

2012 Annual Report
of the Liechtenstein National Prevention Mechanism
pursuant to Art. 17 et sqq. of the Optional Protocol to the Convention against Torture and
other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

I. INTRODUCTION

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

1. In accordance with Art. 17 et sqq. of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (LGBI. 2007, no. 260), the National Prevention Mechanism (hereinafter: NPM) repeatedly visited places of detention in the Principality of Liechtenstein in 2012. The individual visits were largely made unannounced and at the following dates and times:

- 30 Jan 2012, from approx. 11:00 to 12:30 hours
- 02 Apr 2012, from approx. 10:30 to 12:00 hours
- 21 May 2012, from approx. 10:30 to 12:00 hours
- 27 Aug 2012, from approx. 10:30 to 12:30 hours and from approx. 15:00 to 15:45 hours
- 29 Oct 2012, from approx. 11:00 to 12:30 hours and from approx. 14:00 to 16:00 hours
- 26 Nov 2012, from approx. 09:30 to 12:00 hours

2. These visits were made by all of the following members of the NPM:

- Mag.iur. Franziska Monauni, LL.M., chairwoman of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Isolde Kieber, deputy chairwoman of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Dr. Gerhard Mislik, member of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Dr. med. Gernot Singer, member of the Liechtenstein Corrections Commission and the Liechtenstein NPM
- Edmund Pilgram, member of the Liechtenstein Corrections Commission and the Liechtenstein NPM

All visits were accompanied by briefings and debriefings of the NPM (the Corrections Commission), during which the procedure was laid down and the results were discussed.

B) Visits to the installations:

3. In 2012, the NPM visited the following places of detention:

- *Landesgefängnis Vaduz* (Vaduz Prison)
- *Liechtensteinische Alters- und Krankenhilfe, Haus St. Laurentius* [Liechtenstein Institution for Aiding Elderly and ill People, St. Laurentius Home]
- Detention rooms at the Feldkirch/Schaanwald border crossing point
- *Liechtensteinische Landespolizei* (Liechtenstein Police)

C) Other

4. In summary, cooperation of the Liechtenstein authorities with the members of the NPM during their visits has once again been very good this year. The members of the NPM were granted immediate access to all facilities that they

wished to visit, and were given opportunity to have confidential talks with everybody they wanted to talk to. The government officials and the competent contacts at the visited facilities were cooperative and very helpful.

On 27 Aug 2012, the annual exchange between the members of the NPM and officials from the Ministry of Justice and the Ministry of Home Affairs took place. Specifically, this meeting was attended by Government officials Dr. Erik Purgstaller, lic.iur. Hubert Wachter, lic.iur. Karin Wille and Deputy Police Commissioner lic.iur. Uwe Langenbahn, who formally also holds the position of the Prison Governor of the Liechtenstein Prison. During this meeting, the written recommendations made by the NPM in the last few annual reports and by the Corrections Commission in the current quarterly reports were discussed and were commented on by the Government. Details will be given below under the corresponding headings.

In addition, a meeting with the Liechtenstein Police took place on 21 May 2012 at the request of the NPM, specifically with lic.iur. Jules Koch, Head of the Criminal Investigation Department, and with Deputy Police Commissioner lic.iur. Uwe Langenbahn and other members of the Liechtenstein Police. During that meeting, the practice of the Liechtenstein Police concerning instructions and arrests (which had already been a subject of the 2010 Annual Report) was made a topic and discussed. Details will be given below under item II.D.

II. FACTS FOUND AND RECOMMENDATIONS MADE DURING THE VISITS

A) Vaduz Prison:

Of the visits in 2012 mentioned above, five were made by the NPM to Vaduz Prison without prior announcements. During the visits, the number of persons detained there

varied between 8 and 16 inmates, among them persons serving a sentence, pre-trial detainees, and detainees pending deportation. All detainees were male.

The prison officers readily provided the NPM with information and access to all penal files requested. Also, access was immediately granted to all facilities that the members of the NPM wanted to visit. In addition to this, the NPM was always able to have confidential talks with everybody they wanted to talk to. Confidential talks were carried out regularly with the prison officers and the institution management as well as individual and group interviews with persons serving their sentence, pre-trial detainees, and detainees pending deportation.

During these talks, the NPM was able to gain good insight into the conditions of detention. These are still good, as in the years before. No accusations whatsoever were raised by the detainees concerning abuse or other inhuman treatment during detention. On the contrary, the NPM satisfied itself once again that the atmosphere in the prison was predominantly good.

Despite a basically positive overall impression gained by the NPM / the Corrections Commission during their visits, there are still individual areas in the penitentiary system that require reform. These are facts and recommendations that are already well-known and have already been brought up in the past Annual Reports; they are briefly mentioned here again:

1) Space:

Nothing has changed about the lack of space in Vaduz Prison during the past years, which still affects the following points:

(a) Opportunities for work and leisure time:

Despite the strong efforts of the institution management to obtain opportunities for work and leisure time, the irregular and therefore unsatisfactory work situation at Vaduz Prison still has negative effects on the social rehabilitation of the detainees. Unfortunately, the average occupation rate of a detainee is still as low as 30%.

