



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
281-45/17
Belgrade



Заштитник грађана
Zaštitnik građana



BEOGRADSKI CENTAR
ZA LJUDSKA PRAVA

Ref. No. 19839 Date: 22 May 2017

NATIONAL PREVENTIVE MECHANISM

MONITORING OF THE FULFILMENT OF THE RECOMMENDATIONS

Report on the Visit to the Reception Centre in Šid

Belgrade, May 2017

MANDATE OF THE NATIONAL PREVENTIVE MECHANISM

Under the Act Ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Degrading or Humiliating Treatment or Punishment¹, the National Preventive Mechanism for the Prevention of Torture (NPM) shall visit institutions where persons are or may be deprived of their liberty with a view to deterring any form of torture or other form of ill-treatment by the state authorities or public officials and to providing guidance to state authorities on putting in place accommodation and other living conditions in institutions where persons are deprived of liberty in accordance with the valid regulations and standards. The NPM is entitled to unimpeded and unannounced access to all institutions where persons are or may be deprived of liberty at all times; to hold private interviews with such persons, with public officials, who are under the obligation to cooperate with it, and with any other persons who may have information of relevance to the treatment of persons deprived of liberty; to access all documentation regarding those persons; to issue recommendations to the competent authorities with a view to improving the treatment of persons deprived of liberty and the conditions in which they are held or detained.

Under Article 2a of the Act, the Protector of Citizens shall perform NPM duties and, in performing these duties, cooperate with the Ombudspersons of the autonomous provinces and with associations, the Statutes of which include the goal of improving human rights and freedoms in accordance with the law.

The Protector of Citizens has formed a separate unit, the “National Preventive Mechanism Secretariat”, which performs NPM professional duties, pursuant to the NPM’s remit defined in Article 4 of the Optional Protocol to the Convention against Torture. The Secretariat is managed by the NPM Secretary, who operates in accordance with the guidelines issued by the Deputy Protector of Citizens charged with the rights of persons deprived of liberty.

The Protector of Citizens and the AP of Vojvodina Provincial Ombudsperson signed a Memorandum on Cooperation in Performing NPM Duties², under which the Provincial Ombudsperson shall actively partake in the visits by the NPM Monitoring Team to institutions in the territory of the AP of Vojvodina where persons are deprived of liberty.

Pursuant to the procedure implemented after the publication of the Public Call³, the Protector of Citizens selected the following associations with which it will cooperate in performing NPM duties: the Belgrade Centre for Human Rights (BCHR), the Victimology Society of Serbia, Group 484, the Mental Disability Rights Initiative - Serbia (MDRI-S), the Committee of Human Rights Lawyers (YUCOM), the International Aid Network (IAN), the Human Rights Committee – Valjevo, the Helsinki Committee for Human Rights in Serbia and the Human Rights Centre – Niš.

After its visits, the NPM prepares reports, which it forwards to the visited institutions. Thereinafter, the NPM maintains continuous dialogue with the visited institutions and the authorities within which they operate, with a view to eliminating the identified deficiencies that may lead to torture or inhuman or humiliating treatment.

¹ Official Journal of Serbia and Montenegro – International Treaties Nos. 16/2005 and 2/2006 and Official Gazette of the Republic of Serbia - International Treaties No. 7/2011.

² Signed on 12 December 2011.

³ Published in the Official Gazette of the Republic of Serbia on 29 January 2016.

MAIN INFORMATION ABOUT THE VISIT

VISITED INSTITUTION	Reception Centre in Šid
PURPOSE OF THE VISIT	Monitoring of the fulfilment of NPM's recommendations and review of allegations of torture of migrants by the authorities of neighbouring states that pushed the migrants back to Serbia
VISIT CONDUCTED BY	Protector of Citizens in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	16 May 2017
NOTICE OF VISIT	The visit was not pre-notified
VISIT TEAM	<p>Team Leader: Jelena Jelić, <i>Professional Service of the Protector of Citizens /NPM</i></p> <p>Team Members: Nikola Kovačević <i>Belgrade Centre for Human Rights</i> Prof Dr Snežana Pavlekić <i>M.D. Forensic Medicine</i></p> <p>Farsi interpreter</p>

COOPERATION OF THE OFFICIALS WITH THE NPM TEAM

Šid Reception Centre staff cooperated with the NPM Team, extending it the required information and facilitating private interviews with and medical examinations of migrants claiming they had been victims of torture.

