



**REPUBLIC OF SERBIA  
PROTECTOR OF CITIZENS**

71 - 73/15

Belgrade

Ref. No. 31184 Date: 19 August 2015

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Заштитник грађана  
Zaštitnik građana



БЕОГРАДСКИ ЦЕНТАР  
ЗА ЛЈУДСКА ПРАВА

## **NATIONAL PREVENTIVE MECHANISM**

**MONITORING OF THE IMPLEMENTATION OF NPM RECOMMENDATIONS ON IMPROVING  
THE TREATMENT OF MIGRANTS/ASYLUM SEEKERS IN THE REPUBLIC OF SERBIA**

# **Report on the Visit to the Aliens Shelter in Padinska Skela**

Belgrade, August 2015

## 1. MAIN INFORMATION ON THE VISIT

VISITED INSTITUTION	Aliens Shelter in Padinska Skela
PURPOSE OF THE VISIT	Monitoring of the Implementation of NPM Recommendations on Improving the Treatment of Migrants/Asylum Seekers in the Republic of Serbia (Recommendation No. 75-6/14)
VISIT CONDUCTED BY	Protector of Citizens in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	13 August 2015
VISIT ANNOUNCED	The visit was announced in advance
VISIT TEAM	<b>Team Members:</b> Jelena Unijat, <i>Protector of Citizens Professional Service</i> Jelena Jelić, <i>Protector of Citizens Professional Service</i> Dragan Božović, <i>Belgrade Centre for Human Rights</i> Dušan Pokuševski, <i>Belgrade Centre for Human Rights</i>

## COOPERATION OF OFFICIALS WITH THE NPM TEAM

All Aliens Shelter police staff fully cooperated with the NPM Team, providing it with all the information it required and free access to the documentation on request.

## **2. COURSE OF THE VISIT**

### **STAGE I: MEETING WITH THE REPRESENTATIVES OF THE ALIENS SHELTER**

The NPM Team's visit opened with a meeting with the Head of the Sector for the Reception and Accommodation of Aliens of the Border Police Directorate Aliens Department and the Shelter staff. The NPM Team familiarised them with the NPM's mandate, goals, principles of its work and the plan of its visit to the Shelter and asked them about the treatment of aliens in the Shelter. NPM's interlocutors provided a general overview of the Shelter's work and of the main problems they faced in their work and answered the Team's questions

### **STAGE II: TOUR OF FACILITIES ACCOMMODATING ALIENS**

The NPM team toured the facilities accommodating the aliens during its visit.

### **STAGE III: PERUSAL OF DOCUMENTATION**

The NPM Team perused two cases. The first regarded the use of means of coercion and the second restriction of an alien's movement and his placement in the Shelter.

### **STAGE IV: INTERVIEWS WITH ALIEN IN THE SHELTER**

The NPM Team interviewed a Macedonian national, who was the only alien staying at the Shelter at the time of its visit.

### 3. MONITORING OF THE FULFILMENT OF NPM'S RECOMMENDATION

#### 3.1. Referral of Aliens to the Shelter

According to the officials, 286 aliens had been accommodated in the Shelter from the beginning of the year until NPM's visit. They spent around two weeks on average in the Shelter. The Shelter fingerprints and photographs all aliens on admission.

The Head of the Sector for the Reception and Accommodation of Aliens said that referrals to the Shelter were ordered by the Regional Police Directorates that had apprehended the aliens, pending their removal, in case they could not be forcibly removed immediately. However, before they issue the rulings referring the aliens to the Shelter, the Police Directorates need to obtain the oral consent of the Head of the Sector for the Reception and Accommodation of Aliens or the Head of the Border Police Directorate Aliens Department<sup>1</sup>. Most such cases regard readmission, when the police find proof on the aliens that they illegally entered Serbia from a neighbouring state to which they are to be removed. All aliens removed from the Shelter under readmission agreements in 2015 were sent back to Bulgaria. None were removed under the readmission agreement with the Former Yugoslav Republic of Macedonia (FYROM). The officials said that their removals to FYROM were rare even in the face of evidence that they had entered Serbia from that state. Aliens referred to the Shelter, who have valid travel documents, are also removed by plane (mostly to North Africa).

