



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

71-3/15
Belgrade



Заштитник грађана
Zaštitnik građana



International Aid Network

Doc.No.

Date:

**NATIONAL PREVENTIVE MECHANISM
AGAINST TORTURE**

**OVERSIGHT OVER INSTITUTIONS
HOLDING
PERSONS DEPRIVED OF LIBERTY**

Report
on the visit to
Special Prison Hospital

**Oversight over implementation of recommendations
from the Report on the Visit to Serbia carried out by *CPT*
in 2011**

Belgrade, February 2015

1. INTRODUCTION

1.1 Mandate of the National Preventive Mechanism against Torture

Under the Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment¹ the National Preventive Mechanism against Torture (NPM) shall visit institutions which are holding or may hold persons deprived of their liberty in order to deter public authorities and officials from committing any form of torture or any other form of ill-treatment, and to provide direction to public authorities how to ensure accommodation and other living conditions, in accordance with applicable legislation and standards, in institutions where persons deprived of their liberty are placed.

NPM is entitled to make unhindered and unannounced visits at all times to all institutions and all premises in which people who are deprived of their liberty are held or may be held; to conduct private interviews with those persons, with officials who are required to work together in this instance, and with all other persons who may have information relevant to the treatment of persons deprived of their liberty; to access all documentation relating to such persons; to make recommendations to the competent authorities in order to improve the handling of persons deprived of their liberty and to improve the conditions in which they are held in custody or detained.

Article 2a of the Law stipulates that the Protector of Citizens shall carry out the duties of the NPM in cooperation with the protectors of citizens of autonomous provinces and associations whose Articles of Association stipulate the promotion and protection of human rights and freedoms as the goal of association.

The Protector of Citizens and the Provincial Protector of Citizens of AP Vojvodina have signed a Memorandum of Understanding relating to the duties of the NPM², which stipulates that the Provincial Protector of Citizens shall be actively involved in the NPM monitoring team visits to institutions holding persons deprived of their liberty which are located in the territory of AP Vojvodina.

Following a public call³, the Protector of Citizens elected the following associations to cooperate with in order to perform the duties of the NPM: Belgrade Centre for Human Rights, Victimology Society of Serbia, Dialogue, Mental Disability Rights Initiative of Serbia (MDRI-S), Lawyer's Committee for Human Rights (YUKOM), International Aid Network (IAN), the Committee for Human Rights - Valjevo, the Helsinki Committee for Human Rights in Serbia and the Centre for Human Rights - Nis.

Following a visit to an institution, the NPM shall prepare a report on the visit which is submitted to the visited institution. If deficiencies in the work of the institution are observed, the report shall contain recommendations for remedying the deficiencies. NPM shall maintain a constant dialogue with the visited institution and with its umbrella body as well, in order to implement the recommendations or remedy the deficiencies that may lead to torture, inhuman or degrading treatment.

¹ "Official Gazette of the Republic of Serbia and Montenegro - International Agreements", Nos. 16/2005 and 2/2006 and "Official Gazette of the Republic of Serbia - International Agreements", No. 7/2011

² 12 December 2011

³ Published on 29 December 2011 in the "Official Gazette of the Republic of Serbia"

1.2. Basic data on the visit

VISITED INSTITUTION	Special Prison Hospital
REASON FOR VISITING	Performing the duties of the National Preventive Mechanism against Torture (NPM) pursuant to Article 2a of the Law on the Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (<i>“Official Gazette of the Republic of Serbia and Montenegro - International Agreements”, Nos. 16/2005 and 2/2006 and “Official Gazette of the Republic of Serbia - International Agreements”, No. 7/2011</i>)
AIM OF THE VISIT	Oversight over the implementation of recommendations from the Report on the Visit to Serbia carried by the European Committee for the Prevention of Torture in 2011
VISIT CONDUCTED BY	Protector of Citizens, in cooperation with the civil association International Aid Network (IAN) and experts
DATE	5 February 2015
VISIT ANNOUNCED VIA	The visit was announced via telephone
VISITING TEAM	<p>Team Leader: Milos Jankovic, <i>Deputy Protector of Citizens</i></p> <p>Team Members: Jelena Unijat <i>Administrative and Technical Service of the Protector Citizens</i> Prof Dr Djordje Alempijevic, <i>forensic medicine specialist</i> Assistant Professor, PhD Vladimir Jovic, <i>psychiatrist and psychoanalyst</i> Prof Dr Zoran Ilic <i>Professor at the Faculty for Special Education and Rehabilitation</i> Assistant Professor, PhD Milana Ljubicic, <i>Faculty of Philosophy, University of Belgrade, Sociology Department</i> Damir Joka <i>Specialist Pedagogue</i></p>

