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Project Evaluation Report

of the proposed

Institute for the Prevention of Torture

An international training centre for members and staff of independent national and international monitoring mechanisms for the prevention of torture

By

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I. INTRODUCTION

We have been asked to assess the feasibility of establishing a training centre for members and staff of independent national and international monitoring mechanisms for the prevention of torture (hereafter “training centre”) as proposed in the Concept Note of 18th June 2020 which has been provided to us. As that Note makes clear, the primary beneficiaries of the training centre are to be the National Preventive Mechanisms for the prevention of torture (NPMs), which have been established in accordance with the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT), the UN Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

There are very many bodies whose work contributes directly and indirectly to the prevention of torture and ill-treatment in detention. Although not expressly couched in such terms, this proposal relates to those which have been established or designated to contribute to prevention through the use of ‘preventive visiting’, a discrete preventive methodology. Whilst it is entirely appropriate to focus on these bodies, and on their training needs, it is important to recognise that the proposed Centre does not, and cannot, address the training needs of all those involved in preventive work. It is focussed - and appropriately focused - on those bodies operating within the frameworks of the OPCAT and the European Committee for the Prevention of Torture (ECPT).

We have been asked to address a number of specific questions, some of which relate to the merits of establishing such a centre, whilst others concern the details of the specific proposal set out in the Concept Note. In undertaking this Evaluation, the reviewers draw on their personal knowledge and experience of national and international preventive mechanisms and of the relevant training landscape. Any evaluation of training must also take account of the nature and history of the bodies concerned, their legal and institutional structures, the relevant elements of which will be sketched in this introduction. This evaluation assumes knowledge of the relevant bodies and their mandates, powers, modus operandi, etc, which will only be referred to when necessary in order to evaluate the project proposal.

II. THE SCOPE OF THE PROPOSAL

The Concept Note suggests that the ‘primary purpose’ of the Institute will be ‘to provide initial and on-going training to members and staff’ of the CPT, SPT and NPMs. We think this may need to be re-considered for a number of reasons of a legal, structural and practical nature.

(a) The CPT

The CPT has now been in existence for over 30 years. Throughout that time the fundamentals of the approach of the CPT to work and visiting methodology has remained relatively constant over time. The CPT comprises 47 independent experts elected in respect of each member state of the Council of Europe and is supported by a sizable secretariat within the Council of Europe. Members have a broad range of disciplinary backgrounds and interests, and on joining the CPT some, but not all, will have experience of preventive visiting. They are eligible to serve for up to a maximum of 12 years, be eligible for re-election to a maximum of three four-year periods of office. In addition, the CPT routinely uses external

experts to assist with visits, who are usually highly qualified and experienced in their various fields. Importantly, CPT and its members work principally in two languages, English and French and within a region which has a relatively high degree of inter-connectedness.

The training opportunities provided to members will be known to the Council of Europe (the addressees of this Report) and so it is unnecessary for us to dwell on them here. Given its 30 years of experience, the size and experience of the Secretariat, the use of experts familiar with the work of the CPT and members potentially having up to 12 years of CPT experience, that there is a well developed system of induction and support.

(b) The SPT

The situation of the SPT is very different to that of the CPT. The SPT comprises 25 members, elected by the currently 90 States Parties and drawn from all regions of the world. UN regional groupings do not precisely map onto Council of Europe nomenclature, but 39 of the 47 Council of Europe States are Parties to the OPCAT; along with 23 State Parties in Africa; 15 in the Americas; and 13 in Asia-Pacific. Members are likewise drawn from all regions, with (following recent elections, and as of 1 Jan 2021) 6 from the Americas; 5 from Africa; 2 from Asia Pacific and 12 from Europe (Council of Europe) countries. The SPT currently has three principal working languages, English, French and Spanish, with Arabic as an occasional, but important, fourth. Official Documentation is also produced in the other official UN languages, Russian and Chinese.

As with the CPT, members have a variety of professional backgrounds, and some may have prior experience of preventive visiting (increasingly from having been members of National Preventive Mechanisms prior to their election to the SPT). Importantly, members are, in principle, limited to 8 years in office, two terms of four years. However, the dynamics of nomination and election in a highly politicised electoral environment means that members may well serve for less.¹ On the other hand, several former members have been elected as SPT members de novo following lapse of time following the expiry of their previous mandates.² The secretariat of the SPT is extremely small³ and with relatively high rate of staff mobility over time. As a result, there is considerably less knowledge of established practice and ‘institutional’ memory within the SPT (both membership and secretariat) than is the case the CPT, and hence a heightened need for training.

Training within the SPT is, however, hampered by a number of factors. The SPT meets for three plenary sessions of one week per year, with members often having to arrive and depart within hours of their start and finish. Translation is only available during formal plenary sessions and as a result there is virtually no capacity for formal ‘training’ as such. As a result, virtually all member training takes place in the context of SPT country visits – in effect, ‘on the job’. Inevitably, the quality of this will depend on the existing experience within the visiting delegation. Given the relatively high rate of turn-over of SPT members, exacerbated

¹ For example, in the 2020 election two members eligible for renomination were not represented, whilst a further two serving members who were nominated were not re-elected to the SPT

² For example, in the 2020 election two former members were elected anew to the SPT, one after an absence of 2 years, one after an absence of 8 years.

³ Currently comprising 3 Professional and 2 General staff.

by the lack of visiting for financial and COVID-related reasons over the last year, there is a dearth of experience, and thus of training, within the SPT as regards the specificities of SPT visiting.