Aliens, whose identity needs to be established or who do not have travel documents, are also referred to the Shelter. Given that huge numbers of aliens from war-torn countries have been passing through Serbia (over 60,000 have been registered since the beginning of the year and estimates are that as many have not been registered) and that most of them lack either travel documents or any other documents proving their identity, all of them should be referred to the Shelter on these grounds. The Shelter, however, can take in only around 70 people.<sup>2</sup> According to NPM Team's interlocutors, aliens are referred to the Shelter only when they need to remain in Serbia to testify in criminal proceedings (usually in human smuggling cases).

The freedom of movement of asylum seekers is restricted by their referral to the Shelter extremely rarely.<sup>3</sup> According to the Shelter officials, they had only two such cases to date, one in 2015. The NPM Team perused the case of the alien, whose movement was restricted this year by his referral to the Shelter. According to the official memo of the Tutin Asylum Centre Manager, the alien had engaged in disorderly conduct in the Asylum Centre, harassing the staff and women accommodated in the Centre and violating the House Rules. The Asylum Office restricted his movement and referred him to the Shelter by a ruling issued on 20 April 2015 and served on him on 27 April. In the reasoning of the ruling, the Office referred to Article 51(1(3)) of the Asylum Act (protection of national security and public order). The alien was admitted to the Shelter on 27 April 2015. He was released on 16 July 2015, under a ruling of the Asylum Office revoking its ruling of 20 April 2015. In the former ruling, issued on 9 July 2015, the

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<sup>1</sup> The Head of the Sector for the Reception and Accommodation of Aliens said that the Police Directorates sought such consent to assess whether the alien could be removed on the basis of evidence found on him/her (under the readmission procedure) or to check whether there was room in the Aliens Shelter.

<sup>2</sup> Officials say that the Shelter could be adapted to accommodate 147 aliens, but that it can admit only around 70 people at the moment.

<sup>3</sup> Under Article 51 of the Asylum Act, (Official Gazette of the Republic of Serbia No 109/2007), the movement of asylum seekers may be restricted by a decision of the Asylum Office, when it is necessary for the purpose of: 1) establishing their identity, 2) ensuring their presence in the course of the asylum procedure, if there are reasonable grounds to believe that they had filed their asylum applications with a view to avoiding deportation, or if it is impossible to establish other essential facts on which their asylum applications are based in their absence; 3) protecting national security and public order in accordance with the law.

Asylum Office rejected the alien's asylum application and ordered him to leave Serbia within three days from the day the ruling became final.<sup>4</sup>

### 3.2. Shelter Regime

Aliens in the Shelter are provided with meals prepared by the Ministry of Internal Affairs city restaurant three times a day. The aliens are served home-cooked meals and all three daily meals conform to religious diet requirements.

The oral communication between Shelter staff and aliens accommodated in it is mostly conducted in English. If necessary, the Shelter engages an official interpreter (usually when the aliens are Afghans). The aliens are familiarised with their rights and obligations in this manner. Excerpts of the House Rules in Serbian, English, French, Russian and Arabic are visibly displayed in the Shelter.

The aliens may move around freely in the Shelter facilities and spend two hours a day in open air, in the Shelter yard. They can watch TV and play board games (chess, etc.). With the Manager's approval, they may receive visitors and make phone calls. The embassies of the states of their nationality are notified of their presence in the Shelter only with their consent.

Aliens undergo check-ups on admission. A doctor from the Padinska Skela penitentiary is called in when necessary.<sup>5</sup> The officials said that the Ministry of Health decided there was no need to conduct thorough examinations of aliens on admission given the small number of those referred to the Shelter.

