



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
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Заштитник грађана
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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** **“Nikola Tesla” Airport**

Belgrade, June 2015

MAIN INFORMATION ON THE VISIT

VISITED INSTITUTIONS	Belgrade Border Police Station at “Nikola Tesla” Airport and “Nikola Tesla” Airport
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	29 June 2015
VISIT ANNOUNCED	The visit was announced in advance
VISIT TEAM	<p>Team Leader: Milos Janković, <i>Deputy Protector of Citizens</i></p> <p>Team Members 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> Katarina Golubović <i>Committee of Human Rights Lawyers</i></p>

COOPERATION OF OFFICIALS WITH THE NPM TEAM

All Airport “Nikola Tesla” Belgrade Border Police Station police officers and Airport “Nikola Tesla” representatives fully cooperated with the NPM Team, providing it with all the information it required and free access to the documentation on request.

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 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 and the AP of Vojvodina Provincial Ombudsperson have signed a Memorandum on Cooperation in Performing NPM Duties², under which the Provincial Ombudsperson shall actively partake in the visits by 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 associations with which it would cooperate in performing NPM duties, notably: the Belgrade Centre for Human Rights (BCHR), the Victimology Society of Serbia, Dialogue, 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.

Whilst performing its NPM duties, the Protector of Citizens on 10 February 2014 issued Recommendations No. 75-6/14 to the competent authorities. Namely, during its review of whether the institutions were properly and lawfully treating asylum seekers and/or migrants in the territory of Serbia and applying the valid standards to them, the NPM noted that the public authorities had not established a systemic approach facilitating efficient treatment in accordance with the valid regulations and international asylum and migration standards.

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

2 Signed on 12 December 2011.

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

COURSE OF THE VISIT

STAGE I: MEETING WITH THE BORDER POLICE STATION SENIOR MANAGERS

The NPM Team's visit began with a meeting with the Commander of the Airport "Nikola Tesla" Border Police Station (BPS) MSc Slobodan Ćopić, Deputy Commander Mr. Borko Papić and the representative of the BPS Department for the Suppression of Cross-Border Crime, Illegal Migration and Human Trafficking, Mr. Boris Trutin. The NPM Team familiarised the senior managers with the NPM's mandate, goals, principles of its work and the plan of its visit to "Nikola Tesla" Airport. The BPS representatives provided a general overview of the BPS and of the main problems they faced in their work.

STAGE II: TOUR OF THE HOLDING AND DETENTION FACILITIES

After the introductory meeting with the Airport "Nikola Tesla" BPS senior officials, the NPM Team visited the BPS detention rooms and the Airport room where aliens, who do not fulfil the requirements to enter Serbia and have not applied for asylum, are held.

STAGE III: PERUSAL OF DOCUMENTATION AND INTERVIEWS WITH OFFICIALS

The NPM team perused the documentation on the treatment of migrants and asylum seekers. It interviewed the police officers and Airport staff on duty in all the facilities it visited and they familiarised the NPM team with the way they worked and the problems they encountered.

STAGE IV: MONITORING POLICE TREATMENT OF PASSENGERS ARRIVING FROM AT-RISK COUNTRIES

The NPM Team monitored the police officers' treatment of passengers coming from Abu Dhabi and entering the transit zone.

1. Introduction

In his introductory address, the Commander of the "Nikola Tesla" Airport Belgrade BPS said that the Airport had to abide by security and international regulations, as well as human rights protection standards. He familiarised the NPM team with the MARRI Centre project (launched by Albania, Bosnia and Hercegovina, Croatia, Macedonia, Montenegro and Serbia, also joined by Bulgaria, Moldova and Romania), under which cooperation between the commanders of police stations at international airports has been established. This cooperation is based on exchange of information, involving weekly tabular migration overviews.

2. Passenger Control and Identity Checks

According to the Commander, a number of aliens, who do not fulfil entry requirements (have forged travel documents, do not have the requisite visas, etc.) have tried to reach European Union countries or enter the Republic of Serbia via "Nikola Tesla" Airport. The police identified 1,126 such aliens in 2014 and 561 from 1 January to 27 June 2015. Most of those identified in 2014 were nationals of Tunisia (379), Turkey (260), Nigeria (55) and Cuba (28). In the first half of 2015, most were nationals of Turkey (214), Tunisia (53), Iraq (28) and Cuba (21). The list of countries they came from is headed by Turkey (over half), followed by Tunisia, Russia, Lebanon, Greece, Cyprus, Qatar and Saudi Arabia.

Women accounted for 202 of such aliens in 2014 and for 133 of them in the first half of 2015. Minors (all of them accompanied) accounted for 62 of such aliens in 2014 and 79 in the first half of 2015.

The NPM Team monitored the procedure of controlling the passengers arriving from Abu Dhabi and noted that it was implemented by the Belgrade BPS officers and the officers of the BPS Department for the Suppression of Cross-Border Crime, Illegal Migration and Human Trafficking. The procedure involved the police officers' checks of the passengers' travel documents-passports.

According to the officials, the assessment of whether a specific person is an irregular migrant is carried out on the basis of his/her appearance and a check of his/her passport. If there is reasonable suspicion that a person's travel document is a forgery, s/he is taken to the police premises for an identity check. The forged documents are seized. The identity check includes a search of the passenger's luggage and personal effects, including insight in his/her cell phone data. According to the officials, the police usually find the genuine travel documents in the luggage, as the passengers will need them to identify themselves in EU countries, which are, as a rule, the final destinations of the irregular migrants.

According to the police officers, they let a passenger not fulfilling the requirements to enter the country of final destination continue his/her journey in the event the representatives of that country notify the Airport BPS that s/he should be allowed to board the plane to that country. According to NPM Team's interlocutors, that was the case when the representatives of Switzerland asked the BPS to let a family from Syria continue their journey although the members of that family did not fulfil the requirements for entering Switzerland.