COMPLIANCE WITH THE RECOMMENDATIONS FROM THE REPROT ON THE VISIT TO SERBIA CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) IN 2011

CRT RECOMMENDATION:

- Further efforts to be made to combat the phenomenon of inter-patient violence at the Special Prison Hospital in Belgrade; this will require bringing the hospital's population down to its official capacity and, as needed, increasing the nursing staff levels and presence. (Paragraph 79 of the Report)

NPM FINDINGS:

At the time of the NPM's visit, 470 patients were staying in the Special Prison Hospital, which means that their number decreased compared to the situation observed during the CPT's visit in 2011, when there were 718 patients. However, despite the reduction in the total number of patients, overcrowding was still observed in some hospital wards, particularly in psychiatric wards. The number of patients by wards was as follows: "A" Ward - Psychiatry - 123 patients; "B" Ward - Psychiatry - 133 patients; "C" Ward - Alcoholism - 44 patients; "D" Ward - Drug Addiction - 85 patients; "E" Ward - Acute Psychiatry - 34 patients; "G" Ward - Expertise - 6 patients; "I" Ward - Somatic Diseases - 43 patients; currently being treated in civilian hospitals - 2 patients. However, reportedly, the maximum bed capacity per room was reduced from 15 to 8 beds.

Reportedly, the number of health care staff was not increased; it rather dropped due to retirement of six doctors. The official job classification provides for 176 positions for medical staff, and only 127 were filled, i.e. there were 49 vacancies. Of the total vacancies 12 were provided for specialist doctors. For example, eight medical doctors specializing in psychiatry (psychiatrists) were on staff, two of which were exclusively carrying out expertise. Therefore, six medical doctors specializing in psychiatry (neuropsychiatrists) were absolutely insufficient to work with more than 400 psychiatric patients. There was a total of 60 nursing staff, which was not enough as estimated by the warden and other officials interviewed by the NPM Team. In addition, in the 2014 Annual Work Report (the Report was compiled by the Head of the Health Care Service on 27 January 2014) it has been stated that: "The number of health care staff in relation to the number of patients is inadequate. The lack of medical specialists in the last 6 years (there should be 9 more psychiatrists and 4 internists, or 30% of specialist doctors) is particularly evident."

The job classification provides for 169 custodial staff, and 111 of those positions were filled, except that 11 officers were deployed in other institutions. 10 of the total number of custodial staff were female.

According to the records of the Hospital Security Service, there were 15 fights among patients and 3 attacks on officials in 2013, while there were 4 fights, 21 attacks on other sentenced persons, and no attacks on officials in 2014. Coercive means were applied 14 times in 2013, as follows: truncheon - 1; restraint - 4; physical force - 3; seclusion - 6. In the course of that year, 142 disciplinary charges were filed, and in disciplinary proceedings the measure of solitary confinement was imposed against 50 persons. In the course of 2014, the only means of coercion imposed was seclusion in a separate room, 9 times. 122 disciplinary charges were filed, and solitary confinement was imposed against 79 persons. Violence was the most prevalent among patients staying on the Drug Addiction and Alcoholism Wards. As reported by the officials, disciplinary proceedings are not imposed against destructive patients, e.g. when they are breaking Hospital inventory, because such behavior is considered to be caused by the nature of their illness. Neither in 2013 nor in 2014 were means of coercion applied in excess.

