



Council of Europe Project
"Support to the Implementation of the European Human Rights Standards
in Ukraine: Phase II"

REPORT ON

PERFORMANCE ASSESSMENT
OF THE NATIONAL PREVENTIVE
MECHANISM OF UKRAINE

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LIST OF ABBREVIATIONS

CAT — The United Nations Committee Against Torture

CPT — The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment

CSO — Civil society organization / non-governmental organization

NPM — National Preventive Mechanism

Ombudsperson — Ukrainian Parliament Commissioner for Human Rights

Ombudsperson's Institution — Institution of the Ukrainian Parliament Commissioner for Human Rights

OPCAT — Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

SPT — The United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

I. PRELIMINARY REMARKS

The Council of Europe project “Support to the Implementation of the European Human Rights Standards in Ukraine: Phase II” assigned us to carry out performance assessment of the National Preventive Mechanism (NPM) of Ukraine over the past 3 years, following a special methodology. This activity forms part of the continuous endeavor of the Council of Europe (CoE) to support Ukraine in effective implementation of the European human rights standards with a specific focus on combatting torture and other forms of ill-treatment, rehabilitation of victims of torture, the right to privacy, data protection, as well as other important areas that are placed under the mandate of the Ukrainian Parliament Commissioner for Human Rights, i.e., the Ombudsperson, and other Project beneficiaries.

This assessment report has been written by CoE consultants Victor Zaharia and George Tugushi, assisted by Andrii Chernousov. The team of consultants extends its appreciation to the CoE project team, Victoria Galperina and Oksana Ovcharuk for their support of the consultants.

The NPM was established in Ukraine in 2012, six years after the state ratified the Optional Protocol to the Convention against Torture¹. That same year, amendments to the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”² vested the functions of the NPM to the Commissioner (Article 19¹ of the Law). The Department for Implementation of the NPM, a separate structural unit responsible for preventing torture and other cruel, inhuman or degrading treatment or punishment was established within the Commissioner’s Secretariat.

As the NPM of Ukraine build up its practice, it underwent a number of changes. The Ombudsman+ model has been adopted, which establishes that not only the Commissioner is involved in the process of monitoring the observance of human rights in places of deprivation of liberty but also representatives of NGOs, who, after being granted certain rights by the Commissioner, can attend and monitor places of deprivation of liberty and record certain problems. As the majority of preventive mechanisms, the NPM of Ukraine still faces various challenges³, including of structural nature⁴. Unlike other NPMs, the Ukrainian mechanism has to operate in the time of a full-scale Russian aggression against the country.

It should be reminded that in line with the OPCAT, the main objective of an NPM is to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment. NPMs make

- 1 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel>
- 2 Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” dated 23.12.1997 No. 776/97-VR, <https://zakon.rada.gov.ua/laws/show/en/776/97-%D0%B2%D1%80#Text>
- 3 European Commission: In 2022, the Human Rights Commissioner delivered 141 mandates to the representatives of civil society to conduct visits to detention places. However, an inadequate methodology for prison visits and the delayed publication of reports raises questions over the effectiveness and performance of the National Preventive Mechanism. The mechanism continues to suffer from limited financial resources and limited capacities of the Human Rights Commissioner’s office. Please see: European Commission, Commission Staff Working Document, SWD(2023) 699 final, Brussels, 8.11.2023; Ukraine 2023 Report, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, p. 41, available at https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_699%20Ukraine%20report.pdf
- 4 European Commission: The National Preventive Mechanism has yet to be reviewed in close consultation with specialized CSOs... Ukraine should closely... The Ombudsperson still needs to strengthen cooperation with CSOs specialised in this area. Please see: European Commission, Commission Staff Working Document, SWD (2024) 699 final, Brussels, 30.10.2024; Ukraine 2024 Report, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, 2024 Communication on EU enlargement policy, p. 33, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52024SC0699>

recommendations to the relevant authorities on improving the treatment and condition of persons deprived of their liberty and submit proposals and observations on the existing or draft legislation. It should be underlined that the mandate of the NPM differs from that of other bodies working against torture in its preventive approach as it seeks to identify patterns and detect systemic risks of torture, rather than investigate or adjudicate complaints concerning torture or ill-treatment.

According to the OPCAT, the NPMs shall be granted at a minimum the power: to regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4⁵, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; to submit proposals and observations concerning existing or draft legislation⁶. Implicitly, the key function of NPMs is their visiting function, but they also have advisory, educational and cooperation functions⁷ enabling them to carry out analysis of existing and draft legislation and provide relevant proposals for its improvement⁸ and contribute to training of the employees of places of deprivation of liberty⁹. The UN SPT has detailed the key NPM elements embedded in the OPCAT.

For the assessment purpose, a detailed methodology has been developed and pre-validated, with participation of the project team and the beneficiaries, in particular the NPM and representatives of the Ombudsperson's Office. The methodology is tailored to the NPM Ukraine and specificity of the national context and is based on the UN SPT guidance¹⁰, CPT working methods, NPM operation examples and best practices, with due consideration of the European Network of National Human Rights Institutions experience. The methodology outlines the main assessment areas, indicators and benchmarks, as well as means of data collection, toolsets, and procedural guidelines.

The performance **assessment report contains an analysis of findings in a number of areas against defined indicators and benchmarks. It discusses existing strengths, gaps and areas for improvement in the NPM operational work, and provides conclusions and recommendations. It aims to facilitate the NPM internal decision-making process** for adopting and adapting strategic and operational decisions and drafting development plans, **and external decision-making processes in the interactions** between the authorities and/or development partners working to build up capacity of the NPM Ukraine.

The assessment exercise has allowed us to draw relevant lessons for future assessments, which are reflected in a dedicated methodology paper.

5 Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. General comment No. 1 (2024) on article 4 of the Optional Protocol (places of deprivation of liberty). CAT/OP/GC/1, <https://docs.un.org/en/CAT/OP/GC/1>

6 OPCAT, art. 19.

7 Preventing Torture: The Role of National Preventive Mechanisms — A Practical Guide, p.6, <https://www.ohchr.org/en/publications/training-and-education-publications/preventing-torture-role-national-preventive>

8 Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Guidelines on national preventive mechanisms, CAT/OP/12/5, para. 28, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CAT/OP/12/5&Lang=en

9 The educational function of NPMs includes participation in training and development of educational and awareness-raising programmes in schools, universities and professional circles; and examination of the curricula of educational institutions to ensure that education and information on the prohibition of torture is included in the training of law enforcement personnel, civil or military personnel, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subject to any form of detention. Preventing Torture: The Role of National Preventive Mechanisms — A Practical Guide, p. 6, <https://www.ohchr.org/en/publications/training-and-education-publications/preventing-torture-role-national-preventive>

10 UN SPT, Analytical self-assessment tool for National Prevention Mechanisms (NPM), A preliminary guide by the Subcommittee on Prevention of Torture regarding the functioning of an NPM, CAT/OP/1, 6 February 2012; The Role of National Preventive Mechanisms — A Practical Guide, OHCHR, 2018, <https://www.ohchr.org/en/publications/training-and-education-publications/preventing-torture-role-national-preventive>

II. ASSESSMENT METHODOLOGY

The key **question for the assessment** was “Is the NPM of Ukraine effective and compliant with the OPCAT requirements and best NPM practices?”. Several sub-questions were derived from the main question:

- ▶ Which OPCAT criteria are met by the NPM of Ukraine?
- ▶ Which areas require adaptation and improvement?