1. INTRODUCTION

During its visits in December 2016⁴ and March 2017⁵, the NPM heard a lot of complaints from the migrants about how they were treated by the Commissariat for Refugees and Migration staff, notably, about the physical abuse and humiliating oral communication. During this visit, the migrants did not complain about their treatment by the Centre staff. The change in treatment is presumably due to the fact that a large number of migrants (some 400 of them) have been relocated since the previous visit and that the Centre is no longer overcrowded. The Centre staff said that around 135 migrants were moved to the Reception Centre in Adaševci, around 36 of them to the Centre in Principovac, while several families moved to the Reception Centre in Kikinda.

Both the doctor and the Centre staff said that there had been no clashes among the migrants and that they had not complained about how they were treated by the staff since the decrease in the number of Centre residents.

2. SITUATION ON THE DAY OF THE VISIT

On the day of the visit, 220 migrants were staying at the Reception Centre: 153 of them were from Afghanistan, 38 from Pakistan, seven from Syria, six from Bangladesh and two from Iraq. Fifteen of them were single adults, 101 were minors, 78 of them were unaccompanied minors; 59 of them were women and girls. The family with children suffering from cerebral palsy was still living in the Centre.

All the residents are accommodated in buildings of durable material. The prefab facilities are no longer in use.

The Centre has introduced identification cards (with the migrants' photographs, first and last names, countries of origin and dates of birth on the front, and the telephone numbers of the Reception Centre and the Belgrade headquarters on the back), as well as an in-house 14-paragraph Rulebook. Under the Rulebook, all migrants with new cards shall be assigned a bed, each room shall be assigned a leader, roll call shall be conducted every evening, between 10 and 11 pm; room leaders shall notify the Centre of any migrants who had left the Centre; residents may be absent from the Centre up to 48 hours, with the exception of migrants living in the room for minors, whose absence from the Centre may not exceed 24 hours; the places of migrants who fail to return or report within the set deadlines shall be reassigned to other migrants; the room leaders shall assist in all room chores, ensure peace and order in the rooms and report any problems; leaders must report all migrants causing problems or harm to others; non-compliance with the rules shall incur demerit points and three demerit points shall result in the loss of a place in the Centre. This rule applies to everyone, including the room leaders; in the event it is ascertained during roll call that all the minors staying in the room together earned more than five demerit points, the residents of the room shall be punished by cutting of the room electricity for four hours; room leaders shall be demoted in case they have earned three demerit points and new leaders will be named in their place; all residents of the room for minors are under the obligation to know their ID card numbers and bed numbers; the migrants are prohibited from leaving the Centre after 11 pm, when the Centre gate is locked.

The NPM Team ascertained during its interview with the Centre doctor that she kept medical reports on the migrants' injuries, in which she entered their personal data, the description of

⁴ Report on the Visits to the Reception Centres in Principovac, Šhid and Adaševci Ref. No. 281-98/16.

⁵ Visit Report Ref. No. 281-23/17.

their injuries and the migrants' claims on how they sustained them and diagrammed the patients' injuries.

3. UNACCOMPANIED MINORS

The Centre staff said they devoted particular attention to unaccompanied minors. All of them are accommodated in a separate room along with several single adults. They receive larger meals than other Centre residents and are given priority when the Serbian Orthodox Church charity Čovekoljublje (Philanthropy) distributes cards with specific amounts of money.

4. FULFILMENT OF RECOMMENDATIONS

1.

2016 RECOMMENDATION

The Commissariat for Refugees and Migration is to take the adequate measures to ensure sufficient quantities of hot water for the Šid Reception Centre residents

ACTIONS TAKEN TO FULFIL THE RECOMMENDATION

According to the Centre staff, the upgraded central heating system facilitated the heating of sufficient quantities of water. Electricity is also used to heat the water. Hot water is available round the clock in the facilities made of durable material and from 9 or 10 am to 9 pm in the new bathroom in the yard.

The migrants staying in the facilities made of durable material confirmed they had access to hot water, but said that there were not enough bathrooms to satisfy the needs of all the migrants accommodated there. Some migrants said that this was why they bathed in the rooms they were staying in. On the other hand, migrants staying in the Centre yard said that the hot water was used up soon after it was turned on, within an hour or two, preventing all migrants who wanted to shower to do so. They also complained about the lack of bathrooms. During their tour of the new bathroom in the yard, the NPM Team members saw for themselves that there was no hot water in it at that time.

