

An Overview of Torture Prevention Systems in Russia, Lithuania, Sweden and Norway

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The very nature of detention means that those subjected to it are dependent on detaining authorities to provide protection and to refrain from human rights abuses, including torture and ill treatment. Recognising this, the Optional Protocol to the UN Convention against Torture (OPCAT) obliges signatories to establish detention monitoring bodies through National Preventative Mechanisms (NPMs). Whilst some regions have received considerable attention in terms of CAT and OPCAT compliance, this has not generally been so for the region incorporating Russia, Nordic and Baltic countries.

Noting the shared responsibility and need for a regional approach to the eradication of torture, *An Overview of Torture Prevention Systems in Russia, Lithuania, Sweden and Norway* is a joint effort between four non-government human rights organisations, and forms part of a broader project on regional

prevention of torture, funded by the Nordic Council of Ministers.

This concise paper outlines the situation and preventative measures by country. There are some minor variations in nation-based topics, but included for all are descriptions of legislation, observations of international bodies, the system of prevention of torture, the number of places of detention, and analysis of the National Preventative Mechanism (NPM) and the Russian equivalent system.

In considering the number of places of detention, the difference in scale becomes apparent, with over 9,000 detention locations in Russia, compared to 4002 in Lithuania, 318 in Sweden, 1,511 in Norway (where, unlike for the other countries, 1,000 nursing homes are also included in the count).

The four countries cover a spectrum of legislative considerations. On one end, Russia has not signed the OPCAT and torture is not criminalised as a specific crime in national legislation. On the other end, Norway has constitutional and penal code provisions, with Lithuania and Sweden both showing steps towards specific criminalisation of torture and ill treatment. Existing Ombudsman structures are utilised as the NPM in those countries that have signed the OPCAT, and the high qualifications of appointees are particularly noted for all.

Russia presents a very different system, with law prescribing the formation of a Public Oversight Commission (POC). Whilst the mandate has similarities to the NPM system, its considerable limitations are outlined, including the non-transparent selection and appointment process, with the lack of financing, issues around independence, and the power of detaining authorities to restrict access being among them.

Reports of observations by international bodies and by local media and civil society

¹ Available at <http://hrmi.lt/wp-content/uploads/2019/09/2019-09-14-Overview-of-Torture-Prevention-Systems-brochure-A5.pdf>

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are telling in the greatly differing situations—the section on Russia refers to serious concerns and “waves of killing and torture” as compared to the generally favourable reporting from Sweden and Norway (this section is absent for Lithuania).

For Norway alone, it is noted that the number of monitoring visits appears sufficient – both Lithuania and Sweden reviews note the limitations on resources to regularly visit all places of detention. The number of visits in Russia is unclear, but the limitations on the POC suggest that it is unlikely to meet the need. Criteria for prioritising where to visit are described for Sweden and Norway, with the lack of publically available rules around visits expressed as a critique for Lithuania.

Overall in this report, critiques for the OPCAT signatory countries are few, though of interest, given that there is comparatively little critical material written for these countries: The low awareness of visits and very poor public trust in the monitoring institution is noted in Lithuania, the Swedish review notes there is no development of a prevention strategy related to threats and reprisals, and Norway’s legislation, whilst the most advanced, is still lacking a needed reference to “discrimination of any kind”. Such critical reviews are an important reminder that there are steps that all countries can make in the prevention of torture.

Particular strength areas are also noted, such as the vibrant public presence and dialogue process by the Norwegian NPR. Despite the many limitations of the POC, the adopted Code of Ethics by the POC in Russia does detail guidance on how POC members can work with people in detention and authorities.

The paper is a clear and well-presented review of the situation across the four countries, and the use of regional reporting is an interesting approach. By taking the focus off the single country, the idea of regional solu-

tions can be raised, and there is the opportunity to apply regional pressure to take on best practices, and to review one’s country critically against one’s neighbours. In this case, Sweden, Norway and Lithuania’s procedures are able to be analysed, despite not being usual targets for criticism, and there is a new opportunity to highlight the deficiencies of Russia’s approach by placing it in a regional context.

Expectedly, the document is weighted towards a discussion of Russia (as indeed this review is). The limitations of the POC in Russia are highly evident, particularly in comparison to the other presented countries, so the paper does, purposefully or not, particularly highlight the shortcomings of Russia. This discussion of the POC is particularly compelling, demonstrating that a parallel process which is not in line with the stipulations of the UNCAT can endanger its independence and impartiality, as well as its ability to function when it is a voluntary action and can be effectively stymied by detaining authorities – the very group that the OPCAT is aiming to compel to refrain from torture and ill-treatment.

The report presents as a factual read – whilst the obvious conclusions are the need for Russia to ratify the OPCAT, and for other countries to ensure compliance with its provisions, this becomes evident to the reader through the country-by-country evaluation, rather than through conclusion or recommendations. Whilst a more explicit comparison and suggestions on regional actions would also make interesting reading, allowing the reader to draw their own conclusions from the presented facts also makes for engaging reading.