Implicitly, the **indicators and benchmarks for assessment** originate from the OPCAT and the SPT guidance on NPMs effectiveness (see Chapter 3).

The assessment was performed following a combination of qualitative and quantitative **methods**, namely:

- ▶ *Legislative analysis*, in particular of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, and the relevant by-laws and internal regulations.
- ▶ *Desk review* of relevant documents such as strategies, methodologies, plans, procedures, internal organisational documents, and delivery samples such as visit reports. The assessment team analysed credible sources available publicly concerning the status, results, challenges, and achievements of the Ukrainian NPM over the past three years and documents kindly provided by the NPM / Ombudsperson’s Office.
- ▶ *Interviews* with the Ombudsperson and his regional representatives, the Head of the NPM Unit and the NPM staff, independent monitors and civil society organisations (CSOs). Senior managers and staff of the institution were interviewed to hear the managerial perspective, as well as their practical experience and challenges.
- ▶ *Four questionnaires* were filled online by six representatives of the Ombudsperson; 32 employees, members of the NPM staff or involved in the NPM work; 31 CSOs representatives working with the NPM as independent monitors, and 14 NPM partners (CSOs not involved directly in the NPM activities, and other stakeholders). The Ombudsperson’s Office helped distribute the questionnaire among its employees, while the CoE consultants collected the responses.

The assessment team is fully aware of the importance of the opinions of the persons deprived of their liberty, as well as of the managers and staff of the places of deprivation of liberty in such an assessment process. The timeframe and allocated resources did not allow us to commission specific opinion polls in current circumstances, however the opinions of persons deprived of their liberty were, where applicable, deducted from the perceptions of the NPM staff and monitors. Another challenge in carrying out the first ever performance assessment based on specific criteria and benchmarks concerned the retrospective collection of statistical data and quantification. Counting the recommendations and assessing the level of their implementation would require redirecting the available resources away from the main areas of this exercise, thus it was decided to use the available data.

All data sources were cross-checked and verified.

III. PERFORMANCE AREAS, INDICATORS AND BENCHMARKS

Performance areas addressed	Indicators	Benchmarks
Functional independence of the NPM (mandate, operational, financial independence)	Legislative mandate (mandate set out in a constitutional or legislative text)	Legislation reflects expressly and clearly the OPCAT requirements on the NPM mandate and powers
	Operational independence	No authority interferes with the NPM mandate and operations (e.g. no instructions to the NPM staff) A separate organizational unit with its own Head has operational autonomy as regards its resources, work plans, findings, and recommendations)
	Financial independence	The NPM possesses necessary, sufficient, and appropriate resources to carry out its functions in accordance with the OPCAT requirements, as well as a dedicated budget line for NPM activities
Experts and independent members	Diversity of expertise	Diversity of professional backgrounds and experience (i.e. legal, medical, psychological, child-related, etc.); gender balance
	Independence of NPM staff	NPM staff members can do their work without threats or sanctions against them
	Committed and motivated	Relatively stable NPM team
Effectiveness based on strategy and methodological work	Effective strategies and methodologies of work	All NPM activities are based on specific methodologies of work; the activities are prioritized; working methods are reviewed regularly
Fulfilment of key functions	System of regular visits to places of deprivation of liberty / Visiting function	NPM performs regular visits to all types of places of deprivation of liberty, it produces visit and thematic reports, and issues recommendations
	Commenting on existing and draft legislation	NPM comments on existing and draft legislation which might directly or indirectly affect the treatment of persons deprived of liberty and impacts the risk of torture and ill-treatment
	Contributing to training of staff of places of deprivation of liberty and other categories of staff/ Educational function	NPM assesses and contributes in various ways to training of personnel in places of deprivation of liberty and other staff involved in custody, interrogation or treatment of any detained persons
External interactions	General public awareness on NPM, its role and functions	General public is generally aware of the NPM, its role and functions Specific target groups (administration and staff of places of deprivation of liberty, persons deprived of liberty) are aware of importance of NPM activity and its modus operandi
	Relationship between NPM and CSOs	NPM has established sustainable lines of communication with CSOs
	Relationship between NPM and international stakeholders (treaty bodies, organisations with similar mandates)	NPM has established sustainable lines of communication with CPT, UNSPT, UNCAT, other treaty bodies and international organisations relevant to the NPM mandate (e.g. CRPD)
Dialogue with the authorities	Publication of NPM visit reports, thematic and annual reports	All NPM reports are published and disseminated among the relevant target groups (including a separate annual report)
	Meaningful process of dialogue and implementation of NPM recommendations	NPM and public authorities maintain a permanent meaningful dialogue concerning implementation of NPM recommendations

While the OPCAT requirements are not necessarily transposable in quantitative indicators, nevertheless the OPCAT leaves to the NPM the discretion of deciding upon the frequency of visits, the modality of balanced performance of the entire spectrum of NPM functions (which depend, *inter alia*, on the NPM strategy, quality of the dialogue with the authorities, but also the available resources). The assessment exercise has tried to identify some quantitative performance indicators concerning the implementation of the NPM functions (visiting, commenting on legislation and educational function of the NPM).

System of regular visits to places of deprivation of liberty / NPM visiting function:

- ▶ sectors covered, out of the entire spectrum of categories of institutions to be visited by the NPM (e.g. only police facilities, prisons and social care homes; not visited detention centers for migrants);
- ▶ number of institutions visited, out of the total number of institutions in a particular category (X prisons visited out of Y total number of prisons, which constitutes K %);
- ▶ total number of visits per year;
- ▶ % of unannounced visits;
- ▶ number of reports produced, out of the total number of visits (%; e.g. 98 reports following 100 visits);
- ▶ % of published visit reports and thematic reports;
- ▶ number of formulated recommendations;
- ▶ % of NPM recommendations implemented, under way, non-implemented, and rejected;

Not relevant:

- ▶ number of interviews performed during the visits;
- ▶ number of complaints examined by the NPM;
- ▶ number of NPM members involved in preventive visits;

Commenting on existing and draft legislation:

- ▶ number of recommendations addressing existing and draft legislation;
- ▶ number of complex legal opinions addressing existing and draft legislation;

Not relevant:

- ▶ number of meetings and events where legislation was discussed

**Contributing to training the staff of places of deprivation of liberty and other categories of staff/
Educational function**

- ▶ number of training events (excluding those for NPM staff and monitors) in which NPM staff were involved as trainers or facilitators;
- ▶ number of training events (excluding those for NPM staff and monitors) organised and performed by the NPM, including number and categories of trainees involved;
- ▶ number of training programmes (excluding those for NPM staff and monitors) examined by the NPM, and recommendations formulated;
- ▶ number of training programmes (excluding those for NPM staff and monitors) developed by the NPM.

Not relevant:

- ▶ number of trainings in which NPM staff participated as trainees.

