



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

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**Protector of Citizens
Ombudsman**

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NATIONAL PREVENTIVE MECHANISM

Report on the Visit to the Asylum Centre in Bogovadja on 30 August 2012

Belgrade, August 2012

MANDATE OF THE NATIONAL PREVENTIVE MECHANISM

The Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ stipulates that the National Preventive Mechanism (NPM) shall conduct visits to the institutions where there are or may be persons deprived of liberty in order to deter public authorities and officials from any form of torture or any other form of ill-treatment, and to provide direction to public authorities towards the creation of accommodation and other living conditions in the institutions where persons deprived of liberty are placed, in accordance with applicable regulations and standards.

The NPM has the right to unhindered and unannounced access, at any time, to all facilities and all premises where persons deprived of liberty are placed or may be placed; to have private conversations with these persons, the officials who are obliged to cooperate in this regard and all other persons who may have information relevant to the treatment of persons deprived of liberty; to access all documentation relating to any such person, to make recommendations to the competent authorities for the purpose of improving the treatment of persons deprived of liberty and the conditions in which they are detained or imprisoned.

GENERAL INFORMATION ABOUT THE VISIT

VISIT	Asylum Centre in Bogovadja
REASON FOR VISIT	Performing the tasks of the National Preventive Mechanism (NPM) in accordance with Article 2a of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (<i>Official Journal of SaM - International treaties</i> , nos. 16/2005 and 2/2006 and <i>Official Gazette of RS - International treaties</i> , no. 7/2011).
AIM OF VISIT	Establishing the facts about the treatment of asylum seekers
TYPE OF VISIT	Extraordinary visit
DATE OF VISIT	30 August 2012
VISIT CONDUCTED BY	National Preventive Mechanism (NPM)
TEAM MEMBERS	Miloš Janković, Deputy Ombudsman Tamara Lukšić - Orlandić, Deputy Ombudsman Maja Jović, Junior Advisor in the Secretariat of the Protector of Citizens Miroslav Janičijević, Advisor in the Secretariat of the Protector of Citizens

¹ *Official Journal of SaM - International treaties*, nos. 16/2005 and 2/2006 and *Official Gazette of RS - International treaties*, no. 7/2011

ASYLUM CENTRE IN BOGOVADJA

According to the Decision of the Government of the Republic of Serbia 05 No. 02-3732/2011, the Red Cross resort facility in Bogovadja (previously used as a resort facility for children) was transformed into the Asylum Centre to provide asylum seekers with accommodation and basic living conditions until the final decision on their application for asylum. The Asylum Centre in Bogovadja (the Centre) is a separate organisational unit within the Commissariat for Refugees. The Centre was opened in June 2011.

The Centre is located near the village Bogovadja, 70 kilometres from Belgrade and 12 km from Lajkovac. The accommodation capacity of the Centre is 150 persons. The Centre's facility is rented from the Red Cross of Serbia.

The Centre is managed by the representative of the Commissariat for Refugees Stojan Sjekloća, who introduced himself as the Centre Manager. The Centre Manager is alternately engaged under a temporary service agreement and fixed-term agreement. According to the staff of the Commissariat, it is because the Rulebook on Internal Organisation and Job Classification of the Commissariat for Refugees does not envisage job positions at the Centre. The Centre has 25 employees hired by the Red Cross of Serbia and six people in security positions.

ESTABLISHED:

The Centre is managed by the representative of the Commissariat for Refugees engaged under a temporary service agreement or fixed-term agreement, while other employees are engaged under the agreement with third parties, because the Rulebook on Internal Organisation and Job Classification of the Commissariat for Refugees does not envisage job positions at the Centre.

BASIS:

The operation of the Asylum Centre is managed by the official in charge of the Commissariat for Refugees².

RECOMMENDATION:

The Commissariat for Refugees will immediately prepare a draft Rulebook on Internal Organisation and Job Classification (in line with the requirements for the implementation of all planned activities of the Centre) and submit it to the competent authority for adoption.

Upon the adoption of the Rulebook on Internal Organisation and Job Classification, it is necessary to fill all the positions without delay.