The NPM thus reiterates its recommendation.

THE RECOMMENDATION HAS BEEN FULFILLED

Conditions for the fulfilment of this recommendation were created when the number of Centre residents decreased.

2.

2016 RECOMMENDATION

The Commissariat for Refugees and Migration is to secure a separate office in the Šid Reception Centre, where migrants can have confidential conversations with experts extending them psychological support.

ACTIONS TAKEN TO FULFIL THE RECOMMENDATION

The Reception Centre psychologist still does not have a separate office, in which she can have confidential conversations with migrants in need of support. The staff said that the plan was to cede the offices now used by police officers to the health service, because the round the clock duty of the police officers was to have been cancelled. This plan has, however, been abandoned and the health service has only one office at its disposal.

The psychologist, interviewed by the NPM Team, said she had just started working and that she has noticed in the short while she has been here that the migrants were anxious, for the most part because of the uncertainties regarding their onward journey. She is familiar with her obligation to report all cases of violence against migrants to the organisation that engaged her.

The NPM thus reiterates its recommendation.

THE RECOMMENDATION HAS BEEN FULFILLED

The Danish Refugee Council engaged a psychologist, who comes to the Centre three times a week. The Centre has secured a room in which she can hold confidential conversations with the migrants if necessary.

3.

The Commissariat for Refugees and Migration is to install video surveillance of all common rooms and the yard in the Šid Reception Centre and display visible notices thereof in the languages the migrants living in the Centre understand.

The Commissariat for Refugees and Migration is to make sure that the video surveillance footage is kept at least 30 days.

The Commissariat for Refugees and Migration is to put in place an efficient mechanism via which the migrants can complain about the work of staff engaged in institutions accommodating migrants and asylum seekers and is to review all claims of ill-treatment with due diligence

The Commissariat for Refugees and Migration is to display notices in all institutions accommodating migrants and asylum seekers of their right to complain about the work of staff engaged in these institutions and the complaint procedure, as well as information on relevant organisations that can assist them.

ACTIONS TAKEN TO FULFIL THE RECOMMENDATION

Incidents break out in the Centre two or three times a month, usually in the evening hours. They are mostly caused by inebriated single migrants. Accusations of theft have been forwarded to the police, but, according to the migrants, they do not appear to be interested on acting on all the reports. They suspect their things were stolen by migrants staying a night or two at the Centre. Migrants, staying in the Centre with their families, complained that single migrants under the influence of psychoactive substances have been breaking into their dormitories at night and causing problems. They have reported these incidents to the CRM staff, who padlocked the entrance, but the single migrants have broken these padlocks repeatedly.

The NPM Team again heard accusations about the inadequate treatment of the migrants by the CRM staff – insults, threats and blows, dealt to discipline the migrants, i.e. in reaction to their violations of the Centre house rules. The migrants also said that some staff were rude and did not want to provide them with the information they asked for. They alleged

that the migrants traveling alone were treated particularly badly. They described a situation when the CRM staff forced all the migrants to undergo a check-up to see whether they had scabies. No-one was given any food all day, until all the check-ups were completed. A migrant, who asked for food for his child, was beaten up by the staff. Several migrants said that an incident occurred in the food line several days before the visit, which broke out when the migrants quarrelled about who was next in line, and that a CRM staff member interceded and applied physical force to calm them down. They have been reporting these incidents to the organisations working in the Centre.

They, however, stressed that there were staff they had no problems with. Furthermore, some migrants did not voice any complaints about how they were treated by CRM staff and said they had only witnessed clashes among the migrants.

A number of migrants complained about the presence of drugs and alcohol in the Centre, which, in their view, is the cause of numerous incidents.

Video surveillance has not been installed in the Centre. Nor has a complaint procedure been introduced. Notices of the migrants' right to complain about the work of the staff and the complaints procedure were not displayed in the Centre at the time of the visit either and the CRM did not know anything about these issues. In addition, the interviewed migrants were unaware who they could complain to about the actions of the staff engaged at the Centre.