The assessment team notes that using quantitative indicators may facilitate the assessment process, contribute to its objectivity, and lead to better comparability/ identification of trends, while at the same time it requires particular attention and resources from the NPM unit. The data collection process shall be planned and organised. Some data is available, such as information on institutions visited and the number of visits in a particular year; additional efforts are required for some categories of information (e.g. collection of information on the level of implementation of the NPM recommendations); while for some items, special attention and resources might be necessary, such as for research on public perception of the NPM role and impact).

Bearing in mind the country's context and, implicitly, the current NPM priorities, it was decided to formulate the conclusions of the assessment based on the existing/already collected information, while for future (self-)assessments, a system of indicators, where applicable, might be set in place.

IV. MAIN FINDINGS

A performance assessment of any NPM is a complex task which involves a number of areas to be closely studied and evaluated. While certain criteria and indicators have been developed, not all the NPM operation areas are measurable and transposable into quantitative and qualitative data. The NPM of Ukraine represents an unusual model which can be considered a hybrid one. While it is established within the Office of the Human Rights Commissioner (Ombudsperson), it also includes civil society organizations whose participation in the NPM work is regular and systemic. Cooperation of those two main elements, i.e., the core NPM Department within the Ombudsperson's Office and the civil society started on the day when the NPM got established in 2012.

As noted above, when working on this assessment, all key stakeholders, directly and indirectly involved with the NPM, were approached and their views were collected and analysed. Therefore, this assessment, on the one hand, is based on the analysis of the available data and information, and on the other hand, it heavily relies on the feedback from the key stakeholders, which includes CSOs, representatives of the institutions falling under the NPM mandate, NPM staff, as well as other employees of the Ombudsperson's Office.

All the stakeholders consider the NPM an independent and impartial operational mechanism, which despite the current difficult situation in Ukraine has managed to stay fully operational, carrying out regular visits and publishing its visit reports, as well as annual and special reports. The NPM is considered to be composed of motivated professionals, committed to their jobs and willing to achieve positive changes in the area covered by the NPM mandate. This includes the core staff of the mechanism, as well as members of the civil society supporting the NPM in its work.

Stakeholders are unanimous that the current legal framework provides the NPM with sufficient powers and mandate to operate in compliance with the OPCAT requirements. However, the legal framework can still be improved, granting the NPM unlimited powers to use photo, video and audio devices during their visits to all types of places of deprivation of liberty.

The strong sides of the NPM of Ukraine include its solid structure and the ability to carry out regular visits to different places of deprivation of liberty, a capacity to draft and publish monitoring reports within a short period of time, its systematic and effective involvement of the civil society in the work of the mechanism, where representatives of the CSOs consider themselves equal members of the team when participating in the visits. The NPM model operating in Ukraine provides the CSOs with a practical opportunity to participate in the monitoring of the institutions with restricted access.

Despite financial constraints and lack of sufficient resources, the NPM still manages to pay numerous visits to different institutions in different parts of the country. The visits are carried out regularly. The NPM ensures proper visibility, and the beneficiaries of the NPM visits are more or less familiar with the mandate of the mechanism. Obstructions to the NPM work are rare and insignificant. In case of obstructions, the NPM acts in accordance with the established procedure.

The NPM is motivated to expand its educational activities and provide training to the staff in charge of places of deprivation of liberty. Expansion of these activities is dependent on the availability of human and financial resources.

The NPM has managed to achieve a positive impact in a number of areas. Thanks to the NPM, places of deprivation of liberty have become more transparent. Because of regular visits to the places of

deprivation of liberty, the accountability of the institutions is improved, and episodes of torture, inhuman and degrading treatment or punishment have significantly decreased in all types of institutions visited by the NPM. Due to its work, the detention conditions have improved in numerous institutions holding people deprived of their liberty.

The NPM has contributed to the improvement of legislation and the general legal framework regulating the operation of the institutions of deprivation of liberty, as well as that of the state bodies in control of the law enforcement authorities and places of custody falling under the NPM mandate.

The areas which still require improvement and affect the NPM operations are related to the funding, human resources and lack of effective mechanisms to enforce the NPM recommendations. More specifically, insufficient funds in the state budget prevent the NPM from hiring additional staff, expanding its activities and hiring sufficient number of external experts to support the NPM.

In addition, the CSOs supporting the NPM mostly rely on external funding provided by the donors. The budget allocated for the NPM has not increased during the last three years, not allowing the NPM to cover more places of deprivation of liberty. While representatives of the CSOs are regularly invited to join the NPM visits, coordination and cooperation can be further improved, including in planning, post-visit reporting and professional development.

One of the areas mentioned by all the stakeholders, which requires improvement, is related to the implementation of the NPM recommendations by the relevant authorities both on the central and local levels. While this area is not under direct control of the NPM and its recommendations are not legally binding, their implementation level leaves much to be desired. Some of the recommendations are repeatedly included in the NPM reports drawn after its follow-up visits.

Last but not the least, the NPM of Ukraine is experiencing problems listed above which are not unusual for most of the NPMs operating in the region. However, it has to be noted that the NPM of Ukraine operates in the time of the full-scale Russian aggression. NPM members risk their safety when implementing their mandate and manage to keep the mechanism fully operational and effective despite the country's difficult situation.

V. SPECIFIC ASPECTS OF PERFORMANCE ASSESSMENT OF THE NATIONAL PREVENTIVE MECHANISM OF UKRAINE

V.1. FUNCTIONAL INDEPENDENCE OF THE NPM

A. Legislative mandate

Indicator: Legislative mandate (mandate set out in a constitutional or legislative text)

Benchmark: Legislation reflects expressly and clearly the OPCAT requirements on the mandate and powers of the NPM

Actual situation

As noted above, in accordance with the OPCAT Article 19, the law should grant the NPM at least the following powers:

(a) to regularly examine the treatment of the persons deprived of their liberty in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

(b) to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

(c) to submit proposals and observations concerning existing or draft legislation¹¹.

While the legal framework regulating the NPM operations is not a part of Constitution, it is a part of the current Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” (Commissioner Law), granting the NPM of Ukraine a broad range of competences. In accordance with Article 19–1 of the mentioned Law, the Commissioner is entrusted with functions of national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

To perform the functions of the national preventive mechanism the Commissioner:

- 1) makes regular visits to places mentioned in paragraph 8 of Article 13 of the Commissioner Law, without prior notice of the time and purpose of such visits and without limits of their quantity;

¹¹ OPCAT Article 19.

- 2) interviews persons kept in places referred to in paragraph 8 of Article 13 of the Commissioner Law, in order to obtain information regarding their treatment and detention conditions, as well as interviews other persons who may provide such information;
- 3) submits proposals to public authorities, state bodies, enterprises, institutions and organizations regardless the form of their ownership, including those referred to in paragraph 8 of Article 13 of the Commissioner Law with regard to prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- 4) engages on a contractual basis (on a monetary or free of charge basis) representatives of civil society organizations, experts, scholars and professionals, including those from abroad, to regular visits to places referred to in paragraph 8 of Article 13 of the Law;
- 5) performs other duties prescribed by the Law.

Interviews of persons deprived of liberty shall be carried out in private and under conditions that preclude the possibility of wiretapping or eavesdropping. At the request of the Commissioner, if necessary, such interviews can be carried out in the presence of an interpreter, a doctor, workers of the institutions mentioned in paragraph 8 of Article 13 of the Commissioner Law, and in case of an interview of a minor, his or her legal representative, teacher or a psychologist.