In the course of 2013, there were 27, and in 2014 there were 18 patient deaths according to the data disposed of by the Hospital Security Service, or 20 according to data from the 2014 Work Report of the General Affairs Department.

CRT RECOMMENDATION:

- Custodial staff to be instructed not to enter the patients' living areas unless requested by the health-care staff, and not to carry truncheons in a visible manner while present inside the above-mentioned areas. (Paragraph 80 of the Report)

NPM FINDINGS:

According to the Head of Hospital Security Service, custodial staff are allowed to enter the patients' living areas if escorted by a member of the nursing staff. In the afternoon shift custodial staff are required to make rounds in the blocks where patients are staying. In addition, custodial staff periodically enter patients' rooms on the grounds of a search warrant. Custodial staff continue to carry truncheons in a visible manner while present in patients' rooms.

The Head of Hospital Security Service has emphasized that carrying truncheons constitutes strict implementation of the Law on Enforcement of Criminal Sanctions, and that amendments of certain provisions of the Law and of the secondary legislation - the House Rules of the Special Prison Hospital should be considered. Under those amendments the custodial staff would be exempt from carrying truncheons in the Hospital area.

CRT RECOMMENDATION:

- The procedures for the selection of custodial staff and their initial and ongoing training to be reviewed, taking into account the principles set out in paragraph 82 of the Report on the 2007 visit (Paragraph 80 of the Report)

NPM FINDINGS:

Competitions for admission of custodial staff are still conducted by the Department for Execution of Criminal Sanctions, and Hospital representatives are neither on competition panels, nor do they have any influence on the selection of candidates. There are no special procedures or conditions for the selection of candidates who are to be employed in the Hospital, but rather the same principles as for all other institutions apply. Custodial staff employed at the Hospital do not undergo any specific training in order to be able to work in this institution.

CRT RECOMMENDATION:

- The Serbian authorities to remedy the deficiencies with respect to the use of means of restraint referred to in paragraph 81. In particular, clearly defined written instructions on the use of means of restraint at the Special Prison Hospital in Belgrade should be issued without further delay (Paragraph 81 of the Report)

NPM FINDINGS:

Despite the enactment of the Law on the Protection of Persons with Mental Health Difficulties ("Official Gazette of the Republic of Serbia", No. 45/13) and the Rulebook on Detailed Conditions for the Application of Mechanical Restraint and Isolation of Persons with Mental Health Difficulties who are being Treated in Psychiatric Institutions ("Official Gazette of the Republic of Serbia ", No. 94/13) whose provisions the Hospital is to comply with, in the course of the visit it was ascertained that Hospital employees did not abide by the said regulations. In fact, patients were sometimes restrained for several consecutive days (a case of restraining for 6 days was observed). Reportedly, thus restrained patients were untied only to use the bathroom, and when taking meals, which was not entered in the relevant records. Only the start and end date of the application of the imposed mechanical restraint measure

were entered, while the precise time when the measure was applied and the time when it was discontinued were not entered in the records. In addition, notations of patients restrained by one arm and one leg were also found. According to the staff, in some instances patients were routinely restrained during the night (restraints were usually applied on one arm and one leg) because of the "suicide risk", and also due to extreme understaffing in night shifts which hindered adequate patient monitoring. The staff claims lead one to conclude that physical restraining is used arbitrarily and the illustrative example of this is the statement of one of the employees that the exact time of removal of restraints is not entered into the records, because this is commonly done in the morning when the doctor arrives. In addition, what is particularly worrisome is that the medical staff have not undergone any training on the procedure of applying mechanical restraints and seclusion of persons with mental health difficulties, which is obligatory pursuant to the provisions of Article 41 of the Rulebook. The impression gained in the course of the interviews was that most health care staff were not even aware of the existence of the said Law and Regulation.