### 3.3. Psychological Support to Aliens Pending Their Forced Removal

The interviewed officials said that the aliens awaiting forced removal were frequently extremely agitated, in a bad psychological state. They usually cry and express their dissatisfaction over their deportation. The officials said that the Shelter did not have a psychologist on staff although it needed a professional to extend psychological support to the aliens facing deportation.

**In view of the above, the NPM recommends that the Ministry of Internal Affairs review the possibility of hiring a professional to extend psychological support to aliens facing deportation.** This would be in accordance with the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which stated the following in paragraph 41 of its General Report No 13/2003: "[t]he CPT has noted that, in some of the countries visited, there was a psycho-social service attached to the units responsible for deportation operations, staffed by psychologists and social workers who were responsible, in particular, for preparing immigration detainees for their deportation (through ongoing dialogue, contacts with the family in the country of destination, etc.). Needless to say, the CPT welcomes these initiatives and invites those States which have not already done so to set up such services."

### 3.4. Access to the Asylum Procedure

The officials claim that the aliens are notified of their right to seek asylum. When an alien in the Shelter expresses the intention to apply for asylum, the Shelter staff drafts an official report thereof and notifies the Asylum Office. Asylum Office staff come to the Shelter when they find time to interview the alien and issue him/her a certificate of intent to apply for asylum. In the event the Asylum Office staff cannot come to the Shelter, the alien is issued the certificate by the

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<sup>4</sup> Such rulings may be appealed within 15 days from the day of service.

<sup>5</sup> The penitentiary is right next to the Shelter.

Shelter representatives. The Shelter staff escort the alien issued the certificate to an Asylum Centre (usually the one in Krnjača). According to NPM Team's interlocutors, all aliens have expressed the intent to apply for asylum have been issued the certificates at issue.

### 3.5. Material Conditions in the Shelter

The material conditions in the Shelter have improved since the NPM Team's prior visit in October 2014. One dormitory in the Shelter Annex, designated for the accommodation of women and children, has been renovated in accordance with the standards and one room has been equipped as a day room for the children. This day room is painted in bright colours and has adequate natural and artificial lighting.

However, despite the material conditions, qualified as satisfactory by the NPM Team, the Team noted that the hygiene of the dormitories, bathroom and toilet facilities in the Annex designated for the accommodation of men has not improved.

<i>FINDING</i> The NPM Team notes that the hygiene in the dormitories, bathroom and toilet facilities is not satisfactory.
<i>FOUNDATIONS</i> <i>Persons deprived of liberty must be treated humanely and with respect for the dignity of their person.<sup>6</sup></i> <i>All police cells should be clean.... Persons in police custody should have access to a proper toilet facility under decent conditions, and be offered adequate means to wash themselves.<sup>7</sup></i>
<i>RECOMMENDATION</i> <b>The Aliens Shelter should improve hygiene in the Shelter rooms, toilet facilities and bathrooms in the Annex designated for the accommodation of men.</b>

### 3.6. Use of Means of Coercion

The officials said that means of coercion were used only once in 2015 – an alien was handcuffed while he and several other aliens were being escorted to the border crossing with Bulgaria to be forcibly removed. The NPM Team perused the report on the use of means of coercion and established that the alien had not only been handcuffed, but that physical force had also been used against him to break his resistance and seat him in the official vehicle. The report specified when physical force was applied against him and for how long, but failed to specify the precise time the alien was handcuffed and for how long and the circumstances in which he was handcuffed. Therefore, the period during which the alien was handcuffed and whether his fixation was justified in the particular circumstances cannot be ascertained from the report.

The NPM Team established from the official report on the transport of this group of aliens to the border crossing that one female alien had also been handcuffed during the trip. The report specifies that the police officers drafted a report on the use of means of coercion against her. However, the Shelter officials told the NPM Team that the means of coercion had been applied only against one alien and did not provide it with insight in the latter report, wherefore it cannot be definitely ascertained that such a report had been prepared and whether the justification for the fixation in this specific case has been assessed.