Representatives of civil society organizations, experts, scholars and professionals engaged by the Commissioner on a contractual basis to perform functions of the national preventive mechanism following a separate written order of the Commissioner, visit places mentioned in paragraph 8 of Article 13 of the Commissioner Law. In compliance with requirements of part 3 of this Article, they may interview persons kept in such places with the view of obtaining information about treatment of those persons and their detention conditions.

At the request of the Commissioner, public authorities, state bodies, enterprises, institutions and organisations regardless of their form of ownership shall provide information on the number of persons kept in places specified in paragraph 8 of Article 13 of the Commissioner Law, the number of such places and their location, as well as any other information concerning the treatment of people and their detention conditions.

The NPM leaders, as well as the external stakeholders, consider the current legal framework as sufficient, allowing the NPM to operate in compliance with the OPCAT. Indeed, ***the present legislation reflects expressly the OPCAT requirements on the mandate and powers of the NPM***. However, the NPM is willing to further improve the legal framework, granting the NPM unlimited authority to use photo, video and audio recording devices in all types of institutions under the NPM mandate. Related amendments to the Commissioner Law have been drafted and submitted to the Parliament.

Recommendations

The Law on the Ukrainian Parliament Commissioner for Human Rights provides the NPM of Ukraine with an appropriate legal framework enabling it to operate in line with the OPCAT requirements. However, there is always room for improvement and **enabling NPM to use photo, video and audio recording devices freely, in all types of places visited by the NPM**, should further strengthen the capacities of the mechanism.

B. Operational independence

Indicator: Operational independence

Benchmark: No authority interferes with the mandate and operations of the NPM (e.g. no instructions to the NPM staff)

A separate organisational unit, with its own Head exercising operational autonomy (as regards the resources, work plans, findings, and recommendations)

Actual situation

The Commissioner has a reactive mandate (consideration of individual complaints is carried out by the Department for Monitoring the Right to a Fair Trial and Procedural Rights¹²) and a preventive mandate as the NPM.

The structure of the Ombudsperson's institution includes: the Commissioner of the Parliament of Ukraine for Human Rights; the Commissioner's Secretariat with 12 departments, including the Department for the Implementation of the National Preventive Mechanism of the Commissioner's Secretariat, NPM; the Commissioner's Representatives (to represent the Commissioner in an area or region; there are Representatives of the Ombudsperson and 24 regional representative offices of the Ombudsperson¹³). All these structural elements have powers linked to the NPM activity.

There is an *Advisory Council on the Implementation of the NPM under the Commissioner*¹⁴, which provides professional advice to support the Commissioner in performing the NPM functions under the Optional Protocol. Its main task is to facilitate the implementation of the Commissioner's powers in the field of parliamentary control over observance of the right to protection from torture and other cruel, inhuman or degrading treatment or punishment. The Advisory Council has 29 persons, including the Commissioner, employees of the Secretariat of the Commissioner, invited representatives of international institutions, CSOs, expert and scientific institutions; and 25 representatives of the most influential and reputable organisations with experience in the field of human and civil rights and freedoms).

The *Regional Representative Offices* monitor¹⁵ the observance of constitutional rights and freedoms of persons and citizens in the regional practices; provide proposals to the Commissioner on ensuring human rights and freedoms; work to implement the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; participate, on behalf of the Commissioner, in inspections on observance of human rights and freedoms by state authorities and other actors. To facilitate cooperation with the civil society, the Commissioner may designate regional coordinators for interaction with the public.

A separate structural NPM unit — the Department for the Implementation of the National Preventive Mechanism — has been set up in the Secretariat of the Commissioner.

12 Information on individual complaints is submitted to the NPM Department for consideration while preparing for preventive NPM visits.

13 Their list and location, please see: <https://ombudsman.gov.ua/uk/predstavniki-upovnovazhenogo> and <https://ombudsman.gov.ua/uk/gromadski-prijmalni>

14 Established by the order of the Commissioner dated 30.09.2022 No. 67.15/22, the Regulations defining the procedures for the Advisory Council's functioning and its personnel were also approved, and available at <https://ombudsman.gov.ua/uk/organizacijno-rozporjadchi-dokumenty>

15 Working procedure and powers of the regional representative offices are set out by the Regulation on regional representative offices of the Ukrainian Parliament Commissioner for Human Rights, approved by the Commissioner's order No. 14/02–13 dated 19.02.2013.

During the assessment, no particular challenges related to the operational independence of the NPM as part of the Ombudsperson's Office were identified. On the contrary, the NPM's possibility to rely on other categories of the Ombudsperson's Office staff is mostly perceived as an advantage.

Recommendations

Bearing in mind the high number of places of deprivation of liberty in various regions of the country to be covered by the NPM preventive visits and the need to ensure uniformity in the NPM operations, it is recommended to the **NPM unit to use functional communication channels with the regional representatives, the staff and monitors involved in NPM visits to ensure consistency in NPM operations all over the country, including for identification of systemic issues and addressing them.**

C. Financial independence

Indicator: Financial independence

Benchmark: The NPM is provided with the necessary, sufficient and appropriate resources to enable it to carry out its functions in accordance with the requirements of the OPCAT, as well as a dedicated budget line for NPM activities

Actual situation

State Parties should make available the necessary resources for the functioning of the national preventive mechanisms¹⁶. The NPM should prioritise its use of resources, on the basis of a regular analysis of its practice and experience, and in the light of its evaluation of its needs and the means necessary for it to exercise its mandate appropriately. The NPM should advocate for the provision of the resources necessary for the effective exercise of its mandate. In this process, the NPM can largely benefit from the assistance of the SPT and other international and local actors supporting the operation of the NPM¹⁷.

The lack of sufficient financial and human resources has been one of the main impediments for development of the NPM in Ukraine and enlargement of its operations and impact.

A decision was made in 2018 to provide the NPM with additional financial resources from the public budget. As a result of this decision, a **separate budget line was introduced in the budget of the Commissioner's Office**, and the NPM was given UAH 2,600,000 to be for its annual operational costs¹⁸. The budgetary allocations further increased from UAH 1,567,000 in 2000 to UAH 3,282,000 in 2001 and to UAH 3,282,000 in 2022, though they understandably decreased after the full-scale invasion of the Russian Federation (UAH 2,658,000 in 2023, UAH 2,658,000 in 2024, and UAH 2,393,000 in 2025). Clearly, **the budget allocations remained insignificant in 2025 and reliance on outside funding was very high**. Considering good institutional and personal relations of the Commissioner's Office and the NPM with the donor community, the NPM managed to survive and even develop further.

The available funds can be allocated for visits, holding public events, production of awareness raising materials, training of the NPM staff and monitors, participation in events abroad and protocol costs.

¹⁶ OPCAT, Article 18.3.

¹⁷ Analytical assessment tool of National Preventive Mechanisms (NPM), A preliminary guide by the Subcommittee on Prevention of Torture regarding the functioning of an NPM, para 15.