It should be noted that this gap is not addressed by the increased numbers of SPT members who have experience as members of their National Preventive Mechanisms. As will be outlined in the following section, NPMs vary greatly in their structure and approach to preventive visiting. Visiting in the context of the SPT is in many respects very different to that of the NPM and experience suggests that NPM experience does not necessarily map easily onto SPT visiting methodologies. This has important practical implications for the evaluation of the current project.

c) National Preventive Mechanisms

The OPCAT requires each state party to establish an NPM within one year of ratification. For a variety of reasons, it is quite difficult to be exact about the number of NPMs which have actually been designated, but in the region of 65-75 are either known or believed to exist. Importantly, all but one of the OPCAT member states of the Council of Europe have established their NPM – the sole exception being Bosnia Herzegovina. NPMs under the OPCAT are not subject to any form of ‘accreditation’. It is sufficient that they be designated as an NPM by the State party for them to become the NPM, although in practice the SPT routinely speaks of NPMs being, or not being, ‘OPCAT compliant’ as regards their structure, organisation or, less frequently, operation.

The OPCAT makes it clear that NPMs do not have to take a particular form. What is important is that they are independent and able to function in accordance with the OPCAT criteria. As a result, there are very many different types of NPM. In Europe, the dominant model numerically is of the NPM function being given to an Ombuds Office. However, other models exist, including newly established bodies, such as in France and Germany, and what are called ‘gathered’ models, where the function is dispersed among a variety of existing (or a combination of existing and new) bodies, usually accompanied by a body with a form of coordination role (such as in the UK). In some other regions of the world, models built around existing NHRIs tend to dominate.

This is important when considering what the training needs of an NPM might be, as each is likely to have distinct training needs based on its organisation, structure, and experience. What is clear, and what is widely acknowledged by the NPMS themselves, is that they do have training needs regarding in what is required of them *as* NPMs. It is therefore unnecessary to consider whether, as a threshold issue, the scope of such an Institute as is being proposed should seek to address their training needs.

(d) Observations

All bodies engaged in preventive visiting benefit from training. However, the very nature of the CPT and the SPT as international expert bodies may make it difficult for them to be seen as principal beneficiaries of a training centre. As regards the SPT in particular, and despite the clear need for enhanced training opportunities, structural factors may militate against this.

First, there is no realistic prospect of budgetary allocation being made to support the systematic training of members (or secretariat) by external agencies. Indeed, within the UN there is something of a ‘cultural bias’ against the very idea of independent experts being in need of ‘training’ as such. Hence when such exercises do take place, they do so under the guise of ‘Induction’ or of ‘Exchanges of Best Practice’ with external bodies.⁴ Whilst there may be a willingness to contribute to the work of such a centre, there is unlikely to be a willingness to be seen to ‘be trained’ by such a body. This may be merely a matter of presentation, but it is an important one.

Rightly, it is not proposed that trainers accompany international visiting bodies as they undertake their work. This would be highly problematic from a legal perspective, given the nature of the mandates of the visiting bodies.⁵ Rather, it suggests that members of such bodies (and members of NPMs of other countries) be invited to participate in ‘training’ exercises in particular institutions in third countries which have agreed to this, and with the approval of the national authorities. This is certainly a feasible methodology, and was indeed used by the Council of Europe in its NPM Project some years ago. However, it has limitations as a method of training, and particularly so for members of international bodies.

For example, one of the key difficulties faced in practice can be how to secure access to a place of detention when there is resistance from those in charge of it, and training on how to practically ‘navigate’ this very important. However, securing access will not be an issue in the context of a visit to a place which has agreed in advance to be used as a training site. It is also the case that, inevitably, these are likely to be places which are frequently visited and in which the situations may be well known. Most countries have – for the want of a better term – ‘show’ facilities which are frequently visited by national or international bodies. Frankly, it is quite difficult to ‘simulate’ a realistic visit to such places and under such circumstances. Whilst not without value, the value of conducting such exercises in relatively artificial circumstances can be overstated.

Another issue concerns information which may be received during such a visit: what is its status? Can the ‘training team’ respond to this? Can it raise issues with the authorities? If so, by whom? Is it confidential? It could be very difficult for a member of an international body participating in such an exercise to do so. Yet they can hardly remain unaware of a situation which they have observed in the course of such a visit, and this may well influence their work as a member of their respective committee. (Indeed, it is difficult to see how it cannot).

There are also increasing pressures on international bodies to be seen to be independent in the manner in which they undertake their work. There are potential reputational issues for an international oversight body if its’ members are being ‘mentored’ in their work within a state party in this way. Whilst it may well be that the country in which the exercise is being held has no objection, this does not mean that another country might believe the member is being influenced inappropriately by being allowed access to ‘show’ facilities’ for training purposes. It may be that if a member of an international body were ‘trained’ in the facilities of Country X then they ought to recuse themselves from visiting facilities within that country

⁴ Such exchanges have taken place, including with the CPT, during SPT session time, but have been of limited practical utility and have been more useful as a means of exchanging information concerning each others’ work, rather than training per se.

⁵ For example, only those designated as Experts are able to accompany members (and their secretariats/interpreters/security) on visits and, in the case of the SPT, these have to be drawn from a roster established by nomination of the States Parties or OHCHR. Issuance of visas and credentials to allow access to places of detention would be also problematic.

thereafter in an official capacity. This may make members less willing to participate in such training exercises.

