

COMMENTS ON THE DRAFT GENERAL COMMENT ON
ARTICLE 4 OF THE OPTIONAL PROTOCOL

Ulaanbaatar, Mongolia
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I am deeply grateful for allowing me to review the draft General Comment on Article 4 of the Optional Protocol to the UN's Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The functions of the Commissioner in charge of the Prevention of Torture are enshrined in Article 33 of the Law on the National Human Rights Commission of Mongolia. Paragraph 33.1 of this article states: "Commissioner in charge of the Prevention of Torture shall carry out the following actions to prevent torture in the territory of Mongolia. Paragraph 33.1.1 of this article states: "carry out regular monitoring visits and analysis to study the systemic causes and conditions under which torture can take place **in all places** where human rights are restricted and places where a person cannot leave of his own free will."

Article 33 of this law defines "in all places" as follows:

- penitentiary institution;
- detention center;
- places of temporary and compulsory detention;
- mental health center;
- orphanages for children, the disabled and the elderly;
- school boarding house;
- institution of compulsory treatment;
- compulsory treatment facility;
- placement Refugees;
- military disciplinary accommodation;
- temporary detention and shelter at border checkpoints.

The National Preventive Mechanism of Mongolia not only conducts monitoring to prevent torture in all places from which a person cannot leave voluntarily but also intends to apply a broader meaning in its monitoring visits based on the definition of "place of deprivation of liberty in any form", mentioned in OPCAT and paragraph 33.1.1 of this Law. This is

why the National Preventive Mechanism agrees with the need and requirements for wider use of the term “place of deprivation of liberty”.

I consider it appropriate that the Subcommittee emphasized in the Draft General Comment on Article 4 of the OPCAT that “by nature, does not call for any type of exhaustive list”, and it is commendable that it was recommended to conduct monitoring visits involving hospital, hotels and formal places of compulsory quarantine and isolation, rehabilitation centers for drug addicts, police and military training schools and religious schools.

In the draft General Comment of the Subcommittee to the Optional Protocol, I propose to include the following content: “States Parties to the Optional Protocol of the Convention against Torture are not limited to including in their national legislation a list and description of places to be monitored. The General Comment is especially recommended to be applied in the activities of each States Parties and to harmonize their national legislation.”

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