Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON NATIONAL PREVENTIVE MECHANISMS AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

I hereby promulgate the Act on National Preventive Mechanisms Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment passed by the Croatian Parliament at its session on 28 January 2011.

Class: 011-01/11-01/5
No.: 71-05-03/1-11-2
Zagreb, 2 February 2011

The President of the Republic of Croatia

Prof. Ivo Josipović, D.Sc., m.p.

THE ACT

ON NATIONAL PREVENTIVE MECHANISMS AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 1

This Act provides for the establishment of a body competent for the activities of national preventive mechanisms against torture and other cruel, inhuman or degrading treatment or punishment (hereinafter: National Preventive Mechanism) in accordance with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (Official Gazette – International Agreements, No. 2/05) (hereinafter: Optional Protocol).
Article 2

(1) The activities of the National Preventive Mechanism shall be carried out by the Ombudsman. In the performance of the activities of the National Preventive Mechanism, beside the Ombudsman, two representatives of non-governmental organisations registered for the performance of activities in the area of the protection of human rights and two representatives from the academic community shall also take part.

(2) The representatives referred to in paragraph 1 of this Article are appointed by the Ombudsman on the proposal of non-governmental organisations registered for the performance of activities in the area of human rights and higher education institutions on the basis of a public invitation.

(3) In carrying out the activities of the National Preventive Mechanism, the Ombudsman shall, where necessary, also include other independent experts in compliance with Article 18, paragraph 2 of the Optional Protocol.

Article 3

(1) The activities of the National Preventive Mechanism are the following:

- regular visits to places where persons are or may be deprived of their liberty, aimed at strengthening the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment;
- giving recommendations to competent government bodies and institutions aimed at enhancing the treatment of persons deprived of their liberty and upgrading the conditions in which they live, with a view to preventing torture and other cruel, inhuman or degrading treatment or punishment;
- making proposals and observations concerning the existing laws and regulations or their drafts with a view to enhancing the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- cooperation with the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter: Subcommittee on Prevention of Torture), sending information and meeting with the Subcommittee on Prevention of Torture.

(2) For the purposes of this Act, persons deprived of their liberty are those who have been ordered into any form of detention or imprisonment or placement in a public custodial setting which they are not permitted to leave at will.

Article 4

In the performance of the activities referred to in Article 3, paragraph 1, indent 1 of this Act, beside the Ombudsman or an authorised person from the Ombudsman’s Office, the participation of at least one representative from non-governmental organisations registered for the performance of activities in the area of the protection of human rights, or a representative of the academic community referred to in Article 2, paragraph 1 of this Act, is required.
Article 5

The persons taking part in the performance of the activities of the National Preventive Mechanism shall have the following powers:

- to pay announced visits to places or institutions and examine the facilities where persons deprived of their liberty are kept;
- to have free access to all information concerning the places and institutions where persons deprived of their liberty are kept;
- to have free access to all information concerning the number of persons deprived of their liberty in the visited places or institutions;
- to have free access to all information concerning the treatment of persons deprived of their liberty in accordance with the law;
- to have private interviews with persons deprived of their liberty by choice and without the presence of the officials of the visited place or institution of detention;
- to talk to other persons who may provide relevant information regarding the suspected violation of human rights by the treatment given in the place or institution visited.

Article 6

The Ombudsman shall prescribe the appointment procedure and the work of the representatives of non-governmental organisations registered for the performance of the activities in the field of human rights, the representatives of the academic community, or experts referred to in Article 2, paragraphs 1 and 3 of this Act.

Article 7

Persons participating in the activities carried out by the National Preventive Mechanism are bound to keep secret all personal data on the persons deprived of their liberty which they collect in the performance of their work.

Article 8

(1) Minutes shall be taken of the visit referred to in Article 3, paragraph 1, indent 1 of this Act and signed by all the persons who have taken part in the visit.

(2) On the basis of the minutes referred to in paragraph 1 of this Article, the Ombudsman shall write a report on each visit and send it to the visited place or institution, and in the case of any irregularities detected during the visit, the report shall also be sent to the body competent for the supervision of the visited place or institution.

(3) If any forms of torture or other cruel, inhuman or degrading treatment or punishment are discovered during the visit, the Ombudsman shall warn and give recommendations to the visited place or institution where the violations have occurred. Upon such warning or recommendations given by the Ombudsman, the body or the institution where such violation has been established is bound to take measures within the deadline specified in the report and inform the Ombudsman without delay on such measures. If the
body or the institution fails to take measures within the deadline given by the Ombudsman, or does not follow his recommendations, the Ombudsman shall inform the Croatian Parliament accordingly.

(4) Upon the delivery of the report, the persons taking part in the activities of the National Preventive Mechanism are authorised to carry out a control examination of the place or institution where the cases of torture and other cruel, inhuman or degrading treatment or punishment were found.

Article 9

The Ombudsman shall write and publicise his or her annual report on the performance of the activities of the National Preventive Mechanism and send it to the Croatian Parliament before 1 July of the current year for the previous year.

Article 10

The funds for the activities of the National Preventive Mechanism shall be allocated in the State budget as a special item within the budget assigned to the Ombudsman’s Office.

Article 11

(1) The representatives of non-governmental organisations registered for the activities in the area of the protection of human rights and the representatives of the academic community referred to in Article 2, paragraph 1, as well as the independent experts referred to in Article 2, paragraph 3 of this Act, are entitled to corresponding remuneration for the work carried out by the National Preventive Mechanism.

(2) The amount of remuneration referred to in paragraph 1 of this Article shall be established by a separate decision issued by the Ombudsman.

Article 12

The Ombudsman shall issue the regulation referred to in Article 6 of this Act within two months from the day of the entry into force of this Act.

Article 13

This Act shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Croatia.

Class: 004/01/10-01/04

Zagreb, 28 January 2011 CROATIAN PARLIAMENT

President of the Croatian Parliament

Luka Bebić, m.p.