.ch or npm@apr.ch.

Part One - Summaries

Africa

	Signed	Ratified	NPM Status
Benin	24.02.2005	20.09.2006	Civil society has initiated discussion on implementation, but is presently more focused on ratification. One possibility for the NPM would be to reform the existing (but relatively inactive/uncritical) Human Rights Commission with more capacities and resources.
Burkina Faso	21.09.2005		No information
Gabon	15.12.2004		No information
Guinea	16.12.2005		No information
Ghana	06.11.2006		No information
Liberia		22.09.2004	Possible APT visit to Liberia in 2007 to consult with government and NGO actors on NPM, in conjunction with the Human Rights Protection Section of the UN Mission in Liberia.
Madagascar	24.09.2003		APT was requested to assist in the implementation of the CAT. APT may promote Madagascar ratification and implementation of the OPCAT in 2007
Mali	19.01.2004	12.05.2005	APT was to assist in the process of establishment of a NPM, with a seminar foreseen in December 2006. However, in March 2006 a Presidential Decree established a National Human Rights Commission, and the Decree implies it will be also the NPM. However, the proposed Commission falls short of OPCAT requirements in many respects
Mauritius		21.06.2005	The Mauritius National Human Rights Commission assisted APT to promote ratification. Reflection on NPM ongoing
Senegal	04.02.2003	18.10.2006	January 2006 Roundtable set up a national coalition for the ratification an implementation of the OPCAT. Currently focused on ratification. Next step, further discussion on NPM.
Sierra Leone	26.09.2003		No information
South Africa	20.09.2006		Informal consultations: Judicial Inspectorate of Prisons (with amendments/additional resources). The South African Human Rights Commission could also take the NPM mandate. This would require setting up a specific unit within the SAHRC with a separate budget and human

			resources. Ongoing discussion after the 25 April 06 Roundtable on OPCAT.
Togo	15.09.2005		No information

Americas

	Signed	Ratified	NPM Status
Argentina	30.09.2003	15.11.2004	Human Rights Secretariat of the Ministry of Justice has proposed a new National Committee for the Prevention of Torture to be created by law, as an office under the Ministry of Justice. Consultation took place in December 2006.
Bolivia		23.05.2006	No information; likely role for the <i>Defensoría del Pueblo</i>
Brazil	13.10.2003	12.01.07	Human Rights Department of the Presidency established an inter-ministerial committee to lead consultations on NPM. APT-CEJIL led seminar in June 2005 concluded that a new mechanism should be established.
Chile	06.09.2005		Ratification under consideration of the legislative body; approval report of the Commission of Foreign Relations of the Chamber of Deputies suggests that the national human rights institute (whose creation is also currently under discussion by legislature) play role of NPM.
Costa Rica	04.02.2003	01.12.2005	A decree designating the <i>Defensoría de los Habitantes</i> , with the express prior consent of the Defensoría (necessitated by constitutional independence), was made official on 19 February 2007. The decree is a temporary measure, until legislation is passed to designate the <i>Defensoría</i> .
Guatemala	25.09.2003		Debate on NPM in early stages. Working group composed by civil society, Ombudsman and Presidential Commission, with the support of the local OHCHR was established to lead the ratification campaign and discussions on implementation. Ratification pending before legislative body.
Honduras	08.12.2004	23.05.2006	Structured dialogue between government and civil society, led by the CPTRT (NGO) with support of RCT and APT. CPTRT and Public Prosecutor “joint task force” developing proposals for wider consultation and presentation to government. National Human Rights Commission also expects to play a role.
Mexico	23.09.2003	11.04.2005	Series of seminars led by the OHCHR, Ministry of Foreign Affairs of Mexico, and the APT, led to agreement that the NPM will combine national (federal and state) human rights institutions and civil society; however, structure is yet to be

			elaborated.
Paraguay	22.09.2004	02.12.2005	A working group (elected during an NPM Forum in Nov. 2006 organized by MFA, NGO Network and APT) is drafting NPM proposal by 31 March 2007. Proposal so far to create an autonomous body by law. Existing inter-institutional commissions for visits to places of detention will serve as inspiration.
Peru		14.09.2006	Five NGOs established a working group which proposed the <i>Defensoría del Pueblo</i> assume the role of NPM. The <i>Defensoría</i> has agreed and the proposal is currently under consideration of the executive.
Uruguay	12.01.2004	08.12.2005	Following an NPM Forum in Nov. 2006 organized by the MFA and the APT a working group will be established to define the NPM. Possible models include a role for the Parliamentary Commissioner on Prisons; NGOs and soon-to-be created national human rights institution.

Asia-Pacific

	Signed	Ratified	NPM Status
Cambodia	14.09.2005		No Information
Korea (Republic of)			National Human Rights Commission promotes ratification & states it is “confident” it has the “ability to serve” as NPM.
Maldives	14.09.2005	15.02.2006	Consultations to begin in early 2007.
New Zealand	23.09.2003		Decentralized. NZ Human Rights Commission will be “central NPM” and coordinate a variety of already-existing, plus potentially some new, NPMs for given places of detention. The New Zealand Parliament passed new legislation to implement the OPCAT on 21.11.2006. It remains for the Minister of Justice to actually designate NPMs.
Timor-Leste	16.09.2005		No information

Europe and Central Asia

	Signed	Ratified	NPM Status
Albania		01.10.2003	A series of seminars on the establishment of an NPM have taken place.
Austria	25.09.2003		The Ministry of Foreign Affairs commissioned a background paper which calls for the creation of an entirely new monitoring mechanism. However, the consultation process is ongoing.
Armenia		14.09.2006	Civil society is currently discussing possible OPCAT implementation with the state authorities.
Azerbaijan	15.09.2005		No information
Belgium	24.10.2005		No information
Croatia	23.09.2003	25.04.2005	Government may designate the Ombudsman as NPM.
Cyprus	26.07.2004		No information
Czech Republic	13.09.2004	10.07.2006	The Public Defender of Rights (Ombudsman) was designated after an amendment to its legislative basis was passed by parliament.
Denmark	26.06.2003	25.06.2004	The Parliamentary Commissioner for Civil and Military Administration (Ombudsman) may be proposed, subject to a revision of its capacities/resources basis.
Estonia	21.09.2004	18.12.06	The Office of the Chancellor of Justice (Ombudsman) has been designated as the NPM.
Finland	23.09.2003		The Ministry of Foreign Affairs has established an inter-ministerial working group to examine implementation. The Parliamentary Ombudsman is likely to be designated as the NPM.
France	16.09.2005		The Médiateur de la République (Ombudsman) has been given responsibility for implementing the NPM, and is leading consultations on the details.
Georgia		09.08.2005	A so-called 'Ombudsman plus' model may be adopted in the country.
Germany	20.09.2006		An extremely weak model is being proposed, consisting of a Joint Commission of the Regions (4 persons) and a Federal Commissioner (1 person) with 2 support staff.
Iceland	24.09.2003		No information

Ireland			Internal consultations underway. Ireland is expected to sign the instrument in 2007.
Italy	20.08.2003		The Italian authorities will expedite the process of ratification. There are currently discussions to establish an NHRI, which might function as the NPM.
Liechtenstein	24.06.2005	03.11.2006	No information
Luxembourg	13.01.2005		There is no existing suitable mechanism and no proposed model is known. ACAT and the APT have offered their assistance to facilitate this process.
FYR Macedonia	01.09.2006		No information
Malta	24.09.2003	24.09.2003	No information
Republic of Moldova	16.09.2005	24.07.2006	A conference in November 2006 began work on NPM determination. A working group set up by the Ministry of Justice will carry the process forward.
Montenegro	23.11.2006		A July 2006 consultation identified the office of the Protector of Human Rights and Freedoms of the Republic of Montenegro (Ombudsman) as the likely NPM, but that additional financial and human resources were required. A follow-up meeting in November 2006 raised the issue of whether a complementary mechanism might be established for this purpose.
Netherlands	03.06.2005		Existing monitoring mechanisms are being examined to determine whether they are in accordance with the OPCAT.
Norway	24.09.2003		No information
Poland	05.04.2004	14.09.2005	The Commissioner for Civil Rights Protection (Ombudsman) will be designated.
Portugal	15.02.2006		No information
Romania	24.09.2003		The Ministry of Foreign Affairs is collecting information regarding the NPM processes in other countries.
Serbia	25.09.2003	26.09.2006	No information
Slovenia		23.01.2007	The Human Rights Ombudsperson in combination with NGOs and humanitarian organisations.
Spain	13.04.2005	04.04.2006	Options under consideration include: a new body, designation of the Ombudsman Office (Defensoría del Pueblo), or a mixed mechanism with ombudsmen and civil society. Catalan NGOs propose also a Catalan NPM.

Sweden	26.06.2003	14.09.2005	No information
Switzerland	25.06.2004		Consultations ongoing based on a proposed Commission de Prévention de la Torture, a new unified federal body with 12 members. Legislation is being prepared.
Turkey	14.09.2005		Civil society has initiated a domestic discussion on implementation, albeit this process is still in its formative stages. The Ministry of Foreign Affairs is collecting information regarding the NPM processes in European Union countries.
Ukraine	23.09.2005	10.09.2006	Civil society has initiated a domestic discussion on implementation. I
United Kingdom	26.06.2003	10.12.2003	Around 30 existing visiting mechanisms have been designated without changes to mandate or powers. Ongoing discussions concerning, among other factors, coordination.



National Preventive Mechanisms Country-by-Country Status

under the Optional Protocol to
the UN Convention against Torture (“OPCAT”)

7 June 2007

Part Two – Background and Detail

Africa

Benin

Population:	7,862,944
Area (sq km):	112,620
Prison population:	5,834
Number of prisons:	8
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Previously a French colony since 1872, Benin achieved independence in 1960. A succession of military governments ended in 1972 with the rise to power of Mathieu Kerekou and the establishment of a government based on Marxist-Leninist principles. A move to representative government began in 1989. Two years later, free elections ushered in former Prime Minister Nicephore Soglo as president, marking the first successful transfer of power in Africa from a dictatorship to a democracy. Kerekou was returned to power by elections held in 1996 and 2001, though some irregularities were alleged. Former West African Development Bank Director Boni Yayi won the March 2006 election for the presidency.

The law prohibits ill-treatment of detainees and prisoners; however, there were credible reports during 2005 that police sometimes beat those in custody. The police, under the Ministry of Interior, have primary responsibility for enforcing law and maintaining order in urban areas; the gendarmerie, under the Ministry of Defence, performs the same function in rural areas. The police are inadequately equipped and poorly trained. The government seeks

to address these problems by recruiting more officers, building more stations, and modernizing equipment.

Prison conditions continue to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. According to the justice ministry, the country's eight civil prisons at times were filled to more than three times their capacity. The prison diet was inadequate, and malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations. As of 2005, the government permitted prison visits by human rights monitors; nongovernmental organizations (NGOs) and other agencies continued to visit prisons.

NPM Process

Civil society has initiated discussion on implementation, but is presently more focused on ratification. One possibility for the NPM would be to reform the existing Human Rights Commission with more capacities and resources. However, the Commission in its present form has been relatively inactive and uncritical.

Updated on [].

Burkina Faso

Population:	13,902,972
Area (sq km):	274,200
Prison population:	2 800
Number of prisons:	11
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Burkina Faso achieved independence from France in 1960. Repeated military coups during the 1970s and 1980s were followed by multiparty elections in the early 1990s. Burkina Faso's high population density and limited natural resources result in poor economic prospects for the majority of its citizens.

Although the law prohibits abuse of persons in custody, members of the security forces continue to abuse persons with impunity, suspects were reportedly frequently subjected to beatings, threats, and, on occasion, torture to extract confessions. The national police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are

responsible for public security. Gendarmes reporting to the Ministry of Defence also are responsible for some aspects of public security. Impunity is a serious problem. The gendarmerie is responsible for investigating police and gendarme abuse; however, the government took no known disciplinary action against those responsible for abuses.

Prison conditions are harsh and could be life threatening. Prisons are overcrowded, and medical care and sanitation are poor. The prison diet is inadequate, and inmates often rely on supplemental food from relatives. Pre-trial detainees usually are not held separately from convicted prisoners.

Prison authorities grant prison visits at their discretion. As of 2005, permission generally was granted for observers to visit prisons, and advance permission was not required.

NPM Process

No information.

Updated on [].

Gabon

Population:	1,424,906
Area (sq km):	267,667
Prison population:	?
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The current president of the former French colony of Gabon, El Hadj Omar Bongo Ondimba - one of the longest-serving heads of state in the world - has dominated the country's political scene for almost four decades. President Bongo introduced a nominally multiparty system and a new constitution in the early 1990s. However, allegations of electoral fraud during local elections in 2002-03 and the presidential elections in 2005 have exposed the weaknesses of formal political structures in Gabon. Gabon's political opposition remains weak, divided, and financially dependent on the current regime. Despite political conditions, a small population, abundant natural resources, and considerable foreign support have helped make Gabon one of the more prosperous and stable African countries.

Although the constitution prohibits such practices, security forces sometimes beat or torture prisoners and detainees to extract confessions. The national police, under the interior ministry, and the gendarmerie, under the defence ministry, are responsible for domestic law enforcement and public security. Elements of the armed forces and the Republican Guard, an elite, heavily armed unit that protects the president, sometimes performed internal security functions; both were subordinate to the defence ministry. The Inspector General's Office is responsible for investigating police abuse; however, it has taken no known action.

Prisons are overcrowded and conditions harsh. Food, sanitation, and ventilation were poor, and medical care is almost nonexistent. The US State Department reported that it knew of no visits by human rights monitors to prisons during 2005; however, there also were no reports that the government impeded such visits.

NPM Process

No information.

Updated on [].

Ghana

Population:	22 409 572
Area (sq km):	239 460
Prison population:	12 736
Number of prisons:	47
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

To come.

NPM Process

No information.

Updated on [].

Guinea

Population:	9,690,222
Area (sq km):	245,857
Prison population:	3070
Number of prisons:	34
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Guinea has had only two presidents since gaining independence from France in 1958. Lansana Conte came to power in 1984 when the military seized the government after the death of the first president, Sekou Toure. Guinea did not hold democratic elections until 1993 when Gen. Conte (head of the military government) was elected president of the civilian government. He was re-elected in 1998 and again in 2003. Unrest in Sierra Leone and Liberia has spilled over into Guinea on several occasions over the past decade, threatening stability and creating humanitarian emergencies.

Though prohibited by law, civilian and military security forces beat and otherwise abuse civilians. There were reports during 2005 that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions. The gendarmerie, a part of the Ministry of Defence, and the national police, under the Ministry of Security, share responsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. The Code of Penal Procedure permits only the gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well. A quasi-police unit called the Anti-Crime Brigade (BAC), created to fight criminal gangs and bandits, operated in Conakry and in most major regions and prefectures. In practice administrative controls over the police were ineffective, and security forces rarely followed the penal code. In 2005, there were no reported judicial proceedings against officers suspected of committing abuses. National and international NGOs conduct seminars to train security forces on human rights issues.

Prison conditions remain inhumane and life threatening. Neglect, mismanagement, and lack of resources are prevalent. The basic diet for prisoners was inadequate, and most inmates rely on supplemental assistance from families or friends to maintain their health. In most prisons, men and women are held separately, but juveniles generally are held with adults. Pre-trial detainees are not separated from convicted prisoners, and the prison system often is unable to track pre-trial detainees after arrest.

The government permitted prison visits by the ICRC and other local humanitarian and religious organizations during 2005. The ICRC reported that it was allowed regular access to all official detention facilities and 2,500 prisoners during the year.

NPM Process

No information.

Updated on [].

Liberia

Population:	3,042,004
Area (sq km):	111,370
Prison population:	?
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

In 2003, a peace agreement ended 14 years of civil war and prompted the resignation of former president Charles Taylor. Democratic elections in 2005 brought President Ellen Johnson-Sirleaf to power. The UN Mission in Liberia (UNMIL) completed a disarmament program in late 2004, but the security situation is still volatile and rebuilding the social and economic structures progresses slowly. In particular, the slow pace of reform of the criminal justice system resulted in continued failures of the police and the courts to respond effectively to crime. Communities took justice into their own hands, and criminal suspects were sometimes assaulted or killed where there were suspicions of ineffective policing or of injustice or corruption in the courts.

The Ministry of Justice has responsibility for enforcing law and maintaining order within the country and oversees the LNP and the National Bureau of Investigation (NBI). Approximately 15 thousand UNMIL peacekeepers and 1,100 CIVPOL officers had primary responsibility for maintaining security while the Liberia National Police (LNP) and the Armed Forces of Liberia (AFL), which was under the Defence Ministry, were being retired and retrained during the year. Approximately 600 CIVPOL officers assisted with restructuring, recruitment, training, and equipping the LNP, which was comprised of new recruits and those who served under the former Taylor administration. During the year CIVPOL recruited, trained, and deployed more than 1,100 LNP officers to Monrovia and 7 surrounding counties; an additional 300 recruits were sent to Nigeria for further training. In September the LNP opened a Women's and Children's Protection Section, and 50 officers had completed training to staff the unit by year's end. The LNP operated independently and retained arrest authority; however, CIVPOL accompanied LNP officers in joint patrols around Monrovia. However, Amnesty

International points out that by the end of 2005, 1,800 police officers should have been trained and deployed; this intended deployment was not achieved, especially in remote areas, because of shortfalls in funding and lack of equipment.

Conditions in the majority of prisons and detention centres remain well below minimum standards. By mid-2005, 28 corrections officers had gone through a vetting and training process, and were deployed throughout the country.

As of 2005 the government permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Some human rights groups, including the ICRC, made regular visits to detainees held in police headquarters and prisoners in Monrovia Central Prison.

NPM Process

APT may visit Liberia in 2007 to consult with government and NGO actors on possible NPM structures, in conjunction with the Human Rights Protection Section of the UN Mission in Liberia.

Updated on [].

Madagascar

Population:	18,595,469
Area (sq km):	587,040
Prison population:	20 294
Number of prisons:	99
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Formerly an independent kingdom, Madagascar became a French colony in 1896, but regained its independence in 1960. During 1992-93, free presidential and National Assembly elections were held, ending 17 years of single-party rule. In 1997, in the second presidential race, Didier Ratsiraka, the leader during the 1970s and 1980s, was returned to the presidency. The 2001 presidential election was contested between the followers of Didier Ratsiraka and Marc Ravalomanaha, nearly causing secession of half of the country. In April 2002, the High Constitutional Court announced Ravalomanaha the winner.

The minister for public security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, overseen by the Ministry of National Defense, is responsible for security in all other areas of the island.

Prison conditions are harsh and life threatening. Overcrowding is a serious problem. Church leaders and NGOs report that rape is commonplace in the prisons and often used by prison guards and other inmates to humiliate prisoners. Prisoners may be used as forced labour. Medical care is inadequate. Juveniles are not always held separately from the adult prison population. Pre-trial detainees are not always kept separate from the general prison population.

As of 2005, the government generally permitted independent monitoring of prison conditions by the ICRC and some NGOs.

NPM Process

APT was requested to assist in the implementation in Madagascar of the recently-ratified UN Convention against Torture. In conjunction with that work, APT may promote Madagascar ratification and implementation of the OPCAT in 2007, including NPM design and designation.

Updated on [].

Mali

Population:	11,716,829
Area (sq km):	1 240 000
Prison population:	4407
Number of prisons:	58
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Sudanese Republic and Senegal became independent of France in 1960 as the Mali Federation. When Senegal withdrew after only a few months, what formerly made up the Sudanese Republic was renamed Mali. Rule by dictatorship was brought to a close in 1991 by a coup that ushered in democratic government. President Alpha Konare won Mali's first democratic presidential election in 1992 and was re-elected in 1997. In keeping with Mali's two-term constitutional limit, Konare stepped down in 2002 and was succeeded by Amadou Toure.

Security forces are composed of the army, air force, gendarmerie, national guard, and police. The army and air force are under the control of the civilian minister of defence. The national guard is administratively under the minister of defence; however, it is effectively under the command and control of the minister of internal security and civil protection. The police and gendarmerie are under the ministry of internal security and civil protection. The police and gendarmes shared responsibility for law enforcement and maintenance of order; the police were in charge of urban areas only. The national police force is organized into various divisions. Each district has a commissioner who reported to the regional director at national headquarters.

Overall prison conditions remain poor. Prisons continue to be overcrowded, medical facilities and access inadequate, and food supplies insufficient. The US State Department reported that during 2005, prison conditions somewhat improved and efforts to conform to UN norms were observed. Men and women were separated in Bamako prisons; however, outside the capital, men and women were held in the same building but in separate cells. In Bamako, juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. Pre-trial detainees were held with convicted prisoners.

As of 2005, the government permitted prison visits by human rights monitors, provided that administrative procedures were followed. Nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director who then forwarded it to the Ministry of Justice. Approvals were routinely granted but took up to one week. Several NGOs, including the Malian Association of Human Rights, the Malian Association of Women Lawyers, and the Action by Christians for the Abolition of Torture (ACAT-Mali), visit prisoners and work with women and juvenile prisoners to improve their conditions. The US State Department's 2006 report stated that an NGO had reported that the administrative process hindered the ability of monitors to ascertain if there were human rights violations.

NPM Process

APT had planned to assist in the process of establishment of a NPM, with a seminar foreseen in December 2006. However, in March 2006 a Presidential Decree established a National Human Rights Commission, and the Decree implies it will be also the NPM. However, the proposed Commission falls short of OPCAT requirements in many respects:

- More than a quarter of the membership of the Commission would be representatives of various Ministries of government.
- For the majority of members, there is no requirement that the individual have expertise relevant to visiting or assessing places of detention.

- None of the guarantees and powers in respect of visits required by the OPCAT are expressly provided for, such as right of access to places of detention, right of private interviews with detainees, or protection from retribution for those who cooperate with the Commission.
- Rather than enshrining the process of constructive dialogue between authorities (at both the local and national level) and the NPM on implementation of specific recommendations, the Decree simply contemplates that the Commission would inform the government about the conditions of detention of detainees (in French language original: “informer régulièrement le gouvernement sur la situation carcérale des détenus.”)

Updated on [].

Mauritius

Population:	1,240,827
Area (sq km):	2040
Prison population:	2464
Number of prisons:	9
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Mauritius was held by the Portuguese, Dutch, French, and British before independence was attained in 1968. A stable democracy with regular free elections and a positive human rights record, the country has attracted considerable foreign investment and has earned one of Africa's highest per capita incomes. Recent poor weather and declining sugar prices have slowed economic growth.

The Mauritius Police Force is a national force headed by a commissioner of police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The National Human Rights Commissions investigates allegations of police abuses and may report such cases to the Director of Public Prosecutions (DPP).

The US State Department reports that as of 2005, the government permitted prison visits by independent observers including the press, the NHRC, diplomats, and the UN.

NPM Process

The Mauritius National Human Rights Commission assisted APT to promote ratification. Reflection on NPM ongoing

Updated on [].

Senegal

Population:	11,987,121
Area (sq km):	196 190
Prison population:	5360
Number of prisons:	38
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Independent from France in 1960, Senegal was ruled by the Socialist Party for forty years until current President Abdoulaye Wade was elected in 2000. A December 2004 peace agreement ended two decades of conflict in the Casamance region. This allowed reconstruction work and de-mining to begin and refugees, internally displaced people and former fighters to return home. However, implementation of the peace agreement has been hampered by divisions within rival factions of the Democratic Forces of Casamance Movement (Mouvement des forces démocratiques de Casamance, MFDC).