It is, then, most likely that the international bodies could best be served by an Institute which, as regards the international mechanisms, positioned itself as a 'Centre of Excellence' which could be invited by them from time to time to make presentations to the relevant Committees to help inform their understanding of discrete issues concerning preventive visiting arising out of their work with others. This would be of value and, perhaps indirectly rather than directly, help address the training needs of these bodies. In the UN context, the extent to which even this would be feasible would depend on the extent to which such an Institute was perceived to be global in its range and focus.⁶

We would therefore suggest that the scope of the proposed institute be amended so that its work in practically training members of torture prevention mechanisms is focussed on the NPMs, and its relationship to the international bodies be reconsidered and restructured. It should be seeking to forge collaborative relationships which might allow it to offer practical training to members and staff as a part of its work with NPMs, as well as to allow it discuss best practice with the international mechanisms as 'peers in prevention'. We do not, however, think it ought to seek to pursue an 'on site' or 'shadowing' training methodology in relation to them specifically.

III. THE TRAINING OF NPMS

The need to provide NPMs with training is uncontroversial. Every member of every NPM currently receives training of some form at some point, both as a routine part of their operational work and of the professional development of NPM members and employees. We know of no example where NPMs have been resistant to the principle of training to better fulfil their functions. The questions which need to be addressed, however, concern training 'by whom' and 'in what'.

As a preliminary matter, we take it for granted that those bodies which exercise an NPM function will be routinely training their staff on a broad range issues concerning their work and practice. The role of the Institute would not be to replace, but to both *inform* that work, and to *supplement* it with specialised training by those experienced in NPM work. This is an important point. For reasons already given, in many (most) countries, the NPM function is given to an existing institution which has its own history, focus and modus operandi. Preventive visiting is a specialism in its own right, and it is key to the success of an NPM that this is understood and reflected in its work. This underlines the need for training of NPMs to be conducted by those experienced and skilled in preventive visiting as a distinct methodology.

(a) The Nexus between the SPT and the NPM under the OPCAT Framework

If the work of the Institute is to be focussed on the practical training of NPMs, then it is important to recognise that the outset that, whilst a domestic body, the NPM is also part of an

⁶ This is a particular concern as regards the work of the SPT, where there remains a strong negative legacy of the CPT being presented as the 'model' to which it ought to aspire, without proper consideration being given to its different mandate, sphere of operation and operational context.

international legal framework established by the OPCAT. Under that framework the SPT has a specific set of legal obligations, which are set out in OPCAT Article 11 (1) (b) (i)-(iv). These are:

‘(b) In regard to the national preventive mechanisms:

- (i) Advise and assist States Parties, when necessary, in their establishment;
- (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
- (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.’

It is, then, clear that there is a legal expectation that the SPT will be offering (and providing) advice and assistance to States on the establishment of their NPMs and to NPMS and to States on matters concerning their practical operation. To that end, the SPT has issued general guidance in the form of Guidelines concerning the establishment and operation of NPMs; it has collaborated with the OHCHR in the production of a Training Manual on NPMs, it explores issues concerning NPMs in its visit reports, including visits to countries which are primarily focussed on their working of their NPMs, as well as participating in many ad hoc consultations and training exercises for both States and NPMs on a bilateral basis, as well as participation in the numerous initiatives related the NPMs organised by other bodies, including regional organisations, and networks of NPMs (which may often be supported by such organisations).

The relationship between the SPT and NPMs under the OPCAT is not one way: the designation of a body as an NPM means that the State is obliged to grant to the NPM the powers provided for in the OPCAT, to communicate and meet with the SPT and, importantly, to be the beneficiary of the privileges and immunities in domestic law necessary for the fulfilment of the OPCAT function. Moreover, the SPT can (and does) share its findings in confidence with NPMs who can (and do) then act as its agent of oversight of implementation. In addition, NPMs routinely approach the SPT for practical advice on procedural and substantive issues, and the SPT regularly intervenes with States Parties in order to help ensure the operational capacity and integrity of the NPM. This, it needs to be stressed, is not limited to visits and visit reports. As a result, the SPT exercises a form of ongoing general oversight of the integrity of the OPCAT system of NPMs, including intervention in the interests of NPMs when necessary.

The relevance of this to the establishment of a Training Institute should be obvious: it is vitally important that the approach to the exercise of the NPM mandate furthered by the Institute coheres with that which is advanced by the SPT. The NPMs and the SPT, as a matter of international law, have a reciprocal supportive relationship and training needs to respect

and reflect this if it is to be effective in delivering enhanced prevention within the OPCAT system taken as a whole.

The key here is ‘coherence’. Arguably, in the ideal world the NPMs would be inducted and trained in preventive visiting by the SPT operating within the OPCAT framework. To an extent, this happens through the materials and tools already mentioned. As SPT visit reports also illustrate, it also happens through SPT visit focussed on NPMs where it accompanies them on visits and provides constructive feedback – in essence, the same training model as is under consideration. Moreover, since it is wildly unrealistic to expect that the SPT could, in practical undertake such ‘on site’ practical training visits on a systemic basis, the ideal of it being undertaken by others can hardly be objected to – indeed, it is to be welcomed. The key is to ensure that it reinforces, rather than departs from, key elements of the SPT’s approach.

(b) The Consequences of The Global Context

As has been said, there are currently some 38 NPMs within the Council of Europe and approximately 70+ around the world, with the latter rising faster than the former. In other words, approaching half of all NPMs are, or soon will be, outside of the Council of Europe area and it is in these countries that many of the most pressing training and capacity needs arise. In the early years of the OPCAT system, the preponderance of NPMs were to be found in Europe and the Council of Europe initiated a project which facilitated engagement by the SPT with those newly established NPMs. Over time, and as participation in the OPCAT system widened, its focus concerning NPM engagement has inevitably shifted somewhat to meet emerging needs. As a result, the extent of SPT engagement with NPMs in the Council of Europe area has diminished in recent times.