Observed cases:

- The patient B.N., who the NPM Team members met in the hallway "and talked to her, and who did not exhibit any elements of aggressive behavior on that occasion, according to the records for the period June 2014 - February 2015, which were analyzed during the visit, had been restrained for 54 days in total, i.e. for about two months! In this period, on 22 days the instruction was to restrain all four limbs, while in other instances instructions were "to apply restraints on one arm and the opposite leg" or "on both arms and one leg." It should be noted that the periods of restraint in the case of this patient varied from a minimum of two to six days even (e.g. From 5 to 10 September 2014, which was recorded in the Patient Restraint Protocol under No. 67, or from 16 to 21 January 2015, which was recorded in the Patient Restraint Protocol under No. 4).
- After having examined the records of the "E" Ward, it was found that a decision to restrain the patient S.M., who was admitted to SPH from the Belgrade District Court on 9 January 2015, was passed immediately upon admission, and the status at admission in the history of disease read: "... Mech. restrained (one arm and opposite leg) upon admission ... in order to prevent self-harm with the removal of restraints for half an hour every day, for personal hygiene and physiological needs." In addition, upon admission the following was ascertained and recorded in the patient's history of disease: "behavior and appearance inconspicuous," and "no manifestation of psychopathology." According to the "Patient Restraint Protocol" this patient was tied from 9 to 12 January 2015.

The previous two cases clearly indicate that:

- Restraint is applied before all available measures to establish control over the patient have been exhausted and before this is documented;
- Restraint is imposed as a long-term measure, i.e. it is not reviewed whether it is justified to continue to apply the measure;
- In some patients restraint is applied extremely often and for a long time.

Patients are restrained with leather straps attached to a bed with a locking buckle, and according to the director of the Hospital, straps with magnets, which will exclusively be used in future have been ordered. Restrained patients are placed in separate rooms with video surveillance. A special room for applying restraint is provided for, the so called "quiet room", which is located in the Acute Psychiatry Ward ("E"). According to the officials, this room has

not been used yet, because it is being refurbished, which the NPM team members were able to ascertain for themselves as well. The walls of this room are lined with sponges; the floor is covered with linoleum; a window is high under the ceiling, beyond the reach of the person who is staying in the room. There is no furniture or any installation that could be reached by the person who is staying in the room. It is planned for the room to be under constant video surveillance, which was not yet installed at the time of the visit.

With regard to the described situation in terms of patient restraint, in the course of the visit the NPM Team verbally pointed out the deficiencies in the application of mechanical restraints and instructed employees on applicable regulations and warned that it would be useful to take into consideration the Protector of Citizens' recommendation issued to the General Hospital in Sabac containing a precise description of the restraint procedure.

CRT RECOMMENDATION:

- The Serbian authorities to attach the highest priority to the continuation of the refurbishment of the Special Prison Hospital in Belgrade, and to finding ways to significantly reduce the level of overcrowding at the establishment (Paragraph 82 of the Report)

NPM FINDINGS:

The Internal Ward and "E" Ward – Acute Psychiatry were refurbished in the previous period. A new laundry room for washing the bedding and patients' clothes was constructed, together with two walking areas (1 external for psychiatric patients and one internal for others). All adaptations were made using the funds of the Department for Execution of Criminal Sanctions. "G" Ward - Expertise was displaced because the works are planned for April this year.

Solitary confinement cells on the ground floor were not refurbished, however they were not used since December 2014. Shared bathrooms, and "C" and "D" Wards were renovated. Reportedly, the preparation of technical documentation for the adaptation of the Admissions Unit and the "G" Ward – Expertise, as well as for the adaptation of the kitchen, was underway at the time of the visit.

Reportedly, hygienic conditions were particularly enhanced due to the new laundry room and procurement of modern washing machines, which can wash up to 1,000 blankets in the course of one morning. Sanitary technician and head nurse submit weekly reports on the status of hygiene to the warden.

CRT RECOMMENDATION:

- The practice observed in some wards of patients wearing pajamas the whole day to be abolished (Paragraph 83 of the Report)

NPM FINDINGS:

During the visit to the Hospital, i.e. the convicted persons accommodated in the Drug Addiction, Alcoholism, Increased Supervision, Internal and Women's Wards (the psychiatric wards were not visited) the convicted persons' wearing pajamas, except for a few who were in their beds, were not observed. Most were wearing tracksuits and light clothing that suitable for lying.