Police and gendarmes are responsible for maintaining law and order in the country. The army shares that responsibility in exceptional cases, such as when a state of emergency is announced. The police force contains 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least one police station and at least one mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city.

Prison and detention centre conditions were poor. The National Organization for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. As of 2005, the government permitted certain prison visits by independent human rights monitors. During the year, ONDH continued a fact-finding review of prison conditions with the government's consent and assistance. The Senegalese Committee for Human Rights, the Parliamentarian Network for Human Rights, and a group of Catholic priests also visited prisons during the year. However, the US State Department reports that representatives of the Assembly for the Defense of Human Rights (RADDHO) were denied access to prisoners during 2005.

NPM Process

A January 2006 Roundtable set up a national coalition for the ratification and implementation of the OPCAT. Local actors and international partners are therefore currently focused on ratification, and the discussion about possible NPM structures will occur later.

Updated on [].

Sierra Leone

Population:	6,005,250
Area (sq km):	71 740
Prison population:	1740
Number of prisons:	8-12
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The government is slowly re-establishing its authority after the 1991 to 2002 civil war that resulted in tens of thousands of deaths and the displacement of more than 2 million people (about one-third of the population). The last UN peacekeepers withdrew in December 2005, leaving full responsibility for security with domestic forces, but a civilian UN office remains to support the government. Planned 2007 elections, deteriorating political and economic conditions in Guinea, and the tenuous security situation in neighbouring Liberia present challenges.

The Sierra Leone Police has primary responsibility for maintaining internal order, and has approximately 9,300 officers (end of 2005).

As of 2005, international monitors, including the UN Mission in Sierra Leone (UNAMSIL) and the ICRC, reportedly had unrestricted access to Pademba Road prison and other detention facilities, including the UN Special Court of Sierra Leone detention facilities. Prison Watch, a local human rights group, reported on detention facilities throughout the country in 2005 but stated that the government did not allow it access to Pademba Road prison. According to the US Department of State, on October 20, 2005, the Minister of Internal Affairs publicly acknowledged the deficiencies in the prison system and encouraged civil society to report problems so that they could be addressed.

NPM Process

No information

Updated on [].

South Africa

Population:	44,187,637
Area (sq km):	1,219,912
Prison population:	157 402
Number of prisons:	237
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

South Africa is a young but stable democracy. Its Constitution gives international human rights very high legal status in domestic law. South Africa is scheduled to appear before the UN Committee against Torture in November 2006.

On 15 December 2005 the Jali Commission of Inquiry handed its report to the President after a four-year inquiry into corruption and violence in prisons; the report had not been made public by the end of the year.

The UN Working Group on Arbitrary Detention visited the country in September and expressed alarm at the "rate of overcrowding in detention facilities". The overcrowding, in some cases by over 300 per cent of capacity, and the resulting poor prison conditions led the Judicial Inspectorate of Prisons to recommend that minimum sentence legislation be allowed to lapse. The UN delegates noted, in respect of prisoners awaiting trial or sentence, a "lack of adequate facilities so blatant that they fall short of international guarantees". The Civil Society Prison Reform Initiative urged Parliament in November to support the development of rehabilitation programmes and non-custodial alternatives to imprisonment.

The South African Police Service (SAPS), under the Department of Safety and Security, has primary responsibility for internal security. The SANDF, under the Department of Defence, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations, the "Scorpions," coordinates efforts against organized crime and corruption.

During 2005, SAPS continued a major restructuring and transformation from a primarily public order security force to a more accountable, community

service-oriented police force; however, it remained ill-equipped, overworked, and poorly trained. According to the 2004-05 SAPS annual report, there were 115,595 police officers and 33,375 civilians working in SAPS. Municipalities also maintain metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town.

NPM process

The constitution sets up a variety of oversight and control mechanisms including the South African Human Rights Commission, the Independent Complaints Directorate and the Judicial Inspectorate of Prisons. In South Africa, there is also sufficient and well-organised civil society. Regarding OPCAT, there are NGOs and Academics that are particularly interested in the issue. South Africa is one of the rare countries where interesting articles on OPCAT and analysis have been published.

In discussions with the Police officials, public officials as well as civil society actors, the weight of opinion is that a revised Judicial Inspectorate of Prisons with increased resources would be the most relevant existing mechanism to take on a future NPM mandate. However, the South African Human Rights Commission could also take on the NPM mandate. This would require setting up a specific unit within the SAHRC with a separate budget and human resources.

Updated on [].

Togo

Population:	5,548,702
Area (sq km):	56,785
Prison population:	3200
Number of prisons:	12
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

French Togoland became Togo in 1960. Gen. Gnassingbe Eyadema, installed as military ruler in 1967, continued to rule well into the 21st century. Despite multiparty elections instituted in the early 1990s, the government continued to be dominated by President Eyadema, whose Rally of the Togolese People (RPT) party has maintained power almost continually since 1967. Togo has come under fire from international organizations for human rights abuses and is plagued by political unrest. While most bilateral and multilateral aid to Togo remains frozen, the EU initiated a partial resumption of cooperation and

development aid to Togo in late 2004 based upon commitments by Togo to expand opportunities for political opposition and liberalize portions of the economy.

Upon his death in February 2005, President Eyadema was succeeded by his son Faure Gnassingbe. The succession, supported by the military and in contravention of the nation's constitution, was challenged by popular protest and a threat of sanctions from regional leaders. Gnassingbe succumbed to pressure and agreed to hold elections in late April 2005 to legitimize his succession.

The security forces are consist of the army, navy, air force, the national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, while the Ministry of Defense oversees the gendarmes and military. Legally, the police and gendarmes are responsible for law enforcement and maintenance of order within the country. However, as of 2005 the army, charged with external security by law, was actually in command of domestic security.

As of 2005, local NGOs were allowed access to all prisons in the country. In June 2005, the delegation of the UNHCHR investigating election violence visited prisons to research allegations of violence and human rights violations. The delegation was allowed to meet with certain prisoners in private to conduct interviews. Diplomatic representatives were given access to their detained citizens.

NPM Process

No information

Updated on [].

Americas

Argentina

Population:	39,921,833
Area (sq km):	2,766,890
Prison population:	54 472
Number of prisons:	166
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Republic of Argentina, divided into 23 provinces and a federal district (the City of Buenos Aires), has a territory of some 2.8 million square kilometres and an estimated population of 40 million. The federal structure, as well as the vastness of Argentina's territory, will be key challenges for the NPM. The Kirchner administration has adopted a bold human rights policy, particularly advancing on truth and justice for systemic violations under the military junta (1976 to 1983) when an estimated 30,000 persons were disappeared. Nevertheless, the disappearance in September 2006 of a key witness in trials for human rights violations of the time, have greatly mired policy. The President also acknowledged prison conditions as one of the greatest human rights challenges of the present. Presidential elections are scheduled for October 2007.

The active human rights movement, though still principally focused on violations of the past, increasingly addresses the problems of police violence and substandard prison conditions, which have led to recurrent rioting with casualties. A number of public institutions are involved in protecting the rights of people deprived of liberty. The *Procuración Penitenciaria*, which has been monitoring federal prisons for over ten years, currently looks to the OPCAT to guide its working methods; the *Secretaría de Derechos Humanos* (the Human Rights Division of the Ministry of Justice) has been spearheading prison observatories in the provinces with a view to implementing OPCAT; and the *Defensoría del Pueblo* (Ombudsman Office) has recently published a national report on prisons. Active lobbying and public events organized by the *Procuración Penitenciaria* (Prison Ombudsman Office), leading NGOs and other civil society and public institutions helped accelerate the ratification process.

Argentina was the first Federal State and the first Latin American State to ratify the OPCAT, on 15 November 2004. Mr. Mario Luis Coriolano of Argentina was elected as a member of the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a two year term.

NPM process

The task of defining the NPM has been entrusted to the Ministry of Justice. The Ministry initially proposed to create a new entity by Presidential decree: a National Committee for the Prevention of Torture. However, on receiving the Ministry's proposal, President Kirchner decided it would be preferable to establish the entity through congressional legislation, and so directed the Ministry to prepare a draft law for presentation to Congress. As the draft bill stands:

- The body would be granted financial and operation autonomy but would formally depend on the Ministry of Justice.
- The ten person committee would have a mandate to visit places of detention under both federal and provincial jurisdiction.
- Members would be nominated by the executive, following a formal public consultation, for a four year renewable term without salary.
- The Committee would have a Secretariat with staff and some decentralized delegations in the provinces.
- The Committee would seek to collaborate with existing public and civil society institutions working in the same field.

The draft bill is currently under consultation within the Ministry of Justice. Its Human Rights Secretariat convened a consultation on the draft law on 14 and 15 December 2006 with human rights authorities and activists from the capital and the provinces. Primary concerns included the creation of the new Committee under the Ministry of Justice, seen as incompatible with independence. There was also concern about granting a national entity powers to enter detention centres under the jurisdiction of the provinces and the need to create NPMs in each of the provinces. An additional concern was the duplication of functions between the new body and existing institutions, principally the *Procuración Penitenciaria*. The conclusions of the consultation have been annexed to the draft law as it is reviewed by relevant ministries. Further consultations are expected.

Updated on 17 January 2007.

Bolivia

Population:	8,989,046
Area (sq km):	1,098,580
Prison population:	7 710
Number of prisons:	89
Police stations:	?

Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Bolivia is a land-locked country in South America of great natural resources, political instability and deep social divisions. The historically discriminated-against indigenous peoples make up two-thirds of the country's population. Following years of economic recession and widespread social unrest, an indigenous leader, Evo Morales, was elected President in December 2005, profoundly transforming class and power structures. The Morales Government is focusing attention primarily on the monumental tasks of nationalization of gas, the redistribution of land and the drafting of a new constitution, with other issues presumably receiving less attention. Calls for autonomy from various provinces, notably Santa Cruz, have led to important social confrontations with government supporters.

A grassroots human rights network (*Asamblea Permanente de Derechos Humanos*), was established over twenty-five years ago, following the fall of the repressive military regime (1971-1978). The national organization ITEI (*Instituto de Terapia e Investigación sobre las Secuelas de la Tortura y la Violencia Estatal*), established more recently primarily to provide rehabilitation for victims of torture by the dictatorship, actively campaigned for OPCAT ratification, particularly in the framework of activities for the 26th of June. The *Defensoría del Pueblo* (Ombudsman Office), which has a broad mandate to enter any place of detention without any restriction whatsoever, conducts visits to detention facilities in response to complaints as well as to monitor the general situation.

After congressional approval in December 2005, Bolivia signed the OPCAT on 23 May 2006 and ratified the following day. This ratification, together with Honduras on the same day, led to the OPCAT's entry-into-force on 22 June 2006.

NPM process

The Ministry of Justice, in charge of human rights issues, is likely to lead the NPM designation process. The *Defensoría del Pueblo* is likely to have role to play in the NPM. The APT does not currently have further information about the NPM designation process in Bolivia.

Updated 17 January 2007.

Brazil

Population:	188,078,227
Area (sq km):	8,511,965
Prison population:	361 402

Number of prisons:	868
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

A federal State of 182 million inhabitants, Brazil is the most populous and influential country in South America. Its territory comprises almost half the continent. The country was ruled by a military dictatorship from 1968 – 1974. In 2002, the UN Special Rapporteur on Torture, then Nigel Rodley, visited Brazil, concluding that torture was “widespread and systematic” in prisons and police cells. Amidst continuing allegations, the UN Committee against Torture (CAT) visited the country in 2005. In May 2006, the deep crisis in prisons became dramatically manifest when criminal gangs staged simultaneous riots in seventy-five penitentiaries in the State of Sao Paulo, completely paralyzing its capital city and leaving over one-hundred prisoners and guards dead. The human rights policy of left-leaning President Lula and his socialist predecessors have not managed to put a dent in the practice of torture and ill-treatment in the country. President Luiz Inacio Lula da Silva was sworn into his second term of office in January 2007.

A complex network of public institutions and civil society groups monitor places of detention on a municipal, state and federal level. Brazil’s National Prison Law, promulgated in 1984, stipulates that a number of bodies – including judges, public prosecutors, a national council on criminal policy, a penitentiary council and community councils – supervise prison sentences. NGOs in a number of states actively monitor detention facilities and have in some instances gained legitimacy as mediators. The Prison Pastoral Service also has an ample network of local volunteers visiting prisons with a human rights mandate throughout the country. The National Human Rights Movement has for its part been promoting the creation of prison observatories in some states. Reprisals against victims who denounce torture and ill-treatment, as well as against human rights activists defending their interests are an acute reality. Additionally, access to places of detention has become increasingly restricted over the past few years.

Brazil signed the OPCAT on 13 October 2003 and ratified on 12 January 2007.

NPM process

In June 2006, the APT and the Brazil Office of the Center for Justice and International Law (CEJIL) convened a seminar in Sao Paulo to promote OPCAT ratification and advance discussions on the NPM. A background paper was commissioned to a Brazilian academic, Fernando Salla, to conduct an overview of the most relevant existing monitoring bodies in Brazil in light of the NPM standards set forth in the OPCAT. Both the background paper and the seminar participants concluded that despite the plethora of commendable

existing monitoring efforts throughout the country, they were beset by serious short-comings, including working in relative isolation. For this reason, they strongly recommended that a new body be created as NPM. They also recommended that debates and provisions about implementation should begin even before ratification is completed.

Since Nigel Rodley's visit to Brazil, which made a considerable public impact, the *Secretaría de Derechos Humanos* (the Human Rights Department of the Presidency) has spearheaded frequent initiatives to combat torture, including a national campaign on the matter which has been launched on a number of occasions. The Department's Permanent Commission to Combat Torture is coordinating current efforts, which include promoting OPCAT ratification and paving the way towards OPCAT implementation. Regarding the latter, the Commission has reprinted and distributes 5,000 copies of the APT publication "*Monitoring Places of Detention: a practical guide*" and to organized a training based on this material. It was also established by decree (signed by the President on 26 June 2006) an inter-ministerial committee with the dual objectives of supervising the *Secretaría's* pilot project to combat torture in eight states and to promote debate on the NPM. The Committee has met several times since its creation.

Updated on 17 January 2007.

Chile

Population:	16,134,219
Area (sq km):	756,950
Prison population:	39 916
Number of prisons:	149
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Chile is marked by its unusually long (4,200 km.) and narrow (average 177 km.) geography. Politically, the negotiated transition to democracy has been characterized by relative stability and prosperity, as well as concessions to the Pinochet regime which ruled the country from 1973 to 1990, including an amnesty law for violations committed during this period. The human rights movement is very much centred on the systematic violations of the past, with relatively little attention to current abuses, including against persons deprived of liberty. The prison population in Chile has tripled since the 1980s without a corresponding increase in investment, resulting in severe overcrowding and deteriorating conditions; the democratic governments have responded through privatization schemes.

Chile signed the OPCAT on 6 September 2005, several months after the publication of the report of the National Commission on Political Imprisonment and Torture. The report's revelation of the extent and brutality of the practice of torture under the Pinochet regime shocked the Chilean society. President Bachelet, herself a torture survivor, took office in March 2006. The death of Pinochet on 10 December 2006, International Human Rights Day, revealed deep existing divisions in Chilean society.

President Bachelet included OPCAT ratification in the Presidential Plan of Action, a pledge repeated publicly on several occasions. The ratification of human rights instruments is the central course of her human rights policy. The OPCAT was transmitted to the Chamber of Deputies for approval in October 2006 as a matter of "simple urgency". It has so far been approved by the Commission on Foreign Relations of the Chamber of Deputies.

Compared to other Latin America countries, prisons and other places of detention in Chile are less open to outside scrutiny. The judiciary is the public institution with the greatest presence in prisons, but its role is primarily limited to the defence of specific individuals rather than control of the system as a whole. Human rights NGOs closely monitored the fate of political prisoners under Pinochet, but few examine existing detention conditions. Members of the judiciary and the academic sector have taken the most active interest in the prison system. In particular, the Diego Portales University has published yearly report on prison conditions since 2003. Nevertheless, its access to the establishments has become progressively restricted and authorities have dismissed their findings questioning their research methodology.

NPM process

Chile is one of the few countries in Latin America without a national human rights institution. For some 20 years, civil society organizations have pressed for the establishment of a *Defensoría del Ciudadano* ("Citizen's Defender"), with a mandate to protect human rights and review complaints against public officials. Presumably, the role of NPM could potentially fall under the auspices of the *Defensoría* if and when it is created.

For its part, the Bachelet government has stated that the creation of a national human rights "institute", with a mandate to promote human rights and deal with the legacy of violations under Pinochet, is one of its priorities. The government presented a draft bill to Congress to create the "institute", and the legislation is currently being debated by Congress. While the separate *Defensoría* proposal remains under consideration by the executive government, it appears that the creation of the "institute" is being treated as a higher priority. The report of the Commission of Foreign Affairs of the Chamber of Deputies which approves OPCAT suggests that the soon-to-be-established National Human Rights Institute assume the role of NPM.

The APT organized a delegation of experts to visit Chile in May 2006 to promote implementation of the recommendations of the UN Committee

against Torture (CAT), as well as OPCAT ratification and implementation. A report was published in September 2006. A follow-up seminar focusing on OPCAT ratification and implementation process was held on 14 December 2006.

Updated on 17 January 2007.

Costa Rica

Population:	4,075,261
Area (sq km):	51,100
Prison population:	7782
Number of prisons:	26
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

In a region ravaged by warfare and poverty, this small Central American country with no standing army prides itself for its relatively fair distribution of wealth and sturdy democratic institutions. This self-image suffered a strong blow when two former presidents were imprisoned on corruption charges in 2004. The Noble Laureate Oscar Arias returned for a second term in office following contested presidential elections in February 2006, with pledges to promote free trade agreements. Costa Rican prisons are not exempt from overcrowding and inadequate conditions which plague all Latin American countries; detention facilities for migrants are particularly problematic.

Traditionally the seat of numerous regional human rights and development organizations, NGOs working locally in Costa Rica focus primarily on concerns about the environment, labour law, children and migrant rights. The *Defensoría de los Habitantes* (Ombudsman Office) established by law in 1992 to protect the rights and interests of its inhabitants and to control the adequate functioning of the public sector, enjoys a relatively high level of public legitimacy despite questions from time to time about the choice of given individuals to head the institution. The *Defensoría* has an established program for monitoring all types of detention facilities (including centres for migrants and psychiatric hospitals), sometimes jointly with other public officials including judges for the supervision of prison sentences. The latter, although insufficient in terms of numbers, have the formal authority to dictate significant institutional changes.

Costa Rica was the second State to sign the OPCAT on 4 February 2003, followed by ratification on 1 December 2005. Costa Rica presented the first proposal for an Optional Protocol to the UN in 1980 and then again in 1991, eventually presiding over the Working Group established to negotiate the text during most of its ten-year existence. Mr. Victor Manuel Rodriguez Recsia of

Costa Rica was elected as a member of the international UN Subcommittee on 18 December 2006 for a two-year term.

NPM process

A decree to designate the *Defensoría de los Habitantes* as NPM was published in the official bulletin on 19 February 2007. The decree makes reference to the existing legal mandate of the *Defensoría* to protect human rights, as well as to the practice of the *Defensoría* of periodically visiting places of detention since its establishment in 1992. Furthermore, it refers to a formal note of the *Defensoría* accepting this designation as NPM on the condition of receiving adequate resources. This acceptance was necessary by virtue of the *Defensoría*'s autonomous status.

The decree states that until this designation is endorsed through legislation, the *Defensoría* will fulfill the role of NPM through the regular visits that it already conducts. It also states that the NPM will visit places of detention under the Ministry of Justice and the Ministry of Public Security, Interior and the Police, a definition more restrictive than the text of the Protocol.

In addition to conducting regular visits under the OPCAT, the *Defensoría* plans to ensure an adequate budget for its visits, as well as the approval of legislation to endorse its designation as NPM.

With respect to the process leading to the designation of the MNP, this was led by the Ministry of Foreign Affairs. Despite Costa Rica's decisive leadership role on the OPCAT in the international arena, at a national level, the issue has received surprisingly little attention.

Updated on 22 February 2007.

Guatemala

Population:	12,293,545
Area (sq km):	108,890
Prison population:	7227
Number of prisons:	17
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Guatemala's identity is strongly linked to the Mayan peoples, which account for over half the population. Deep-rooted poverty and historic oppression of the indigenous population led to a 36-year civil war, which ended in 1996. Over 20,000 people, mostly civilians, were killed or disappeared during the conflict. Current President Oscar Berger, who represents the country's agricultural and banking elite, was elected in 2003 with pledges to implement the peace accords and to fight crime, corruption and poverty. Like other Latin American countries, Guatemala is caught in a spiral of responding to public demands for firmer measures to combat perceived insecurity, placing further strain on the already overstretched criminal justice and prison system. The general elections of 2007 will no doubt be contested, with some 19 political parties vying for registration so far.

Guatemala signed the OPCAT on 23 September 2003. As early as July 2003, the Treaty Unit of the Ministry of Foreign Affairs had referred the OPCAT to concerned ministries and institutions (*Ministerio Público, Procuraduría de Derechos Humanos and Ministerio de Gobernación*), receiving favourable opinions from all by October 2004. Due to bureaucratic oversight, however, the file was not forwarded to congress until one year later, in October 2005.

In Congress, the Commission on Foreign Affairs has not pressed forward with the OPCAT. Further, none of the political parties in the fragmented Congress is strong enough to impose its agenda. Nevertheless, pressure appears to be mounting. In May 2005 the UN Committee against Torture (CAT) urged Guatemala to give serious consideration to OPCAT ratification. The Office in Guatemala of the UN High Commissioner for Human Rights recently signed an agreement of understanding with the congress to advise on the ratification of human rights treaties, including the OPCAT.

The civil war left a legacy of vibrant though beleaguered human rights organizations, which continue to address ongoing human rights concerns including torture and ill-treatment. The *Procurador de los Derechos Humanos* (Ombudsman) established a specialized department in 1998 to respond to the constant human rights violations and marginalization of people deprived of liberty. In addition to promotion and advocacy work, they conduct verification visits to detention facilities for both remand and condemned prisoners.

Leading civil society institutions (*Oficina del Arzobispado para los Derechos Humanos de Guatemala* and the Guatemalan Institute of Comparative Penal Studies) have joined forces with the Procurador and the Institute of Public Defense (*Instituto de Defensa Pública Penal*) to form a working group on prevention (*mesa de prevención*) to lead the ratification campaign at the national level.

Their concerted advocacy efforts on the OPCAT have kept the ratification process in motion. In particular, the presence of international organizations (the Rehabilitation Center for Victims of Torture and the APT) at the 2nd annual seminar on torture prevention in October 2005 was the catalyst for forwarding the bill from the executive to the legislative assembly for approval. The Swiss Embassy in Guatemala has also been supportive of the national OPCAT campaign. Currently the ratification bill is still under the Foreign Affairs Parliamentary Commission.

