

OHCHR REGISTRY

14 FEB 2008

Recipients : OPCAT

No. 31

The Permanent Mission of the Republic of Estonia to the United Nations Office and the other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and in response to note of the Secretariat of the Subcommittee on Prevention of Torture of 28 January 2008, concerning article 17 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the designation of the national preventive mechanism, would hereby present the following information.

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered in force in respect of Estonia on 17 January 2007. The Chancellor of Justice was appointed as the national preventive mechanism by the Ratification Act of the Optional Protocol of Estonia as stated in Article 17 of the Protocol and the Chancellor of Justice Act was amended accordingly. The duty of being a national preventive mechanism has been added to the list of duties of the Chancellor of Justice.

The analysis carried out during the national proceedings to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment indicated that the institution of the Chancellor of Justice satisfied the requirements of the Protocol concerning the national preventive mechanism.

The Chancellor of Justice is appointed by the parliament (*Riigikogu*) on the proposal of the President of the Republic for a term of seven years. During his or her term of office, the Chancellor of Justice is required not to hold another state or local

government office or an office of a legal person in public law and participate in the activities of political parties.

Independence of the Chancellor of Justice and the personnel of the Office of the Chancellor of Justice as stated in Article 18 of the Protocol is guaranteed in Estonia. According to the Constitution the Chancellor of Justice is an independent official who supervises the activities of the national authorities including whether they ensure the guarantee of constitutional rights and freedoms. The Chancellor of Justice also examines whether constitutional rights and freedoms of persons are guaranteed. Its independence and main functions are stated in the Constitution and the Chancellor of Justice Act.

The Chancellor of Justice has the relevant competence as required by Article 19 of the Protocol. The Chancellor of Justice has the authority to exercise supervision over places of detention, to make recommendations to the authorities with the aim of improving the conditions of detention and to make proposals to amend the legislation.

The Chancellor of Justice has the right to perform control visits to prison, military unit, arrest house, expulsion centre, reception centre or registration centre of applicants for asylum, psychiatric hospital, special care home, school for students with special needs, general care home, children's home, youth home or other institution under supervision. The control visit may be performed without prior notice and specialists and translators may also be involved.

The institution under supervision will ensure the Chancellor of Justice during his control visit:

- 1) unrestricted access to information necessary for identifying whether the institution adheres to the principles of observance of the fundamental rights and freedoms and to the principles of sound administration
- 2) unrestricted access to information concerning the persons in the institution under supervision, the conditions and location of their detention.
- 3) access to the facilities and territory of the institutions under supervision

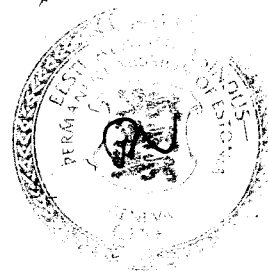
- 4) the opportunity to have private interviews with the persons of limited rights placed in the institutions under supervision and with the personnel of the institution without the presence of other persons.

According to the Chancellor of Justice Act, the Chancellor of Justice must present an annual overview to the parliament on the supervision over the conformity of legislation with the Constitution and Acts and over observance of fundamental rights and freedoms, which must also comprise a review of his activities as a national preventive mechanism. The annual review is published as a separate publication and the review of his activities as a national preventive mechanism is translated into English.

The Permanent Mission is ready to provide any further information the Subcommittee on Prevention of Torture may require.

The Permanent Mission of the Republic of Estonia avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest esteem.

Geneva, 8 February 2008



To the Office of the High Commissioner for Human Rights  
GENEVA