

Annual Report 2016
of the Liechtenstein National Preventive Mechanism
according to Art. 17 ff. of the Optional Protocol to the Convention
Against Torture and Other Cruel, Inhuman or Degrading Treatment
or Punishment (OPCAT)

I. INTRODUCTORY REMARKS

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

1. In accordance with Art. 17 ff. of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Liechtenstein Law Gazette LGBl. 2007 No. 260), the National Preventive Mechanism (hereinafter: NPM) paid several visits to places of detention in the Principality of Liechtenstein in 2016. The individual visits took place largely without prior notice on the following dates:
 - 25 February 2016, from about 1:15 p.m. to 2:30 p.m.
 - 19 May 2016, from about 10:30 a.m. to 11:45 a.m.
 - 22 September 2016, from about 11:00 a.m. to 12:30 p.m.
 - 15 December 2016, from about 9:30 a.m. to 11:30 a.m.
 - 15 December 2016, from about 12:00 p.m. to 1:15 p.m.
2. These visits were carried out in each case by the following members of the NPM, all being present, with the exception of the visit on 25 February 2016, when Isolde Kieber was unable to attend, and the visit on 15 December 2016, when Dr. Gerhard Mislik was unable to attend:
 - Mag. iur. Franziska Goop-Monauni, LL.M., Chairperson of the Liechtenstein Corrections Commission and of the Liechtenstein NPM

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

The visits were preceded and followed by meetings of the NPM (the Corrections Commission), during which the approach was defined and the results were discussed.

B) Visits to the institutions:

3. In 2016, the NPM visited the following places of deprivation of liberty:

- Vaduz National Prison
- Liechtenstein Elderly and Care Service, St. Martin House, Eschen

C) Other points:

4. Cooperation with the Liechtenstein authorities during the visits of the NPM was again very good this year. The members of the NPM were granted immediate access to all the facilities they wished to visit. It was also possible for them to hold confidential discussions with all the persons with whom they wished to talk. Both the public officials and the responsible contact persons of the facilities visited were cooperative and most helpful.

On 22 September 2016 the annual exchange between the members of the NPM and the officials of the Office of Justice and the Ministry for Home Affairs, Justice and Economic Affairs took place. This meeting was attended by the members of the NPM, Senior Advisors Dr. Erik Purgstaller and Dr. Patricia Wildhaber, as well as Police Chief of Staff

lic. iur. Uwe Langenbahn, who formally also serves as Director of the National Prison. On the occasion of this meeting, the recommendations made in writing by the Corrections Commission and the NPM in past quarterly and annual reports were discussed verbally, and the Government made comments on those recommendations. Pertinent details on the individual points will be mentioned below.

II. FACTS IDENTIFIED DURING THE VISITS AND RECOMMENDATIONS MADE

A) Vaduz National Prison:

Of the visits mentioned at the beginning, the NPM paid three unannounced visits and one announced visit to the Vaduz National Prison in 2016. The number of detainees during the visits varied between 6 and 20 and included both convicted prisoners and prisoners on remand as well as detainees awaiting deportation. They were primarily male, although some of them were female.

In every case, prison staff readily provided the NPM with the information desired and granted inspection of all the corrections records requested. Immediate access was likewise granted to all facilities that the members of the NPM wished to visit. It was also possible for the NPM to carry out confidential discussions with prison staff and the management of the prison as well as with prisoners on remand, convicted prisoners, and detainees awaiting deportation.

During these visits, the NPM was able to gain a good overview of the detention conditions. As in previous years, these continue to be good. No complaints whatsoever of mistreatment or other inhuman treatment were made by detainees in relation to imprisonment. On the contrary, the NPM satisfied itself again in the year under review of the predominantly good atmosphere within the prison.

Despite the basically positive overall impression gained by the NPM/Corrections Commission during its visits, there continue to be individual areas in the field of corrections that are in need of reform. These concern known facts and recommendations already noted in previous annual reports that shall be taken up again below:

1) Spatial resources:

Once again, nothing has changed about the shortage of space in the Vaduz National Prison over the past year, which continues to have a negative impact on the following points:

a) Work and leisure activities:

Despite the sustained efforts of the management to procure work, leisure, and continuing education opportunities and the temporary acquisition of new orders, the deficient work situation in the National Prison continues to be a fact having a negative impact on the resocialization of prisoners.

The clarifications initiated by the prison management at the beginning of 2014 regarding construction measures to improve the spatial situation, accompanied by an expansion of the opportunities for work and other activities in the National Prison, have still not yet been concluded. However, the clarifications were intensified in that the Liechtenstein Government appointed an interdisciplinary working group in 2016 which, together with an external prison expert, is tasked with examining the structural challenges and especially the basic concept of the National Prison and its strategic reorientation. During the annual exchange, the NPM was informed that the final report of this working group was expected by the end of 2016.

In view of the crucial role that work, leisure activities, and continuing education play for the resocialization of convicted prisoners, the NPM welcomes the clarifications initiated to

improve the current situation, and it looks forward to the final report of the working group on reorganization measures to be undertaken.

b) Uniform rules of allocating competence:

Already in its previous annual reports, the NPM expressed its regret concerning the position of the Government that, due to the shortage of resources, it continues to have no intention to abolish the currently mixed competences in the field of corrections within the Ministry for Home Affairs, Justice and Economic Affairs. The NPM therefore once again this year reiterates its regret in this regard and, by way of justification, refers to its previous annual reports as well as Rule 71 of the European Prison Rules of the Council of Europe, according to which corrections facilities must be separate from police and investigation authorities.