NPM process

In November 2006, the Presidential Commission of Human Rights (COPREDEH), jointly with the UN Office of the High Commissioner for Human Rights in Guatemala, organised a workshop to launch the discussion phase on OPCAT implementation and NPM establishment. The COPREEH, local human rights NGOs, and the APT and RCT, as well as the prison unit of the *Procuraduría de Derechos Humanos*, the Institute of Public Defence and the OHCHR participated to the debates. A working group has been set up that includes the *mesa de prevención*, plus COPREDEH that will lead the process to continue the discussions on the establishment of the NPM.

Updated on 17 January 2007.

Honduras

Population:	7,326,496
Area (sq km):	112,090
Prison population:	11 589
Number of prisons:	24
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Honduras, one of the least developed and least secure countries in Central America, has been plagued by endemic poverty, military rule and natural disasters. The lack of opportunities, particularly for the youth (half the

population is under 19 years-old), account for the emigration of thousands to the United States each year and the emergence of a virulent youth gang culture known as “*maras*”. These criminal factions dominate the overcrowded, corrupt and violent prison system. Manuel Zelaya of the Liberal Party won the Presidential elections in November 2005 by a narrow margin, promising to crack down on crime by doubling the number of police officers and jailing murderers and rapists for life.

The *Centro para la Prevención, el Tratamiento y la Rehabilitación de Víctimas de la Tortura* (CPTRT), a long-time partner of the Copenhagen-based Rehabilitation Centre for Victims of Torture (RCT), campaigned actively to ensure OPCAT ratification. In addition to its rehabilitation activities, this national NGO monitors the country’s prisons and police stations, sometimes jointly with public prosecutors, defending individual cases and producing reports on conditions of detention and treatment of detainees. For his part, the *Comisionado Nacional de Derechos Humanos* (Ombudsman) considers the right to life and physical integrity the central axis of his mandate to promote and protect human rights. In this context, he also promoted OPCAT ratification, rendering a formal favourable legal opinion on the matter on 30 July 2003.

Honduras signed the OPCAT on 8 December 2004, and after a suspension of progress during elections, deposited its ratification on 23 May 2006. This ratification, together with Bolivia’s on the same day, led to the OPCAT’s entry-into-force on 22 June 2006.

NPM process

As part of its OPCAT advocacy efforts, the CPTRT has been working strategically towards opening up the debate on the NPM designation. The NGO convened, jointly with the Human Rights Department of the Public Prosecutor’s Office (*Fiscalía de Derechos Humanos del Ministerio Público*), a one-day roundtable on 20 March 2006 to discuss the implications of OPCAT implementation for Honduras. Some sixty participants, including officials from law enforcements agencies, attended the event at the UN headquarters in Tegucigalpa with the support of the UN Development Program.

A task force, led by the CPTRT and the Prosecutor’s Office, was created to follow-up. They would like to get other relevant actors on board in order to create a working group as legitimate and representative as possible. This group would then draft NPM proposals to submit to the government following consultation with a broader group of concerned actors. For this purpose, the task force met in May 2006 with the Ombudsman Office, which asserts to have already put together a comprehensive visiting strategy to cover the entire national territory and, presumably, implement the OPCAT. The terse relation between this national human rights institution and the leading NGO on torture prevention and their respective interests will weigh heavily on the NPM designation process.

Mexico

Population:	107,449,525
Area (sq km):	1,972,550
Prison population:	214 450
Number of prisons:	457
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Mexico, a federal state of 90 million inhabitants, is deeply influenced by its rich indigenous and colonial heritage and its 3000 km border with the United States. The Institutional Revolutionary Party (PRI) ruled Mexico for over seventy years, and was once described as a “perfect dictatorship” under the guise of democracy. Its hegemony was broken with the presidential elections of 2000, following which the administration of Vicente Fox pursued a progressive human rights agenda abroad, but fell short of expectations to impose an ambitious reform program domestically.

The Special Prosecutor designated to investigate crimes during the “dirty war” of the 1970s did not reach conclusive results. Torture remains commonplace within the criminal justice system. The prison system suffers from chronic overcrowding and under-funding. Following contested presidential elections and amidst mounting political and social unrest, Felipe Calderón, of the ruling conservative PAN party, was sworn into office on 1 December 2006.

The Mexican human rights movement is in a moment of transition, recovering from the departure of numerous activists to public institutions and having to shift from a traditionally adversarial stance to one of more constructive collaboration with authorities. The denunciation of torture is a priority issue for many NGOs, some of which conduct monitoring activities, mostly at a local level in the states. The National Human Rights Commission (CNDH) also has a program to monitor detention facilities throughout the country. Created in 1992 to appease mounting international criticism of the human rights situation, the CNDH is the largest institution of its type in the world, but has been strongly criticized by the human rights community for lack of effectiveness. Each state also has a local human rights commission, with varying degrees of autonomy and impact.

Mexico signed the OPCAT on 23 November 2003 and ratified on 11 April 2005. During the OPCAT negotiations at the UN, Mexico’s proposal of the

concept of national preventive mechanisms helped end a critical impasse in the final rounds of negotiations. Ratification was given political weight through a public announcement by President Fox, who also announced that torture was a problem of the past, causing public outcry. Mr. Miguel Sarre Iguiniz of Mexico was elected as a member of the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four-year term.

NPM process

A two-year consultation process on the NPM has been led by the UN Office of the High Commissioner for Human Rights in Mexico, in collaboration with the Ministry of Foreign Affairs and the APT. The European Commission funded project consists of the organization of four seminars to place in different parts of the country during 2005 and 2006. The objective is to inform and discuss amongst relevant actors the implications of OPCAT implementation in the Mexican context and, based on these conclusions, design and negotiate the NPM. The first seminar took place in Mexico City from 12-15 July 2005, the second in the state of Guanajuato from 10-11 October 2005 and the third in the state of Querétaro from 29-31 May 2006. Representatives of relevant ministries and public institutions, as well as NGOs, from the hosting state and national entities, have participated.

Participants in the seminars have come to an agreement of sorts that the reaches of the NPM are too great to be taken on by a single institution and that a “mixed” mechanism with the involvement of the CNDH, the state human rights commissions and civil society groups would be the most favourable option. Nevertheless, the structure of such a model and its concrete implications has not yet been elaborated. Furthermore, the relevant actors have a history of mutual suspicion and lack of collaboration.

In preparation for the fourth and final event, scheduled to take place on 28 March 2007, the OHCHR is hiring consultants to produce three analytical papers on specific concerns related to the establishment of an NPM in Mexico (1. the “institutional location”, design and the legal framework required for the NPM – this paper will include three proposals; 2. access to the information; 3. management, use and transfer of individual complaints). These background documents will feed the process and discussions the fourth and final seminar which should reach conclusions about the design of the NPM.

The ultimate decision on the NPM still rests with the Ministry of Foreign Affairs which should take the conclusions of the seminars into consideration.

Updated on 17 January 2007.

Paraguay

Population:	6,506,464
Area (sq km):	406,750
Prison population:	6000 ¹
Number of prisons:	16 ²
Police stations:	?
Psychiatric institutions:	1
Immigration detention centres:	?
Military detention facilities:	40

Background

Paraguay, the only officially bilingual country in South America (Spanish and Guaraní), is a country punished by wars and largely ignored by international public opinion. The country was ruled by the military dictatorship of Alfredo Stroessner for over thirty years (1954-1989), the longest of the region. The transition to democracy has been overshadowed by political instability and the hegemony of the *Colorado* political party. The human rights policies advanced by democratic governments have been characterized by an attempt to break with the legacy of the past, including profound constitutional, legislative and institutional reforms and the creation of a Truth and Justice Commission.

Despite this remarkable formal progress, widespread poverty, corruption and abuse persist. In its concluding observations on Paraguay's second periodic report, the UN Committee on Human Rights noted concern about the excessive use of force by security forces and prison staff, continuing allegations of torture without prosecutions, the recruitment of children for military service and overcrowding and unsatisfactory conditions in prisons. The UN Special Rapporteur on Torture, Manfred Nowak, visited the country in November 2006, concluding that prisons are extremely overcrowded and that torture is still common during the first days of police custody. President Nicanor Duarte, who took office in April 2003, has been described as a populist grass-roots politician who has had to confront a rising crime rate and increased number of landless families.

Paraguay has three inter-institutional commissions that conduct visits to places of detention: one for military barracks, one for detention centres for minors and one for adult prisons. At least the last two commissions publish yearly reports with recommendations based on their visits to all prisons throughout the country. These commissions count on the active participation of NGOs, members of parliament and representatives of some ministries, amongst other relevant actors. Through their work, the commissions have

¹ La comisión interinstitucional de visita y monitoreo a centros de reclusión de adolescentes en Paraguay: "2001-2005, abogacía para un mejoramiento de las condiciones de reclusión de los adolescentes".

² Ibid.

progressively increased awareness about the problems of persons deprived of liberty and gained legitimacy as interlocutors for helping to find solutions.

Over twenty human rights NGOs have grouped together under an active and professional network (CODEHUPY) which deals with issues of torture and ill-treatment of both the past and the present, including through the publication of an annual report. Although human rights organizations advocated actively for the establishment of an Ombudsman Office (*Defensoría del Pueblo*), they have been vocally disappointed with the officeholder since the institution was created in 2001. The institution conducts visits to places of detention independently and as part of the inter-institutional commissions described above.

Paraguay signed the OPCAT on 22 November 2004 and ratified the instrument on 2 December 2005, in line with its policy of ratifying all major international human rights instruments.

NPM process

The Ministry of Foreign Affairs and the NGO Network CODEHUPY hosted with the APT a workshop to analyze the OPCAT in the Paraguayan context and to identify the necessary steps for designating a comprehensive national preventive system. The meeting took place on 23 and 24 November 2006, in parallel to an official visit by UN Special Rapporteur on Torture, Manfred Nowak. Participants of the meeting elected by consensus a Working Group of 13 people from state institutions and civil society to draft an NPM proposal by 31 March 2006. The Working Group, which meets regularly, has so far agreed to establish the NPM by law and that the NPM should be autonomous of the three branches of the State. The model is likely to draw inspiration from the experience of Inter-institutional Commissions Visiting Places of Detention.

Updated on 17 January 2007.

Peru

Population:	28,302,603
Area (sq km):	1,285,220
Prison population:	35,642
Number of prisons:	82
Police stations:	?
Psychiatric institutions:	
Immigration detention centres:	?
Military detention facilities:	

Background

A country of great natural resources and rich cultural heritage, Peru is also deeply divided socially and economically: a small elite of Spanish descent

control most wealth and power, while the excluded indigenous population live largely in poverty. During most of the 1980s and 1990s, the country underwent a grave internal armed conflict between the Peruvian State and two armed opposition groups (Shining Path and Tupac Amaru). President Alberto Fujimori (1990 – 2000) responded with a strong authoritarian hand, dissolving most democratic institutions with the support of the military. A Truth and Reconciliation Commission was established in 2001 to investigate widespread violations perpetrated largely against indigenous and rural communities during this period. Its findings included disappearances, extrajudicial executions, violations of due process and acts of torture and ill-treatment committed by State officials, as well as killings and physical attacks by rebel groups. Fujimori fled the country in 2000 (he is currently detained in Chile, awaiting extradition charges for corruption and human rights violations), opening the way for a transition marked by the unpopular and failed economic and social programmes of Alejandro Toledo. This led the way for the political comeback of Alan García, who took office in July 2006, 16 years after his previous term of government was mired by hyperinflation and violence.

The *Defensoría del Pueblo* (Ombudsman Office) was established in 1993 under the Constitution to promote and protect the rights of people and communities and to supervise the public administration. The *Defensoría* was one of the democratic strong-holds during the Fujimori years. The *Defensoría* has two separate programmes to promote and protect the rights of persons deprived of liberty and to supervise their detention: one for police custody and another for penitentiaries. Peru also has a vibrant and organized human rights community which has come together under one of the most effective human rights NGO networks in the region: the *Coordinadora Peruana de Derechos Humanos*.

Peru ratified the OPCAT on 14 December 2006.

NPM process

Five human rights organizations belonging to the *Coordinadora Peruana de Derechos Humanos* formed in 1996 a Working Group against Torture to draft an NPM proposal. They proposed that the *Defensoría del Pueblo* (National Human Rights Institution) be designated NPM with a channel of involvement by civil society. The *Defensoría del Pueblo* accepted this role. The proposal is currently under the consideration of the Ministry of Justice.

Updated on 17 January 2007.

Uruguay

Population:	3,431,932
Area (sq km):	176,220
Prison population:	6947

Number of prisons:	24
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

With a population of less than 4 million, Uruguay is one of the smallest countries in South America. The country, which has one of the more advanced education and social security systems of the region, is also one of the more egalitarian, although it is currently recovering from the deep economic crisis of 2002. From 1973 to 1985, Uruguay was ruled by a military regime, whose predominant form of repression was imprisonment and torture, although the extent of the practice has never been officially investigated or acknowledged, and an amnesty law largely prevents prosecution.

Uruguay had been dominated by a two-party system for over 180 years until the historic election of Tabere Vazquez, of the Broad Front coalition, in March 2005. Amongst the most pressing issues on the human rights agenda of the current administration are allowing excavations of the remains of persons disappeared during the military regime and responding to the crisis in prisons. Prisons in Uruguay, which still depend on the Ministry of Interior, are severely overcrowded and deficient, leading the current government to declare a “humanitarian emergency”. Nevertheless, public anxiety about insecurity has somewhat tied the hands of authorities in ambitious plans to liberate prisoners.

Unlike most traditional human rights organizations in the region which focus principally on gross violations during the military regimes, the leading human rights NGOs in Uruguay, notably IELSUR and SERPAJ, have made monitoring prison conditions an institutional priority for nearly two decades, including the publication of yearly reports. Nevertheless, in recent years this capacity has been largely debilitated by resource limitations.

They also promoted the establishment of three inter-institutional Working Groups to monitor places of detention with active parliamentary involvement (*Grupo de Trabajo sobre el Sistema Carcelario Nacional* August 1990 - 2000; *Comisión Honoraria para el Mejoramiento de la Situación Carcelaria*, 1996; *Grupo Tripartito de Trabajo para el Mejoramiento del Sistema Carcelario*, March 2002 - 2004).

The practice of parliamentary involvement in monitoring was formalized through the creation of a Parliamentary Commissioner for Prisons (*Comisionado Parlamentario*) in August 2003; the first Commissioner, Mr. Alvaro Garce, was named on 13 July 2005 for a five-year mandate. The functions include information-gathering on prison conditions, receiving individual complaints and the transmission of recommendations to competent authorities. He currently has a ten-person interdisciplinary staff and published his first public report in December 2006.

Discussions to establish a national human rights institution are currently underway and could be concluded within a period of one to two years. A working group presented a draft proposal on 10 December 2006. The proposal foresees an autonomous five-person commission to be designated by parliament with a mandate of advancing human rights policy and channelling denunciations.

Uruguay signed the OPCAT on 12 of January 2004 and ratified on 8 December 2005. Mr. Wilder Tayler of Uruguay was elected as a member of the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four-year term.

NPM process

During the OPCAT ratification process, relevant ministries and parliamentarians indicated that the Parliamentary Commissioner would fulfil the requirements of the NPM. Nevertheless, no formal technical analysis of the mandate in light of OPCAT obligations has been conducted or an official designation taken place. NGOs for their part, and particularly SERPAJ, advocate for some level of civil society involvement in the NPM. Matters are complicated by the lack of collaboration between these two leading actors.

The Ministry of Foreign Affairs and the APT organized a forum to advance debate and bring relevant actors to the negotiating table, which took place on 21 and 22 November 2006. As a result of this event, a smaller inter-ministerial meeting was convened on 19 January 2006, where a decision was taken to create a Working Group by presidential decree to define the NPM, which will meet for the first time on 15 February 2007. Members of the three branches of the state (including the Parliamentary Commissioner) and civil society should participate. The Human Rights Department of the Ministry of Education and Justice is coordinating the initiative and NPM designation.

Models advanced thus far include giving the NPM role to those already doing monitoring work, including the *Comisionado Parlamentario* and NGOs. Another option proposed is to include the NPM role in the draft law to create an National Human Rights Institution.

Updated on 17 January 2007.

Asia-Pacific

Cambodia

Population:	13,881,427
Area (sq km):	181,040
Prison population:	8160
Number of prisons:	27
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Following Japanese occupation in World War II, Cambodia gained full independence from France in 1953. In April 1975, after a five-year struggle, Communist Khmer Rouge forces captured Phnom Penh and evacuated all cities and towns. At least 1.5 million Cambodians died from execution, forced hardships, or starvation during the Khmer Rouge regime under Pol Pot.

A December 1978 Vietnamese invasion drove the Khmer Rouge into the countryside, began a 10-year Vietnamese occupation, and touched off almost 13 years of civil war. The 1991 Paris Peace Accords mandated democratic elections and a ceasefire, which was not fully respected by the Khmer Rouge. UN-sponsored elections in 1993 helped restore some semblance of normalcy under a coalition government. Factional fighting in 1997 ended the first coalition government, but a second round of national elections in 1998 led to the formation of another coalition government and renewed political stability. The remaining elements of the Khmer Rouge surrendered in early 1999. Some of the remaining leaders are awaiting trial by a UN-sponsored tribunal for crimes against humanity. Elections in July 2003 were relatively peaceful, but it took one year of negotiations between contending political parties before a coalition government was formed.

The General Commissariat of the National Police, which is under the supervision of the Ministry of the Interior, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those who do not have such authority, and the judicial police. Military police are permitted to arrest civilians only when authorized by local governments. The law prohibits torture and physical abuse of prisoners; however, beatings and other forms of physical mistreatment of prisoners continue to be reported, including that military and civilian police officials use physical and psychological torture and severely beat criminal detainees, particularly during interrogation.

Prison conditions remained harsh, and government efforts to improve them continue to be hampered by a lack of funds and weak enforcement. Human rights organizations cite a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security.

The US State Department reports that as of 2005, the government generally allowed international and domestic human rights groups to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. For example, human rights NGOs were not given access to investigate an incident surrounding an attempted escape in March at the Trapoeung Phlon Prison until five months after it occurred. The Ministry of Interior continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The Ministry withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private. Nevertheless, several Cambodian NGOs monitor most of the prisons.

NPM Process

No information

Updated on [].

Korea (Republic of)

Population:	48,846,823
Area (sq km):	98,480
Prison population:	45 882
Number of prisons:	47
Police stations:	220
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

South Korea is a republic with powers shared between the presidency, the legislature and the judiciary. The country has nine provinces and seven administratively separate cities--the capital of Seoul, along with Busan, Daegu, Daejeon, Gwangju, Incheon and Ulsan. Political parties include the Uri Party (Uri), , Grand National Party (GNP), Democratic Labour Party (DLP), Democratic Party (DP), and People Centered Party (PCP).

In December 2002, President Roh Moo-hyun was elected to a single 5-year term of office. The next presidential election is scheduled for December 2007. In the April 2004 elections, the ruling Uri Party won a slim, but outright

majority in the National Assembly. Because of the loss of seats in by-elections and as a result of convictions for election law violations, Uri no longer has a majority, but does retain a plurality of seats.

The Korean National Police Agency (KNPA) is under the Ministry of Government Administration and Home Affairs. The approximately 93 thousand-member force has a national headquarters in Seoul, 5 special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices..

In 2004 the Ministry of Justice implemented several reforms aimed at addressing abuse in prisons. These reforms included the prohibition of facemasks, restrictions on the use of long chains, and limitations on the amount of time an inmate could be kept in solitary confinement.

The Korean Human Rights Commission carries out visits to prisons throughout the country.

NPM Process

The National Human Rights Commission promotes ratification of OPCAT and states it is “confident” it has the “ability to serve” as NPM.

Updated on [].

Maldives

Population:	359,008
Area (sq km):	300
Prison population:	1125 ³
Number of prisons:	9
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Maldives was long a sultanate, first under Dutch and then under British protection. It became a republic in 1968, three years after independence. Since 1978, President Maumoon Abdul Gayoom - currently in his sixth term in office - has dominated the islands' political scene. Following riots in the capital Male in August 2004, the president and his government have pledged to embark upon democratic reforms, including a more representative political

³ Includes sentenced prisoners only.

system and expanded political freedoms. Reforms include a new constitution and legislation for the independent national human rights commission.

The 287-officer Maldives Police Service, which until September 2004 functioned as a subset of the National Security Service (NSS), investigate crimes, collect intelligence, make arrests, and enforce house arrest. Although the NSS was responsible for external security, it also retains a role in internal security. The director of the NSS reports to the minister of defence. After a visit in 2004, Amnesty International commended the government for the separation of the police from the National Security Service, the establishment of the Jail Oversight Committee, and the establishment of the Public Complaints Bureau. However, it noted that ill-treatment of detainees continued, particularly by the National Security Service.

As of 2005, the government permitted prison visits by foreign diplomats, the ICRC, and the Maldives Human Rights Commission (MHRC).

NPM Process

No Information.

Updated on [].

New Zealand

Population:	4,076,140
Area (sq km):	268,680
Prison population:	7620
Number of prisons:	20
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Polynesian Maori reached New Zealand in about A.D. 800. In 1840, their chieftains entered into a compact with Britain, the Treaty of Waitangi, in which they ceded sovereignty to Queen Victoria while retaining territorial rights. In that same year, the British began the first organized colonial settlement. A series of land wars between 1843 and 1872 ended with the defeat of the native peoples. The British colony of New Zealand became an independent dominion in 1907.

The police commissioner, appointed by the governor general, is the chief executive of the police force and reports to the minister of police. A board of commissioners, consisting of the commissioner and two deputy

commissioners, is responsible for high-level leadership and makes decisions on police strategy, governance, and performance management. The police are organized into 12 districts. There are three operational branches: general duties, criminal investigation, and traffic safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament.

Prison overcrowding remains a problem. In June 2004 Parliament passed a new corrections act, which came into force in June 2005. The objectives of the act were to eliminate private management of prisons, establish individual management plans for prisoners, and make prisoners' minimum entitlements more consistent with UN standards. The government permits visits by human rights observers

While discrimination is prohibited by law, Maori, Moriori and Pacific Islanders face a variety of social and economic challenges, and make up a percentage of the prison population disproportionate to their percentage in the population. For instance, approximately 15 percent of New Zealand's population claim at least 1 ancestor from the country's indigenous Maori or Moriori minorities. However, Maori constitute half the prison population

NPM Process

New Zealand will implement the OPCAT primarily by designating a mosaic of existing visiting mechanisms, though its implementing legislation also allows for the establishment of new mechanisms. The Minister of Justice will designate a number of NPMs pursuant to new legislation. The Minister of Justice will also be empowered to designate a central national preventive mechanism (which will likely be the Human Rights Commission), to coordinate the investigation of systemic issues that fall across all places of detention in New Zealand, make appropriate recommendations to the government about such issues and coordinate the reports of the individual national preventive mechanisms. The other NPMs will carry out visits, advise the Commission and provide appropriate information when requested on the outcome of their inspections.

It appears from the proposed legislation that the government intends to designate the following existing bodies as NPMs (while leaving open the possibility of designating other bodies in addition to or in place of the listed existing bodies):

- Ombudsmen,
- The Police Complaints Authority,
- The Children's Commissioner,
- Health Care Services auditors,
- Armed Forces visiting officers.