¹⁸ In 2019, the Resolution of the Cabinet of Ministers of Ukraine No. 169 dated 06.03.2019 "On approval of the procedure for the use of funds provided in the state budget for measures to implement the National Preventive Mechanism" adopted a mechanism for use of funds allocated in the state budget for the Secretariat of the Ukrainian Parliament Commissioner for Human Rights under the budget program "Measures to Implement the National Preventive Mechanism".

However, the allocated resources seem to be rather limited, bearing in mind the amount of NPM work. The lack of sufficient financial resources prevents the NPM from expansion of its activities as it is unable to recruit additional staff and experts. Existing budget does not provide the possibility to cover the expenses related to the participation of public monitors either.

Recommendations

It goes without saying that the Government of Ukraine should aim to further **increase the NPM budget, while the NPM should continue using external funding avenues and donor assistance in addition to the resources provided by the state budget**. Although allocation of additional budget funds might be unachievable in the wartime, securing currently available amount of budget funds should be a priority. A combination of budget funds and donor support should provide the NPM with more resources to be invested in various areas for its development and activities, including training and education.

V.2. EXPERTS AND INDEPENDENT MEMBERS

A. Diversity of expertise

Indicator: Diversity of expertise

Benchmark: Diversity of professional backgrounds and experience (i.e. legal, medical, psychological, child-related, etc.); gender balance and representation of various groups

Actual situation

The NPM Department consists of four sections: the section for inspection of law enforcement, judicial and military facilities; the section for implementation of the National Preventive Mechanism in the field of health care; the section for implementation of the National Preventive Mechanism in social security and educational institutions; and the section for analytical work and public relations. There are in total 23 **staff members**¹⁹, with a **certain level of diversity in their educational background**²⁰. Overall supervision and coordination of the NPM operation is ensured by the Representative of the Commissioner for Human Rights in Places of Detention.

The Commissioner may involve representatives of non-governmental organisations, experts, academics, and other specialists²¹ to perform NPM functions on a contractual basis (as paid or non-paid services)²². The procedure of selection and training of public monitors involved in NPM visits (representatives of the civil society/public organisations) has been approved, so **more and better qualified experts can be involved**. Online and offline training is provided by the Commissioner's Office and with support of partners²³. This would permit to improve the NPM capacity to perform preventive visits²⁴.

19 There is only one vacant position.

20 16 persons have higher legal education, 1 employee — pedagogical education, 3 — higher medical education, 1 — pharmaceutical education, 1 — higher psychological education; with experience of working in the prosecution service, penitentiary institutions, migration service, police, tax service, local government bodies, medical institutions, etc.; a gender balanced team.

21 Activities include procurement of services from the Institute of Psychiatry of the Ministry of Health of Ukraine.

22 Art. 19–1 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”.

23 The EdEra platform hosts an online course “Basic Principles of the National Preventive Mechanism” developed by the joint EU-CoE project in 2021, which is authorised by the Commissioner as compulsory for representatives of public organisations who seek to participate in NPM visits; according to the information from the NGO «Ukraine without Torture» 77 persons have completed an online training and 52 — planned to undergo offline training.

24 In 2024, there were 183 monitors/ 91 participated in the visits; in 2023 — there were 177 monitors.

A process was launched in 2024 to develop the procedures for reimbursement of expenses incurred by civil society representatives participating in regular visits to the places of deprivation of liberty²⁵. While the NPM benefits from the involvement of public monitors who accompany the NPM on its visits, recruitment of external experts with required skills and expertise remains a challenge as it requires substantive funding.

A survey among the CSO representatives participating in the NPM visits showed that while CSO representatives consider themselves as equal members of the NPM team along with the staff of the NPM Department of the Ombudsperson's Office, there is still room for further improvement regarding planning of the visits with participation of the CSOs, their role in post-visit reporting, as well as support to their further professional development.

Recommendations

The Government of Ukraine should allocate sufficient funds to the NPM budget, enabling it to reimburse daily subsistence costs for the public monitors, as well as to hire external experts in several areas of expertise required by the NPM mandate. The NPM should further **improve planning and coordination with the public monitors**, including as regards their role in post-visit reporting, and use the available resources to support their professional development and training.

B. Independence of NPM staff

Indicator: Independence of NPM staff

Benchmark: Ability of the NPM members to do their work without threats or sanctions against them

Actual situation

As reported, both the NPM core staff and public monitors participating in the NPM work rarely experience any impediments when carrying out their activities. There are ***no known cases when the members of the NPM were threatened or intimidated or subjected to reprisals because of their professional activity.***

In case of any obstruction, the NPM should act in accordance with the procedures established by the NPM Regulations, which include several sanctions such as issuing an official warning, drawing an administrative violation report, and notification of the relevant authorities.

Although the NPM on several occasions has experienced delays in getting rapid access to certain visited institutions, these problems were resolved effectively.

Recommendations

In practice the NPM members are able to do their work without threats or sanctions against them. However, in view of scarce legal provisions, it is recommended to **consider strengthening legal provisions on safeguards²⁶ for the NPM members (staff and public monitors), including on prevention of reprisals against them, exemption from liability for opinions expressed in their official capacity etc.**

²⁵ However, due to the opposition of the Ministry of Finance of Ukraine, the adoption of this procedure currently remains uncertain.

²⁶ Art. 35 of the OPCAT uses the syntagma "privileges and immunities".

C. NPM staff commitment

Indicator: NPM members are committed

Benchmark: Relatively stable NPM team

Actual situation

The NPM core team has been reshuffled several times. The latest reshuffle has resulted in almost a **full overhaul of the NPM core team** by 90%, including its managers.

The ongoing war greatly affects the safety, working environment, security and all other aspects that are important for the normal functioning of the Ombudsperson's institution, the Central Office in Kyiv, 24 regional representative offices, and the NPM in particular. According to the head of the NPM unit, the NPM is understaffed, which leads to decreased diversity of the staff expertise and insufficient qualifications of some NPM officers and monitors. One can also note the lack of proper motivation of some public monitors, security challenges for the NPM staff and monitors, and a visible trend towards a professional burnout (lack of retreats).

To the date, there is a **high turnover of the staff**, which impacts directly the NPM performance and its institutional memory²⁷. The current exemption of the NPM staff from military conscription may be lifted²⁸.

Recommendations

Despite the difficult situation due to the war, uninterrupted operation of the mechanism is vital. **The Government of Ukraine should provide sufficient resources to the NPM to continue investing in its human resources** by increasing the number of personnel with diverse expertise, streamlining their workload both at the central and regional levels, and gradually introducing NPM staff member positions in the Commissioner's regional offices, starting with front-line regions.; **Increased motivation and encouragement of the NPM staff**, improvement of their working conditions in the war time, team building, proper current and future social packages would help **prevent professional and emotional burnout**. Allocation of sufficient **funding for the public monitors and a possibility to hire external experts** would alleviate the pressure on the NPM core team.

V.3. EFFECTIVENESS BASED ON STRATEGY AND METHODOLOGICAL WORK

A. Strategies and methodologies of work

Indicator: Effective strategies and methodologies of work

Benchmark: All NPM activities are based on specific working methodologies and priorities; working methods are reviewed regularly

²⁷ Out of 22 staff of the NPM department, only 3 were employed under the previous Ombudsperson. In 2022, 11 employees of the NPM Department left the service, and 6 more left in 2023.