A second consequence of the global context is that NPM training needs to reflect the realities of that global context: it would be improper to have different expectations of NPMs in different geographic regions, for example. This emphatically does not mean that NPMs should align to the ‘lowest common denominator’. What it does mean is that practical training needs to be sensitive to the realities of the context in which an NPM is functioning rather than setting out idealised approaches which are not achievable. (e.g. the inclusion of particular forms of specialist expertise within NPM visiting delegations when such expertise is not available to it; logistical and transportation issues, etc). What is important is that training does not seek to ‘benchmark’ the unachievable as a global expectation. In practical terms, this means that NPM training needs to be tailored to context. This speaks in favour of an ‘on site’ methodology, rather than an abstract and over-theorised approach. But it also suggests that those involved in the delivery of such training would benefit from knowledge of NPM work outside of Europe, in order to ensure that the work of the Institute can be of global, rather than regional, relevance in time.

This latter point is of more general significance. The proposal is not at all clear as to which NPMs it would be seeking to work with in the first instance. It is clear that it intends to commence its work in English and French, then expand to Spanish and Arabic. But the relevance of this for the scope of its work with NPMs is not at all clear. Most current African NPMs work in French and English, as do most of those in the Asia-Pacific Region. It is also the case that it is quite possible to engage with NPMs in the Americas in English and French, though to a limited degree in some instances. At times, there are hints within the proposal that its first phases will be limited to the Council of Europe area, enlarged by the monitoring of return flights to third countries. But this is not explicit. This is vital for scoping the next

phases of the project. The NPM project is a global one. If the initial phases are limited to English and French, this does not mean that the scope of the initial phase needs to be limited to the Council of Europe Area. A global scoping initially based on these languages would result in a project (and start up team) which looked very different from one focussing initially on the Council of Europe area. If the initial focus is to be the Council of Europe Area it is equally important that those designing the project are drawn from across the entire NPM world, to ensure the feasibility of its subsequent roll-out.

We assume that it is in fact the intention to focus in the first instance on NPMs within the European space. Given that there is where the majority of NPMs are currently to be found, this is not without merit. However, the points made above must be taken into account should such an institute be established.

IV. QUESTIONING THE PROPOSAL IN DETAIL

By setting out an exploring a number of key conceptual and structural issues in the preceding sections, several aspects of the focussed questions we have been asked to consider have already been touched on, or addressed. In what follows, the specific questions we have been asked will highlighted and further, focussed, observations made relating to them.

- 1. Catalogue all existing training initiatives for NPMs by other actors in this field, including training offered by the Council of Europe, the United Nations (OHCHR, UNDP, SPT), OSCE (ODIHR), the APT, OMCT and by NPMs themselves;**

Surprisingly, there are not that many formal and systemic learning opportunities for NPMs in Europe available, as they are mostly ad hoc, planned at most several months in advance, and on topics that reflect current and burning issues. They and can roughly be divided into several groups. These are, largely, educational opportunities are part of seminars, conferences, network's meetings, workshops and similar, hosted, co-organized and partly financed by NPMs themselves, financially supported by other stakeholders.

For example, since 2013 NPMs who participate in the [South-East European \(SEE\) Network](#) have had several meetings hosted and co-organized every year by institutions in Slovenia, Austria, Serbia, Montenegro, North Macedonia, Croatia and others. They were financially supported by Council of Europe, OSCE, UNHCR. Topics included: NPM Reports; detention in the context of migration; Prevention of suicide in detention and status of NPM in member states; NPM Reprisals; Children in Detention; Monitoring safeguards in the first hours of police custody; and other.

Training opportunities and exchanges of information are also extended to the NPMs operating in neighboring countries, particularly these without language barriers such as Croatia and Slovenia, or North Macedonia, Serbia, Slovenia and Albania. Unlike large multilateral workshops and conferences, exchanges like this are excellent as they allow on-site visits, being the most useful and practical way of learning. A key element of this is their 'peer to peer' nature, whilst drawing upon external expert input.

Some NPMs (Tunisia, Kosovo, Austria/Germany) organize regional and/or international trainings on topics such as Overcrowding in prisons; Mental disability, deprivation of liberty and human dignity; Classification of detainees between norms and reality; Monitoring Homes for Elderly. These are organized within different projects, and all mentioned were co-organized and financially supported by Council of Europe.

In the framework of [IPCAN](#) network, topics mostly relate to role of police in democratic society; police conduct, relations of the police and the population; police in the context of migration. They are self – funded by the network itself, that is, participating NPMs enjoy hospitality of Défenseur des Droits.

In comparison, trainings organized by institutes and international organizations are relatively rare. In the last three years, these have included, for example:

- Seminar on preventing torture and other ill-treatment in the context of immigration detention, co-organized by OSCE/ODIHR, APT and Council of Europe;
- Ensuring effective implementation of detention safeguards in the first hours of police custody in the CoE and OSCE Region, organized by OSCE/ODIHR, financially supported by APT and Council of Europe
- Final Conference – Developing Guidance for NHRIs to Strengthen Procedural Safeguards, organized by Ludwig Boltzman Institute, supported by European Commission

In addition, there are Conferences, including at high-level, organized on particular occasion, such as for example *International High-Level Conference Dedicated to the 10th Anniversary of Georgian NPM*, or *A high-level conference on the occasion of the CPT's anniversary*, organized by APT, OSCE/ODIHR and Council of Europe. In both of these instances, NPMs did not bare any of the costs for participating.