According to information the NPM received subsequently, on 16 March 2017, a notice was displayed at the entrance to the Centre on the migrants' right to complain to the Centre Manager about a member of staff and of their right to file a complaint if they were dissatisfied with the Manager's response by e-mailing it to the following address complaints@kirs.gov.rs. The notice also specifies the type of information they should include in their complaints.

In view of the gravity of the migrants' allegations, the NPM expects of the CRM to invest efforts in securing the requisite funding and installing video surveillance in the Šid Reception Centre as soon as possible.

Having perused the 27 February–5 March and 6 March–12 March 2017 weekly reports, the NPM Team ascertained that they did not include information about the incidents that broke out in the Centre during those periods. Timely registration of all extraordinary events, including incidents, and filing of written reports on them to the CRM are important for preventing any improper actions by the staff, for taking measures to maintain order and safety and for properly managing the centres for the reception and accommodation of migrants.

RECOMMENDATION

The Commissariat for Refugees and Migration is to take measures to ensure the Šid Reception Centre weekly reports include information on extraordinary events, including incidents.

THE RECOMMENDATION HAS BEEN FULFILLED

Apart from information on regular Centre activities, the Commissariat for Refugees and Migration staff also enter in their daily reports any extraordinary events and incidents, as well as information on measures taken thereto. No incidents have broken out since the number of Centre residents has decreased.

5. TORTURE ALLEGATIONS

The NPM Team interviewed three migrants who claimed they had been beaten up by the Croatian police. They were also examined by the forensic doctor, who rendered her expert opinions. Each of the migrants was interviewed individually, in a separate room.

All three migrants said that they tried to cross the Croatian border in a group with two other migrants in the night of Sunday/Monday, 14/15 May 2017. At around 1 am, they came across a police car some 40 m into Croatian territory. Three policemen with flashlights got out of the car, ordered them to sit down and then searched their bags. They were then ordered to get in the van that pulled up. The van took them to the railroad tracks in the countryside. They were ordered to get out of the van, one by one.

Migrants' Individual Claims about the Ensuing Events:

1. A. A. said that, when he got out of the van, two policemen grabbed him by the arms while eight other policemen beat him, and that he fell on his knees and hands due to the blows. Two other policemen raised him, holding him by the armpits, so that his knees and shins were on the ground, while they were holding his torso up. He was repeatedly hit all over; the policemen slapped and punched him, kicked him (they were wearing boots with rubber soles) and hit him with their batons.

The forensic doctor found that A.A.'s injuries indicated that he had been hit by blunt mechanical objects. The external injuries, individually and altogether, amounted to light bodily injuries at the time they were inflicted. The features of all these injuries are consistent with the victim's claims of how and when he had sustained them (they could have been incurred by slapping and/or punching, kicks by feet in rubber soled footwear and batons).

2. I.A. Said that, while he was getting out of the van, the police first hit the back of his legs with a baton and, when he tried to run away, he was hit on the head and in the chest (he did not specify with what) his legs were first hit with a baton, after which he fell. There were a total of 10 policemen who were hitting him all over, with their hands and batons and kicking him. He said the policemen were wearing black boots with rubber soles.

The forensic doctor found that I.A.'s injuries indicated that he had been hit by blunt mechanical objects. The external injuries, individually and altogether, amounted to light bodily injuries at the time they were inflicted. The features of all these injuries are consistent with the victim's claims of how and when he had sustained them (they could have been incurred by slapping and/or punching, kicks by feet in rubber soled footwear and batons).

3. A.H. said that, as he was getting out of the van, a policemen punched him in the face, close to his left eye, and that two policemen then grabbed him by the arms and held him while the other policemen were beating him. He said there were 10 policemen altogether. They hit him with their hands and batons, and, when he fell down, kicked him as well (they were wearing boots with rubber soles). He fell on grassy ground, on his back. He was trying to protect his head and body from the blows with his arms and legs. He was wearing a T-shirt, a jacket and sweatpants.

The entire incident lasted around 10 minutes, and the migrants ran away down the railway track towards Serbia.

The forensic doctor found that A.H.'s injuries indicated that he had been hit by blunt mechanical objects. The external injuries, individually and altogether, amounted to light bodily injuries at the time they were inflicted. The features of all these injuries are consistent with the victim's claims of how and when he had sustained them (they could have been incurred by slapping and/or punching, kicks by feet in rubber soled footwear and batons).