CRT RECOMMENDATION:

- The outdoor exercise yard at the Special Prison Hospital in Belgrade to be equipped with a means of rest and a shelter against inclement weather (Paragraph 84 of the Report)

NPM FINDINGS:

Refurbishment of the outdoor exercise yard for psychiatric patients is still in progress. There are walking trails in the exercise yard, the plan is to install benches, and a shelter against the weather has been built over a certain area of the yard. Football goals and a basketball hoop have been installed, and the delivery of exercising equipment, which is also to be installed in the yard, is expected soon. It is planned to engage the utility company "Gradsko zelenilo" to carry out additional adaptation works in the yard. The yard includes a female and male toilet.

Patients from psychiatric wards are allowed to spend 2 hours outside, while other patients are allowed to spend an hour outside per day.

CRT RECOMMENDATION:

- Efforts to be made to develop the range of rehabilitative psycho-social activities for psychiatric patients at the Special Prison Hospital in Belgrade; occupational therapy should be an integral part of the rehabilitation programme (Paragraph 85 of the Report)

NPM FINDINGS:

The Treatment Service employs 18 people, while the job classification provides for 22. According to the warden, the number of educators in the Hospital is quite sufficient. Educators work with a total of 100 patients because they are included only in the third stage of treatment. The Head of the Treatment Service said that the workload of its staff was not high. Professional training of the staff is, as a rule, carried out in the framework of the Special Prison Hospital.

Occupational therapy is available to patients of the Special Prison Hospital. The patients themselves decide whether they want to take part in the occupational therapy activities or not. Better living conditions and education opportunities are ensured at the "Drug Free Ward", where 16 persons, who had been issued the compulsory treatment measure for drug addiction, were staying at the time of the NPM's visit. Namely, all educational programmes are implemented at this very Ward.

The Head of the Treatment Team has stated that there is no adequate space for psychotherapeutic work, and that it is rather conducted on a make do principle. Reportedly, formally organized activities are available to Special Prison Hospital patients from 9.00 am to 15.30 PM. Rehabilitative psycho-social activities are not conducted on weekends. The majority of available treatments take place in the same (enclosed space). Special attention is devoted to women, and one educator and one psychologist are mandated to work with them.

The Treatment Service staff stated during the interviews that the compulsory treatment measure for drug addiction and alcoholism, which had been imposed to a large number of prisoners, was suspended after a very short period and the prisoners were referred to serve their sentences in another institution.

According to official data, in the course of 2014, 351 persons who were imposed the treatment measure for alcoholism and 172 persons who were imposed the treatment measure for drug addiction were referred to other institutions, after an average stay of less than 3 months, and in many cases after only a 2-month stay in the Hospital. This trend led to a drastic decline in the number of persons staying on the Drug Addiction and Alcoholism Wards from 227 in January 2014 to just 106 in December of the same year.

The Treatment Service staff do not see the reason for applying the measure in such a manner and point out that they do not have any influence on the suspension of the measure. The duration of stay of convicted persons is too short to perform psycho-social interventions for which the Treatment Service staff are sufficiently trained and competent. Psycho-social interventions are usually interrupted by the decision on the suspension of the measure. The

said situation, in which prisoners are expecting rapid suspension of measures, has been described as discouraging, and that it makes convicts less and less interested in some of the available therapeutic options.

Occupational therapists usually work with patients who are imposed the treatment measure for alcoholism and drug addiction. Reportedly, occupational therapy is available to patients who have been imposed the security measures of compulsory psychiatric treatment and confinement. Psychologists are involved in the work with psychiatric patients solely in order to perform additional testing.

Occupational engagement is tantamount to performing overhead activities (stewards, maintenance), and in accordance with applicable regulations, patients conducting these activities are not entitled to pay, but receive only token compensation for their work. Only about 15 persons were engaged in various workshops (for electricians, locksmiths, plumbers, carpenters, tailors and hairdressers) in 2014.

