

# **SHORT CHECK LIST FOR HELPING TO ASSESS POTENTIAL NATIONAL PREVENTIVE MECHANISMS UNDER THE OPTIONAL PROTOCOL TO THE UN CONVENTION AGAINST TORTURE (OPCAT)**

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), adopted by the United Nations in 2002, will establish a system of regular visits to all places of detention in order to prevent torture and ill-treatment. Visits will be carried out by an international Sub-Committee to be established by the UN and by one or several National Preventive Mechanisms that States Parties have to set up, designate or maintain. If the Protocol contains a series of guarantees and powers for the National Preventive Mechanism, it leaves a large margin of appreciation regarding its form.

The present checklist is a short version of more thorough assessment tool developed by the APT. It is intended for national and international actors involved in designating or creating National Preventive Mechanisms under the OPCAT. It is a practical tool which should help them in this process by identifying a number of concrete issues to

It consists of a list of 15 criteria for guiding the assessment of existing or planned National Preventive Mechanisms based on OPCAT standards and best practices in monitoring places of detention.

The application of this list of criteria, to a certain mechanism in a country, **will be most effective if it is conducted as a joint exercise involving all relevant stakeholders.**

## **PART I BACKGROUND INFORMATION**

### **About the Mechanism**

Name of the mechanism: .....

.....

Date of creation:..... Annual budget:.....

Mandate:.....

.....

.....

Legal basis .....

Number of members (male/female):.....

Number of staff (male/female) .....

Are there other bodies carrying out visits to places of detention in the country?

.....

.....

### **About the national context**

Size of the country:.....

Population:.....

Prison population:.....

Number of prisons ..... Number of pre-trial detention centres.....

Number of psychiatric institutions..... Number of homes for juveniles.....

Number of detention facilities for migrants:.....Number of military barracks.....

## PART II: LIST OF CRITERIA

MANDATE AND VISITS	
1. Is the mechanism specifically mandated to conduct preventive visits? Are these visits regular? Unannounced?	
2. Does the mechanism have access to all places of deprivation of liberty, as defined by the OPCAT <sup>1</sup> ? (Art. 20c of the OPCAT) For example: police stations, prisons, pre-trial detention centres, psychiatric institutions, migrants holding facilities, centres for juveniles, military barracks...	
3. Does the mechanism have access to all facilities and installations within these places? (Art. 20c of the OPCAT)	
4. What is the total number of visits conducted in a year by categories of places of detention? Are remote places also visited? What is the <i>average frequency</i> of the visits?	
5. Is the mechanism allowed to conduct interviews in private with any detainee they want in any location they want? (Art.20 d and e of the OPCAT)	
6. How do visitors <i>chose the detainees</i> with whom to conduct private interviews? Where do these interviews take place (is it out of hearing an out of sight of the guards)?	

<sup>1</sup> “For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority”. Art. 4.2 of the OPCAT.

**FUNCTIONAL INDEPENDENCE AND COMPOSITION**

7. Are the human and financial resources sufficient to allow the mechanism to conduct effective monitoring? (Art. 18.3 of the OPCAT)  
(what part of the annual budget is devoted to monitoring? What would be an ideal budget?)

8. Does the mechanism have financial autonomy and control over its own budget? Does the mechanism hire its own staff and is it located in premises other than those occupied by the executive or judicial branch?

9. Do any members of the mechanism have links with the executive branch? Does this jeopardize their independence? Who appoints and dismisses the members and is the procedure open and transparent?

10. What is the professional background of the members? Do they have the necessary capabilities and knowledge for monitoring? Are the visiting team also composed of professionals from different disciplines (in particular: medical and human rights)?

11. Is the mechanism gender balanced? Does it have adequate representation of ethnic, linguistic and other minority groups? Are these also respected in the visiting teams?

**FOLLOW-UP TO VISITS**

12. What type of *reporting* takes place following visits? Do reports include specific and detailed recommendations? Are the reports made public? Sent to media?

13. Does the mechanism conduct *follow-up visits* during which the implementation of recommendations is verified?

14. Do the authorities have to take position, comment or reply to the reports and recommendations? Are they doing it in practice?

15. Are there any examples of *improvements* following implementation of recommendations? At what level? (For specific detainees? in the places visited: material conditions, activities?)