

2018 Annual Report
of the Liechtenstein National Prevention Mechanism
pursuant to Art. 17 et seqq. of the Optional Protocol to the
Convention against Torture and other Cruel, Inhuman or
Degrading Treatment or Punishment

I. INTRODUCTORY REMARKS

A) Dates and times of the individual visits and composition of the National Prevention Mechanism:

1. In accordance with Art. 17 et seqq. of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (National Law Gazette 2007, no. 260), the National Prevention Mechanism (hereinafter referred to as: NPM) visited places of deprivation of liberty in the Principality of Liechtenstein on various occasions in 2018. The individual visits were largely made without prior announcement and at the following dates and times:
 - 29 January 2018, from approximately 10:30 a.m. to 12:00 noon
 - 16 April 2018, from approximately 10:30 a.m. to 12:00 noon
 - 25 June 2018, from approximately 10:30 a.m. to 12:15 p.m.
 - 17 September 2018, from approximately 09:30 a.m. to 10:00 a.m.
 - 17 September 2018, from approximately 10:15 a.m. to 11:30 a.m.
 - 26 November 2018, from approximately 10:20 a.m. to 12:00 noon

2. Apart from the visit on 29 January 2018 during which Edmund Pilgram was prevented from attending, each of these visits was carried out by all of the following members of the NPM:
 - Mag. iur. Franziska Goop-Monauni, LL.M., Chairperson of the Liechtenstein Corrections Commission and the Liechtenstein NPM

- Dr. Gerhard Mislik, Deputy Chairperson of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Isolde Kieber, Member of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Dr. med. Gernot Singer, Member of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Edmund Pilgram, Member of the Liechtenstein Corrections Commission and the Liechtenstein NPM

The visits were accompanied by briefings and debriefings by the NPM (the Corrections Commission), during which the course of action was determined and the results were discussed.

B) Visit to the facilities:

3. In 2018, the NPM visited the following places of deprivation of liberty:
 - Vaduz State Prison (Landesgefängnis Vaduz)
 - Imprisonment room at the border crossing point Feldkirch / Schaanwald

C) Other matters:

4. Co-operation with the Liechtenstein authorities during the visits by the NPM has once again been very good this year. The members of the NPM were granted immediate access to all facilities that they wanted to visit. In addition, they were given the opportunity to have confidential talks with all persons that they wanted to talk to. Both the Government officials and the competent contact persons of the visited facilities were co-operative and very helpful.

On 17 September 2018, the annual meeting between the members of the NPM, the Ministry for Foreign Affairs, Justice and Culture and the Office of Justice took place. This meeting was attended by the members of the NPM, Minister Dr. Aurelia Frick and her Senior Advisor lic. iur.

Ivana Ritter and Mag. iur. Harald Oberdorfer. In addition, this exchange was also attended by Police Commissioner lic. phil. Jules Hoch and by Police Chief of Staff lic. iur. Uwe Langenbahn, who formally also holds the position of head of the State Prison. During this meeting, the recommendations made in writing by the Corrections Commission and the NPM in the past quarterly and annual reports were discussed orally and the Government and the Offices in charge expressed their positions thereon. Any related details will be provided below under the relevant headings.

II. FACTS IDENTIFIED AND RECOMMENDATIONS MADE DURING THE VISITS

A) Vaduz State Prison (Landesgefängnis Vaduz):

1. In 2018, of the visits mentioned above, five visits by the NPM to the Vaduz State Prison were unannounced. The number of prison inmates varied during the visits between 8 and 14 persons, and these included persons serving a sentence, pre-trial detainees and detainees awaiting extradition or deportation. The total number was 63 inmates, most of them men and two women.

The prison officers readily provided the NPM with information, and access to all penitentiary files requested was granted. Furthermore, immediate access was granted to all facilities that NPM members wanted to visit. In addition, it was always possible for the NPM to have confidential talks both with the prison officers and the head of the prison on the one hand and with the pre-trial detainees and persons serving a sentence and the detainees awaiting extradition or deportation on the other hand.

During these visits, the NPM was able to obtain a good understanding of the conditions of detention. As in the past few years, these conditions continue to be good. The inmates did not complain that any abuse or other inhuman treatment had happened during their time spent in the State Prison. On the contrary, the NPM continued to be satisfied that the atmosphere in the State Prison was predominantly good in the past year.

In addition to the basically positive overall impression gained by the NPM (or the Corrections Commission) during their visits, the following points should be highlighted as being particularly positive:

- From 1 January 2018 onwards, the realignment of the strategy pursued by the State Prison has been implemented. Ever since, the terms of detention served in the Vaduz State Prison have been limited predominantly to pre-trial detentions, deportation and extradition detentions as well as short terms of imprisonment or short alternative terms of imprisonment. Partially conditional sentences of imprisonment as well as prison terms during the months preceding an inmate's release shall be carried out, if possible and depending on the individual case, in the open prison Saxerriet based on a cooperation agreement existing in this regard. All other types of criminal detention terms continue to be served in Austrian prisons on the basis of the bilateral agreement concerning the transfer of prisoners entered into with Austria in 1983.