During 2020, all trainings moved to the virtual space, making them less expensive and more available to NPM's staff. Online meetings and workshops were held in the context of South-East European NPM Network, supported by Council of Europe; another one was organized and financed by Trinity College Dublin. European commission also financed at least two online conferences/expert meetings, organized by Hungarian Helsinki Committee and Ludwig Boltzman Institute. In addition, one online workshop was organized and financed by Research Centre Immigration & Asylum Law at the University of Konstanz. Topics of these included: Strengthening the prevention of torture in South-East Europe; Prison oversight in International and National context: Dynamics, Dilemmas and Opportunities; Complaint procedures in penitentiaries“; Working towards harmonised detention standards – the role of NPMs; Online expert meeting on "Monitoring Prison Violence".

This is merely an indicative selection: it would be almost impossible to compile a definitive list as there are so many events, initiatives and projects taking place in which NPMs are invited to participate. Whilst this is to be welcomed, it should be stressed that few, if any, of these are focused on ‘training’ the NPMs in any direct or formal fashion. They are primarily educative and/or discursive in nature.

It is also important to note that there are now plenty of training resources available online, for example [APT Knowledge Hub](#), [Ludwig Boltzman Institute](#) and its [Atlas of torture](#), [Dignity, Penal Reform](#), [Global Detention Project](#), and others. There is a vast literature and set of resources exploring international standards and monitoring practice more generally, all of which is of potential relevance to the work of NPMs.

As has also been mentioned earlier, NPMs heavily rely on the in-house and operational trainings provided for their own staff, and increasingly on the online tools just mentioned. These do not require the NPM to find substantial additional resources. This is particularly true as regards induction training, which, according to the available information, are rarely externally provided or supported

As a result, we would observe that there is no shortage of opportunities for NPMs to access training materials. In house or induction training is routinely available and can draw on quality training materials which are already freely available. There are also very many opportunities for NPMs to learn from each other and to participate in discursive and educational activities.

2. indicate if gaps in the existing offer added value in a potential establishment of an Institute/ training centre for detention monitors

Existing learning opportunities, as briefly described above, are mostly connected to networking meetings in the context of international and regional cooperation. As a result, they are ultimately, ‘ad hoc’ and discretionary in nature. It is largely for the NPMs themselves to decide whether to take advantage of them. Moreover they are mostly ‘opportunistic’ and/or project based, depending on the availability, readiness and priorities of the organisers and/or potential donors. NPMs rarely participate in their planning, or only to very limited extent. They may be involved in the scoping and preparation of the next meetings of specific organised networks, for example, but they are more often merely in the position of having to decide whether to accepting an invitation to attend an event, or to participate in a specific project. As a result, it is often the case that the NPMs are really contributing to the achievement of a third party’s ‘agenda’ (even if this is of benefit to the NPM), rather than receiving something which is tailored to the specific needs of an NPM as such.

What is lacking is any recognised centre of excellence which provides structured training opportunities by recognised or accredited experts. In that regard, establishing an Institute or training centre of the nature proposed could indeed bring added value, in particular the potential to introduce a more rigorous and systemic approach to the training of NPMs. It would, however, be essential that NPMs were able to play an active role in the design of programmes to ensure that they were relevant to the particular NPM in question: as explained above, there is no one ‘model’ or structure for an NPM and to be useful training has to take account of this to ensure it is both practical and relevant. This is not only important as regards training concerning new and emerging topics and issues of interest, but also concerning the methodology of visiting, report writing, engagement with authorities concerning implementation of recommendations, etc. By contributing to the planning process in this way, NPMs they would feel a greater sense of ‘buy in’ to the work of the Institute, enhancing both its capacity and credibility and assisting to assure its longer-term relevance and sustainability.

This is again underscored by the fact that NPMs rely heavily on in-house training and ‘learning by doing’, of both staff as well as heads of department/institution. Inevitably, such training will currently reflect the nature and dominant focus of the Institution as a whole and, as has been said, when the NPM function is fulfilled by an Ombuds or NHRI-type of institution which undertake a broad range of functions and may exercise of variety of different forms of mandate in addition to that of the NPM, there may be little expertise

concerning preventive approaches in general, and/or expertise related to torture. Indeed, it may well be that the Ombudsman/Chair/ is not only not a subject-matter expert on torture: they may even be largely unaware of the particular features of an NPM mandate or the importance of torture prevention as a strand of work. It is also not very likely that the overall head of an Ombudsman's Office or the Chair of an NHRI would invest in attending NPM network meetings, or related events which are mostly designed for experts, and are not pitched at a strategic or 'high level'. Therefore, a robust, credible, high-quality and respected institution/institute/training centre, in our opinion, could play an additional role in offering a 'bespoke' form of 'training' for Heads of Institutions which would better enable to create an operational 'space' for the effective functioning of the NPM within the bodies for which they are responsible. This would be a form of training 'about' the NPM and its work – rather than training for the NPM – but we think that this could contribute significantly to raising of the capacities of NPMs (and their leadership) by fostering a better informed and supportive framework for them to function within. To be successful, this would need to be seen as a 'prestige' activity.

Finally, we are aware that in many national contexts, those who work alongside and support the work of NPM – their partners and counterparts - are rarely able to participate in the forms of existing training opportunities which have been described above. Some external national experts and civil society organizations that work alongside and support the work of NPMs may well have a history and experience of operating in the context of deprivation of liberty – which is why they may have been chosen as collaborators or partners. Others, however, may not and they could also benefit from further training in both standards and methodology specifically connected to NPM, its contextualisation and activities. This also is true of external partners and counterparts working in government and/or institutions of deprivation of liberty, including civil servants as well as other decision-makers. Their sensitivity to, and even basic awareness of, the OPCAT, NPMs, standards and methodology, is very often lacking. If established, the Institute/training centre could potentially fill this gap in providing opportunities for specific and/or collective training in preventive methodologies of all such cohorts: if these are the groups with whom the NPM must work to achieve results, there is much to be said for ensuring that they too are effectively trained in order to be able to better assist and engage with the NPM.