INTERVIEW WITH OFFICIALS

The visit began with an interview with Dušanka Petrović, Red Cross Coordinator, who is a service provider in the Asylum Centre. According to her statement, at the time of the visit there were 134 persons accommodated in the Asylum Centre and 38 persons, including a large number of children, were temporarily accommodated in the courtyard due to full occupancy. She stated that her primary duty was nutritional care and organisation of accommodation for asylum seekers.

An interview was conducted with the Centre Manager Stojan Sjekloća in the official premises of the Asylum Centre in Bogovadja. On that occasion, the team leader explained the NPM's mandate, the general objectives to be achieved and the principles of procedure. The Manager provided general information about the Centre's work and the conditions for accommodating individuals in the Asylum Centre in Bogovadja. He pointed that the basic problem was a constant increase of asylum seekers on the one hand, and insufficient accommodation capacity

² Item 3 of the Decision on Foundation of Asylum Centre (*Official Gazette of RS*, no. 34/2011)

on the other hand, due to which it was often not possible to provide accommodation to all persons who had applied for asylum under the Law on Asylum and needed accommodation in the Centre.

According to the Manager, asylum seekers, pending the procedure, are entitled to be accommodated in the Asylum Centre if they are in need of accommodation, provided that they were previously registered by the Ministry of Interior, that they underwent medical examination and that there were available accommodation places. The Asylum Centre provides accommodation and basic living conditions (bed with linen, use of sanitary facilities, heating, electricity and water, toiletries, food).

According to the Manager, the asylum seekers that are accommodated in the facility are provided with basic medical care; he claimed that medical doctors examined these persons every 15 days at the Centre or at the nearest health centre, and if necessary, they were transported to the hospital in Valjevo. One nurse works in the Asylum Centre.

ESTABLISHED SITUATION

The asylum seekers come mainly from Afghanistan, Somalia, Sudan, Tunisia, Palestine, Myanmar, Bangladesh, Iraq, Algeria, Pakistan, Morocco, Syria, Eritrea and Egypt.

During the visit, it was established that a large number of asylum seekers lived in the forest located nearby the Centre, and a small number of them were placed in the courtyard, on the grass, without any shelter from precipitation, in completely unsanitary conditions. At the time of the visit, there were 38 persons placed in the courtyard, of whom a large number were children. According to the officials, the asylum seekers were placed in the courtyard temporarily until the accommodation inside the Centre became available.

ESTABLISHED:

Due to the limited capacity of the Asylum Centre in Bogovadja, not all asylum seekers who have applied for accommodation have been provided with accommodation.

Some asylum seekers who have not been provided with accommodation in the Centre live in the forest, while 38 asylum seekers, mostly families with children, are placed in the courtyard without basic accommodation or other living conditions.

BASIS:

For the duration of the procedure, an asylum seeker shall have the right to reside in the Republic of Serbia and during that period, if necessary, he/she shall be entitled to accommodation at the Asylum Centre.³

RECOMMENDATION:

The Asylum Centre in Bogovadja will immediately, in cooperation with the Commissariat for Refugee, provide adequate accommodation and other living conditions to all asylum seekers who have applied for accommodation in the Centre.

After examining the records on the number of accommodated persons, it was found that on 30 August 2012 a total of 134 persons were present in the Centre, while 62 persons reported their absence, which accounted for one third (31.6%) of the total number of asylum seekers registered as accommodation beneficiaries.

³ Article 39, paragraph 1 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

According to the Centre Manager, it is not possible to accommodate other asylum seekers over the next seven days because there is a requirement of "keeping" the room for those who reported their absence - until their return. The asylum seekers usually go to the border crossing Šid or Sremska Mitrovica in an attempt to cross the border with Croatia, and if they fail, they return to the Centre and they are allowed to use the room they previously used. If the asylum seekers do not return after the registered deadline, the asylum seekers who have been temporarily placed in the courtyard occupy their places and the priority is given to families with children.