²⁸ The Secretariat of the Commissioner has ensured that all NPM employees subject to military service are exempt from conscription. However, according to the legislation, 50% of the institution's employees are eligible for military reserves, therefore, there is a risk of the exemption cancellation and no conscription exemption for new employees subject to military service. It cannot be excluded that the exemption may be cancelled for all the Secretariat employees.

Actual situation

The NPM currently has a **sufficient set of documents** to support its operational activities. There are approved rules for conducting preventive visits, the rights and obligations of NPM officers and public monitors, and the procedure for reporting the visiting results²⁹. In addition, 26 methodological recommendations have been developed for monitoring various places of deprivation of liberty, including on the visit algorithm, the relevant checklists, algorithm of actions if case of allegations/signs of torture and ill-treatment, report drafting etc³⁰. Classified information is used in compliance with the laws of Ukraine on information, which also applies to confidential information obtained by the Commissioner, representatives of civil society organisations, experts, scholars and professionals engaged by the Commissioner to perform the NPM functions when interviewing persons detained in the places specified in Article 13, paragraph 8, of the Commissioner Law.

The former and the most professional NPM staff members and CSO monitors participated in the process of development of the methodological recommendations that are applied by the NPM in its work.

Recommendations

While the NPM has a set of documents regulating its working arrangements, **these documents need to be regularly revised and updated to increase** the effect of the NPM operations. These documents should assist the NPM to improve professional skills of the NPM staff and public monitors to develop balanced annual plans of NPM activities, better plan and perform preventive visits, ensure confidentiality and prevention of reprisals, draw reports with references to the relevant international standards and jurisprudence, make use of preventive visits results, and comment on existing or draft legislation and policy documents.

V.4. FULFILMENT OF KEY FUNCTIONS

A. System of regular visits to places of deprivation of liberty / Visiting function

Indicator: System of regular visits to places of deprivation of liberty / Visiting function

Benchmark: NPM performs regular visits to all categories of places of deprivation of liberty, produces visit reports and thematic reports, and issues recommendations

Potential quantitative indicators: sectors visited out of the entire range of categories of institutions to be visited by the NPM; number of institutions visited out of the total number of institutions in a particular category; total number of visits per year; % of unannounced visits

Actual situation

The NPM legislation allows the NPM to carry out regular visits to all places of deprivation of liberty, without prior notification³¹, i.e. any place under the jurisdiction and control of the state where persons

29 Regulations on the organisation and conduct of regular visits to places of deprivation of liberty to perform NPM functions, approved by the Commissioner's Order No. 60.15/23 of 02.06.2023.

30 All methodologies were developed with support of the Council of Europe.

31 The State should ensure that the NPM is able to carry out visits in the manner and with the frequency that the NPM itself decides. This includes the ability to conduct private interviews with those deprived of liberty and the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol. Para. 25, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Guidelines on national preventive mechanisms, CAT/OP/12/5, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolNo=CAT/OP/12/5&Lang=en

deprived of their liberty are or may be detained, by order of or at the direction of a public authority, or with its knowledge or tacit consent³². To ensure the exercise of the Commissioner's powers in the field of parliamentary control over the observance of the right to protection from torture and other cruel, inhuman or degrading treatment or punishment, 538 visits to places of custody were made in 2023 together with representatives of NGOs. 543 visits were carried out in 2024 to institutions of deprivation of liberty in various regions³³ and sectors³⁴. **The NPM visits cover all the categories of places of deprivation of liberty, are unannounced, and reports are drafted after each visit with the relevant recommendations.**

The available data demonstrates that the NPM of Ukraine tries to cover all regions of Ukraine which are under the effective control of the Ukrainian authorities and pays regular visits to the places of deprivation of liberty. While majority of the visits are organised by the central office in cooperation with public monitors, regional offices also carry out visits on their own to the places of detention within their mandate.

Overall, there are around³⁵ 3770 places of deprivation of liberty in Ukraine, and 5648 visits have been carried out since 2012. Unlike many other NPMs in Europe, the NPM of Ukraine covers a very broad range of institutions along with traditional places of deprivation of liberty, paying regular visits to the places of detention of the prisoners of war.

It is up to the NPM to decide the frequency of visits to particular institutions, sectors or regions therefore the NPM should strategically develop its annual plans of visits based on the criteria of risk, identified problems and available resources.

Recommendations

As the context requires increased flexibility of the NPM operations, it is recommended to the NPM to plan resource allocation and develop its **annual visiting plan for the Commissioner's approval with a fair balance of planned and ad hoc visits to the institutions in all the sectors under the NPM mandate** as dictated by specific circumstances.

B. Commenting on existing and draft legislation

Indicator: Commenting on existing and draft legislation

Benchmark: NPM comments on existing and draft legislation which influences the treatment of persons deprived of liberty and impacts the risk of torture and ill-treatment

Potential quantitative indicators: the number of recommendations addressing existing and draft legislation; the number of complex legal opinions addressing existing and draft legislation

32 General comment No. 1 (2024) on article 4 of the Optional Protocol (places of deprivation of liberty), Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/OP/GC/1, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/catopgc1-general-comment-no-1-2024-article-4>

33 By region: Vinnytsia — 10, Volyn — 25, Dnipropetrovsk — 35, Donetsk — 5, Zhytomyr — 32, Zakarpattia — 26, Zaporizhia — 22, Ivano-Frankivsk — 23, Kyiv — 10, Kirovohrad — 26, Lviv — 15, Mykolaiv — 13, Odessa — 36, Poltava — 30, Rivne — 29, Sumy — 24, Ternopil — 13, Kharkiv — 25, Kherson — 3, Khmelnytskyi — 23, Cherkasy — 31, Chernivtsi — 34, Chernihiv — 35, Kyiv — 18. Please see: <https://ombudsman.gov.ua/report-2024/natsionalnyi-preventyvnyi-mekhanizm>

34 Ministry of Social Policy of Ukraine — 142; State Judicial Administration of Ukraine — 120; Ministry of Health of Ukraine — 16; Ministry of Justice of Ukraine — 64; Ministry of Education and Science of Ukraine — 13; Ministry of Internal Affairs of Ukraine — 129; Ministry of Defence of Ukraine — 11; State Migration Service of Ukraine — 5; State Border Guard Service of Ukraine — 3; Security Service of Ukraine — 2; Privately owned institutions — 38. Please see: <https://ombudsman.gov.ua/report-2024/natsionalnyi-preventyvnyi-mekhanizm>

35 Obviously, this number can vary as some institutions are relocated or closed, while new institutions are opened.

Actual situation

Another function of the NPM is to carry out analysis of existing and draft legislation and provide relevant proposals for its improvement³⁶. The Secretariat of the Commissioner provides **comments and proposals to draft laws** and resolutions of the government, in particular regarding the observance of human rights in places of deprivation of liberty³⁷. In addition, representatives of the Secretariat participate in meetings of the parliamentary committees and government committees to present the Commissioner's vision while considering the issues related to observance of human rights. The **NPM does not yet possess a distinct methodology** and guidance **in performing this function**.