What is especially pleasing, however, is the fact that the Government has meanwhile implemented the recommendation of the NPM to conduct talks about cooperation with Saxerriet Penitentiary in neighbouring Switzerland in order to clarify the possibility of accommodating detainees there. As recently as in late 2012, the first detainee could be moved to Saxerriet Penitentiary, where he is now subject to a penitentiary system adjusted to his requirements for social rehabilitation. In the future, it should be possible to move further detainees from Vaduz to Saxerriet Penitentiary as required and on the basis of individual approval, which goes some way to rectify the unsatisfactory work situation in Vaduz Prison.

In view of the particularly high importance that work and leisure time activities have for the social rehabilitation of persons serving a sentence, the NPM recommends to the Princely Government to persistently continue all efforts to ensure regular work in Vaduz Prison.

(b) Uniform competence rules

The NPM has already stated in the last Annual Report that it regrets the position of the Government that due to a lack of resources, there is currently no intention to get rid of the current mixed competence of the Ministry of Justice and the Ministry of Home Affairs concerning the penal institutions. This year, too, the

NPM regrets to take note of the unchanged position of the Government in this matter.

The NPM therefore repeats its recommendation to the Princely Government that the penal system be put under the exclusive competence of the Ministry of Justice in order to prevent misuse and to create a unified competence, which would be in line with the European standards for penal institutions.

(c) Prison staff:

It is recorded with pleasure that the originally temporary employment of the female prison officer has meanwhile been changed to permanent employment, and that another prison officer will receive paramedic training in the near future.

(d) Prison food:

The NPM notes with pleasure that the complaints of individual detainees that occasionally, the amount of food offered in the institution was too small has been countered within the shortest time by introducing the free issuing of yoghurt.

B) Liechtenstein Institution for Aiding Elderly and Ill People, St. Laurentius Home

On 29 Oct 2012, the NPM paid an announced visit to the St. Laurentius Home of the Liechtenstein Institution for Aiding Elderly and Ill People. That visit lasted from approx. 14:00 hours to 16:00 hours and was characterised by an extensive meeting with Martin Wanger, Head Nurse, who explained the procedures of the nursing home in detail to the NPM and gave the members a guided tour through the home. The NPM found excellent conditions, which are also published to see for everyone on the homepage www.stlaurentius.li.

The St. Laurentius Home is strongly characterised by the residents' right to self-determination; as far as their state of health permits, they can move freely in and around the home. Should immobilisation be necessary as an individual exception for the protection of a resident, this is duly documented and is done with suitable care.

All residents have large single rooms with large windows and a balcony. The sanitary facilities in the rooms and the common bathrooms meet excellent standards of hygiene. Care of and assistance to the residents is exemplary and oriented at an individualistic approach. There are also large kitchen diners, common rooms, and a visitor cafeteria, where regular events with the residents take place.

The NPM reports to the Princely Government that the conditions found at the St. Laurentius House are excellent.

C. Detention rooms at the Feldkirch / Schaanwald border crossing point:

On 26 Nov 2012 from approx. 09:30 hours to 10:30 hours, the NPM made an unannounced visit to the two detention rooms at the Feldkirch / Schaanwald border crossing point.

As before in 2008 and 2011, the NPM found very good material conditions for detention. Both rooms had a wooden daybed, a wooden table, a wooden chair, a drinking fountain, and a toilet. Both cells are also equipped with an alarm button, an intercom, and a peephole.

The examination of the journal where all detentions are listed gave no reason for complaint. Detentions normally do not take longer than four hours.

D) Police custody:

As has been mentioned above, a meeting with the Liechtenstein Police took place on 21 May 2012 at the request of the NPM - specifically with lic.iur. Jules Koch, Head of the Criminal Investigation Department, with Deputy Police Commissioner lic.iur. Uwe Langenbahn, and with other members of the Liechtenstein Police. During that meeting, the current practice of the Liechtenstein Police concerning instructions and arrests was discussed, which the NPM has been glad to find has improved since the amendment of the Liechtenstein Code of Penal Procedure.

Since 1 October 2012, an accused has the right to have a defence lawyer present as early as during pre-trial investigations by the Liechtenstein Police. In accordance with these changes to the law in LGBl. (Liechtenstein Legal Gazette) 2012 no. 26, the duty of the Liechtenstein Police to instruct arrested persons has also been adjusted. In addition, a new internal directive has been issued to regulate the classification of detainees with regard to danger of absconding and escape during prisoner transports, so that the practice of arrests will be proportionate in the future. The current situation gives no reason for complaint.

In addition, the NPM paid an unannounced visit to the Liechtenstein Police on 26 Nov 2012 for the purpose of examining the police arrest records. After some delays and disorientation as to who in the police force might be competent for this request, the members of the NPM were finally granted inspection of the records in question. These gave no reason for complaint.

III. LOOK BACK AND LOOK FORWARD

With 2012, the first year of the four-year mandate term of the NPM in partly new composition has ended.

In retrospect, one can note once again this year that the conditions for detained persons in Liechtenstein are essentially very good. In the field of penitentiaries, the NPM has been able to make some more progress in cooperation with the competent authorities, and in particular initiate cooperation with Saxerriet Penitentiary as a part improvement to the unsatisfactory work situation in Vaduz Prison. There is therefore reason to hope that the other recommendations to the Government will be taken up in the future and will lead to a solution.

Schaan, on 04 February 2013