CRT RECOMMENDATION:

- An individual treatment plan to be drawn up for each psychiatric patient, including the goals of the treatment, the therapeutic means to be used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress (Paragraph 8 of the Report 5);

NPM FINDINGS:

In an interview with the Head of Health Care Service it was found that an individual treatment plan was still not being drawn for each psychiatric patient. During the NPM's visit the staff were verbally informed about the observed deficiency.

CRT RECOMMENDATION:

- The Serbian authorities to increase their efforts to improve staffing levels and the time of presence of health-care staff at the Special Prison Hospital in Belgrade (Paragraph 87 of the Report);

NPM FINDINGS:

The Hospital management stated that it was constantly reporting to the Department for Enforcement of Criminal Sanctions about the lack of staff, but pointed out that they do not have a say in the recruitment of the required number of staff.

CRT RECOMMENDATION:

- Nurses working with psychiatric patients to be provided with training reflecting the specialized nature of their work (Paragraph 87 of the Report);

NPM FINDINGS:

According to the staff, nurses/technicians working with psychiatric patients are not provided with training reflecting the specialized nature of their work.

CRT RECOMMENDATION:

- The management of the Special Prison Hospital in Belgrade to ensure that patients are provided with written information on their rights and that they are effectively able to send confidential complaints to outside bodies (Paragraph 88 of the Report);

NPM FINDINGS:

Patients can get information about their rights only by examining positive regulations, which can be found in the Hospital library. Neither the House Rules of the Special Prison Hospital nor the LECR [Law on Enforcement of Criminal Sanctions] were displayed on the bulletin

boards in most wards. The justification provided by the staff was that patients would probably use these regulations, i.e. the paper on which the regulations are printed, to roll cigarettes, which is not an adequate reason, because the walls of certain blocks are covered in other articles and cartoons.

In certain wards visited by the NPM (alcoholism and drug abuse) it was observed that information on patients' rights and the House Rules were displayed in prominent places. A number of patients claimed that they were not sufficiently aware of the possibilities and manner of addressing the Protector of Citizens.

During the NPM's visit the staff were verbally informed about observed deficiencies.

CRT RECOMMENDATION:

- The Serbian authorities to take energetic and effective measures, inter alia by setting up appropriate structures in the outside community, to enable the release of psychiatric patients in respect of whom there are no medical grounds for continuing hospitalization (Paragraph 89 of the Report);

NPM FINDINGS:

There have been few cases of reversal of the mandatory psychiatric treatment and confinement measure to the treatment at liberty measure, primarily due to the inability of families to take care of the patient. According to the warden, 25% of patients could be released, but they have nowhere to go, because they do not have community support. Social care facilities are usually full, so they cannot even be referred there. There is a practice to file a motion with the competent court requesting relocation of patients in remission to civil psychiatric hospitals, which is being done upon sustaining the motion. On the other hand, forensic patients from civilian hospitals, which are in a worse shape, are moved to the Special Prison Hospital. It is disturbing that the number of patients in psychiatric wards is generally only reduced by death.

CRT RECOMMENDATION:

- The solitary confinement cells on the ground floor of the Special Prison Hospital to be taken out of service, pending refurbishment (Paragraph 90 of the Report).

NPM FINDINGS:

According to the staff, the use of solitary confinement cells was discontinued in December 2014.

CPT COMMENTS:

- The prolonged periods of fixation observed at the Special Prison Hospital can have no medical justification (Paragraph 81 of the Report);

NPM FINDINGS:

In the existing registers for recording instances of use of restraints, which registers are very sparse in terms of data, clear reasons for restraint are not entered, particularly not the reasons for restraining patients for several days, which, pursuant to the standards, constitutes abuse on the basis of the duration of restraint and the manner in which restraints are applied ("on one arm and the opposite leg").

CPT REQUESTS FOR INFORMATION:

- Whether the Rulebook for the staff working in the Special Prison Hospital has now been adopted, and the text of the Rule Book (Paragraph 80 of the Report).

NPM FINDINGS:

The Rulebook for the staff working in the Special Prison Hospital has neither been adopted, nor has its draft been compiled.