Recommendations

While in The NPM addresses various legislative issues during its visits, in its special reports, and especially in the annual reports. However, the analysis of the existing and draft legislation requires considerable resources. The NPM should assign **at least one staff member to permanently monitor the legal framework falling under the NPM mandate** with the aim of proposing changes and amendments to the legislation to align it with European standards. This should amplify the NPM recommendations for the systemic changes, implying legislative amendments. **Development and application of a dedicated methodology** for commenting on existing and draft legislation could facilitate the execution of this important NPM function.

C. Contributing to training of the staff of places of deprivation of liberty and other categories of staff /Educational function

Indicator: Contributing to training of the staff of places of deprivation of liberty and other categories of staff/ Educational function

Benchmark: The NPM assesses and contributes in various ways to training the personnel of places of deprivation of liberty and other categories of staff involved in custody, interrogation or treatment of any persons subjected to any form of detention

Potential quantitative indicators: the number of training events, excluding those for NPM staff and monitors, in which the NPM was involved as trainers and/or facilitators; the number of training events, excluding those for NPM staff and monitors, organized and performed by the NPM; the number and categories of trainees involved; the number of training programmes, excluding those for NPM staff and monitors, examined by the NPM, with its relevant recommendations; the number of training programmes, excluding those for NPM staff and monitors, developed by the NPM

Actual situation

Regarding the third function of the NPM, in particular its contribution to training of the employees of places of deprivation of liberty, currently this **activity is on hold** due to objective reasons. However, the NPM leadership is committed to activate the mandate in this area as well. The shortage of human

36 Para. 28, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Guidelines on national preventive mechanisms, CAT/OP/12/5, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CAT/OP/12/5&Lang=en

37 Based on submissions of the Commissioner in individual cases, the Resolution of the Cabinet of Ministers of Ukraine dated 26.04.2024 No. 467 "On approval of the procedure for organizing psychiatric care in the event of the application of preventive measures by the court to a person in respect of whom compulsory medical measures are supposed to be applied or the issue of their application was resolved" was adopted; similarly, amendments were made to the Order of the Ministry of Health of Ukraine dated February 14, 2012 No. 110 and the form of primary accounting documentation "Certificate on Recording Bodily Injuries" and the instructions for filling out the form of primary accounting documentation "Certificate on Recording Bodily Injuries".

and financial resources is the main impediment, as delivery of training activities for the relevant public servants requires substantive resources.

Recommendations

It is recommended to elaborate a **feasible annual plan to deliver training** to the staff of different institutions used for the deprivation of liberty across the country and implement the plan whenever the circumstances allow. Donor support can be mobilised to support such activities. In addition, **development and application of a dedicated methodology on the training function of the NPM** could facilitate the execution of this important part of the mandate and, in general, a balanced performance of all the NPM functions.

V.5. EXTERNAL INTERACTIONS

A. General public awareness of the NPM, its role and functions

Indicator: General public awareness of the NPM, its role and functions

Benchmark: General public is mostly aware of the NPM, its role and functions

Specific target groups (administration and staff of places of deprivation of liberty, persons deprived of liberty) are aware of the importance of NPM activities and its modus operandi

Actual situation

The NPM Department regularly publishes press releases regarding the implementation of its functions and materials on systemic violations of human rights in places of deprivation of liberty. Awareness on the NPM is raised through placement of information materials about the NPM in each place of deprivation of liberty, through a Telegram channel, and on the official website.

Unlike many other NPMs in Europe, the NPM of Ukraine has developed a positive practice of rapid publication of all reports following its visits to the institutions falling under the mandate of the NPM. External readers can follow the NPM work in detail rather than wait for the publication of its annual report.

A tender procedure was announced in 2024 for the development of an automated NPM system that will have an internal part to foster the accuracy and expedience of the NPM proceedings, and a public part to increase transparency and the general access to relevant information)³⁸.

However, the level of awareness of general public on the role and mandate of the NPM still leaves much to be desired and requires more targeted and structured approaches to achieve better results in this area.

Regular visits carried out by the NPM, as well as the reports it produces with the relevant recommendations predictably contribute to the increase of awareness on the NPM mandate and practices by the staff of the facilities visited by the NPM. It can be confirmed that **there is a certain level of awareness amongst law enforcement and other authorities as well as among persons deprived of their liberty**.

38 The activity is implemented in the framework of the Council of Europe project «Support to the Implementation of the European Human Rights Standards in Ukraine: Phase II».

Recommendations

It is recommended to **continue** developing quality and easy to comprehend content (video, publications, articles etc.) based on a strategy, and use active methods of their promotion in mass media for regular presentation of the results of the NPM work and its preventive visits, including its positive practices. **The usual awareness-raising methods can be combined with other methods of targeted sectoral awareness campaigns**, such as national and sectoral NPM forums. When feasible, a short module on NPM can be introduced in the training curriculum of the law enforcement institutions. Regional offices can also play a vital role in the promotion of the NPM and its mandate on the regional level. Modern means of communication such as social media tools should be applied more comprehensively. The NPM can also consider developing its own communication strategy to address the issues raised above.

B. Relationship between NPM and Civil Society Organisations (CSOs)

Indicator: Relationship between NPM and Civil Society Organisations (CSOs)

Benchmark: The NPM has established sustainable lines of communication with CSOs

Actual situation

The NPM of Ukraine has developed **systemic cooperation with civil society organisations from Ukraine and from abroad**³⁹. The NPM cooperates with a broad range of external actors, and cooperation with some of them is based on agreements signed by the parties⁴⁰.

Joint pilot projects have been launched and are being implemented together with civil society organisations, including for follow up visits to places of deprivation of liberty in the social care sector⁴¹, penitentiary institutions⁴², and other places of deprivation of liberty⁴³. They support the dialogue between the NPM and public authorities at roundtables, conferences, and other events.

In addition, each Regional Representative of the Commissioner has an expert council with participation of the most active organisations in the region, including those involved in the protection of human rights in places of deprivation of liberty. Representatives of civil society organisations, local governments, law enforcement agencies, and state authorities are involved in public events organised by the Secretariat of the Commissioner.

Though cooperation with some CSOs is not permanent, the NPM seems to enjoy **a good level of support by the CSOs sector** and, according to the NPM staff, increased international credibility and support of international partners and donors.

Recommendations

It is recommended to **keep up the current practice of active cooperation with CSOs**, bearing in mind the need for **synergy between the NPM and CSOs**, but also the need to **recognise the**

39 E.g. cooperation with NGOs supported by the UNDP and other development partners and direct cooperation with international organisations such as DIGNITY.

40 E.g. with the NGO «Ukraine without Torture»; charitable organisation «All-Ukrainian Network of People Living with HIV/AIDS»; charitable organisation «FREE ZONE» etc.

41 The project «Regional Groups of the National Preventive Mechanism».

42 Pilot project «Organisation of interaction of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights with supervisory commissions of regional and district state (military) administrations», jointly with the NGO «Ukraine without Torture» in Ivano-Frankivsk, Kyiv, Chernihiv, Odessa, Volyn regions.

43 Pilot project «Systematic Monitoring of Human Rights Compliance in the State Institution «Kyiv Detention Center».

CSO input in torture prevention efforts by increasing the visibility/identification of the NPM monitors and improving public perception of the civil society monitors' role and functions.