The legislation will describe the functions and powers of NPMs. Parliament considered it convenient to enact this legislation in the form of amendments to

the Crimes of Torture Act 1989, which had been adopted to give effect to New Zealand's obligations under the Convention against Torture (together with consequential amendments to the constituent legislation of some of the existing mechanisms). New legislation will require all institutions designated as part of the NPM to produce a publicly accessible annual report on the exercise of their functions under the OPCAT.

In carrying out its functions the Central Preventive Mechanism must consult and liaise with the National Preventive Mechanisms, review the reports prepared by the National Preventive Mechanisms, and coordinate the submission of those reports to the Subcommittee. Flowing from these tasks, the Central National Preventive Mechanism is responsible for advising National Preventive Mechanisms of any systematic issues arising from those reports and making any recommendations to the Government it considers appropriate on any matter relating to the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention in New Zealand.

The APT had specific concerns with some aspects of the proposed legislation to implement the NPM scheme, and so provided written submissions to the relevant Committee of the New Zealand Parliament in May 2006. The main concern is that the legislation allows the Minister of Justice unilaterally to “un”-designate any NPM or to change its powers or mandate in respect of particular places of detention. This aspect of the legislation seems inconsistent with the OPCAT's requirement of functional independence. It remains to be seen whether the designations the Minister ultimately makes will succeed in covering all “places of detention” in New Zealand as defined under the OPCAT.

Updated on [].

Timor-Leste

Population:	1,062,777
Area (sq km):	15,007
Prison population:	320
Number of prisons:	3
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Portuguese colonized the island of Timor during the 16th, eventually ceding the western part of the island to the Dutch under an 1859 treaty. Portugal resumed colonial authority after three years of Japanese occupation during World War II. East Timor declared itself independent from Portugal on

28 November 1975 and was invaded and occupied by Indonesian forces nine days later. It was incorporated into Indonesia in July 1976 as the province of East Timor. During the subsequent period an estimated 100,000 to 250,000 individuals lost their lives.

On 30 August 1999, in a UN-supervised popular referendum, an overwhelming majority of the people of East Timor voted for independence from Indonesia. Between the referendum and the arrival of a multinational peacekeeping force in late September 1999, anti-independence militias - organized and supported by the Indonesian military - commenced a large-scale, scorched-earth campaign of retribution. The militias killed approximately 1,400 Timorese and forcibly pushed 300,000 people into West Timor as refugees. The majority of the country's infrastructure, including homes, irrigation systems, water supply systems, and schools, and nearly 100% of the country's electrical grid were destroyed. On 20 September 1999 the Australian-led peacekeeping troops of the International Force for East Timor (INTERFET) deployed to the country and brought the violence to an end. On 20 May 2002, East Timor was internationally recognized as an independent state. Renewed instability followed violent protests and actions in mid 2006.

The national police commissioner oversees the Policia Nacional de Timor-Leste (PNTL) and is responsible to the civilian minister of interior. Each of the country's 13 districts has a district commander who reports to the office of the national police commissioner. The PNTL comprises approximately 3,300 members, including specialized units. It remains poorly equipped and undertrained. The US State Department reports that the government generally respects the prohibition against torture, but that during 2005 there were incidents of cruel or degrading treatment by police officers

The US State Department reported that as of 2005, prison conditions generally met international standards and that the government permitted prison visits by the International Committee of the Red Cross and independent human rights observers.; however, prison facilities were deteriorating, and there were reports of undisciplined behaviour and abuse by prison guards.

NPM Process

No Information.

Updated on [].

Europe and Central Asia

Albania

Population:	3,581,655
Area (sq km):	28,748
Prison population:	3491
Number of prisons:	13
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Between 1990 and 1992 Albania ended 46 years of Communist rule and established a multiparty democracy. The transition has proven challenging as successive governments have tried to deal with high unemployment, widespread corruption, a dilapidated physical infrastructure, powerful organized crime networks, and combative political opponents. Albania has made progress in its democratic development since first holding multiparty elections in 1991, but deficiencies remain. In the 2005 general elections, the Democratic Party and its allies won on pledges of reducing crime and corruption, promoting economic growth, and decreasing the size of government. Although Albania's economy continues to grow, the country is still one of the poorest in Europe, hampered by a large informal economy and an inadequate energy and transportation infrastructure.

Local police units report to the Ministry of the Interior and are the main force responsible for internal security. The military has a special 90-person commando unit, which operates in an antiterrorist role under the minister of defense. The law allows the minister of interior to request authority over this unit during a domestic crisis. The Albanian State Police (ASP) employed approximately 12 thousand officers.

The US State Department in 2006 reported that the government permitted international human rights observers to visit both pre-trial detention centres and prisons, and that it had not received reports of refusals to permit access for inspections by domestic independent human rights monitors. The OSCE also visited prisons during 2005 as did the European Committee for the Prevention of Torture.

NPM Process

According to the examination of Albania's initial report by the UN Committee against Torture, the Albanian authorities have organized a series of seminars to raise public awareness about the Optional Protocol and to identify possible actors for the national mechanisms to be put in place once it enters into force. This information was corroborated at a meeting with a representative of the Permanent Mission of Albania to the UN in Geneva in May 2005. However, at that time the Albanian representative had no concrete idea about how Albania would implement the OPCAT in practice. Nevertheless, the country has an Ombudsman's Office which has powers to visit a range of places of detention, whose mandate and authority were modified in 2005. According to the UN document, Comments by the Government of Albania to the conclusions and recommendations of the Committee against Torture (CAT/C/CR/34/ALB), Albania stated that it had implemented the recommendation by the UN Committee to allow regular and unannounced visits to places of detention. The report stated:

"14. This recommendation which is directly linked with the Ombudsman has been fully implemented. The Law No. 8454, dated 02.04.1999 on the Ombudsman has been changed to the Law No. 9398 dated 05.12.2005 and now by Article 19/1 as follows: "The Ombudsman or the persons authorized from him have the right to enter at any time and without prior authorization, but by informing the head of the institutions, to all the institutions of the public administration, in prisons, in places where the police and prosecution keep the detainees or the arrested people, in state institutions, hospitals, asylums, orphanages or any other places where there are proofs of the violation of human rights.

15. The entry in all above-mentioned institutions can be done on account of investigating a complaint, a particular request or a certain notification and on inspection or survey grounds, upon the Ombudsman's initiative. In such cases, the Ombudsman may contact or discuss the matter confidentially with any of the detainees, without the presence of the officials.

16. "All the correspondence of the Ombudsman with the detainees should never be hindered or checked." This paragraph is the added recommendation to the Ombudsman's competences."⁴

The APT has also been in contact with the Albanian Rehabilitation Centre for Torture Victims, an affiliate of the IRCT, with a view to possibly co-organizing a national event on the implementation of the instrument in 2007.

Updated on 22 May 2007.

⁴ UN Doc. CAT/C/ALB/CO/1/Add.1, 17 August 2006 – paragraphs 14-16.

Armenia

Population:	2,976,000
Area (sq km):	29,800
Prison population:	2879
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

- information pending.

NPM Process

In the period 2005-2006 Armenia initiated the process to accede to the Optional Protocol to the UN Convention against Torture. Legislation was approved by the Armenian Parliament on 31 May 2006 and this process culminated in the Minister of Foreign Affairs of Armenia, Vartan Oskanian, formally depositing his country's ratification at the UN Treaty Event in New York on 14 September 2006.

Throughout 2005 a series of three national round-tables on the Optional Protocol were co-organized by the Armenian NGO, Civil Society Institute (CSI) (www.csi.am) and Penal Reform International's (PRI) Tbilisi Regional Office (www.pri.ge) in order to promote the instrument in the country. On two of these occasions the APT was invited to travel to Armenia in order to share its expertise with round-table participants, namely in Yerevan in May and in Sevan in November 2005. This process of promoting the instrument was particularly successful and, arguably, it would not have progressed so quickly, if there had not been an inclusive discussion on the matter between the Armenian authorities and civil society.

The NGO, Civil Society Institute, is currently in discussion with the Armenian authorities to ensure that the OPCAT is implemented effectively in practice and to identify a suitable NPM for that purpose. In addition to some NGO monitoring of places of detention, in Armenia the main two monitoring bodies are the Ombudsman's Office and the Prison Monitoring Group, which comprises NGO representatives. It is generally acknowledged that the Ombudsman's Office is the most established monitoring mechanism in the country by dint of its mandate and its authority to access a wide range of places of detention. The Prison Monitoring Group, which has access only to

prisons, has also shown itself be an effective monitoring body and has accumulated a significant amount of experience in this respect.

More recently a further body has emerged, the so-called Police Monitoring Group, but the mechanism is still in the formative stages of being established. In early November 2006 a training session was held for the mechanism's members in order to enhance their knowledge and skills to monitor places of police detention. Nevertheless, it is too early to determine whether this inspection mechanism will meet the minimum requirements for an NPM as envisaged by the OPCAT text. In March 2007 the APT also learned that certain tensions had arisen between member of the monitoring mechanism and the police authorities.

The two other mechanisms also have several shortcomings, which need to be addressed if Armenia is to effectively implement the OPCAT. These include: not all places of detention are said to be covered by the two mechanisms; the monitoring of certain detention facilities reportedly does not occur regularly and visits are reportedly often not unannounced; to varying degrees both bodies are not allocated adequate resources; there are concerns about constraints on the financial autonomy of the Ombudsman's Office; the latter body is also said to lack sufficient experienced staff; both bodies reportedly lack heterogeneous the professional composition stipulated in the OPCAT text; and both mechanisms are poorly represented regarding ethnic and linguistic minorities. Nevertheless, these shortcomings could be addressed and both mechanisms have significant strengths. It also remained to be seen whether the Armenian authorities designate the Ombudsman's Office or both mechanisms as NPMs. If the latter approach is taken it will be interesting to see how the activities of the two mechanisms will be coordinated.

In the second half of 2006 several seminars were held by CSI and PRI in order to discuss possible implementation of the OPCAT. At a meeting in Sevan on 14 September 2006 NGO, Prison Monitoring Group and Ombudsman's Office representatives discussed the implementation of the OPCAT in the country. The participants reportedly concluded that Armenia should adopt a multiple mechanism approach to the instrument. A follow-up meeting in relation to this matter was held in Sevan on 7 November 2006, which was also attended by the APT. Once again, the meeting underscored the importance of designating more than one mechanism and opted for what has become termed as the 'Ombudsman plus' model. According to this model, the Ombudsman's Office will play a dominant role in the NPM, albeit with other potential actors such as the Prison Monitoring Group.

Most recently, CSI used the six-month deadline by which Armenia should establish an independent national monitoring mechanism to kick-start discussions on the form the said body should take. To this end CSI held a workshop on 15 March 2007 in Yerevan, which was attended by representatives from the Ombudsman's Office, the former Ombudswoman, various non-governmental organizations, Police and Prison Monitoring Groups, OSCE and the British Embassy. The APT also attended this meeting in an expert capacity. The event concluded by reaching an agreement to

establish a working group – sponsored by the Ombudsman’s Office – to work more concretely on the pressing need to establish an NPM, including by possibly drafting its related statutes and legislation. The APT will continue to monitor developments in the country.

Updated on 23 March 2007.

Austria

Population:	8,192,880
Area (sq km):	83,870
Prison population:	8766
Number of prisons:	28
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Austria is a federal parliamentary democracy, with a bicameral federal assembly, and nine Länder (provincial) assemblies. Although most authority rests with the federal government, the states have considerable responsibility for welfare matters and local administration. Most areas related to OPCAT implementation are federal: police and criminal justice, for instance. Authority in regard to mental disability is also federal, but the administration of such programmes is provincial.

On 1 July 2005, the police and gendarmerie were merged into a single police force that is responsible for maintaining internal security. The restructuring reduced the country's 43 police command structures to 9, corresponding to the 9 federal states. The Ministry of Interior controls the police, while the Ministry of Defence controls the army, which is responsible for external security.

NPM Process

Like several other countries in the Europe region, Austria finds itself in a position where it has no existing visiting mechanism that could act as an NPM without undergoing considerable modification. In 2005 the Ministry of Foreign Affairs commissioned a background paper, which examined existing inspection mechanisms in Austria in the light of OPCAT to ascertain whether they fulfilled the NPM criteria and to determine what steps should be taken to effectively implement the instrument. In short, the report concluded that many of the existing bodies had significant deficits in relation to the criteria laid down in the OPCAT text.

The APT learned that in November 2006 an inter-ministerial group met for the first time to examine the implementation of the instrument. The group reportedly were in favour of reforming an existing monitoring mechanism, the Human Rights Advisory Board, in order to make it compliant with the OPCAT text. In its current form the Human Rights Advisory Board has a number of specific shortcomings in this connection, namely that it only has the mandate to enter police detention facilities and not other places of detention and that several of its members are state representatives and therefore lack the required independence. It is interesting to note that the background paper commission by the Ministry of Foreign Affairs also spoke in favour on a mechanism closely modelled on the structure of the Human Rights Advisory Board, albeit with an expanded mandate and a reformed membership. The envisaged model, like the Human Rights Advisory Board, is also likely to have a broad human rights mandate beyond the minimum activities foreseen in the OPCAT.

Updated on 11 January 2007.

Azerbaijan

Population:	7,961,619
Area (sq km):	86,600
Prison population:	18 259
Number of prisons:	52
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Azerbaijan - a nation with a Turkic and majority-Muslim population - was briefly independent from 1918 to 1920; it regained its independence after the collapse of the Soviet Union in 1991. Despite a 1994 cease-fire, Azerbaijan has yet to resolve its conflict with Armenia over the Azerbaijani Nagorno-Karabakh enclave (largely Armenian populated). Azerbaijan has lost 16% of its territory and must support some 528,000 internally displaced persons as a result of the conflict. Corruption is ubiquitous, and the promise of widespread wealth from Azerbaijan's undeveloped petroleum resources remains largely unfulfilled.

The Ministry of Internal Affairs (MIA) and Ministry of National Security (MNS) are responsible for internal security and report directly to the president. The MIA oversees local police forces and maintains internal civil defense troops. The MNS has a separate internal security force.

As of 2005, the government permitted prison visits by international and local humanitarian and human rights groups. The ICRC also had unobstructed access to prisoners of war and to civilians held in connection with the conflict over Nagorno-Karabakh. Foreign observers were allowed to enter maximum-security prisons and to meet with alleged political prisoners. On August 16, the government authorized a select group of local human rights activists to visit Ministry of Internal Affairs-run police stations and pre-trial detention facilities in addition to prisons.

NPM Process

The signature by Azerbaijan of the Optional Protocol in September 2005 had not been foreseen by the APT. During the first national meeting on the OPCAT in Baku in mid-May 2005 no indication was given by the Azeri authorities that signature or ratification was under consideration. It seems inevitable that, unless there is a radical political sea-change in the country, the Ombudsperson's Office will be designated as the NPM. According to one intergovernmental source, the Ombudsperson's Office has proven to be a relatively powerless institution which lacks independence, even though international donors had invested a significant amount of time and money into establishing the office. Various NGO actors in the country have also expressed considerable doubt about the Ombudsperson's Office's legitimacy and its ability to function as an effective institution for the defence and promotion of human rights in Azerbaijan.

In March 2007 the APT was informed that on 2 November 2006 the Ombudswoman addressed an official letter to the Azeri parliament in order to expedite the process of ratification of the OPCAT. The response to this formal address was reportedly that, according to the Constitution, the power to submit international treaties to the Parliament for ratification is vested in the President of the Republic. To date, there have been no moves in this respect on the part of the presidential administration.

Updated on 23 March 2007.

Belgium

Population:	10,379,067
Area (sq km):	30,528
Prison population:	9 597
Number of prisons:	34
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Tensions between the Dutch-speaking Flemings of the north and the French-speaking Walloons of the south led to constitutional amendments granting these regions formal recognition and autonomy. Since 1994, Belgium has been a federal state. The regional and community governments have jurisdiction over transportation, public works, water policy, cultural matters, education, public health, environment, housing, zoning, economic and industrial policy, agriculture, foreign trade, and oversight of provincial and local governments. They rely on a system of revenue sharing with the federal government for most of their funds.

The federal police council, an anticorruption unit, and the federal interior ministry manage the operations of the federal police forces. An independent oversight committee monitors police activities and compiles an annual report for parliament. The federal police are responsible for internal security and nationwide law and order. The local police operate branches in 196 police districts responsible for local law enforcement.

NPM Process

On 7 March 2007 the APT wrote to Karl De Gucht, the Minister of Foreign Affairs of Belgium to obtain information about Belgium's intentions in relation to establishing an NPM and when the country envisages ratifying the OPCAT. To date, there has been no response to the letter.

Updated on 23 March 2007.

Croatia

Population:	4,494,749
Area (sq km):	56,542
Prison population:	3594
Number of prisons:	23
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The lands that today comprise Croatia were part of the Austro-Hungarian Empire until the close of World War I. In 1918, the Croats, Serbs, and Slovenes formed a kingdom known after 1929 as Yugoslavia. Following World War II, Yugoslavia became a federal independent Communist state under Marshal Tito. Although Croatia declared its independence from Yugoslavia in

1991, it took four years of fighting before Serb forces were mostly driven from Croatian lands.

There are approximately 21 thousand police officers under the authority of the interior ministry. The national police have primary responsibility for international security; in times of disorder, the government and the president may call upon the military to provide security.

Ms. Marija Definis Gojanovic was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four year term.

NPM Process

The government has stated its intention to designate the Ombudsman as NPM and that a draft law was under consideration, in its Statement to UNCAT on periodic review 7 May 2004. The draft law does not specify what institution will be NPM, but states that no extra funding will be needed.

In late March 2007 the APT wrote to the Minister of Foreign Affairs and European Integration of Croatia, Kolinda Grabar-Kitarović, with a view to obtaining more precise information about the NPM process in the country.

Updated on 29 March 2007.

Cyprus

Population:	784,301 ⁵
Area (sq km):	9,250
Prison population:	580 ⁶
Number of prisons:	1
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

A former British colony, Cyprus became independent in 1960 following years of resistance to British rule. Tensions between the Greek Cypriot majority and Turkish Cypriot minority came to a head in December 1963, when violence broke out in the capital of Nicosia. Despite the deployment of UN peacekeepers in 1964, sporadic intercommunal violence continued, forcing most Turkish Cypriots into enclaves throughout the island. In 1974, a Greek

⁵ Figure does not include the internationally non-recognized Turkish Republic of Northern Cyprus.

⁶ Figure does not include the internationally non-recognized Turkish Republic of Northern Cyprus.

Government-sponsored attempt to seize control of Cyprus was met by military intervention from Turkey, which soon controlled more than a third of the island. In 1983, the Turkish-held area declared itself the "Turkish Republic of Northern Cyprus," but it is recognized only by Turkey. The latest two-year round of UN-brokered talks - between the leaders of the Greek Cypriot and Turkish Cypriot communities to reach an agreement to reunite the divided island - ended when the Greek Cypriots rejected the UN settlement plan in an April 2004 referendum. The entire island entered the EU on 1 May 2004, although the EU *acquis* - the body of common rights and obligations - applies only to the areas under direct Republic of Cyprus control, and is suspended in the areas administered by Turkish Cypriots.

The Cyprus Police maintain internal security. The Greek Cypriot National Guard backed by a contingent of Greek military forces is primarily responsible for external security but also has domestic security responsibilities. The Greek Cypriot National Guard is headed by a Greek military officer retired from the Greek Army who reports to the Greek Cypriot Ministry of Defense, which reports to the Greek Cypriot President. Greek military forces in Cyprus report directly to the Greek military. The police are the responsibility of the Ministry of Justice and Public Order. The president appoints the chief of the police. The police force is divided into headquarters (with six departments), six district divisions (including one inactive district located in the area under the Turkish Cypriot administration), and seven police units that provide specialized services.

In March 2005 the NGO Ethnopad (the National Organization for the Protection of Human Rights) made an impromptu visit to police holding cells (attached to the prison) where many illegal immigrants and/or asylum seekers were held and called on the government to institute reforms. Ethnopad also asked the government to address problems in the prison system and to stop imprisoning debtors, drug addicts, and mental patients. The US Department of State reports that as of 2005 the government permitted prison visits by independent human rights observers.

NPM Process

On 7 March 2007 the APT wrote to Yiorgos Lillikas, the Minister of Foreign Affairs of Cyprus to obtain information about Cyprus' intentions in relation to establishing an NPM and when the country envisages ratifying the OPCAT. On 16 April 2007 the organization received a response from the Ministry of Foreign Affairs, stating that Cyprus was planning to designate a modified existing national mechanism for this purpose. The Ministry did not name the mechanism specifically.

The APT also learned that the Cypriot authorities were also in the process of examining the possibility of designating more than one national mechanism. It concluded by stating: "Upon completion of the above evaluation and finalization of decisions on this matter, the ratification Law and other necessary national laws will be prepared and processed simultaneously for

approval to the Council of Ministers, and then to the House of Representatives.”

Updated on 16 April 2007.

Czech Republic

Population:	10,235,455
Area (sq km):	78,866
Prison population:	18 950
Number of prisons:	35
Police stations:	?
Psychiatric institutions:	24
Immigration detention centres:	22
Military detention facilities:	1
Homes for juveniles:	228

Background

The Czech Republic is a constitutional democracy, formed in 1993 through a peaceful division of the formerly federal state of Czechoslovakia. It ratified OPCAT on 10 July 2006.

The national police are responsible for enforcing the law and maintaining order. The Ministry of Interior oversees the police, and the ministry's inspectorate is responsible for investigating allegations of police misconduct.

NPM Process

The legislation to implement OPCAT was adopted by Parliament in 2006. It was expected that the instrument would be deposited with the UN during the summer. The authorities have also apparently already designated the Public Defender of Rights (Ombudsman) as its NPM.

In order for the institution to comply with the OPCAT text, changes were made to its legislative basis through an amendment, which came into force on 1 January 2006 (<http://www.ochrance.cz/en/ombudsman/zakon.php>). Prior to this amendment taking effect, the Ombudsman's monitoring activities of closed institutions generally occurred in response to it receiving complaints and it did not undertake comprehensive and systematic inspections of places of detention. The amendment permits the Ombudsman to undertake the types of visits envisaged in the OPCAT text. The Ombudsman is now explicitly mandated to carry out inspections to a wide range of detention facilities, including prisons, police cells, facilities for the detention of foreigners and asylum-seekers, military facilities, facilities providing protective or institutional care, social care and healthcare facilities and facilities providing social and

legal protection for children. The Ombudsman's website now asserts that "(t)he Czech Ombudsman, furnished with his new mandate, will meet all the criteria set out by the Optional Protocol for so-called National Preventive Mechanism, and therefore no further steps towards its implementation need to be taken after ratification, which is in progress in the Czech Republic."⁷ The position of Public Defender is currently being held by Otakar Motejl, who was elected the first Defender of Human Rights in 2000.

While the institution is generally well respected in the Czech Republic, two primary concerns concerning the designation of the Public Defender of Rights as NPM have come to the APT's attention. The first relates to inadequate levels of staffing of the office, which reportedly has not been greatly expanded for the purposes of implementing the functions under OPCAT. The majority of the staff are also said to have a legal background and do not possess the diverse professional qualities called for in the OPCAT text. However, they do have the ability to hire external expertise such as medical doctors or psychologists to compensate for the institution's professional homogeneity.