The NPM still welcomes this strategic realignment even one year after its implementation, because it continues to result in an improvement of the job and rehabilitation opportunities for inmates which would not be possible at the State Prison due to the limited infrastructure there. Most of all, the co-operation with the open prison Saxerriet is given a positive assessment and could be implemented in as many as three cases in 2018. In addition, as already in the past year, in case of a transfer to a foreign prison, we recommend a practice that in any case preserves the principle of equality and guarantees legal certainty for inmates. In addition, if possible, transfers to prisons located nearby should be achieved, in order to make sure that the contact between the inmates and their close family members, which, in each individual case, is at least as important to the inmates' rehabilitation, is guaranteed to the best possible extent.

- Upon reviewing the prison room folder which is handed out to each inmate on the date of his/her admission and which contains information on his/her rights and duties within the State Prison, the NPM noted at the

beginning of the year that there is no information on the existence of the NPM (or the Corrections Commission). This was immediately corrected. The prison folder now includes an information sheet with this information.

- The NPM welcomes the fact that the prison officers regularly take part in training and further education events.
 - Praise is deserved for the fact that, at the suggestion of the NPM, four prison rooms have now been declared as non-smoking rooms and that old and dirty mattresses have been replaced with new ones.
2. Apart from these positive developments, individual areas within the penitentiary system continue to be in need of reform. These include facts and recommendations which have already been addressed in previous annual reports and which will be discussed below:

2.1 Uniform rules of allocating competence:

In its previous annual reports, the NPM already expressed its regret concerning the position taken by the Government that, due to a shortage of resources, it continues to have no intention of abolishing the mixed competences in the penitentiary system between the Ministry for Foreign Affairs, Justice and Culture and the Ministry for Home Affairs, Education and Environment. The NPM therefore expresses its regret in this regard again this year and, in respect of the reasons in support thereof, makes reference to its previous annual reports and to Rule 71 of the European Prison Rules of the Council of Europe which states that prison facilities must be separate from police and criminal investigation services.

The NPM thus reiterates its recommendation to the Princely Government that, with regard to the allocation of legal competence, the penitentiary system should be made the exclusive competence of the Ministry of Justice or the Office of Justice in order to prevent cases of abuse and in order to create uniform

rules of competence allocation in line with European penitentiary standards.

2.2 Inmates with mental disorders

The NPM has already highlighted in the past that the Liechtenstein State Prison is increasingly confronted with inmates with mental disorders for whom the State Prison is not a suitable institution to offer professional care. On the one hand, the behaviour of inmates with mental disorders may have a negative effect on the state of other inmates and cause anxiety. On the other hand, these cases also require the prison officers to increase their workload even further and to act with an even greater degree of professionalism. The NPM has been informed that the Ministry for Home Affairs, Education and Environment has now set up a working group which deals with the topics of involuntary commitment and commitment of prison inmates with mental disorders.

The NPM welcomes the related clarifications which are currently being made, and looks forward to receiving a result from the working group soon.

2.3 Initial medical examination

The NPM was under the impression that an initial examination by the prison's physician is not performed in time on all prisoners upon their admission to the institution. The NPM takes the liberty to recall that § 125(6) of the Liechtenstein Penitentiary System Act (StVG) provides that all prisoners must undergo a medical examination upon their admission or as soon as possible. Likewise, the Council of Europe Prison Rules no. 16 and no. 42.1 state that all prisoners must be presented to the medical staff after their admission as soon as possible and that an examination must be conducted unless this is obviously unnecessary.

It is true that the related statement of the Ministry for Foreign Affairs, Justice and Culture is acceptable to some extent (“with the consent of the inmate, the initial examination is not conducted until the regular visit is scheduled to take place, if the person concerned states that his/her state of health does not give rise to any concerns”).

Nevertheless, the NPM takes the liberty to address the point in time in which the initial examination is performed, in particular also with regard to the detection and prevention of infectious diseases at the earliest stage possible, and it recommends that awareness be raised with the prison officers with regard to the fact that an initial examination of inmates should take place after consultation with the institution’s physician as early as possible, ideally upon the inmates admission to the State Prison. If, due to a lack of language skills on the part of the inmate, there are considerable communication problems, the use of the services of an interpreter is recommended as well.

B) Imprisonment room at the border crossing point Schaanwald / Tisis

1. On 17 September 2018, from 09:30 a.m. to 10:00 a.m., an unannounced visit to the two imprisonment rooms at the border crossing point Schaanwald / Tisis was made.

As was the case in 2011, the NPM found that the material conditions of imprisonment were very good. Each of the two rooms includes a wooden cot, a wooden table, a wooden chair and a drinking water station and a toilet. Both cells are also equipped with an alarm button, an intercom system and a peephole.

The review of the journal in which detentions of generally no more than 3 to 4 hours are entered gave no rise to critique either.

C) Liechtenstein National Police (Liechtensteinische Landespolizei)

1. During the annual meeting with the authorities involved, which was held on 17 September 2018, praise could be expressed for the fact that measures have already been taken to start operating the electronic central detention register recommended by the NPM in its 2017 annual report as soon as possible.

III. REVIEW AND OUTLOOK

With the conclusion of the year 2018, the third year of the four-year mandate term of the NPM came to an end.

Looking back, it can again be noted this year that the conditions for persons deprived of liberty in Liechtenstein are by and large very good. The NPM continues to welcome the strategic realignment adopted by the Government and will continue to monitor its implementation in practice.

Vaduz, 29 January 2019