3. indicate which elements would be needed to ensure an effective training, both initial and ongoing (which content and experience conveyed by whom?);

Starting with the question of *by whom*, teachers, lecturers and educators at the Institute should include (not exhausting) the following, and in no particular order:

- experienced current and former NPM staff, bringing added value in sharing best practices and experience in operational matters, methodology, examples and similar
- current and former heads of institutions (Ombuds, NHRI/NPM Chairs) on specific issues and challenges faced when fulfilling the role;
- academics, bringing theoretical knowledge on issues at stake
- former and current members of SPT, CPT
- experienced representatives of both international and national civil society organizations and non-profits

- experts working in the law enforcement, health, police and other structures that NPMs monitor
- experts in other cross-cutting issues, such as awareness raising, human rights education and promotion, communications on torture prevention, report writing, formulation of recommendations, policy formation, etc.

Initial training might include, among other

- Overview of international legal framework and existing standards
 - Examples of national arrangements in setting up an NPM
 - Methodology, particularly as regards different sectoral visits
 - Training for incoming or new heads of NPMs
 - Training for certain number of new staff members
 - Training of other stakeholders working with NPMs in national context

Ongoing training could be established addressing a long and constantly evolving list of specific issues/topics. Some examples of those that have been organized in recent years have already been briefly mentioned in response to first question, above. However, in our opinion the most important factors to take into account when determining such issues/topics are threefold. First, that NPMs themselves are involved in their prioritization and planning. That would assure the second – that the courses offered are needed, relevant and timely. Finally, their development needs to involve highest available expertise, to assure its top quality.

4. make a qualitative and quantitative estimate of the potential users of a training centre;

As already described above, in qualitative terms the potential users could include (not exhaustingly) primarily NPM staff, heads of institutions as well as external experts and members of civil society organizations participating in visits. It could also include external partners, civil servants and officers working in settings NPM monitors; perhaps even other stakeholders which could benefit from education and awareness – raising, such as selected journalists and similar.

In addition, quantitative estimates are very difficult to assess, as it depends on the overall level of ambition for the Institute in its initial set-up phase – in terms of geographic and thematic reach, as well as the levels of available funds and their sources. Ultimately, and as the previous paragraph suggests, there is no very obvious ‘ceiling’ to the potential number of beneficiaries. In some countries, for example, the number of members of NPMs (by which we mean those engaged in undertaking and supporting preventive visiting) may be numbered in tens; whereas in others they can be numbered in hundreds. Given the number and nature of the construction of NPMs in Europe, the number of direct potential beneficiaries may run into thousands. But taking account of the current circumstances at the time of writing this opinion, it might be wise not to base an assessment of the proposed initiative on the basis of the potential overall number of beneficiaries, but on a realistic assessment of its long term sustainability and quality. In other words, introducing it through a pilot period for a limited number of (groups of) beneficiaries as well as selected courses/modules, might provide with more realistic assessment of actual needs and potential number of users in the near future.

It may well be sensible, should this project be taken forward, to undertake a more focussed quantitative assessment through more scaled-up research, by means of a questionnaire sent out to as many as possible NPMs, asking for their assessment of the number of staff members and other participants that could benefit from such opportunities. This could also provide an opportunity for a more thorough qualitative assessment of potential beneficiaries by seeking information from NPMs regarding the range of stakeholders which they consider would benefit from better training and induction to the nature of the NPM preventive mandate in order to enhance their understanding and capacity to support and engage with the NPM in a more appropriate fashion. We think that early engagement with NPMs concerning these issues would, once again, substantially enhance support for the establishment of the Institute, which is to our opinion is one of the crucial prerequisites for its success.

5. propose how a training centre should be set up and managed to be effective (stakeholders' participation etc.);

Until answers to some of the key questions already posed are given, it would be premature of reflect too closely on the details of establishing such a training centre. What is clear, however, is that it would require careful liaison with the SPT in the first instance, in order to secure the necessary degree of 'coherence' with its vision of the OPCAT system (of which the NPMs form a part) and, of course, with the NPMs themselves. This is important not only to ensure that the training provided was appropriate for the needs of the NPMs, collectively and individually, but also to help ensure 'buy in' and support from the NPMs from the earliest opportunity.

In practical terms, this is a very difficult time to be establishing such a centre, however, for a number of reasons. It is obvious that the current situation in Europe and worldwide makes it very difficult to predict how and when the recovery from the pandemic will commence and how long it will take. This is a very practical issue for those contemplating a form of cross boarder training. It is equally obvious that the economic situation of many countries is going to be severely affected for years to come and the consequences of this for funding NPM work – and training – both at the national and international level is unknown. All that can be certain is that it will not be an easy time. There will inevitably be an effect on the resources of both donors and independent national institutions, potentially for years to come. Moreover, 2020 has proven that many educational activities can successfully be performed online and with almost no cost for participants. They of course lack many other important dimensions such as in-person networking and informal exchanges, however, to our opinion this has shown potential that cannot be underestimated in any further planning of educational activities. Such online training (and the greater acceptance and familiarity of users with online training) offers opportunities to a training institute of course – but what is also clear is that visiting places of detention requires physical presence.