ESTABLISHED:

The Asylum Centre in Bogovadja has established the practice of "keeping" the room for those asylum seekers who have reported their absence for a period of several days. During this period, their beds are "empty", although there are many asylum seekers who are on the waiting list for accommodation, including families with children.

BASIS:

For the duration of the procedure, an asylum seeker shall have the right to reside in the Republic of Serbia and during that period, if necessary, he/she shall be entitled to accommodation at the Asylum Centre.⁴

The right of asylum seekers to accommodation does not mean their right to a specific bed or room.

An asylum seeker may be transferred from one room to any other room, which means that after returning from registered absence, he or she may be placed in any other room or bed.

RECOMMENDATION:

The Asylum Centre in Bogovadja will terminate the practice of "keeping" the rooms/beds for the asylum seekers who reported their absence of several days.

The rooms/beds vacated by the asylum seekers who reported their absence will be used for accommodating the asylum seekers who are on the waiting list for accommodation.

The asylum seekers who return to the Centre from the reported absence will be provided with accommodation in the Centre in accordance with the available capacity and the existing waiting list for accommodation.

The NPM team conducted individual interviews with some of the asylum seekers who were placed in the courtyard. The interviews were conducted without the presence of officials.

H. M. from Afghanistan stated that he had come to the Republic of Serbia with his wife and six minor children, including a baby aged about 5 months.

He states that he gave the certificate issued by the Ministry of Interior to the Centre Manager and that he did not receive an explanation of the reasons for not being placed inside the building with his family. During seven days in the courtyard they were allowed to eat in the dining room only once, while all the other days he purchased food at the nearby stores. Also, they were allowed to take a bath only once.

Neither he nor his family members have been examined by a medical doctor.

N. M. from Afghanistan stated that he had come to the Republic of Serbia with his wife and one child eight days before. He gave the certificate from the Ministry of Interior to the Centre Manager and he does not know why he cannot be placed inside the building.

⁴ Article 39, paragraph 1 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

His wife is sick and three days before the interview he addressed the officials for the first time requesting medical examination, but until the day of the visit of the Protector of Citizens, the examination had not been conducted, nor had he received an explanation of the reasons for that.

ESTABLISHED:

The officials in the Asylum Centre in Bogovadja retain/take the original copies of the certificate of intent to seek asylum issued by the Ministry of Interior from the asylum seekers who have applied for accommodation in the Centre, although these certificates serve to asylum seekers as evidence that they have expressed an intention to seek asylum and provide a proof of their right to stay in the Republic of Serbia.

BASIS:

An alien who has expressed an intention to seek asylum shall be entered into records and referred to the Asylum Office, i.e., the Asylum Centre. An alien shall be under an obligation to report within 72 hours to an authorized officer of the Asylum Office, i.e., the Asylum Centre.⁵

The entry into records shall include the issuance of a prescribed certificate containing the personal data that the alien has provided about him/herself or that can be established on the basis of the identification papers and documents available on his/her person.

The certificate shall serve as proof that the alien in question has expressed an intention to seek asylum and that he/she has the residence right for 72 hours.⁶

Upon the completion of his/her registration, an alien shall be issued an identity card for asylum seekers.⁷

RECOMMENDATION:

The officials in the Asylum Centre in Bogovadja will not retain/take the original copies of the certificate of intent to seek asylum issued by the Ministry of Interior from the asylum seekers.

ESTABLISHED:

The asylum seekers who, due to the lack of accommodation capacity in the Centre, have not been provided with accommodation, but live in the courtyard of the Centre or in the nearby forest, are not provided with adequate health care. The state of a number of children who spend day and night outdoors is worrying.

⁵ Article 22, paragraph 2 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

⁶ Article 23, paragraphs 2 and 3 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

⁷ Article 24, paragraph 4 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

BASIS:

An asylum seeker and a person who has been granted asylum in the Republic of Serbia shall have equal rights to health care, in accordance with the regulations governing health care for aliens.⁸

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.⁹

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; to ensure appropriate pre-natal and post-natal health care for mothers.¹⁰

RECOMMENDATION:

The officials in the Asylum Centre in Bogovadja will provide the conditions for carrying out medical examinations and providing necessary health care to all asylum seekers who applied for accommodation, paying special attention to health care of children.