Mr. Zdenek Hajek of the Czech Republic was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a two year term.

Updated on [].

Denmark

Population:	5,450,661
Area (sq km):	43,094
Prison population:	4198
Number of prisons:	57
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Denmark is a constitutional monarchy, with a unicameral parliament. The country is divided into 13 counties (Amter) and 271 municipalities (Kommuner). The cities of Copenhagen and Frederiksberg function as both counties and municipalities. The Faroe Islands and Greenland enjoy home rule, with the Danish Government represented locally by high commissioners. These home rule governments are responsible for most domestic affairs, with foreign relations, monetary affairs, and defence falling to the Danish Government. At the international level, Denmark has been a diplomatic

⁷ News release dated 1 January 2006.

leader on issues of torture, and Danish NGOs dealing with rehabilitation of torture victims are very active internationally.

The national police, under the Ministry of Justice, have sole policing authority in the country. There are 54 police districts (plus the Faroe Islands and Greenland) and a national commissioner's office. The minister of justice, with the approval of parliament, appoints the police chiefs of each district and the national commissioner.

Mr. Hans Draminsky Petersen of Denmark was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four year term.

NPM Process

Danish authorities originally intended to implement the OPCAT by designating the Danish Parliamentary Commissioner for Civil and Military Administration (*Folketingets Ombudsmand*) or Ombudsman as the country's primary NPM. The mechanism currently considers complaints concerning all parts of public administration, except for the judiciary. However, several of Denmark's principal torture-related NGOs have questioned the suitability of this body for the purpose of OPCAT implementation and opened up a domestic discussion on this matter.

In February 2007, the Danish NGO, Rehabilitation and Research Centre for Torture Victims (RCT) submitted its *Alternative Report to the list of issues to be considered by the UN Committee against Torture during the examination of the 5th periodic report of Denmark*, which took place in Geneva in May 2007. In its report the RCT stated: "*In anticipation of Denmark's establishment of its NPM, RCT made a legal study of the existing Danish visiting mechanisms and assessed them against the OPCAT. The study - "New Optional Protocol to the UN Convention against Torture – Danish Ratification and Implementation" was published in a Danish human rights journal in 2003. The main conclusion of the study was that the existing domestic visiting mechanisms of the Ombudsman and the parliamentary Section 71-Inspection, respectively, would not be able to live up to the obligations of Denmark under the OPCAT.*"⁸ The organization argued that several factors undermined the NPM's compliance with the criteria laid down in the OPCAT text, including: its homogenous (legal) professional composition; limited resources; so-called mode of operation (namely it does not reportedly fulfil all of the functions laid down in Article 19 of the text); and the standards of assessments used by the mechanism during visits. A detailed account of these criticisms can be found in the RCT's report.⁹

⁸ See page 19 of the report, which is available at: http://www.ohchr.org/english/bodies/cat/docs/ngos/RCT-Alternative_report.pdf

⁹ *Alternative Report to the list of issues to be considered by the UN Committee against Torture during the examination of the 5th periodic report of Denmark*, 19 February 2007 – pages 19-21.

In its written response to the list of the issues and the matter of how Denmark will implement the OPCAT at the national level the country stated that: “*The Parliamentary Ombudsman undertakes systematic inspection of places of detention and will continue to do so as the national preventive mechanism under the Optional Protocol. In the light of experience gained during the implementation of the Optional Protocol it will be assessed if there is need to adjust the present arrangement e.g. in order to make special expertise available to the Ombudsman.*”¹⁰ It is relevant to note that during its examination of Denmark’s fifth periodic report in May 2007 the UN Committee against Torture commended Denmark on its efforts to promote the universal ratification of the OPCAT as well as its early ratification of the instrument in 2004.¹¹

Updated on 21 May 2007.

Estonia

Population:	1,324,333
Area (sq km):	45,226
Prison population:	4463
Number of prisons:	7
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

After centuries of Danish, Swedish, German, and Russian rule, Estonia attained independence in 1918. Forcibly incorporated into the USSR in 1940, it regained its freedom in 1991, with the collapse of the Soviet Union. Since the last Russian troops left in 1994, Estonia has been free to promote economic and political ties with Western Europe. Estonia is a constitutional parliamentary democracy with a unicameral legislature.

The national police, security police, tax and customs board, and national border guard have responsibility for law enforcement and maintenance of order. The police, security police and national border guard are subordinate to the Ministry of Internal Affairs. The tax and customs board is subordinate to the Ministry of Finance. Prison personnel are subordinate to the Ministry of Justice. The army is responsible for external security but also has domestic security responsibilities in case of threat to the constitutional order of the country. The police board is the central and supervisory authority, which manages, directs, and coordinates the activities of police agencies under its administration. There are three police agencies and four regional police prefectures.

¹⁰ UN Doc. CAT/C/DNK/Q/5 Rev.1/Add.1, 26 March 2007 – paragraph 269.

¹¹ UN Doc. CAT/C/DNK/CO/5, 16 May 2007 – paragraph 8c.

NPM Process

Estonia was the first county of the former Soviet Union to sign the Optional Protocol in September 2004. The Ministry of Foreign Affairs, which had taken the lead on signature and ratification of the instrument in the country, stated that no serious opposition to ratification had been encountered in any of the ministries at any point during the process of signature and ratification. As a result, the Estonian parliament, the Riigikogu, passed the second reading of the draft Ratification Act of the Optional Protocol on 18 October 2006. The instrument of ratification was subsequently deposited with the United Nations Secretary General on 18 December 2006.

Initially, Estonia had considered both the creation of an entirely new body and the designation of an existing monitoring mechanism. Due to cost considerations and the existence of the Office of the Chancellor of Justice or *Õiguskantsler* (Ombudsman) it was deemed expedient to designate the latter body as the NPM.

In its capacity of national ombudsman, the Office of the Chancellor of Justice ensures that acts of state officials are in accordance with the law and that all new laws, decrees and other acts are in conformity with the constitution and existing legislation. The Office of the Chancellor of Justice has an obligation to investigate complaints of violations of law lodged with it, including from persons deprived of their liberty. The current Chancellor of Justice, Allars Jõks, has stated publicly that most of the complaints his office receives relate to the material conditions of detention in pre-trial detention facilities and prisons. However, in addition to investigating individual complaints, the Office of the Chancellor of Justice undertakes a system of planned visits - usually pre-announced - to detention facilities. On average two prisons are inspected in any given year and all seven of Estonia's prisons can usually be visited over a period of four years.

While the Office of the Chancellor of Justice may on the whole appear to fulfil the criteria laid down in the OPCAT text, there remain a number of questions which need to be answered. For example, it is not clear how regularly other types of places of detention such as police stations, centres for migrants or psychiatric institutions are visited in practice. Moreover, the Office comprises to a very large degree lawyers and, as a result, its composition ideally needs to be varied to include other professional groups such as doctors, psychologists etc. Nevertheless, with some modification or change in operational practice the Office of the Chancellor of Justice could eventually fulfil the minimum OPCAT criteria.

Updated on 11 January 2007.

Finland

Population:	5,231,372
Area (sq km):	338,145
Prison population:	3954
Number of prisons:	38
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Finland is a constitutional republic with a directly elected head of state (president), a parliament, a head of government (prime minister), and an independent judiciary.

Of the nearly four thousand inmates in the country's prisons, 70 percent were estimated by the government to be drug addicts and in need of rehabilitation.

The national police force is centralized under the control of the Ministry of the Interior, which also controls various other law enforcement organizations such as the frontier guards, customs and immigration agencies, the national bureau for investigation (NBI), and the security police. Law enforcement organizations maintain internal investigation units that examined allegations of police abuse or misconduct

NPM Process

In late June 2006 the APT received a letter from the Ministry of Foreign Affairs of Finland informing it that its discussions on ratification were ongoing and that ratification could not take place before the question of either designating or creating a national visiting mechanism had been settled. For this purpose a working group would be set up in 2006. The Ministry of Foreign Affairs of Finland noted that "all options are open as to whether the mechanism shall be one already in existence or whether a new one needs to be founded."

The APT learned that the inter-ministerial working group met in September 2006 to examine how the instrument could be implemented in practice. The working group is chaired by the Ministry of Foreign Affairs and also includes the Parliamentary Ombudsman (see below). It has a mandate to examine the implementation of the instrument until 30 November 2007 with a view to ensuring its ratification in Spring 2008. It is reported that the majority of representatives of the inter-ministerial group are in favour of the Parliamentary Ombudsman assuming the NPM function, which would require various legislative changes.

Finland has several bodies, which could play a role in the implementation of the Optional Protocol in practice. These include the Parliamentary Ombudsman, Ombudsman for Minorities and the Office for the Chancellor of Justice. All three of these bodies have the task of exercising oversight to ensure that public officials act in accordance with the law. While all three bodies can issue recommendations on policy issues, it is specifically the Parliamentary Ombudsman's Office which carries out inspections to detention facilities including prisons, military garrisons, psychiatric hospitals and other closed institutions. Like the Swedish Ombudsman model (see below), the Finnish Parliamentary Ombudsman also has a prosecutorial function allowing it to file criminal charges against public officials suspected of serious wrongdoing. The APT intends to follow the ongoing ratification process in the country in the coming months.

Updated on [].

France

Population:	60,876,136
Area (sq km):	547,030
Prison population:	52009 ¹²
Number of prisons:	187
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

France is a democratic state, organised as a unitary semi-presidential republic. It has the sixth-largest economy in the world, and the largest land-area of any EU member. In addition to the Metropolitan territory in Europe, France, has overseas islands and territories located in other continents. Its main ideals are expressed in the Declaration of the Rights of Man and of the Citizen.

The civilian force of 118 thousand national police, under the direction of the Ministry of Interior, and the military force of 90 thousand national gendarmes, under the direction of the Ministry of Interior in coordination with the Ministry of Defence, ensure internal security.

Prison conditions generally meet international standards; however, credible nongovernmental organizations (NGOs) report overcrowding and unacceptable hygiene conditions in some prisons. The government continues to replace old prisons and construct new facilities. The government permits visits by independent human rights observers.

¹² Does not include departments and territories in Africa, the Americas and Asia-Pacific.

NPM Process

Several existing bodies were considered as possible NPMs: the “Commission nationale de déontologie de la sécurité” (CNDS), which currently reacts to specific complaints forwarded by members of parliament concerning police stations, and the Médiateur de la République, which has a broad Ombudsman mandate. In late 2006 the Government decided that the Médiateur de la République would be given responsibility for implementing the NPM. His office is currently undertaking consultations on the details.

Updated on 31 January 2007.

Georgia

Population:	4,661,473
Area (sq km):	69,700
Prison population:	11731
Number of prisons:	16
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Georgia was forcibly incorporated into the USSR until the Soviet Union dissolved in 1991. An attempt by the incumbent Georgian government to manipulate national legislative elections in November 2003 touched off widespread protests that eventually led to new elections in early 2004 that swept Mikheil Saakashvili into power along with his National Movement Party. Progress on reforms and democratization has been complicated by two civil conflicts in the breakaway regions of Abkhazia and South Ossetia. These two territories remain outside the control of the central government and are ruled by de facto, unrecognized governments, supported by Russia. Russian-led peacekeeping operations continue in both regions.

NPM Process

Georgia was the first country of the former Soviet Union to have either acceded to or have ratified the OPCAT, having done so on 9 August 2005. However, several other former Soviet republics have since joined Georgia's ranks. It seems possible that Georgia will adopt what has been termed the 'Ombudsman plus' model, whereby the Public Defender of Georgia (Ombudsman) will play a dominant role in the NPM, albeit with other actors.

On 3 November 2006 a seminar was organized in Tbilisi on the subject by Penal Reform International's Tbilisi Regional Office and the Georgian Young Lawyers' Association. At the event it was proposed that a type of NPM coordinating council be established comprising potential representatives of organizations which could play a role in implementing the OPCAT at the national level. It was envisaged that the Public Defender would chair the coordinating council but he would be regarded as "one among equals" in that body. At the event the Public Defender, Sozar Subari, backed this initiative and stated publicly that the NPM function should be distributed among a number of mechanisms. However, he added that, as the Public Defender of Georgia was a functioning body with experience monitoring places of detention in Georgia, it was logical that this mechanism play a primary role in the NPM.

A follow-up meeting was held by PRI, APT and the Tbilisi branch of Global Initiative on Psychiatry in the Georgian capital on 13 March 2007, where presentations were given and discussions held on the proposed NPM which consists of the following structures: Ombudsman's Office; National Council for Torture Prevention comprising 15-21 members; and various decentralized/thematic monitoring commissions (see below). The meeting closed with a summary of the proposals for the next steps, which included the need to compile the participants' final comments on the proposed national mechanism and to elaborate methods of lobbying the Georgian authorities to consider implementing the final model.

Regrettably, to date, it has been far from clear which Georgian government Ministry had been given the task of coordinating the implementation of the instrument at the national level. Nevertheless, it is hoped that the impending deadline of 22 June 2007 for establishing a national system of monitoring will focus the concentration of the authorities on this urgent matter. To coincide with the deadline, the APT in collaboration with PRI and the Tbilisi branch of Global Initiative on Psychiatry will hold a round-table in Tbilisi on 22 June 2007 aimed at assessing the preparedness of the Georgian authorities.

This assumption that the Ombudsman's Office will play an important role in the NPM is logical if one considers that this office has become more and more active in the domain of detention monitoring in recent years and is generally OPCAT compliant. The Public Defender of Georgia was established in the 1995 Constitution and, until recently, the organization has gone through some turbulent times resulting in a high turnover of senior staff, including the Public Defender himself. Nevertheless, over the past two years the organization has experienced greater stability and the Public Defender is arguably the existing monitoring mechanism in Georgia which most closely fulfils the minimum criteria laid down in the OPCAT text. More generally, the current Public Defender has overcome the initial scepticism on the part of sections of civil society and has since earned a high degree of respect in human rights circles in the country.

However, it is proposed that another centralized mechanism in the form of the National Council for Torture Prevention (NCTP) will be the other main hub of

the NPM. This body will have a range of functions, including monitoring of places of detention as well as coordinating the monitoring of the decentralized/thematic commissions (see below). In addition, the NCTP will have advisory and policy-making functions as envisaged in the OPCAT. It is proposed that the NCTP will be physically located in the Ombudsman's Office and the latter will sit on the NCTP as "one among equals". As is stands, the Ombudsman would also chair the meetings of the NCTP, although he would not have any authority over the body.

The Ombudsman's Office would be staffed, as it is presently, by full-time persons. In contrast, it is proposed both the NCTP and the commissions would be staffed by civil society representatives on an unpaid basis, although there would be a paid secretariat to support the work of both structures. No decision has been made regarding the staffing needs of the secretariat.

The decentralized/thematic commissions will also have a mandate to monitor places of detention. For example, in December 2005 a system of Prison Monitoring Commissions was created by the decree of the Ministry of Justice and, in the first part of 2006, Commissions were operating in facilities in Western Georgia in the cities of Batumi, Kutaisi and Zugdidi. The system is currently being expanded to the rest of the country. The Commissions comprise local NGO, religious and local government representatives, who have the authority to enter facilities under the Ministry of Justice's jurisdiction. Thus, it is proposed that these and other civil society inspired bodies will act as decentralized/thematic commissions within the overall NPM.

Irrespective of the final outcome regarding the implementation of OPCAT in Georgia, civil society has unequivocally called on the authorities that they be included in this process. On 18 July 2006 16 different Georgian NGOs gathered at a round-table meeting in Tbilisi to discuss their involvement in this process. The meeting, which was co-sponsored by Penal Reform International's Tbilisi Regional Office and the Georgian Young Lawyers' Association, resulted in a Declaration, in which Georgian civil society urged the Georgian authorities to work closely with them to discuss the establishment of a national detention monitoring mechanism as well as to nominate suitable candidates to the international Subcommittee on Prevention. The November 2006 and March 2007 seminars were a direct outcome of this earlier event.

Updated on 7 June 2007.

Germany

Population:	82,422,299
Area (sq km):	357,021
Prison population:	78581
Number of prisons:	203
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The German Constitution emphasizes the protection of individual liberty and division of powers in a federal parliamentary structure. The Bundestag, or lower house of the federal parliament is elected directly and by proportional representation. The Bundesrat or upper chamber (or Federal Council) consists of 69 members who are delegates of the 16 Länder (provinces).

The legislature has powers of exclusive jurisdiction and concurrent jurisdiction with the Länder in areas specified in the Basic Law. The Bundestag has primary legislative authority. The Bundesrat must concur on legislation concerning revenue shared by federal and state governments and those imposing responsibilities on the states. In areas such as mental health and police, the Länder have exclusive jurisdiction. On ongoing process of reform is limiting the number of subjects for which upper house / Länder approval is required.

NPM Process

Germany signed the Optional Protocol at the UN Treaty Event in New York on 20th September 2006, although it had previously commented publicly that it would commit its signature to paper in the course of the year. Since 2004 there had been ongoing discussions on the prospect of ratification and implementation of OPCAT, during which the Ministry of Foreign Affairs, which was reportedly very much in favour of the instrument, is said to have encountered a significant amount of domestic opposition.

Lamentably, the outcome of this protracted domestic exchange has been anything but encouraging, as the proposed NPM model as it currently stands would constitute an extremely weak national monitoring mechanism. Shortly after Germany's signature of the instrument the APT wrote to the Ministry of Foreign Affairs of Germany. The organization welcomed the country's signature of the instrument but simultaneously expressed its reservations about the proposed national mechanism. Domestic actors, including the German Institute for Human Rights, have also publicly made their concerns known about the proposed model.

In Germany there are 16 individual federal areas, which have sole jurisdiction over institutions such as the police, prisons and mental health institutions. The federal Government exercises jurisdiction over a specific number of detention facilities, notably those controlled by the Federal Border Police and the Federal Crime Police. A 2004 consultation process, which included federal and regional authorities, concluded that Germany did not have any body which could assume the role of NPM under the OPCAT and, as a result, it was recommended that two different entities be established from scratch. The favoured solution was to create a single monitoring mechanism responsible for detention facilities within the jurisdiction of the 16 regions, a so-called Joint Commission of the Regions (*Gemeinsame Länderkommission*), while a second body, a so-called Federal Commissioner (*Bundesbeauftragter*), would be established with responsibility for all federal detention facilities.

Regrettably, it was envisaged that the former entity, the Joint Commission of the Regions, would consist of just four members and two support staff. More disturbingly still, the Federal Commissioner, responsible for places of detention under Federal jurisdiction, would comprise only one individual and would be supported by the staff of the Joint Commission of the Regions. The proposed NPM model does not bode well for the future, particularly its very limited capacity to effectively monitor an extremely large number of places of detention in a country of 82 million people. Miraculously, further consultations in 2005 appeared to weaken these already emasculated mechanisms. It transpired that, irrespective of the concerns expressed by a range of actors at the national level regarding the weaknesses of the proposed NPM model, the regions of Saxony, Lower Saxony and Saxony-Anhalt had initially opposed the proposal on the basis of cost.

The general elections in September 2005 resulted in the establishment of a so-called “grand coalition” government of all Germany’s main parties. However, no change in approach to OPCAT was registered on the part of the German authorities, who seem to be intent on pushing ahead with the model, after the three regions, referred to above, withdrew their objections on the basis of cost.

Unsurprisingly, the proposed model has elicited a significant amount of domestic and international criticism. In its letter to the Minister of Foreign Affairs, Dr Frank-Walter Steinmeier, on 22 September 2006 the APT expressed its concerns about the proposed implementation of the instrument at the national level. It is relevant to note that these same concerns were also echoed by the UN Special Rapporteur on Torture, Professor Manfred Nowak, at a meeting on the issue in Berlin as early as December 2005.

In addition, the German Institute for Human Rights, which commissioned a study into the viability of this likely model as an NPM, came to a similarly critical conclusion. Most recently, the German Institute for Human Rights submitted a comprehensive report highlighting its many concerns to Herta Däubler-Gmelin, the Chairperson of the Committee on Human Rights of the German Parliament in anticipation of the latter’s consideration of the Optional Protocol on 31 January 2007. The APT also wrote to the Chairperson on 29

January 2007 bringing her attention to the APT's September 2006 letter to the German Minister of Foreign Affairs, to which the organization has yet to receive a response. The APT's letter urged the Committee on Human Rights of the German Parliament to ensure that the process of deciding upon how to implement the Optional Protocol at the national level is both transparent and inclusive and that the informed opinion of German civil society is also given due consideration. To date, this has regrettably not been the case.

From the point of view of the APT a primary concern is not only that the proposed NPM model wholly lacks the necessary human resources to undertake the important task at hand, but also that, if adopted, it would send the entirely wrong signal to other countries in the process of creating their national models regarding what is acceptable under OPCAT. The APT will continue to monitor the situation.

On 28 March 2007 the APT once again wrote to Minister of Foreign Affairs Dr Frank-Walter Steinmeier in order to elicit a response to its letter of 22 September 2006, highlighting its concerns regarding the proposed NPM. The organization received a response from the Director General for the United Nations and Global Issues, Ambassador Dr. Peter Wittig of the Ministry of Foreign Affairs dated 4 June 2007 which confirmed that the German authorities intended to proceed with the proposed NPM structure. The letter also stated: *"I am confident that this mechanism will prove to be efficient and will thus enable Germany to meet its obligations under the Optional Protocol to the UN Convention against Torture. It is, however, envisaged to continue monitoring the functioning and working methods of the national preventive mechanism, with particular views of the Federal Commissioner and the experts from the Regional Commission themselves, in order to ensure that any necessary changes can be made in a timely manner."* The APT will continue to monitor these developments.

Updated on 7 June 2007.

Hungary

Population:	9,980,000
Area (sq km):	93,030
Prison population:	15,720
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

- information pending.

NPM Process

To date, Hungary has neither signed nor ratified the OPCAT. However, the APT was informed by the Budapest-based international non-governmental organization, Mental Disability Advocacy Center, that it had received a letter from the Ministry of Foreign Affairs in October 2006 stating that it was examining the issue of implementation of the instrument. The letter also stated: *“As for elaborating a national mechanism, the Public Prosecution Service already conducts regular and thematic examinations in places of deprivation of liberty for the sake of the prevention of torture and other cruel, inhuman or degrading treatment or punishment. The ratification must come in the foreseeable future.”* The conclusion could therefore be drawn from the letter that Hungary intends to designate its Prosecutor’s Office as the NPM, a mechanism which would not in any way comply with the prescribed criteria in Article 18 of the OPCAT text.

Thus, on 2 March 2007 the APT wrote to the Ministry of Foreign Affairs of the Republic of Hungary concerning the Optional Protocol to the UN Convention against Torture. In its letter the APT explained in detail why Prosecutor’s Offices do not meet the minimum criteria for an NPM, as envisaged in the OPCAT text. In addition, the organization offered the Ministry its further advice in relation to this matter. To date, there has been no response to the APT’s letter.

Updated on 23 March 2007.

