

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: PG/YB

23 July 2013

Dear Mr. Penchev,

I have the honour to write to you on behalf of the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), established in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), in my capacity of the SPT Chair and the focal point for Bulgaria within the SPT Regional Team for Europe.

The SPT would like to thank the Ombudsman Office of Bulgaria for transmitting the Annual Report of the Ombudsman as the National Preventive Mechanism for the year 2012. The SPT would like to congratulate you on the broad range of activities undertaken in the period June-December 2012, especially taking into account the very recent assignment of your Office with the role of the NPM. Indeed, the SPT was impressed by the productivity of the Bulgarian NPM which, in the period of six months, inspected a total of 162 facilities and made 253 recommendations to the relevant authorities. Furthermore, the SPT noted with appreciation that the NPM visited different types of places of deprivation of liberty, including prisons, police stations, facilities for detention of foreigners, psychiatric hospitals and wards, homes for children and adults with disabilities, homes for children deprived of parental care, as well as homes for people with mental disorders, dementia and mental retardation. Moreover, the SPT commends the NPM's attention in the Annual Report 2012 to the systemic issues, which is fully in line with the SPT approach on prevention. Finally, the SPT appreciated the constructive attitude of the NPM which, as described in the report "has established professional relationships with the governmental authorities, as well as with the NGO sector". In this connection, the SPT is very interested in your experience of joint inspections of the NPM with the Executive Agency "Medical Audit", which, according to the report, will be further developed in 2013.

The SPT is looking forward to maintaining an ongoing dialogue with the NPM of Bulgaria in order to facilitate cooperation in line with article 11(b) of the OPCAT. In this respect, the SPT has noticed the challenges that the NPM experienced in 2012.

.../...

Mr. Konstantin Penchev
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For instance, the report indicates that out of 253 recommendations, “76 recommendations have not been responded by the relevant institutions”. Moreover, in 2012 the Ombudsman has used three times the power under art. 46 of Law on Implementation of Penal Sanctions and Detention (LIPSD) and recommended the Minister of Justice to close three detention facilities. However, these recommendations were not submitted within one month to the Council of Ministers, as provided for in the Law and, as a result, no decision was taken to close these institutions.

In addition, the SPT was concerned at the cases described of “wrong diagnosis of children in State care institutions” and lack of alternative forms of care allowing the deinstitutionalization of children. Finally, the SPT read with concern the NPM’s findings from the inspections performed in homes for elderly persons and noticed, in particular, the lack of safeguards during the administrative proceedings of appointment of a guardian or custodian, outdated legislation and absence of periodic judicial review of the imposed measure.

The SPT encourages the NPM to continue exploring the above-mentioned issues in detail during 2013. In this connection, the SPT stands ready to provide advice, in the light of the information provided about the main difficulties faced in your work in the area of torture prevention. The SPT would be interested in receiving your views and suggestions concerning possible forms of cooperation between the SPT and your institution. Your Office is kindly invited to provide information in that regard. The correspondence may be addressed to Mr. Patrice Gillibert (pgillibert@ohchr.org), Secretary of the SPT, Office of the United Nations High Commissioner for Human Rights.

The SPT looks forward to future cooperation with the Bulgarian NPM.

Yours sincerely,



Malcolm Evans
SPT Chairperson and focal point for Bulgaria

Cc: Suzanne Jabbour
Vice-President and Focal Point for NPMs
Subcommittee on Prevention of Torture

Cc: Ms. Mari Amos
Europe focal point
Subcommittee on Prevention of Torture

Cc: Mr. Lubomir Krilchev,
Director of the NPM and designated SPT contact person
Ombudsman Office of the Republic of Bulgaria