That said, another lesson of 2020 is that NPMs have responded to the limitations upon their work with considerable innovation and flexibility. This too presents an opportunity for an Institute: much of the current training materials, etc, are 'pre COVID' in their assumptions concerning the methodology of visiting. This is already changing rapidly as necessity forces innovation and new 'best practices' are being discovered. A training institute could act as a catalyst for this – but it could also find itself drawing on 'preCOVID' expertise and not be able to fully engage with the rapid changes in NPM practice which are already occurring.

The relevance of this for ‘set up’ is clear: it is more than ever necessary to ensure engagement with current NPM practice and ensure that the training offered is forward looking. Rather than establish a large-scale enterprise based on assumed approaches and practices, all of the above factors point towards the establishment of a relatively small scale ‘pilot’ model working closely with interested and forward-looking NPMs to help craft a model which will add value in the ways described. Having close connections from the outset with key and respected NPM stakeholders will help build confidence, as well as ensure that the Institute remains flexible in the light of the rapidly evolving world of NPM engagement and practice which is currently emerging.

Whilst this may not be an ideal time to launch a new enterprise, one has to strike a balance between this and the desirability of moving forward, even at the most difficult of times. It seems to us that that balance is best struck by not seeking to be overly ambitious at the initial phase. Indeed, given the current circumstances, and the factors outlined above, moving forward would help contribute to stronger torture prevention and human rights protection in the (near and more distant) future, whilst a cautious, incremental approach would ensure that the Institute was constructed in a collaborative manner and able to reflect and respond to the contemporary challenges which face NPMs operationally and conceptually, thus contribution to the overall sustainability of an Institute over time: in short – doing too much too quickly would appear to be both unrealistic and potentially unwise at the moment. At the same time, the very factors which suggest a more cautious approach also point to the need for such an Institute, to be able to help lead thinking concerning preventive visiting in the post-COVID context.

To that end, we would suggest developing and piloting a small hub of expertise, comprising of several selected modules concerning both methodological and substantive issues with the aim of gradually expanding provision both in terms of number of participants as well as courses, would be a way to cautiously move forward. This might be targeted in the first instance at a selected group of NPMs which could be consulted on design and delivery methodology.

Looking ahead, management could be organized through a small Board comprising of several main donors, members of selected NPMs, academics and others with relevant experience of NPM related work, which would provide strategic oversight. Day to day management and operation should be led by a small team led by a director and several staff members, while another pool of scientists and experts might be set up to advise on substantive issues. In effect, we suggest a tripartite system comprising a Board of Management at a strategic level; a management team; and a panel of expert advisors.

6. analyse how the Council of Europe can support this initiative, what the added value of Council of Europe involvement would be, and what form Council of Europe support could take;

The Council of Europe has been one of, if not the, foremost supporter of NPM-related support, followed by others including the OSCE/ODIHR, Open Society, UN, European Commission and others. Whilst these other organisations have generously supported specific initiatives, it is – to be best of our knowledge – only the Council of Europe which has previously sought to support systematic training opportunities for NPMS (as described in answer to the first question). As a result, it has not only has experience, but also a reputation as a leader in this field with NPMs. This enables it to act as a catalyst for training work in a way which others might find more difficult to achieve. It is also well-placed to foster and

contribute to strengthening and synergies between NPMs, the CPT and the SPT and other stakeholders through its existing institutional arrangements and networks. It is, then, ideally placed to support an Institute which has to reach out to and effectively engage with this range of stakeholders. It follows that if it is decided to move ahead with the establishment of an Institute, it would appear natural that the Council of Europe should be a key supporter of it. Moreover, since currently a considerable amount of support is directed towards achieving similar outcomes through other mechanisms, there may be opportunities to channel some existing NPM-related support towards this more systemic enterprise, rather than dispersing it through smaller and more disparate events or projects which lack connection and cohesion.

This is not to suggest that other beneficial initiatives should not continue to be supported in addition to the Institute – such as, for example the work of sub-regional and other peer to peer networks which achieve other valuable goals. It is, however, to suggest that there is scope to channel existing support for purely training activities into and through such an Institute.

7. indicate which other institutional actors should be involved in such an initiative, and at which level of concrete involvement;

This has already been addressed in the context of other questions, but to repeat in brief: we feel that to maximise its impact and build on current synergies, as broad range of stakeholders currently operating in torture prevention should be invited to participate in its work, either as donors, or as experts/educators and/or participants. These have already been identified above. We also suggest that the one of the first tasks of the Strategic Board tasked with the establishment of the institute would be to undertake a mapping exercise to identify those whose current work was most closely training related and then seek to forge appropriate relationships with them in order to (a) gather support for the Institute and (b) to seek to minimise overlap with their existing and future programmes.

8. provide an estimate of the cost (based on a list of items required) for setting up and running a training centre and propose a business model for the training centre to secure its ongoing funding;

We feel it is premature to offer suggestions as to costings until there is a clearer understanding the focus of the Institute in the first instance. We are also not well equipped to undertake detailed financial modelling in the abstract. What we can say at this point is that we have reservations about a funding model which, ultimately, sees the Institute as self-funding – though much will depend on the operating model ultimately agreed upon.

The reason for this is simple. As indicated in the opening sections, there is little likelihood that the international visiting mechanisms (the CPT or SPT) will consider it appropriate to pay the Institute for member training. Turning to NPMs, most will be reluctant to financially contribute towards the costs of the Institute, or to pay for training, due to their small budgets and limited capacities and resources. As has been described above, most of the training activities currently provided are either ‘in house’ and provided a little internal cost, or are largely supported by external donors, with the NPMs making relatively small contributions in many instances. We doubt that many NPMs have training budgets of a size to allow them to ‘buy in’ external training on an extensive basis. Indeed, numerous NPMs struggle to find the

resources to maintain their day to day front-line work – and these are likely to be among those most in need to training.