The NPM therefore reiterates its recommendation to the Government that in future, with regard to legal competence, corrections should be made the exclusive competence of the Ministry for Justice or the Office of Justice to preclude abuses and to create uniform rules allocating competence that comply with European corrections standards.

c) Female inmates

Already in previous years, the NPM showed that the spatial conditions in the National Prison are, in individual cases, not suitable to ensure detention of female inmates that is in conformity with the principles of execution of sentences. This is especially the case when only one woman is being detained and it is therefore not possible for her to interact with other female inmates. The prison management's practice that has evolved in recent years in light of this situation is to allow female inmates to receive more visitors for the purpose of encouraging social contacts, along with more intensive service provided by the Office of Social Services. In the view of the NPM, it is gratifying that this practice was continued in 2016.

The NPM recommends that the Government continue to pursue this practice and also that it transfer female inmates as needed and as early as possible to Austrian corrections facilities.

d) Inmates with mental disorders:

Already last year, the NPM discussed how the National Prison must increasingly deal with inmates with mental disorders for whom the National Prison is not a suitable institution to offer professional care. During the annual exchange, the Senior Advisors of the Government informed the NPM that a working group has now been appointed to deal with this problem, in order to ensure professional placement and care of persons with mental disorders.

The NPM welcomes the clarifications in this regard and looks forward to receiving the working group's final report in the near future.

B) Liechtenstein Elderly and Care Service, St. Martin House, Eschen:

On 15 December 2016, the NPM paid an announced visit to the St. Martin House of the Liechtenstein Elderly and Care Service in Eschen. This visit lasted from about 9:30 a.m. to 11:30 a.m. and included an in-depth discussion with Dominique Gantenbein, Member of the General Management, Kurt Salzgeber, Head of Nursing and Care, and Michael Rogner, Head of Nursing Development. Detailed information was provided to the NPM on the functioning of the retirement home and illustrated during a tour of the house. The NPM encountered excellent conditions, as anyone can observe by visiting the home's website, www.lak.li.

All residents have a spacious individual room with large windows and a balcony. There are also generous and open kitchen and living areas as well as common rooms and a cafeteria. The sanitary installations in the rooms as well as the common bathrooms meet an exceptionally high standard of hygiene. Care and nursing for the residents is ensured in an exemplary way

and is organized according to an individualized approach. Events regularly take place at the house in which residents are able to participate. During the week, the children's play group of the municipality of Eschen also visits the inner courtyard of the house.

The members of the NPM also gained the impression that St. Martin House is strongly characterised by the right of the residents to self-determination. To the extent their health permits, residents are able to move freely inside and outside the house. If, in individual cases due to endangerment of themselves or others, measures restricting the freedom of a resident are indicated, then these measures are implemented in the gentlest way possible and documented by the responsible nursing staff themselves in consultation with the resident or the responsible physician. The members of the NPM were informed that movement sensors have been used more frequently in recent years. Only in a few cases are body straps or bed barriers used in order to protect the resident. The Liechtenstein Elderly and Care Service, in cooperation with qualified specialists, have developed a guideline for how nursing staff are to implement measures restricting movement. Based on this guideline, interventions in the freedom of movement of persons capable of exercising judgment are always undertaken only in consultation with the person concerned. In the case of persons not capable of exercising judgment, the measure is undertaken in consultation with the treating general practitioner and the person's legal representative (guardian). Only in emergency situations can the responsible licensed nurse autonomously order restrictive measures. These measures must be verified in accordance with the guidelines mentioned above within 24 hours if possible, but at the latest on the following work day, and discussed with the responsible persons. As a matter of principle, the necessity of all measures restricting movement must be reviewed within three months.

The NPM welcomes that the persons responsible for St. Martin House are guided by the aforementioned guidelines of the Liechtenstein Elderly and Care Service when undertaking measures restricting movement and thus follow modern professional standards of quality. These standards are only soft law, however. So far, there has been no legal foundation governing the restriction of freedom of persons in retirement and nursing facilities in

Liechtenstein, not only in terms of substantive law, but also in terms of procedural rules guaranteeing the right of the person to contest the measures. Legislative projects in this regard could be considered, using, for instance, the existing Austrian model of the Nursing Home Residence Act – an approach the NPM would support.

The NPM can report to the Government that the conditions encountered in St. Martin House are excellent. The NPM also recommends that the Government consider creating a legal foundation to govern restrictions of freedom in retirement and nursing facilities.

III. REVIEW AND OUTLOOK

With the conclusion of the year 2016, the first year of the four-year mandate period of the NPM has come to an end.

Looking back, it can again be said this year that the conditions for persons deprived of liberty in Liechtenstein are by and large very good. The NPM assumes that the clarifications on the strategic reorientation of the National Prison – which have been going on for quite a while – will be completed and implemented in 2017. Beyond this, it would be desirable if the Government were to consider creating a legal foundation to govern restrictions of freedom in retirement and nursing facilities.

Vaduz, 24 January 2017