Iceland

Population:	299,388
Area (sq km):	103,000
Prison population:	119
Number of prisons:	5
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

In 1874, Denmark granted Iceland home rule, but continued to represent Icelandic foreign affairs and defence interests. Following a plebiscite, Iceland formally became an independent republic on June 17, 1944. The current government is a coalition of the conservative Independence Party (IP) and the moderate Progressive Party (PP). The two parties, which have been in coalition since the 1995 election, hold a majority in parliament. The opposition Social Democratic Alliance is a merger of three left-wing parties formed in

2000. The party has found it difficult to reconcile the widely varying foreign policy views of its members, which range from strong support for NATO membership and the U.S. military presence to pacifism and a desire for neutrality. A bilateral defence agreement signed on May 5, 1951 gives authority for U.S. military presence in Iceland, which has no standing military of its own.

The minister of justice heads the police force. The national commissioner of police administers and runs police operations that require centralized coordination among various offices. Various district chiefs of police have responsibility for law enforcement in their areas, investigate criminal offences, and have prosecution powers.

NPM Process

There has been no official confirmation about Iceland's intention to implement the OPCAT. Iceland does, however, have a Parliamentary Ombudsman and an Ombudsman for Children, which is relatively positive for a country of just 300 000 inhabitants. It is, therefore not unfeasible that such institutions may be employed as NPMs for the purposes of OPCAT.

On 7 March 2007 the APT wrote to Valgerður Sverrisdóttir, the Minister of Foreign Affairs of Iceland to obtain information about the country's intentions in relation to establishing an NPM and when the country envisages ratifying the OPCAT. To date, there has been no response to the letter.

Updated on 23 March 2007.

Ireland

Population:	4,062,235
Area (sq km):	68,890
Prison population:	3,080
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Republic of Ireland is a multiparty parliamentary democracy with an executive branch headed by a prime minister, a bicameral parliament, and a directly elected president. Prison conditions are generally considered to meet international standards, though work and sanitation conditions remained poor in some prisons. Human rights groups have condemned the Central Mental

Health Hospital in Dundrum, the country's only secure hospital for prisoners with mental disabilities, because of understaffing and poor infrastructure. In most cases the government permits prison visits by domestic and international human rights observers but requires prior appointments for such visits. The US State Department reported no such visits during 2005. The national police have primary responsibility for internal security but are generally an unarmed force; therefore, the army, under the effective civilian control of the minister for defense, may act in support of the police when necessary.

NPM Process

Ireland has not yet signed or ratified the OPCAT. The Minister for Justice, Equality and Law Reform stated in the Dáil on the 8th November 2005 that the question of Ireland's ratification of the OPCAT is being constantly reviewed in light of prevailing circumstances and in the context of the ongoing assessment and prioritisation of Ireland's international commitments. He stated the Department of Justice is reviewing national legislation to ascertain whether legislative changes would be required before signature and ratification of the OPCAT, and that consultations have commenced with various Departments including the Departments of Health and Children and Education and Science in relation to arrangements for the inspection of institutions for which they are responsible. The Minister for Foreign Affairs reiterated this position more recently in the Dáil in June 2006. Inspectorates already exist for most types of place of detention in Ireland, but each lacks some of the powers and protections or the requisite degree of independence as required by the OPCAT.

The APT was informed in early March 2007 that an inter-ministerial consultation has taken place and the Minister for Justice has prepared a memo to the Irish Government, calling for the signature of the OPCAT. It is believed that the matter will be brought before the Cabinet in the near future, although the May 2007 elections may delay this process. The Irish Council for Civil Liberties is planning a round-table event on implementation of the instrument in Dublin on 7 September 2007.

Updated on 22 May 2007.

Italy

Population:	58,133,509
Area (sq km):	301,230
Prison population:	61,721
Number of prisons:	222
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Italian state is centralized. The prefect of each of the provinces is appointed by and answerable to the central government. In addition to the provinces, the constitution provides for 20 regions with limited governing powers. Five regions--Sardinia, Sicily, Trentino-Alto Adige, Valle d'Aosta, and Friuli-Venezia Giulia--function with special autonomy statutes. The other 15 regions were established in 1970 and vote for regional "councils." The establishment of regional governments throughout Italy has brought some decentralization to the national governmental machinery, and recent governments have devolved further powers to the regions. However, many regional governments, particularly in the north of Italy, are seeking additional powers. Persistent problems include illegal immigration, organized crime, corruption, high unemployment, sluggish economic growth, and the low incomes and technical standards of southern Italy compared with the prosperous north.

Four separate police forces report to different ministerial or local authorities. The national police and the financial police fall under the jurisdiction of the interior and finance ministries, respectively. The Ministry of Defense controls the carabinieri, a military security force; however, the Ministry of Interior assumes control of carabinieri and financial police units when they perform law enforcement functions. Under exceptional circumstances, the government may call on the army to provide security in the form of police duty in certain local areas, thereby freeing the carabinieri and local police to focus on other duties.

As of 2005, the government permitted visits to prisons by independent human rights organizations, parliamentarians, and the media. Several municipalities appoint independent ombudsmen to promote the rights of detainees and facilitate access to health care and other services.

NPM Process

On 16 June 2006 the APT received a letter from the Ministry of Foreign Affairs of Italy welcoming the entry into force of the OPCAT on 22 June 2006. The letter also stated that the new Italian government intended to expedite the

process of ratification and that it would keep the APT informed abreast of any developments in this connection.

In late 2006 it came to the attention of the APT that efforts were under way in the country to establish a National Human Rights Institution. On 5 December 2006 a meeting was organized by the OHCHR in the Italian capital, Rome, aimed at defining the steps that should be taken to establish such a body. An array of government, non-government and academic representatives were said to have attended the event. The APT also learned that there is an ongoing initiative by an umbrella group of independent experts and non-governmental organizations, *Comitato Diritti Umani*, to establish such an institution. The some of the constituent members of the umbrella group are said to be actively lobbying for the ratification of the OPCAT.

The APT also learned of a move in the Italian Parliament to create a National Human Rights Institution with a broad mandate. Italy's lower house, the Chamber of Deputies passed Senate Act No. 1463 in April 2007 on the establishment of a national institution for the protection of human rights. A so-called Guarantor for the Rights of Persons Deprived of their Liberty will be established within the national institution, which is expected to assume the OPCAT monitoring function. The legislation will now pass to the upper house, the Senate, for approval. It should also be noted that during the UN Committee against Torture's consideration of Italy's fourth periodic report in May 2007 it encouraged Italy to ratify the OPCAT.¹³

Updated on 22 May 2007.

Liechtenstein

Population:	33,987
Area (sq km):	160
Prison population:	10
Number of prisons:	1
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The Principality of Liechtenstein is a constitutional monarchy with a parliamentary government. The parliament nominates and the monarch appoints the members of the government. A two-party coalition government was formed after parliamentary elections in March 2005. The security forces are composed of the regular and auxiliary police under the interior ministry. There is no standing military force. By agreement with Austria, some persons imprisoned by Liechtenstein are held in Austrian prisons.

¹³ UN Doc. CAT/C/ITA/CO/4, 18 May 2007 – paragraph 25.

NPM Process

In late June 2006 the APT received a letter from the Office for Foreign Affairs of the Principality of Liechtenstein informing it that: “We are currently preparing the ratification of OPCAT and hope to finalize this process as soon as possible.” The country’s ratification of the OPCAT followed on 3 November the same year, although at the time of writing no other information was available about the mechanism Liechtenstein intended to put in place.

Updated on [].

Luxembourg

Population:	474,413
Area (sq km):	2,586
Prison population:	768
Number of prisons:	2
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Luxembourg is a constitutional monarchy with a democratic, parliamentary form of government. The grand ducal police and its investigative branch, the judiciary police, are responsible for law enforcement and maintenance of order within the country. The police force is under the direction of the Ministry of Justice. Neither corruption nor impunity was a problem. A special police body is in charge of investigating cases of police abuses. Police officers are required to attend training at the police academy, at least every two years.

NPM Process

In late March 2007 the APT wrote to the Minister of Foreign Affairs and Immigration, Jean Asselborn, to obtain information about the country’s intentions in relation to establishing an NPM and when the country envisages ratifying the OPCAT. However, the organization has yet to receive a response from the Ministry. Nevertheless, according to Luxembourg’s written replies to the list of issues in relation to the examination of its periodic report by the UN Committee against Torture in May 2007 and the question of it ratifying the OPCAT: “*Une adhésion du Grand-Duché au Protocole facultatif qui institue un mécanisme assez similaire à celui auquel le Luxembourg est déjà soumis*

dans le cadre des instruments précités du Conseil de l'Europe n'est pas, actuellement, considérée comme prioritaire."¹⁴

In their shadow report to Luxembourg's examination by the UN Committee in May 2007 the NGOs, Luxembourg ACT and Info Prison, stated: "[A]ccording to the information available to us, no single practical measure has yet been taken with a view to Luxembourg's ratifying this instrument. Neither, despite ... statement of good intentions, has there been any progress on the composition of and establishment procedures for a national torture prevention mechanism, as provided for in the Protocol. ACAT had called on the Luxembourg Government to help promote the Protocol and set a good example by seeking to form part of the first twenty states to ratify it." The organizations continued: "We deplore the fact that a small country with not insignificant resources like Luxembourg has not made a greater effort in the field of torture prevention by bringing to completion the process set in motion by the signing of the Optional Protocol."¹⁵

Updated on 21 May 2007.

Macedonia

Population:	2, 050,000
Area (sq km):	25, 333
Prison population:	2,026
Number of prisons:	?
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

- information pending

NPM Process

Macedonia signed the OPCAT on 1 September 2006. The APT subsequently wrote to the Ministry of Foreign Affairs on 26 September 2006 in order to ascertain when the Republic of Macedonia intended to ratify the instrument and how it intended to implement it in practice at the national level.

On 10 October 2006 the organization received a response from the Minister of Foreign Affairs of Macedonia, Antonio Milošoski. The Minister informed the

¹⁴ UN Doc. CAT/C/LUX/Q/5/Rev.1/Add.1, 23 March 2007 – paragraph 181.

¹⁵ *Observations relating to the submission of Luxembourg's 5th periodic report to the Committee against Torture*, 8 February 2007 – pages 10-11.

APT: *“Let me assure you ... that the Republic of Macedonia will take its part of responsibility to implement this international instrument to prevent torture and other forms of ill-treatment of persons deprived of their liberty, including the improvement of the conditions of their detention, as we have done with other instruments in the field of human rights.”* He continued, stating that: *“... according to the internal legislation, the ratification process has several steps, depending upon the legal obligations arising from a specific instrument. In this particular case, and bearing in mind the obligation foreseen in the Protocol for the States Parties to establish a national preventive mechanism in due time, at this point in time it is difficult to foresee when the ratification process would be completed. However, I wish to underline that we will make every effort to carry it through as soon as possible.”* The APT contacted the Ministry of Foreign Affairs shortly after its receipt of the letter in relation to the implementation of the instrument.

Updated on 11 October 2006.

Malta

Population:	400,214
Area (sq km):	316
Prison population:	352
Number of prisons:	1
Police stations:	?
Psychiatric institutions:	1
Immigration detention centres:	4
Military detention facilities:	?

Background

Great Britain formally acquired possession of Malta in 1814. The island remained in the Commonwealth when it became independent in 1964. A decade later Malta became a republic. Since about the mid-1980s, the island has transformed itself into a freight transshipment point, a financial centre, and a tourist destination. Malta became an EU member in May 2004.

Apart from Corradino Prison, there are four detention facilities for migrants (Police Headquarters, Police Station in Ta’Kandja, Safi Barracks and Lyster Barracks). Asylum-seekers and other types or “irregular migrants” arriving without identity documents are automatically detained. They may be locked up for a period not exceeding 18 months, even if their asylum claims have not yet been processed and decided upon. Since this migrants’ detention policy was put in place back in 2002, more than 5400 migrants have been detained.

The Board of Visitors of the Prisons (BVP) is led by the incumbent Maltese member of the European Committee for the Prevention of Torture, Mr Mario Felice. The BVP has 14 members (including three women) and a secretary. The BVP focuses its work entirely on the Corradino prison, while occasionally

visiting two medical wards to which detainees may be transferred. The constituting legislation of the BVP gives it a right of access at any time to every part of the prison and to every prisoner, and the right to interview any prisoner out of the sight and hearing of all prison officers. It also has a right of access to all prison records. The BVP does not have authority to carry out visits to migrant detainees.

Local NGOs (including Jesuit Refugee Service Malta) have developed significant experience visiting migrants' detention facilities, though the process for access can be bureaucratic and long-delayed.

NPM Process

The Ministry of Foreign Affairs has not formally commenced NPM consultations or designation processes. However, some thought has been given to designating the BVP. APT has brought to the attention of Ministry officials its opinion that the BVP as currently constituted and empowered does not meet all OPCAT requirements, and that alternatives and amendments must be considered. Concerns with the current limits of BVP's mandate and powers include the fact that its jurisdiction does not cover all places of detention as defined in the OPCAT, and problems with the actual or perceived institutional and operational independence of the BVP.

In late March 2007 the APT wrote to the Minister of Foreign Affairs of Malta, Michael Frenso, with a view to obtaining more precise information about the NPM process in the country.

Updated on 29 March 2007.

Moldova, Republic of

Population:	4,466,706
Area (sq km):	33,843
Prison population:	8876 ¹⁶
Number of prisons:	18
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Formerly part of Romania, Moldova was incorporated into the Soviet Union at the close of World War II. Although independent from the USSR since 1991, Russian forces have remained on Moldovan territory east of the Dniester

¹⁶ Figure does not include the Transnistrian region.

River supporting the Slavic majority population, mostly Ukrainians and Russians, who have proclaimed a separate "Transnistria" republic. The poorest nation in Europe, Moldova became the first former Soviet state to elect a Communist as its president in 2001.

The national police force is the country's primary law enforcement body. The police force is subdivided into regional and city police commissariats, which are subordinated to the Ministry of Internal Affairs

Conditions in most prisons in the country (including Transnistria) remain harsh, and in some instances life-threatening, with serious overcrowding. On June 27, 2005, several hundred inmates protested their detention conditions and treatment at a prison in Tiraspol (in Transnistria). The prisoners went on hunger strike and inflicted cuts and other injuries on themselves. The protests ended after several days, and a representative of the Organization for Security and Cooperation in Europe (OSCE) was allowed to visit the prison. The US Department of State reported that as of 2005, independent human rights observers were generally permitted to visit prisons and that the Moldovan Center for Human Rights regularly made prison visits during the year. The government cooperated with the International Committee of the Red Cross (ICRC) and permitted visits to prisoners. Transnistrian authorities allow the ICRC to visit the Ilascu Group prisoners once a year.

A Centre for Human Rights, consisting of three co-equal Ombudsmen, considers complaints and other matters in relation to prisons and police stations. Also, a Complaints Committee, consisting of government employees from various Ministries serving as volunteers, with OSCE-funded logistical support, work to resolve particular disputes between prisoners and prison officials. Both institutions can visit prisons without prior notice, but require special prior permission from a Prosecutor or Judge to visit or communicate with individuals who are under arrest or pretrial detention.

NPM Process

The Moldovan parliament approved OPCAT ratification in 30 March 2006 and ratified the instrument on 24 July 2006 becoming the 22nd State Party.

National discussions regarding the establishment of a domestic system of monitoring are still in their formative stages. In June 2006 the Ministry of Justice set up a working group to examine this matter, but it held no substantive meetings before November 2006.

From 17-18 November 2006, the APT participated in a conference in Chisinau on NPM establishment, convened by the OSCE Mission to Moldova, the Penal Reform Institute, and Amnesty International Moldova. During the two-day session, some 60 participants (including government officials, the Ombudsman's office, lawyers, representatives of civil society and of international organizations) exchanged presentations, participated in discussions, and began the process of assessing existing institutions and identifying options for a new visiting mechanism.

In theory, the meeting was supposed to lay the foundations for the work to be undertaken by the Ministry of Justice Working Group in the months ahead. However, in March 2007 the APT was informed that the Moldovan government intended to push legislation through parliament which would designate the Centre for Human Rights (Ombudsman) as the NPM, even though the working group had not been convened and there had been no discussion on the matter with civil society. In addition, the actual institution itself, the Centre for Human Rights, was reportedly reluctant to assume this function with its existing resources.

The OSCE Mission to Moldova therefore attempted to facilitate a dialogue between Moldovan civil society and the government in order that the former's opinion was taken into account regarding the establishment of the NPM. Civil society called for their involvement in the mechanism. The APT's expertise was also sought by the OSCE Mission to Moldova regarding both the manner in which the NPM process had proceeded and the draft legislation itself. The OSCE Mission to Moldova is said to have conveyed the organization's comments to the Ministry of Justice in April 2007. The APT will continue to work closely with the OSCE Mission to Moldova and civil society actors in relation to this matter.

Updated on 7 June 2007.

Montenegro

Population:	630,548
Area (sq km):	14,026
Prison population:	734
Number of prisons:	3
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Independent from the late middle ages until 1918, Montenegro was later a part of various incarnations of Yugoslavia and the state union of Serbia and Montenegro. Based on the results of a referendum held on May 21, 2006, Montenegro declared independence on June 3, 2006. Montenegro was recognised as an independent nation by Serbia on June 15.

The interior ministry controls both national and border police.

The US State Department reported that in 2005 that Prison conditions generally met international standards; however, some problems remained.

Prison facilities were antiquated, overcrowded, poorly maintained, and had inadequate hygiene. The government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC) and local NGOs. Both the ICRC and the Helsinki Committee of Montenegro made several visits during the year. The ombudsman's office routinely visited prisons, meeting with detainees and inmates without prior notice.

NPM Process

The OSCE Mission to Montenegro has co-sponsored two round-table meetings on the OPCAT in Montenegro in July and November 2006. The first national round-table on the OPCAT in Montenegro was held in Podgorica on 10 July 2006, the transcripts of which have been published by the OSCE in a booklet (available in the local language only).

The first event, which was entitled "*Round-Table on National Mechanisms for Prevention of Torture – Implementation of OPCAT*", was officially co-sponsored by the OSCE Mission to Montenegro and the Republic of Montenegro's Institution for Enforcement of Penal Sanctions, otherwise known as the Montenegrin prison service. The meeting consisted of a series of presentations by national actors on the various existing forms of inspection of places of detention in the country, followed by group work in the afternoon to identify whether a suitable body existed in the country which could act as Montenegro's national preventive mechanism.

It was apparent from the round-table that the Protector of Human Rights and Freedoms of the Republic of Montenegro (Ombudsman) was the only body in Montenegro that even remotely approaches the OPCAT requirements. The Ombudsman's Office was established in November 2003 with the strong involvement of the OSCE Mission to Montenegro. The mechanism was established by Article 1 of the Law on Protection of Human Rights and Freedoms, which states: "Protector of Human Rights and Freedoms (Ombudsman) protects human rights and freedoms which are normally guaranteed according to the Constitution, law, ratified international agreements on human rights and generally adopted rules of the international law if they are violated by the act, acting or non-acting of the State Organs, organs of the Local Government, Self-Government and Public Services and other bearers of the Public Authorities." According to the law, it has the right to enter any place of detention and consult detainees in private.

The Ombudsman's Office is assisted by two Deputy Ombudsmen, seven legal advisors and several administrative staff. Nevertheless, even in a country of just 650, 000 people, Ombudsman Šefko Crnovšanin argued that his office is under-resourced.

During the round-table the participants, which included high-ranking representatives from the prison service, police administration, Ministries of Health and Justice, Ombudsman's Office and NGOs, were asked to examine the Ombudsman's Office in the light of the criteria laid down in the OPCAT text. The participants concluded that for the most part the latter body fulfilled

the criteria regarding its independence, mandate, authority and composition. However, they recognised that the Ombudsman's Office fell short in the following respects:

- The Ombudsman's Office did not have sufficient financial resources to allow the mechanism to conduct effective monitoring;
- Although the Ombudsman and the Deputy Ombudsmen were elected by Parliament, there was a feeling among the group that this process could be politicized. As a result the Ombudsman's Office highest ranking officials could be seen to be politically dependent on the elective body;
- The staff of the Ombudsman's Office were recruited by the state authorities. This was not an independent process;
- The staff of the body were mainly lawyers and there was a gender imbalance in favour of women.

The participants agreed that most of these shortcomings could be overcome, although there was some doubt whether additional financial resources could be secured in the short-term. To address this issue it was proposed that *ad hoc* working commissions be temporarily set up within the Ombudsman's Office comprising external experts in order to deal with specific issues i.e. monitoring the treatment of psychiatric patients or minors in detention. The advantage of this approach would be that it would be a relatively inexpensive means of supplementing additional human resources and expertise to the ongoing activities of the Ombudsman's Office.

Some of the above concerns were amplified further during a second meeting which specifically focussed on the issue of the NPM on 13 November 2006. The APT gave several presentations during the exchange, at which it became clear that the Ombudsman's lack of resources had seriously undermined his office's capacity to undertake visits to places of detention. Conversely, a major part of his capacity was employed with dealing with complaints concerning trial proceedings and that he generally did not monitor places of detention on a proactive basis. It also emerged that in law the Ombudsman does not have access to psychiatric institutions or care homes for persons with intellectual or physical disabilities. It was therefore proposed at the meeting that perhaps an additional monitoring body be established to supplement the activities of the Ombudsman in the framework of the OPCAT. This and other issues will be discussed during further events planned in the near future in the country.

On 16 January 2007 the OSCE Mission to Montenegro issued a press release stating, among other things, that a working group had been set up to draft concrete proposals for establishing an NPM and that in 2007 the OSCE Mission was planning a number of capacity-building initiatives, including a study trip to enable the working group to see a recently created NPM in action. The press release concluded by stating: "*We anticipate much greater co-operation with states that have already created such a mechanism, so that we can learn from them and create a system that works for Montenegro*".

Netherlands

Population:	16,491,461
Area (sq km):	41,526
Prison population:	21 013
Number of prisons:	102
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Netherlands is a constitutional monarchy with a bicameral parliamentary legislative system. Aruba and the Netherlands Antilles are two autonomous countries of the Kingdom of the Netherlands; they also feature parliamentary systems and constitutional protection of human rights. Prison conditions on the island are substandard though were improved throughout 2005. Regional police forces have primary responsibility for maintaining internal security. The royal constabulary and investigative organizations also have specified responsibilities for internal and external security.

NPM Process

In October 2006 the APT was informed of the current status of the NPM process in the Netherlands. According to information provided by the Ministry of Foreign Affairs, the process of ratification has been on hold since the country's signature of the instrument in June 2005 due to ongoing changes in the judicial system. Legislation introduced on 1 October 2006 centralized the prison inspectorate system, placing the new control mechanism directly under the responsibility of the Minister of Justice: previously prisons monitoring was decentralized. The Dutch authorities are said to be currently assessing whether the new control mechanism is in accordance with the criteria laid down in the OPCAT text, particularly in relation to its independence. Ratification is dependent upon the outcome of this process of examination. The APT is informed that, if the new system corresponds to the criteria set down in the instrument, the Netherlands could ratify the instrument within the next year.

Discussions are also said to be ongoing in between other relevant ministries regarding the implementation of the instrument in the country as a whole and whether existing mechanisms would be suitable for this role. It was notable that during its examination of the Netherlands's fourth periodic report in May 2007 the UN Committee against Torture welcomed the assurances given by

the Netherlands that the OPCAT would be ratified in the second half of 2007.¹⁷

It is relevant to note that, apart from the above mentioned prison inspection mechanism the Netherlands currently has several other existing national visiting mechanisms. These include the National Ombudsman and the system of Police Cell Supervisory Committees, which exist throughout the country's 25 police administrative regions. It therefore remains to be seen whether these bodies will play a role in the implementation of OPCAT in the country.