At the time of the visit, there were four unaccompanied minors in the Asylum Centre, who will be provided with custodial care in cooperation with the competent Social Welfare Centre in Ljig. The women placed in the Asylum Centre were provided with medical parcels to meet the basic hygiene and health needs, and the health care workers held a brief health care education for women.

According to the Manager, a file is created for every person seeking asylum on the same day when the person is admitted in the Centre or the following day at the latest. The file includes basic information about the asylum seeker and his or her family members, if any, and it is kept as an official secret.

The Centre keeps daily records on the number of persons in the Centre, as well as on the number of asylum seekers who are temporarily absent. Also, the Centre informs the Commissariat for Refugees about the number of persons in the Centre through daily reports. The Centre does not keep records on extraordinary events.

⁸ Article 40 of the Law on Asylum (*Official Gazette of RS*, no. 109/2007)

⁹ Article 2, paragraph 1 of the Convention on the Rights of the Child

¹⁰ Article 24, paragraphs 1 and 2 of the Convention on the Rights of the Child

ESTABLISHED:

The Asylum Centre in Bogovadja does not submit to the Commissariat for Refugees reports on the number of asylum seekers who approached the Centre looking for accommodation, but who were not provided with accommodation due to the lack of available places.

BASIS:

The Asylum Centre in Bogovadja is a part of the Commissariat for Refugees as a separate organisation. The operation of the Asylum Centre is managed by the official in charge of the Commissariat for Refugees.¹¹

The Asylum Centre should duly inform the Commissariat for Refugees about all developments relevant to the operation of the Centre, in particular the Centre should send to the Commissariat for Refugees daily reports on the occupancy rate, and especially on the number of asylum seekers who cannot be accommodated in the Centre due to the lack of available places.

RECOMMENDATION:

The Asylum Centre in Bogovadja will submit to the Commissariat for Refugees daily reports on the number of asylum seekers who approached the Centre looking for accommodation, but who were not provided with accommodation due to the lack of available places.

ESTABLISHED:

There are no records on extraordinary events in the Asylum Centre in Bogovadja.

BASIS:

The beneficiary must respect the house rules prescribed by this Rulebook, fire protection measures, as well as other instructions and orders of the authorised persons.

In the case of non-compliance with the prescribed house rules, the authorised person in the Centre shall notify the Asylum Office in order to take measures in accordance with the Law on Asylum.¹²

RECOMMENDATION:

The Asylum Centre in Bogovadja will establish a register for recording extraordinary events that will contain basic information about the event (date and time, description, participants, consequences...) and on the measures taken on that occasion.

The Asylum Centre will submit to the Commissariat for Refugees daily report on extraordinary events.

¹¹ Items 2 and 3 of the Decision on the Foundation of Asylum Centre *Official Gazette of RS*, no. 34/2011)

¹² Article 20, paragraph 2 of the Rulebook on House Rules in the Asylum Centre (*Official Gazette of RS*, no. 31/08)

According to the statements of officials, they have good cooperation with the Social Welfare Centre, Ljig Branch, in cases where the minors without a parent or guardian are placed in the Centre. A guardian is appointed for such persons and, if needed, he or she goes to the Asylum Centre and provides the beneficiaries with expert assistance.

The Commissariat for Refugees does not provide assistance (food, medical care, clothing) to the persons living outside of the Centre. Group 484, the non-governmental organisation from Belgrade, distributes a dry meal to these people once a day. Apart from this meal, the aliens who reside outside the Centre do not receive other assistance.

The NGO Asylum Protection Centre regularly provides legal and psychological assistance to the asylum seekers who are accommodated in the Asylum Centre. The Manager states that the Centre is visited by a large number of NGOs that usually supervise the accommodation and living conditions of asylum seekers, but almost none of them provide active assistance.

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An integral part of this report is the Report of the Department for Children's Rights and Gender Equality.