Therefore, we think it unrealistic to build a business model which is reliant on the ability of NPMs to finance it. Whilst it is reasonable to expect a stream of income from NPMs in respect of the training and capacity building they receive from such an Institute, this is unlikely to provide a route to financial sustainability. Therefore, we feel that the business model should foresee continued reliance on donor support and financing from those, including the Council of Europe, who have a commitment to, and interest in, the continued success of the work of NPMs. This would also ensure that the Institute was a channel of ‘added value’ to the NPMs and enhance the likelihood of their investing their time (which is a valuable commodity) in the work of the Institute.

9. analyse the perceived risks of the proposed initiative.

We see three main and potential risks in the current proposal: (a) regarding the process of design and establishment, (b) organizing on site visit-based training and (c) financial sustainability.

If NPMs are to be the main beneficiaries/users of the Institute, it is essential that they are informed at an early stage, and as many as possible are actively involved and/or consulted in its development and design. This could be entirely pluralistic and open, or, perhaps more practically, through an Advisory Board consisting of several regionally diverse NPMs. Their participation in this process will, we feel, be a major factor in the success of the initiative and significantly contribute towards their ‘ownership’ of the process. Those NPMs which become involved at this early, design stage may reasonably be expected to become ‘ambassadors’ for the Institute (formally or informally), as regards its usefulness and potential impact, and leading by example can encourage more NPMs to work with the Institute, helping to secure its growth and stability over time.

A central element of the proposed approach to training is the ‘onsite’ visit. We understand this, though some reservations have already been set out concerning the extent to which this can be a true ‘simulation’. In the context of NPMs, where reciprocal co-visiting already occurs, this may well be less of a problem than as regards the international bodies, however. Indeed, the value of such training is attested, despite its limitations. A very practical risk concerns the potential complexity of the Institute organising such training visits in third countries. There is a question of the relationship with the NPM in the country in which the training is to occur to take into account. Indeed, it might be wondered if it would be preferable for the Institute to act more as a ‘broker’ as regards on-site visit training, linking NPM members to be trained with Institute accredited ‘trainers’ in other countries. The Institute itself could then focus on the provision of thematic/issues based training which might be more practical (and economical) for it to deliver on a more systemic basis.

We have already stressed the need for NPMs to be involved in the design and content of modules/courses and issues, in order to ensure that the training given is relevant to the situation of the particular NPM in question and to avoid the danger of the training being overly general and/or theoretical and not sufficiently answering the practical and methodological issues which the NPM in question has to confront. In short – whilst offering training on a range of issues and themes, delivery needs to be tailored to the needs of the NPM in question, in conjunction with that NPM.

We have also already touched on financial considerations. It is well known that independent national infrastructures of human rights protection are generally under resourced, and NPMs are no exception. They are often among the first to be under financial pressure during times of financial recession and crisis and are often working in a hostile national environment. This can particularly acute when NPMs are addressing some highly sensitive and/or politicized issues, such as migration, for example. It is precisely because of this that external stakeholders and donors so often support the educational and networking activities of NPMs. Many NPMs complain that they lack the funding to be able to carry out their mandates adequately. Against that background, it is unreasonable to think they can devote significant resource to training by external agencies. They would end up trained – but unable to apply that training in practice. Therefore, we are sceptical as to whether NPMs would be capable and willing to contribute significantly to the Institutes funding. Whilst it is plausible to imagine NPMs agreeing to pay a relatively small annual fee for membership of an Institute, it is difficult to imagine fee income being sufficient to cover the overall management and operational costs of the Institute. A Model in which a percentage of core costs were covered by annual membership fees to the Institute and participation in training was paid for separately, either directly by those NPMS which could afford to, or by donors on behalf of NPMS which could not, would appear to be a more realistic model. This would require a financial model which sought donor funding for a percentage of core costs and a separate donor fund to support participation in training activities.

V. CONCLUSION

Given the financial constraints and future uncertainties resulting from the COVID-19 pandemic, this is a difficult time to contemplate the establishment of an ambitious project of this nature, and to do so on a self-sustaining financial model. Indeed, we feel that it would be challenging to establish an Institute on such a basis at any time. However, we also believe that the need for such an Institute to enhance the professionalism and coherence of NPM training opportunities – and to provide a centre of excellence which can be drawn on more generally by those engaged in working with NPMs – is made all the more important by those very circumstances. The coming years are likely to be a period of change in the manner in which NPMs undertake their work, and the issues which they need to face.

Therefore, whilst the initiative to set up a new Institute or training centre at this moment in time seems ambitious, it is a worthy ambition. For example, it is already clear that greater focus on online training is feasible and which carries considerably fewer costs. At the same time, on-site visiting currently faces many practical challenges as a result of the pandemic.

On the other hand, there are clearly significant gaps in the educational and training opportunities which are currently available and which the establishment of Institute/training centre could in time come to fill in, despite the risks identified above. The need for a most systemic approach to NPM training opportunities is very real and, for us, the real question is not so much one of ‘whether’ this ought to be proceeded with – but of ‘when’ and ‘how’.

Therefore, should the decision be made to progress this proposal, we would suggest that the first stage should be consider establishing a small task force to devise a working model based

on an assumption of their being continued donor support, where necessary, for those in receipt of training through the Institute. A *conditio sine qua non* would be that listening to the voice of NPMs should be a key part of both the institutional design, and subsequently, in the planning of its regular operation. The NPM voice ought, therefore, to also be represented in such a task force from the outset.