Updated on 21 May 2007.

Norway

Population:	4,610,820
Area (sq km):	324,220
Prison population:	3 048
Number of prisons:	46
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Norway is a parliamentary democracy and constitutional monarchy. The national police have primary responsibility for internal security; however, the police may call on the armed forces for assistance in times of crisis, such as internal disorder or natural catastrophe. In such circumstances, the armed forces are under police authority. The Ministry of Justice and the Police oversees the police forces.

NPM Process

In early July 2006 the APT received an email from the Ministry of Foreign Affairs of Norway stating: "We can assure you that the Norwegian Ministry of Foreign Affairs will strive to ensure that Norway ratifies the Protocol in a timely manner." No information was revealed about how the instrument would be implemented in practice in the country. The APT learned in early June 2007 that, although Norway's ratification of the instrument had been delayed, it was envisaged that it would be forthcoming in the near future and that the issue of NPM would be resolved by the time the country was examined by the UN Committee against Torture in November 2007.

Like most Nordic countries, Norway has a relatively long history of established Ombudsman-type institutions, a Parliamentary Ombudsman having been

¹⁷ UN Doc. CAT/C/NET/CO/4, 16 May 2007 – paragraph 5.

established in the 1814 Constitution. It is therefore not inconceivable that one or several of such bodies may be considered as potential mechanisms for the implementation of the OPCAT.

Norway currently has three such entities in the domain of human rights, which include the Parliamentary Ombudsman, Ombudsman for Children and the Gender Equality Ombudsman. All three institutions investigate complaints from individuals concerning injustice or maladministration on the part of the state administration. In particular, the Parliamentary Ombudsman is comprised of five different departments, one of which is responsible for complaints relating to police, prisons, hospitals and aliens. However, the Ombudsman for Children, reportedly the first of its kind when it was established in 1981, “... has free access to all public and private institutions for children” and in theory could play an important role with regard to OPCAT.¹⁸

As previously mentioned (see Denmark), Ombudsman-type institutions have their distinct shortcomings vis-à-vis the minimum criteria laid down in the Optional Protocol text (such as their reactive nature, composition and bounded resources). Even so, they also possess significant strengths which may offset some of these perceived deficiencies.

Updated on 7 June 2007.

Poland

Population:	38,536,869
Area (sq km):	312,685
Prison population:	87 901
Number of prisons:	213
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Since 1991, Poland has been a multiparty democracy with a bicameral parliament. The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior and administration. Prison conditions remain generally poor. Overcrowding and insufficiency of medical treatment are the main problems. The government permits prison visits by independent human rights organizations, and there were visits by the UNHCR and the Helsinki Foundation during 2005.

Mr. Zbigniew Lasocik was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four year term.

¹⁸ Article 4 of the Act No.5 of March 6 1981 relating to the Ombudsman for Children.

NPM Process

Poland ratified the Optional Protocol in September 2005 and has designated as its NPM the Commissioner for Civil Rights Protection (Ombudsman), which was established in 1987. The rights and powers of the Commissioner for Civil Rights Protection are anchored in various articles of the Constitution, most notably Article 80 and Articles 208-212. Article 80 clearly states: *“In accordance with principles specified by the statute, everyone shall have the right to apply to the Commissioner for Civil Rights Protection for assistance in the protection of his freedoms or rights infringed by organs of public authority.”* Thus, the main task of the office is to deal with complaints lodged by members of the public on an array of matters.

The office’s focus on closed institutions lies with its so-called Unit on Executive Criminal Law, which is reportedly the main department which implements a program of preventive visits. It would appear, however, that the Unit on Executive Criminal Law consists of approximately eight staff, of whom only four or five undertake visits to places of detention. Thus, the human resources of the office of the Commissioner for Civil Rights Protection are limited, particularly in view of the fact that Poland is a mid-sized European country of some 39 million people. Moreover, while it appears that certain detention facilities, such as pre-trial detention centres and prisons, may be visited on a reasonably regular basis, in the light of the unit’s limited human resources it is not clear how often other types of detention facilities are inspected. An additional concern relates to the composition of the employees of the Commissioner for Civil Rights Protection, which is largely staffed by lawyers and few other professional groups are represented in the office. Although outside expertise can be hired when required, it is not known how regularly this occurs in practice.

The Commissioner for Civil Rights Protection has its strengths and should therefore be regarded as a relatively solid basis for an NPM under OPCAT. Nevertheless, additional human resources should be made available to it so as to enlarge and diversify its monitoring capacity. In May 2007 the UN Committee against Torture also noted with satisfaction Poland’s ratification of the OPCAT during its examination of the country’s fourth periodic report.¹⁹

Updated on 21 May 2007.

¹⁹ UN Doc. CAT/C/POL/CO/4, 16 May 2007 – paragraph 4d.

Portugal

Population:	10,605,870
Area (sq km):	92,391
Prison population:	12 870
Number of prisons:	58
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

A 1910 revolution deposed the Portuguese monarchy; for most of the next six decades, repressive governments ran the country. In 1974, a left-wing military coup installed broad democratic reforms. Portugal is now a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections.

Prison conditions remain poor, and guards mistreat prisoners. Other problems include overcrowding, inadequate facilities, poor health conditions, and violence among inmates. Most of the guidelines and legislative proposals the government had adopted in 2004 to reform the prison system had not been put in practice as of the end of 2005; however, some improvements were made including the opening of new facilities and somewhat reduced overcrowding.

There are approximately 50 thousand law enforcement officials, including police and prison guards. The Ministries of Justice and Internal Administration are primarily responsible for internal security. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues. An independent ombudsman is chosen by the parliament and the Inspectorate General of Internal Administration (IGAI) to investigate complaints of abuse or mistreatment by police; however, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and Ministry of Interior.

NPM Process

No information

Updated on [].

Romania

Population:	22,303,552
Area (sq km):	237,500
Prison population:	35 429
Number of prisons:	45
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Following the overthrow of the dictatorship in 1989, Romania has become a constitutional democracy with a multiparty, bicameral parliamentary system.

The ministry of the administration and interior is responsible for the national police and the gendarmerie, as well as the border police, alien authority, national office for refugees, the general directorate of information and internal protection (DGIPI) (which oversees the collection of intelligence on organized crime and corruption), the special protection and intervention group, and the special aviation unit. The national police agency is the inspectorate general of Romanian police, which is divided into a number of specialized directorates and has 42 regional directorates for counties and the city of Bucharest. Police impunity is a problem. Complaints of police misconduct are handled by the internal disciplinary council of the unit where the reported officer works.

Police reform continued during 2005. The government, with support from law enforcement agencies from other countries, offered police training workshops on topics such as human rights and the proper treatment of criminal suspects. On August 25, the government adopted a new police code of ethics that establishes rules for police conduct in special circumstances and when working with the public.

Prison conditions remain harsh, with overcrowding a serious problem. Media and human rights organizations report that the abuse of prisoners by authorities and other prisoners continues to be a problem. The US State Department considers that as of 2005 the government permitted prison visits by human rights observers and media representatives. The national administration of penitentiaries reported that there were 5,688 individual or group visits by media and domestic and foreign NGOs to penitentiaries during 2005.

NPM Process

On 7 March 2007 the APT wrote to Mihai Răzvan Ungureanu, the Minister of Foreign Affairs of Romania to obtain information about the country's intentions

in relation to establishing an NPM and when the country envisages ratifying the OPCAT. To date, there has been no response to the letter.

However, the APT is informed that the Ministry of Foreign Affairs has issued an instruction to its embassies in countries which have ratified the instrument to compile information about the NPM process. During a recent mission to Armenia in March 2007 an APT staff member had a meeting with a representative of the Embassy of Romania to discuss possible implementation of the instrument in Romania.

Updated on 23 March 2007.

Serbia

Population:	9,396,411
Area (sq km):	88,361
Prison population:	7,775
Number of prisons:	28
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The approximately 43 thousand police officers in Serbia are part of the Ministry of the Interior. The police are divided into 33 regional secretariats that report to the republic government. The armed forces are under the control of the state union government and are responsible for national security. During 2005 responsibilities for border security were formally transferred to the Ministry of the Interior; however, in practice there has been no hand over of border post responsibilities from the military to the interior ministry, and military personnel still perform these functions. Police at times beat detainees and harassed persons, usually during arrest or initial detention for petty crimes.

The US State Department reports that as of 2005 prison conditions generally met international standards; however, conditions varied greatly between facilities, and some guards abused prisoners. In some prisons, most notably the Belgrade reformatory hospital housing psychiatric prisoners, inmates complained of dirty and inhumane conditions. The government permitted the International Committee of the Red Cross (ICRC) and local independent human rights monitors, including the Helsinki Committee for Human Rights in Serbia, to visit prisons and to speak with prisoners without the presence of a warden.

NPM Process

Shortly after its ratification of the OPCAT on 26th September 2006 the APT wrote to the Ministry of Foreign Affairs of the Republic of Serbia seeking information about how the authorities intended to implement the instrument in practice. The organization is awaiting a response from the Serbian authorities.

Nevertheless, an Ombudsman's type institution has only recently been established in the country, known as the Protector of Citizens. The National Assembly of Serbia adopted legislation to create the institution in October 2005 and the Ombudsman is said to be in the process of being set up and its head appointed. Citizens of and foreign residents in Serbia have the right to file a complaint with the Ombudsman, who consider that their rights have been violated by an action or failure to act by a public official and who have exhausted all legal remedies. The particular situation of persons deprived of their liberty has also been taken into account, as Article 27 of the Law on the Protector of Citizens states that persons deprived of their liberty are entitled to submit their complaints in a sealed envelope and detention facilities shall "visibly and publicly provide adequate envelopes".

In the light of the establishment of this new institution the Serbian authorities may be inclined to designate it as the country's NPM, since it does have access to places of detention. Article 22 of the Law on the Protector of Citizens states: "The Protector of Citizens shall have the authority to freely access correctional institutions and other places where persons deprived of their liberty are held and to speak in privacy with those persons". However, since the Protector of Citizens is still being established, it is too early to comment to what extent it fulfils the criteria for an NPM laid down in the OPCAT text.

The Protector of Citizen will be supported by four Deputies and a Secretariat. It is noteworthy that, according to Article 6 of the same law, in choosing the Deputies, the Ombudsman should "... in particular ensure special expertise for the performance of duties under the Protector of Citizens' competency, primarily in respect to the protection of rights of persons deprived of their liberty, children's rights, rights of national minorities and rights of disabled persons." As stipulated in the OPCAT text as a function of an NPM, the institution also has the power to give its opinion on draft legislation and regulations and launch initiatives to amend existing legislation and to create new legislation.

Several provisions in the Law on the Protector of Citizens also envisage cooperation with similar provincial institutions. For example, there exists the so-called Provincial Ombudsman of the Autonomous Province of Vojvodina, which commenced functioning in January 2004 in this northern region of the country.

In late March 2007 the APT wrote to the Minister of Foreign Affairs of Serbia with a view to obtaining more precise information about the NPM process in the country.

Slovenia

Population:	2 010 347
Area (sq km):	20 273
Prison population:	1 301
Number of prisons:	7
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Slovenia has a directly elected president (head of state), a prime minister (head of government), and a bicameral parliament, composed of the National Assembly (lower house) and the National Council (upper house). There are six prisons and one correctional home for juveniles. The six prisons have facilities at 13 different locations. The US State Department reports that while the law prohibits torture and other ill-treatment, police occasionally use excessive force such as kicks, punches, and shoves during arrest. The US State Department reports that conditions in prisons generally meet international standards, and that the government permits visits by independent human rights observers.

Police are centrally organized under the supervision of the “police and security bureau” of the Ministry of Interior. The bureau is to oversee the drafting of basic guidelines, security policy, and regulations governing the work of the police and to exercise special inspectorial authority in monitoring police performance, with an emphasis on the protection of human rights and fundamental freedoms. The general police administration, headed by the general director of the police, has overall responsibility for the execution of police duties and oversees activities at the national level. Regional police duties fall under the jurisdiction of police administration units, whose directors report to the general director. Local policing is provided by individual police stations, whose commanders report to the director of the relevant police administration.

Persons can be detained for 48 hours before charges are brought. Authorities must also advise detainees in writing within 48 hours of the reasons for their arrest. Upon arrest, detainees have the right to contact legal counsel of their choice, and authorities generally respected this right in practice, although the deputy ombudsman for human rights reported a few cases in which several days passed before police provided counsel to the detainee. The government provides indigent detainees with free counsel, and the US State Department reports that detainees are generally allowed prompt access to family

members. Once charges are brought, pretrial detention may last for up to four months, depending on the severity of the criminal act, and must be certified by an investigative judge. Once trial procedures have begun, the total period of detention may be extended for up to two years. Persons detained more than two years while awaiting trial or while their trial is ongoing must be released pending conclusion of their trial.

NPM Process

Slovenia is a particularly interesting example where a country has explicitly foreseen a role for civil society actors in the NPM. When acceding to the OPCAT in January 2007 Slovenia made a formal declaration, stating: *"In accordance with Article 17 of the Protocol, the Republic of Slovenia declares herewith that the competencies and duties of the national preventive mechanism will be performed by the Human Rights Ombudsperson and in agreement with him/her also by non-governmental organisations registered in the Republic of Slovenia and by organisations, which acquired the status of humanitarian organisations in the Republic of Slovenia."* To date, Slovenia is the only European country which has *officially* opened up the way for NGOs to participate in the NPM in cooperation with the Human Rights Ombudsman's Office.

Concerns arose about the limited resources of the Ombudsman's Office as early as November 2004, long before Slovenia had seriously contemplated acceding to the instrument. It is therefore possible that Slovenia's statement under Article 17 may have been designed to abate such informed criticism and to draw on the additional resources and expertise of civil society actors in Slovenia, which are already monitoring certain types of detention facilities in the country.

Amnesty International (AI) Slovenia was one organization, which was particularly critical about the limited resources of the Ombudsman's Office. In this connection it held a conference entitled *'Democratic Oversight of Policing – Lessons for Slovenia'*, on 28 October 2004 in the Slovenian capital, Ljubljana, which the APT also attended. The conference was the culmination of a year-long AI Slovenia project on the issue of democratic oversight of policing, including the OPCAT, and a related report was launched the same day.

The report examined the work of Slovenia's only existing national monitoring mechanism, Human Rights Ombudsman's Office, in the light of the OPCAT. In brief, the Ombudsman's Office consists of approximately 25 employees and is headed by the Ombudsman, who has four Deputies. The activities of the Ombudsman's Office are divided thematically between the Deputies, one of whom is responsible for complaints in the field of deprivation of liberty, social security, court and police procedures. Although the Deputy Ombudsman is supported by the staff of the Ombudsman's Office, it is self-evident that even in a country of just 2.1 million persons the position is not adequately resourced.

AI's 2004 report made this point and stated that, if Slovenia was to sign and ratify this instrument, changes would have to be made to the Ombudsman's Office in order to ensure that visits were carried out on a much more regular basis and that its representatives came from a wider spectrum of professional backgrounds. Slovenia's declaration under Article 17 may have been designed to address these concerns. Article 5 of the Slovenian Law on Ratification of the OPCAT elaborates the relationship between the Ombudsman's Office and the NGOs in greater detail.

Updated 29 March 2007.

Spain

Population:	40,397,842
Area (sq km):	504,782
Prison population:	64,215
Number of prisons:	77
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Parliamentary democracy was restored following the death of General Franco in 1975, who had ruled since the end of the civil war in 1939. The 1978 constitution established Spain as a parliamentary monarchy, with the prime minister responsible to the bicameral Cortes (Congress of Deputies and Senate), and authorized the creation of regional autonomous governments. By 1985, 17 regions covering all of peninsular Spain, the Canaries, and the Balearic Islands had negotiated autonomy statutes with the central government. The central government continues to devolve powers to the regional governments, which will eventually have full responsibility for health care and education, as well as other social programs

Police forces include the national police (NP), municipal police, the civil guard, and police forces under the authority of the Catalonia and the Basque Country regional governments. The constitution provides for an ombudsman who can in theory perform unannounced inspections of police facilities and prisons.

The US State Department reported that as of 2005 the government permits prison visits by independent human rights observers. The European Committee for the Prevention of Torture, and the Council of Europe Commissioner on Human Rights carried out visits and made reports during 2005. However, national NGOs have informed the APT that they have no access to prisons or police cells.

For over thirty years, domestic policy has been largely dominated by counter-terrorism measures against the Basque separatist group ETA, responsible for over 800 deaths since 1968. Practices such as the dispersal of ETA prisoners away from their families and lawyers, and an incommunicado detention regime for suspected terrorists, were questioned by the UN Special Rapporteur on Torture during his visit to the country in February 2004, causing great government indignation. The Rapporteur also noted the divergence between civil society allegations of repeated instances of torture and ill-treatment under these circumstances and official dismissal of such allegations on the grounds that trumped-up denunciations are a tactic of separatist supporters.

Socialist Rodriguez Zapatero was elected Prime Minister in March 2004, days after explosions in Madrid linked to Islamic militants killed 191 people. Reversals of policies of his conservative predecessor included withdrawing Spanish troops from Iraq and leaving room for greater regional autonomy, including a referendum in Catalonia in June 2006. Regarding the Basque country, in March 2006, ETA declared a permanent ceasefire and the Zapatero administration announced it is set to begin negotiations. This process was interrupted by an ETA attack on a Madrid airport in January 2007.

The ETA conflict has overshadowed government relations with most NGOs working on torture issues, characterized by the absence of dialogue and the denial of access to detention facilities. Thirty-seven NGOs grouped together in 2004 to form a Network for the Prevention of Torture (*Coordinadora para la Prevención de la Tortura*) denouncing in their first report nearly 793 current cases of torture in prisons, police cells and other places of detention -- significantly, not exclusively under anti-terrorist legislation. The network actively campaigned for OPCAT ratification, including by holding a seminar in Barcelona in February 2006 with over 400 participants.

Spain ratified the OPCAT on 4 April 2006, nearly one year after signature. The government has placed significant prominence on the measure, which is seen to provide a constructive solution to this highly sensitive issue in the Spanish context. The NGOs are also betting on proper OPCAT implementation as the best way forward. Mr. Leopoldo Torres Boursalt of Spain was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a four-year term. The Network for Torture Prevention circulated a press release contesting his designation.

NPM Process

In October 2006, an experts' meeting was organised in Madrid by the Institute for International and European Studies (*Instituto de Estudios Internacionales y Europeos*) «Francisco de Vitoria» of the Carlos III University to open the debate at the national level about the establishment of a NPM. The meeting was attended by a variety of national actors from the government, the National and Regional Ombudsman, as well as civil society, such as the Spanish NGO Coalition for the Prevention of Torture. Options debated regarding the NPM

included the establishment of a new body, the designation of the Ombudsman Office (*Defensoría del Pueblo*) or a mixed mechanism with participation of Ombudsman office from Autonomous regions and civil society.

Public debate about OPCAT implementation was also advanced in Catalonia through a number of activities organised in Barcelona, by the Observatory of the Criminal System and Human Rights of the Barcelona University (*Observatori del Sistema Penal i els Drets Humans de la Universitat de Barcelona*), the NGO Justice and Peace (*Justícia i Pau*) and the Catalan Institut for Studies of Violence (*Institut Català d'Estudis de la Violència*). In December, the Catalan section of the NGOs Network for the Prevention of Torture, publicly launched a proposal for the Catalan NPM (the Catalan autonomous region has authority on certain places of detention, such as prisons, police stations and juveniles detention centres). The Catalan NGOs propose the creation of a new body that will have jurisdiction on the Catalan territory and would include participation of civil society. Based on the Catalan proposal, the National NGOs Network launched in March 2007 a proposal on the establishment of a NPM at the national level (See [document](#)).

During the course of January and February 2007, the NGO Network for Torture Prevention has held meetings with public authorities regarding the NPM, including with representatives of the Ministry of Interior, the Ministry of Foreign Affairs and the Ombudsman Office (*Defensoría del Pueblo*).

The NPM designation process for all of Spain is formally coordinated by the Office of the first Vice-president, in consultation with the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Interior.

Updated on 14 March 2007.

Sweden

Population:	9,016,596
Area (sq km):	449,964
Prison population:	7450
Number of prisons:	86
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Sweden's government is a limited constitutional monarchy with a parliamentary system. Executive authority is vested in the cabinet, which consists of a prime minister and 20 ministers who run the government departments. The present Social Democratic government, led by Prime

Minister Göran Persson, came to power in 1994 after losing power briefly in 1991.

There is a national-level police force divided into 12 districts, each of which reports to a national police board under jurisdiction of the Ministry of Justice. In January 2005, the office of the prosecutor general established a unit exclusively dedicated to investigations of crimes committed by police officers, judges, and prosecutors.

While prison conditions generally meet international standards, overcrowding and lengthy pre-trial detention periods remained problems, particularly in the Stockholm region. The Council for Europe's (COE) Committee for the Prevention of Torture, in a 2004 report, stated authorities should work to assure a proper balance between the needs of criminal investigations and the restrictions placed upon pre-trial detainees.

NPM Process

Sweden ratified the Optional Protocol in September 2005 and, according to Amnesty International Sweden, it is possible that it may designate the Parliamentary Ombudsmen's Office (Riksdagens ombudsmän) as the main NPM. However, in total Sweden boasts four other Ombudsman's Offices including the Children's Ombudsman, Disability Ombudsman, Ombudsman for Equal Rights and the Ombudsman against Ethnic Discrimination. It therefore remains to be seen whether any of these other institutions will play a role in implementing the instrument, as an overlap of competencies with regards to places of detention appears to exist, particularly in relation to ethnic minorities and children in and young persons in detention.

It is noteworthy that the Parliamentary Ombudsmen's Office is the oldest of such institutions in the world, dating back to 1809, and as is characteristic of such institutions, a complaint to the Parliamentary Ombudsmen can be made by anybody who feels that he or she or someone else has been treated wrongly or unjustly by a public authority or an official employed by the civil service or local government. There are four Parliamentary Ombudsmen who receive annually some five thousand complaints concerning a diversity of state institutions including the police and prisons and probation. The Ombudsmen can react in response to a legitimate complaint by issuing recommendations to the public authorities and, in more serious cases, by acting as a prosecutor and taking the individual at fault to court (see also Finland above). In addition, an Ombudsman who feels that a law needs to be changed can propose this to Parliament or to the government.

While Nordic Ombudsman institutions like the Parliamentary Ombudsmen's Office in Sweden unquestionably enjoy considerable standing and authority in Scandinavian society, they fall short of the OPCAT minimum criteria on a number of grounds, most notably as a result of them only visiting places of detention on the basis of a complaint. The proactive component as envisaged in the instrument's text is clearly absent and needs to be addressed. However,

the other considerable powers of the institution should also not be lost sight of.

Updated on [].