C. Relationship between the NPM and international stakeholders (treaty bodies, organisations with similar mandates)

Indicator: Relationship between the NPM and international stakeholders (treaty bodies, organisations with similar mandates)

Benchmark: The NPM has established sustainable lines of communication with CPT, UNSPT, UNCAT, other treaty bodies and international organisations relevant to the NPM mandate (e.g. CRPD)

Actual situation

The NPM of Ukraine regularly communicates with the CPT and the UNSPT, as well as with the NHRIs and NPMs of various countries and professional networks. In general, it seems to have a high level of international support including in the context of EU integration aspirations. The NPM of Ukraine has a good level of visibility outside the country as ***NPM communicate with international actors and participate in the professional events*** organised on a regional and global level.

Recommendations

To maintain the synergy and support of the international partners, the NPM should **continue its efforts to maintain** the contacts and **expand** its interactions with all relevant international bodies including with the CPT, the UNSPT with its dedicated country focal point, the UNCAT, and other treaty bodies. The NPM should continue following the Ukraine's reporting cycles to the TBs as well as country visits carried out by the SPT and CPT for sharing relevant information aiming at amplification of the impact of the torture prevention activities.

V.6. DIALOGUE WITH THE AUTHORITIES

A. Publication of NPM visit reports, thematic and annual reports

Indicator: Publication of NPM visit reports, thematic and annual reports

Benchmark: All NPM reports are published and disseminated among the relevant target groups, including a separate annual NPM report

Potential quantitative indicators: the number of reports in relation to the total number of visits; % of published visit reports and thematic reports

Actual situation

The NPM of Ukraine is a positive example for other NPMs all over the world concerning the number of visits to the places of deprivation of liberty, as well as the number of reports published after the visits to the places concerned. In view of the current situation in the country, largely affected by the Russian aggression, as well as the number of facilities covered by the NPM mandate, the number of the visits carried out by the NPM should be commended. As noted above, the ***published reports cover all types of places of deprivation of liberty***, including court building and camps for the prisoners of war.

Every year the Commissioner prepares a special report on the state of affairs in relation to prevention of torture and other cruel, inhuman or degrading treatment or punishment. The report is published by the media and sent to the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine in compliance with the legislation of Ukraine on information. Along with the **annual summary report, published every year**, the NPM publishes **reports on its visits to each institution within one month following the visit**. The reports include the main findings and recommendations, as well as photos produced during the visits. The NPM also comments on the status of implementation of its previous recommendations. The so-called cluster visits⁴⁴ allow the NPM to visit several institutions in the region within few days and draft reports on all the visits within a relatively short period of time, to be then published on the Commissioner's web page.

All reports developed by the NPM are **published on the Ombudsperson's web page**, in the section covering the NPM activities. Reports of the visits carried out during a calendar year are grouped together.

Recommendations

The NPM should consider further improving its web resources to make its reports more easily accessible for the external reader. The published **reports can be grouped** by the types of the visited institutions, such as police, prisons, courts, social care centers, residential homes, etc., enabling the reader to search for the required information more efficiently.

B. Meaningful process of dialogue and implementation of NPM recommendations

Indicator: Meaningful process of dialogue and implementation of NPM recommendations

Benchmark: The NPM and public authorities have a permanent meaningful dialogue concerning the implementation of NPM recommendations

Potential quantitative indicators: the number of formulated recommendations; % of the recommendations that are implemented, under way, not implemented, and rejected

Actual situation

All the stakeholders, approached during the assessment mission, consider the failure of the relevant authorities to promptly implement the NPM recommendations as one of the **main shortcomings in the operation of the mechanism**. While the NPM cannot be held responsible for non-implementation of the recommendations it gives to the state authorities, it should use all available resources to achieve improvements in this regard.

The recommendations issued by the NPM are not legally binding, and the NPM does not have an enforcement mechanism. There is no unique mechanism available to force the authorities to implement the NPM recommendations without delay. While the authorities do not reject the NPM recommendations, and in most cases agree with them, their inaction leaves the recommendations unheeded.

The NPM Department monitors the implementation of the Commissioner's recommendations by organising working zoom meetings and follow up visits. While there is **no dedicated methodology to assess the level of implementation of the NPM recommendations and for follow-up**, the NPM estimates that **only 11% of its 2022 recommendations have been implemented, 45% are in the**

⁴⁴ In 2024, eight "cluster" visits were carried out in Chernivtsi, Zhytomyr, Chernihiv, Mykolaiv, Odesa, Cherkasy, Zaporizhia and Kirovohrad regions.

process of implementation and 44% are not implemented. The NPM believes that the inappropriate level of implementation of its recommendations is due to poor liability for non-enforcement of the NPM recommendations, and partly due to the lack of financial and human resources. The situation is further exacerbated by the ongoing war.

Regarding implementation of its NPM recommendations, the NPM has a reactive style and relies very much on the reactive powers of the Commissioner⁴⁵.

Recommendations

The NPM should consider **developing and implementing a dedicated methodology to assess the level of execution of its recommendations and for follow up steps.** The methodology might propose, *inter alia*, to establish a permanent working group on the senior level of the state bodies falling under the NPM mandate to convene regularly to discuss the status of implementation of the NPM recommendations.

⁴⁵ , Following submissions of the Commissioner, 27 officials were brought to disciplinary responsibility in 2024. At the initiative of the Commissioner, information was entered into the relevant registers, and 19 criminal proceedings were initiated under Articles 127-torture, 189- extortion, 365-exceedance of authority or official powers by an employee of a law enforcement agency, the Criminal Code of Ukraine). The NPM Department initiated 31 official investigations into the facts of suicide, bodily injuries, and deaths of convicts, which were previously ignored by the management of the institutions; based on the results of these NPM official investigations, 21 officials were brought to disciplinary responsibility.

VI. CONCLUSIONS

All NPMs face challenges in the process of implementation of their preventive mandate. The NPM of Ukraine is not an exception. The usual NPM challenges are amplified by the specific context caused by the full-scale invasion of the Russian Federation which has led to a different prioritisation of the government commitments and resource allocation.

As noted above, the NPM continues to be an independent and fully functional mechanism, respected by internal and external stakeholders. The NPM maintains the capacity to carry out regular visits to all types of places of deprivation of liberty and produces post-visit reports, made public within several days after the visits. The NPM also regularly publishes its annual reports, summarising the main findings and recommendations. The NPM operates in close partnership with civil society organizations, providing them access to the places of deprivation of liberty.

Since 2012, the NPM has managed to deliver a positive impact and tangible changes both to the legal framework and practice regarding the treatment of persons deprived of their liberty. Due to NPM activities, institutions detaining people have become more transparent, cases of torture and other forms of ill-treatment have decreased, material conditions are improving, and practices are changing and getting closer to the European standards.

The NPM still faces several challenges, including the shortage of financial and human resources. While the NPM is committed to further expand its operations, the lack of resources puts those plans on hold. The level of implementation of the NPM recommendation leaves much to be desired, and the NPM is looking for the tools and mechanisms to increase their implementation.

In this context, the NPM of Ukraine should review its strategic approach to further strengthen its capacity to implement the preventive mandate as effectively as possible under the current circumstances and address present challenges.

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