<sup>6</sup> Article 28(1) of the Constitution of the Republic of Serbia (Official Gazette of the Republic of Serbia No 98/2006).

<sup>7</sup> CPT Standards from 12. General Report (CPT/Inf (2002) 15), paragraph 47.

## FINDING

Reports on use of means of coercion do not include all the requisite data and it cannot be ascertained definitely whether they are prepared after every use of means of coercion.

## FOUNDATIONS

*Authorised officers shall submit written reports on every use of means of coercion to their police supervisors as soon as possible, within 24 hours at the latest.*

*The report referred to in paragraph 1 of this Article shall include information on the applied means of coercion, the person against whom they were applied, the reasons and grounds for their use, as well as other facts relevant for ascertaining whether their use was justified and adequate.*

*The justifiability and adequacy of the use of means of coercion shall be determined by an official authorised therefor by the Minister.*

*The authorised official referred to in paragraph 3 of this Article shall recommend that the Director General take appropriate legal measures in the event s/he establishes that the use of means of coercion was unjustified or inadequate.*

*The report referred to in Article 9 of this Act, which shall be publicly available, shall include data on the number of cases in which means of coercion were applied, classified by type, and data on the number of cases in which the use of means of coercion was unjustified or inadequate and on the corresponding measures taken in such cases.<sup>8</sup>*

*Police officers shall notify their immediate superiors of every use of means of coercion via the on duty staff immediately, and shall submit written reports of such use to their immediate superiors within 24 hours at the latest.*

*The police officers shall specify in their reports the date and hour when they used means of coercion, the means of coercion they used, against whom and why, the consequences of the use of means of coercion, the reasons and grounds for their use, the manner in which they were used and other facts and circumstances necessary for ascertaining the justifiability and adequacy of the use of the means of coercion.*

*Immediate superiors must check each use of means of coercion and assess whether their use was justified and adequate, unless a special commission is formed to assess the justifiability and adequacy of their use.<sup>9</sup>*

## RECOMMENDATION

**Alien Shelter police officers shall prepare comprehensive reports on the use of means of coercion every time they use such means and shall keep updated records thereof.**

### 3.7. Alien Minors Accommodated in the Shelter

According to NPM Team's interlocutors, unaccompanied minors are never accommodated in the Shelter while accompanied minors, i.e. families of aliens, are rarely accommodated in the Shelter. They said that no alien minors had been accommodated in the Shelter since NPM's previous visit.

<sup>8</sup> Police Act, Official Gazette of the Republic of Serbia, Nos. 101/05 ... and 64/15), Article 86.

<sup>9</sup> Rulebook on the Technical Features and Use of Means of Coercion (Official Gazette of the Republic of Serbia, Nos. 19/07, 112/08 and 115/14), Article 24.

### **3.8. Status of Persons with Disabilities**

Shelter officials told the NPM team that one Russian national, who had previously been ordered hospitalisation and treatment in a psychiatric institution, had been accommodated in the Shelter before her forced removal. The woman suffered from psychological disorders and had suicidal tendencies, wherefore the Shelter staff feared for her well-being and that of others and had to take her to the Padinska Skela Sector of the Dr. Laza Lazarević Clinic every day, where she was extended professional medical assistance.

The accommodation of aliens with serious health problems or psychological disorders in the Shelter puts both them and other aliens in the Shelter at risk and seriously impedes the work of the staff, who have neither the adequate training nor the requisite qualifications to work with such people, given their health care needs. Such treatment is not in keeping with Article 49(2) of the Aliens Act (Official Gazette of the Republic of Serbia No. 97/08), under which aliens with health or other special needs shall exceptionally be provided with other appropriate accommodation.

**Given the above, the NPM is of the view that the Shelter should not accommodate people with serious health problems or psychological disorders in the future, i.e. that use should be made of the legal possibility to provide such persons with other appropriate accommodation.**