Switzerland

Population:	7,523,934
Area (sq km):	41,290
Prison population:	6111
Number of prisons:	122
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Switzerland is a federal state composed of 26 cantons that retain attributes of sovereignty, such as fiscal autonomy and the right to manage internal cantonal affairs. Under the 2000 Constitution, cantons hold all powers not specifically delegated to the federation. The administration of justice is primarily a cantonal function. The cantons regulate local government. The basic unit of local government, which administers a village, town, or city, is the commune or municipality. Cantons are subordinate to federal authority but keep autonomy in implementing federal law.

The cantons are responsible for handling most criminal matters, and procedures vary. The federal police office has a coordinating role but relies on the cantons for actual law enforcement. The federal attorney general in Bern oversees intercantonal and international crimes.

NPM Process

Switzerland signed the OPCAT in June 2004 but ratification will occur only once legislation setting up the NPM has been adopted. The process for the adoption of this law has been very slow.

A first draft project on possible options for NPMs was drafted by a federal inter-departmental Working Group, led by the Federal Office of Justice. This first draft was submitted to an initial round of unofficial consultation.

Almost all of the twenty-six Cantonal governments agreed at all times that Switzerland should ratify OPCAT. At the outset, all but three Cantons preferred a single federal entity rather than a multiplicity of cantonal authorities. Faced with the prospect of having themselves to pay for cantonal NPMs, the three Cantons ultimately decided that recognizing federal

jurisdiction would be preferable. In Switzerland it is theoretically possible for one Canton to block such an arrangement if Cantonal legislation is needed to implement the treaty.

Different options were examined by the Working Group.

In this case, however, the federal government believed it had sufficient legislative competency to enact a federal NPM: while the “execution” of civil and criminal law is a Cantonal prerogative, the federal government took the position that the NPM would not directly interfere with “execution” of criminal law, but will rather simply observe and make recommendations. Responsibility for execution of treaties falls to the Federal government under its Constitutional power over foreign relations and under public international law, and the Federal government is competent to “monitor” internal implementation or execution of treaties. Further, the Swiss Constitutions specifically requires Cantons to respect Federal law, and this includes international law.

A draft law was officially presented for consultation to all interested actors with a deadline for feedback by the end of December 2005.

The draft law proposed to create a single national body under existing federal authority. This option was favoured based on the following factors:

- Cantonal support,
- efficiency,
- reduced costs,
- uniform standards / law, and
- speedier procedure towards ratification.

The draft law repeated some of the specific elements set out in the Optional Protocol itself, especially regarding powers and guarantees. The law adopted a broad definition of places of deprivation of liberty, as mandated by OPCAT, including prisons, police stations, asylum-seeker detention centres, psychiatric establishments, and old persons homes. The NPM would be empowered to undertake surprise visits, as the Swiss government takes this to be a requirement implicit in the OPCAT concept of “free access”.

The Federal government would appoint the 12 members, on recommendation of the Federal Office of Justice and the Department of Foreign Affairs. NGOs can propose candidates to these offices.

Unfortunately, financial considerations have led to a very minimalist approach where the members would not be remunerated (they would be unpaid volunteers), there will be no secretariat staff and no proper offices for the NPM.

This approach – seeking to have a “cost-free” body -- was the primary focus of criticisms during the consultation, not only from NGOs, but also from numerous cantons and political parties.

The results of the consultation process were considered by the Federal Office of Justice (results available <http://www.news-service.admin.ch/NSBSubscriber/message/attachments/5196.pdf>).

A new proposal (in Switzerland, referred to officially as “message”), on ratification and implementation was officially adopted by the Federal Council (Swiss Government) and transmitted to the Parliament on 4 December 2006. The message is available at: <http://www.news-service.admin.ch/NSBSubscriber/message/attachments/5193.pdf>.

The draft law proposed with the message (available at <http://www.news-service.admin.ch/NSBSubscriber/message/attachments/5195.pdf>) takes into account some of the comments made during the consultation process. It now includes the right for the Commission to have direct contacts with the Sub-Committee. The definition of deprivation of liberty has been revised to include the notions of “at instigation or with consent of the authorities”. The draft law now specifically mentions the possibility of unannounced visits. The article regarding the professional competences of the members has been slightly redrafted. A new article entitled “Duties of the authorities” has been included and provides for the obligation to publish and disseminate the annual report as well as to examine and take position on the proposals submitted by the Commission.

The most important change concerns the financing of the NPM: indemnities for the members of the Commission are now foreseen (300.- CHF/day; 20 days work/year for each member). However, the other main critic has not been taken into account and the Federal Council maintains its refusal to establish a permanent Secretariat, with offices, for the Commission.

The message has now to be considered by the Parliament, first by the Council of States (lower Chamber) and then by the National Council (higher Chamber). Discussions within the Committee on Legal Affairs of the Council of States have not started yet. As legislative elections are planned for October 2007, it is now feared that the consideration of the OPCAT message will be postponed to 2008.

Updated on 24.05.2007.

Turkey

Population:	70,413,958
Area (sq km):	780,580
Prison population:	65 458
Number of prisons:	446
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Modern Turkey was founded in 1923 from the remnants of the defeated Ottoman Empire by national hero Mustafa Kemal. Under his authoritarian leadership, the country adopted wide-ranging social, legal, and political reforms. After a period of one-party rule, an experiment with multi-party politics led to the 1950 election victory of the opposition Democratic Party and the peaceful transfer of power. Since then, Turkish political parties have multiplied, but democracy has been fractured by periods of instability and intermittent military coups, which in each case eventually resulted in a return of political power to civilians. A separatist insurgency began in 1984 by the Kurdistan Workers' Party (PKK) - now known as the People's Congress of Kurdistan or Kongra-Gel (KGK). After the capture of the group's leader in 1999, the insurgents largely withdrew from Turkey, mainly to northern Iraq. In 2004, KGK announced an end to its ceasefire and attacks attributed to the KGK increased.

The US State Department reported that as of 2005 members of the security forces continued to torture, beat, and otherwise abuse persons regularly. The Turkish National Police (TNP), under interior ministry control, is responsible for security in large urban areas. The Jandarma, paramilitary forces under joint interior ministry and military control, is responsible for policing rural areas. The Jandarma is also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control. In December 2004 parliament adopted legislation calling for the establishment of judicial police, who were to take direction from prosecutors during investigations. The judicial police had not been established by the end of 2005. A civil defence force known as the village guards is less professional and disciplined than other security forces and is concentrated in the southeast.

Conditions in many prisons remained poor. Underfunding, overcrowding, and insufficient staff training were problems. While the government permitted prison visits by representatives of some international organizations, such as the European Committee for the Prevention of Torture (CPT), domestic nongovernmental organizations (NGOs) did not have access to prisons.

NPM Process

At the present moment Turkey lacks any mechanism which might play a role in the implementation of the OPCAT in the country. Although the system of Human Rights Monitoring Boards, which was established in 2001, are often vaunted by the authorities as independent entities, this is not the case. In theory there are 81 Human Rights Monitoring Boards spread throughout Turkey's regions and on paper they have access to various detention facilities. However, in practice such bodies fall far short of what would be acceptable under the Optional Protocol.

In the eyes of civil society this system of detention monitoring had been wholly discredited. Common complaints have included that the functioning of such bodies is sporadic and their membership is not independent of the facilities they monitor. The activity reports of the Human Rights Monitoring Boards are not made public on a regular basis and, as a result, there exists very little public information about their work. The UN Special Representative on Human Rights Defenders, Hina Jilani, was particularly scathing of the Human Rights Monitoring Boards in her January 2005 report of her visit to Turkey in October 2004. What follows is an extract from the report:

48. After careful review of these boards, the Special Representative finds that despite reforms to exclude the security forces, composition and the selection process of these boards remain problematic. Board members consist for the most part of representatives of the State or political parties in power, while the rest are selected at the discretion of the governor. In many instances, NGOs invited to participate have little human rights knowledge or experience, and there are apprehensions that selection is largely based on political affiliation or on considerations other than commitment and relevance to human rights. While there may be some benefit in including other sectors of the civil society besides human rights NGOs, the fundamental purpose of these boards is to focus on human rights issues and address complaints of violations. The expertise, experience and relevance of members of these boards will ultimately determine the quality of their work and success in achieving the purpose of their establishment. At the present, this expectation seems to be far from realistic.

49. The modus operandi of the boards is also problematic. Boards are chaired by governors who control the agenda of meetings. Cases reviewed are decided upon by a majority vote, which in light of the composition of the boards, leaves NGOs and human rights experts with only little say. Additionally, boards are dependent on the governorship to provide them with offices and secretarial support as they have no budget of their own.

50. As a result of their lack of independence and, for some, of a human rights-based approach, many Turkish human rights NGOs,

including the Human Rights Association and the Human Rights Federation of Turkey, still decline participating in the boards. In several cases, defenders also questioned the genuineness of the State's desire to have them participate in the process. NGOs indicated that often the Governorship had invited them on the Boards while at the same time, initiating prosecutions against them."²⁰

In contrast to the Special Representative, Human Rights Watch appear to be slightly more hopeful of their potential of the Human Rights Monitoring Boards, albeit as a stopgap measure until other arrangements can be made for the implementation of the OPCAT, as the following extract reveals:

“Police station visiting by human rights boards is a valuable addition to the existing safeguards against torture and ill-treatment. An innovation in Turkey, independent police station visiting is increasingly recognized worldwide as a safeguard for detainees, and a protection against abuse. The Turkish government has acknowledged the need for and the usefulness of police station monitoring by signing the Optional Protocol to the United Nations Torture Convention in September 2005. At least as an interim measure before protocol-based systems are established, human rights boards are ready and willing to monitor police stations and gendarmeries, and some have already begun to carry out effective visits. Less than half of boards have yet carried out visits, and remaining boards should be encouraged to make a start on this work. Many boards are holding back from carrying out *ad hoc* visits, believing that they should not intrude on gendarmerie or police premises unless a victim of a human rights violation has made a formal complaint. Such complaints are rare, and certainly do not match the frequency of allegations of ill-treatment. Boards must set themselves a pace of visiting that will provide a reasonable frequency of visits. As well as carrying out random unannounced and announced visits, boards should be alert to reports of ill-treatment in their province, and respond accordingly. Provincial governors' close identification with the boards may help to establish the boards in the early stages of their monitoring activities, but could in the longer term undermine the independence of visiting delegations. The independence of delegations must soon be enhanced – in particular, by providing dedicated resources, by governors standing well back from the monitoring process, and by the inclusion of HRA or Mazlum-Der representatives, acting on a consultancy basis if necessary. Delegations, currently working out their own working and training methods, are keen to receive information and training about how to carry out their duties properly, by ensuring that places of interrogation and detention are run in conformity with international standards. Reporting of the boards' visiting activities is as yet

²⁰ See UN Doc. E/CN.4/2005/101/Add.3, 18 January 2005.

limited, but the Human Rights Presidency has committed itself to detailed reporting in the near future.”²¹

Although there does not currently exist an NHRI or Ombudsman’s Office in Turkey, there have been discussions on this matter for some time. Under pressure from the European Union, the Turkish authorities have reportedly been considering creating an Ombudsman’s Office for some years now and a draft law had been elaborated for this purpose. However, it was not known at the time of writing how far this legislative process has progressed.

It is important to note that there are currently a number of initiatives in Turkey to promote the ratification of the instrument. Two notable national human rights organizations currently have campaigns devoted exclusively to OPCAT or which have a significant OPCAT component, namely the Human Rights Foundation of Turkey and the Foundation for Society and Legal Studies (TOHAV). For example, the APT was informed that on 23 December 2006 an experts’ seminar was convened on this matter by the Human Rights Foundation of Turkey, comprising an array of government and non-government representatives as well as leading academics. The participants were said to be largely in favour of the instrument.

The APT also participated in a follow-up event organized by the Human Rights Foundation of Turkey on 24 February 2007 in Ankara in order to vaunt the merits of the instrument. At the meeting a representative of the Ministry of Foreign Affairs informed the APT that the Turkish authorities are currently collecting information about how a range of countries in the EU are planning to implement the OPCAT at the national level. The lessons from these countries will reportedly inform Turkey’s decision to implement the instrument. However, the representative gave no specific time-line regarding ratification by Turkey.

The APT returned to Turkey in early June 2007 to speak about the OPCAT at a torture prevention event, which was held in the city of Van in South-East Turkey.

Last updated 7 June 2007.

²¹ Human Right Watch Briefing Paper, Turkey: First Steps Towards Monitoring of Police Stations and Gendarmerie , 6 March 2006 – see Conclusion.

Ukraine

Population:	46,710,816
Area (sq km):	603,700
Prison population:	165,716
Number of prisons:	182
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

Independence for Ukraine was achieved in 1991 with the dissolution of the USSR, though democracy remained elusive as the legacy of state control and endemic corruption stalled efforts at reform. A peaceful mass protest "Orange Revolution" in the closing months of 2004 forced the authorities to overturn a rigged presidential election and to allow a new internationally monitored vote that swept into power a reformist slate under Viktor Yushenko.

The minister of internal affairs is responsible for the police. He is a member of the cabinet and reports to the prime minister. The Security Service of Ukraine (SBU) reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable both to the president and the cabinet. The Prosecutor General's Office prosecutes criminal cases. Legislation enacted in 2003 to provide civilian control over the army and law enforcement agencies authorizes parliamentarians to conduct investigations, including public hearings, into national security and defence issues. The legislation also broadened the authority of the human rights ombudsman to initiate investigations into the activities of the armed forces as well as those of law enforcement bodies.

The US Department of State reports that as of 2005, police frequently employed severe violence against persons in custody; that during an October 11, 2005, meeting with representatives from the Council of Europe, Human Rights Ombudsman Nina Karpachova acknowledged that torture continued to occur in pre-trial detention facilities; and that there were multiple and credible reports from human rights NGOs and diplomats that authorities regularly abused refugees at refugee detention centres. Conditions in pre-trial detention facilities were harsher than in low and medium security prisons. During 2005, the government increased efforts to prosecute police alleged to have abused detainees. According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Although prison conditions remained poor, they continue to improve slowly as a result of reforms in the penal system, which are easing overcrowding. The US Department of State reports that as of 2005, the government allowed prison visits by human rights observers and granted full access to prisons and

pre-trial detention facilities, and that the Ukrainian Red Cross had said that, unlike in the past, all of its prison and pre-trial detention centre access requests were granted. Prisoners and detainees are permitted to file complaints with the ombudsman for human rights about the conditions of detention, but human rights groups reported in 2005 that prisoners were sometimes punished for doing so.

NPM Process

Ukraine became the 25th State Party to the OPCAT when it ratified the treaty at the UN Treaty Event in New York. However, Ukraine's initial signature of the OPCAT in September 2005 came as somewhat of a surprise to domestic human rights actors, particularly as there had reportedly not been any national-level discussion or related indication that signature was being considered by the authorities. Nevertheless, Ukraine signed the instrument on 23 September 2005 and draft legislation on ratification was reportedly submitted to the Ukrainian Parliament, *Verkhovna Rada*, by the President on 25 May 2006. This move set in train the process of ratification.

The effective implementation of the instrument in Ukraine is unlikely to be a straightforward affair. In late November 2005 the OSCE's Office for Democratic Institutions and Human Rights and the OSCE Project Coordinator in Ukraine organized the first national round-table discussion to address the all-important issue of ratification and effective implementation of the instrument, to which the APT was invited to participate in an expert capacity. A further broad meeting was held on this matter in mid-December 2006, which is said to have concluded that the NPM should somehow be placed with the office of the Ukraine's Parliamentary Commissioner for Human Rights.

This body is the unquestionably the most obvious existing monitoring mechanism which might be potentially designated as an NPM under the OPCAT. This institution was established in 1998 and has a mandate to investigate a wide range of complaints, including violations of a socio-economic nature. On paper the office also has considerable powers to enter a range of closed institutions, although in practice there have been many concerns regarding the regularity of visits, diminishing the deterrent factor of such inspections. In addition, the institution in its current form does not seem to be held in particularly high esteem in human rights circles. Thus, it remains to be seen whether the Ukraine's Parliamentary Commissioner for Human Rights can effectively take on the NPM function.

Lamentably, there currently exist no other monitoring mechanisms in Ukraine, which possess the minimum criteria laid down in the Optional Protocol text with regard to a NPM, a conclusion which was very much apparent from the November 2005 national round-table in Kyiv. However, there have been domestic efforts aimed at establishing a system of monitoring of places of police detention through so-called "mobile police groups". The overall project, which is generally referred to as the 'Mobile Groups Project', seeks to create localized monitoring bodies, comprising civil society representatives and public officials, to inspect police detention facilities. The OSCE Project

Coordinator in Ukraine is said to be actively supporting this project, which has produced some positive results.

It was notable that the UN Committee against Torture also commented on the establishment of the mobile police groups during its examination of Ukraine's fifth periodic under the UN Convention against Torture in May 2007. The UN Committee stated: *"While the establishment throughout the State party of "mobile groups", composed of representatives of civil society and staff of the Ministry of Interior, with the mandate to visit police detention facilities, monitor the situation of detainees and prevent acts of torture is a positive development, the Committee remains concerned about their dependency on the good will of local authorities, the lack of formal status given to them as well as with the lack of adequate resources."* The Committee therefore recommended that Ukraine *"...establish a formal status for the "mobile groups", provide them with a strong mandate, guarantee their independence and provide them with adequate resources. The State party should also inform the Committee on measures taken to set up a national preventive mechanism in accordance with the Optional Protocol to the Convention."*²²

Updated on 21 May 2007.

United Kingdom

Population:	60,609,153
Area (sq km):	244,820
Prison population:	88,458
Number of prisons:	159
Police stations:	?
Psychiatric institutions:	?
Immigration detention centres:	?
Military detention facilities:	?

Background

The United Kingdom is a constitutional monarchy with a democratic, parliamentary government. It is not a federal State but has a significantly decentralized structure in respect of Scotland, Wales, and Northern Ireland. The United Kingdom has been one of the strongest supporters of the OPCAT internationally, both in its diplomatic efforts and in funding the development of technical assistance materials.

In Great Britain, regional police forces (44 in England and Wales and 8 in Scotland) are responsible for maintaining law and order. In Northern Ireland the Police Service of Northern Ireland (PSNI) has that responsibility. In some areas of Northern Ireland, army units reinforce the PSNI.

²² UN Doc. CAT/C/UKR/CO/5, 18 May 2007 – paragraph 12.

Ms Silvia Casale of the UK was elected to the international UN Subcommittee for the Prevention of Torture on 18 December 2006 for a two year term.

NPM Process

The UK is currently attempting to bring together a range of disparate inspection mechanisms for the purposes of OPCAT implementation. Prior to signing the OPCAT, the Human Rights department of the UK Foreign & Commonwealth Office reportedly consulted all national government departments likely to be affected by the instrument, independent statutory authorities and the devolved administrations in Scotland, Wales and Northern Ireland. The national government concluded from this consultation process that various UK monitoring mechanisms required for the purpose of OPCAT implementation were already in place and no new mechanism needed to be created. The relevant government authorities subsequently gave their consent to ratification, which took place in December 2003.

The OPCAT text states that one or more existing visiting mechanisms can be designated as NPMs. As of mid-June 2006 the UK government had designated approximately 30 existing mechanisms for various types of detention facilities in England and Wales, Scotland and Northern Ireland. For example, in England and Wales alone these include the following bodies:

- Prisons: Her Majesty's Inspectorate of Prisons, Prisons and Probation Ombudsman and Independent Monitoring Boards;
- Young people's secure centres: Commission for Care Standards Improvement;
- Police cells: police custody visitors, Independent Police Complaints Commission and the Justice, Community Safety and Custody Inspectorate;
- Court cells: Justice, Community Safety and Custody Inspectorate and lay visitors to court cells;
- Court cells for court escorts and holding areas: Community Safety and Custody Inspectorate and lay visitors to court cells;
- Psychiatric hospitals: Mental Health Act Commission;
- Immigration removal centres (UK wide): Her Majesty's Inspectorate of Prisons, Prisons and Probation Ombudsman, Independent Monitoring Boards;
- Immigration short-term holding facilities: Her Majesty's Inspectorate of Prisons and Independent Monitoring Boards;
- Military Corrective Training Centre at Colchester: Her Majesty's Inspectorate of Prisons (by agreement with the Ministry of Defence, non-statutory) and Independent Monitoring Boards;
- Military (camp) police cells: Adjutant-General.

A similar plethora of national mechanisms are responsible for facilities in Scotland and Northern Ireland.

A number of interesting challenges will inevitably be thrown up by the multiplicity of mechanisms designated by the UK authorities. The latter have initiated a process of consultation with various actors, including the NPMs themselves and civil society, to examine the question of effective implementation of OPCAT in practice. To this end the UK's Department for Constitutional Affairs, which has the responsibility for the instrument in the UK, organized a meeting of designated NPMs on 14 March 2006. According to a representative of the Department for Constitutional Affairs, this meeting concluded that the NPMs were, by and large, compliant with the OPCAT text.

Representatives of civil society and academia were also brought into this process later in the year when the Department for Constitutional Affairs convened a meeting in London on 13 June 2006 to consider whether the national visiting mechanisms fully met the necessary criteria, as stipulated in the instrument's text. A range of UK-based NGOs and government officials were invited to the meeting to express any concerns they had regarding possible shortfalls in this respect. In advance of the meeting the APT submitted a list of possible issues for discussion, which was used as a point of reference during the exchange. In contrast to the NPM meeting of March 2006 this second meeting clearly revealed that the challenge of implementing OPCAT was not as straightforward as it had been thought.

One of the main points of discussion related to the plurality of visiting mechanisms which the UK has designating under OPCAT and the need to coordinate and integrate their combined monitoring and reporting activities in relation a number of relevant counterparts, including the international Subcommittee on Prevention, its Secretariat and the UK authorities. It was suggested that this requirement might be achieved by giving three principal monitoring mechanisms in the devolved parts of the UK a leading, coordinating role in this respect, namely Her Majesty's of Prisons in England and Wales, Her Majesty's Inspectorate of Prisons in Scotland and the Northern Ireland Human Rights Commission. Other visiting mechanisms, where doubts exist about their compatibility with OPCAT, would have a so-called buttressing function and would supplement the activities of these principal mechanisms. However, no final decision has been made on this matter and it was recognized that changes would need to be made to enhance the mandates as well as the resources of these bodies. Such modifications would probably require significant legislative changes.

The difficulties were also discussed in relation to OPCAT and the then existing proposal to create a Single Criminal Justice Inspectorate in England and Wales, which would have seen Her Majesty's Chief Inspector of Prisons merged with four other inspectorates. Concerns were expressed about the draft legislation and its effect on, among other things, the latter's independence, power of unannounced visits and authority to carry out inspections by reference to human rights standards. Such changes would have consequently also had an effect on the implementation of OPCAT in the UK. The Department for Constitutional Affairs stated that it would take stock of

all the comments made during the meeting and examine ways in which the issues might be resolved.

A further meeting on the implementation of the OPCAT is scheduled for 29 June 2007. The Ministry of Justice, formerly known as the Department for Constitutional Affairs, is hosting a meeting in London with the national monitoring bodies which will be designated as the UK's NPM. In addition, the Northern Ireland Human Rights Commission is holding a meeting in Belfast on 26 June 2007 to discuss, among other things, the implementation of the instrument in Northern Ireland.

Updated on 7 June 2007.

Document last saved by Matthew Pringle on 7-Jun-07