3. Communicating with Aliens and Familiarising Them with Their Rights

The officials communicate with the aliens orally and only in English. Minors are interviewed only by officials certified to work with minors. The aliens are familiarised with their right to seek asylum. In the event an alien does not understand English and came in a group, the officials engage a member of the group who speaks English and the language of the alien to translate in order to obtain his/her data. The "Nikola Tesla" Airport BPS does not have funding to hire interpreters.

4. Treatment of Aliens Not Fulfilling Requirements for Entering the Territory of the Republic of Serbia

According to the police officers, aliens not fulfilling the requirements for entering the Republic of Serbia are under the obligation to return to the state they came from or go to another state where they fulfil the entry requirements. Under the valid standards, passengers from "at risk countries" are in most cases under the obligation to buy return tickets. Those without return tickets are returned to the country they came from at the expense of the airline that flew them to Serbia. However, passengers with valid travel documents and fulfilling the requirements for entering another state are provided with the opportunity to buy tickets to those states and not be returned to the country of departure.

Aliens not fulfilling entry requirements are held in a separate Airport room until the arrival of the plane that will take them to the country they had come from or to the country where they fulfil the entry requirements (*more in Section 8*). On average, they spend two or three days in that room, but some aliens have spent up to seven days in them. They are allowed to hold on to their personal belongings (cell phones, carry-on luggage, etc.) and are provided with three meals a day and personal hygiene products at the expense of the airline that flew them into Serbia.

The freedom of movement of the aliens held in the room is quite restricted. They are allowed to leave it only if they are escorted by a police officer and they do not have the opportunity to spend a reasonable amount of time in open air, even if they are staying in the room for a longer period of time. NPM Team's interlocutors say that the freedom of movement of women and children held in the room is greater and that they are allowed to spend most of the day outside it.

Persons held temporarily in the Airport room are allowed to use the landline in the room. Those visited by a representative of the embassy of their country of origin at their request are allowed to converse with them in one of the offices.

Aliens held in the room undergo medical examinations at their own request. The health services are provided by the Airport Medical Service.

According to the Airport security guard on duty in front of the room, no records of the people held in it are kept. The police officers also said they did not keep records of aliens held in the Airport room.

The NPM is of the view that the “Nikola Tesla” Airport Belgrade BPS should take measures to establish and keep records of both the persons held in the Airport room and all relevant events and facts regarding their holding in the room.

5. Treatment of Aliens Who Express the Intention to Apply for Asylum

Aliens, who do not fulfil the entry requirements and express the intention to seek asylum, are issued certificates of intent to apply for asylum by the “Nikola Tesla” Airport BPS. Furthermore, according to the police officers, aliens who tell them they fear for their safety or life in the country of departure, where there are reasonable grounds for such fear, are not returned to the country they came from and are issued certificates of intent to apply for asylum.

The BPS did not issue any certificates of intent to apply for asylum in 2012. It issued two such certificates in 2013 and 19 in 2014 (10 to nationals of Afghanistan, seven to nationals of Syria, one to a national of Somalia and one to a national of Mongolia). As of the day of the visit, the BPS issued 49 such certificates in 2015 (24 to nationals of Syria, 12 to nationals of Iraq, four to nationals of Lebanon, three to nationals of Eritrea, three to nationals of Pakistan, two to nationals of Tunisia and one to a Palestinian). Aliens issued such certificates are referred to one of the Asylum Centres (the Border Police Directorate refers them to the one that has room). The aliens are not fingerprinted or photographed, even those that do not have documents proving their identity, given that the Airport BPS lacks the technical capacity to implement these procedures.

FINDING

The “Nikola Tesla” Airport BPS does not fingerprint or photograph aliens who express the intention to seek asylum.

FOUNDATIONS

Identity checks shall be performed by inspecting the identity cards or other photographic identification documents.

Exceptionally, the statement of a person, whose identity has already been checked, may be used to check the identity of another person.

Persons without identity cards shall be issued identity cards in accordance with the prescribed procedure, upon the establishment of their identity and their right to an identity card.⁴

Persons not carrying the cards referred to in Article 43(1) of this Act shall be subjected to an identity check, which shall also be conducted in case of doubt in the authenticity of such cards.

Identity shall also be established by use of data in records, obtained by forensic science methods and techniques and medical and other appropriate tests.

The police are authorised to publish a facial composite picture, police sketch, footage or description of a person in order to establish his/her identity.

⁴ Article 43, Police Gazette (Official Gazette of RS Nos. 101/2005, 63/2009 – Constitutional Court Decision and 92/2011).

When identity cannot be established otherwise, the police are authorised to publish the photograph of a person unable to supply personal data or of an unidentified body.⁵

The identity of a person shall be established by use of forensic science means, methods and tactics and by the application of medical and other adequate procedures, notably, by:

- 1) checking the data on the status of the person by perusal of public documents, birth, marriage and death registers and other official records;*
- 2) taking their fingerprints and comparing them with the fingerprints in the database;*
- 3) photographing the person and comparing the photograph with the photographs in the database;*
- 4) taking a statement from persons capable of recognising the person – directly or by showing them photographs of clothing, footwear and other objects that can serve to establish identity;*
- 5) personal descriptions;*
- 6) DNA analysis;*
- 7) other available methods, such as expert handwriting or voice analysis, forensic dentistry, et al.*

The methods and procedures under Paragraph 2, Items 2, 6 and 7 of this Article may be applied to establish the identity of persons reasonably suspected of committing a criminal offence or a misdemeanour solely with their consent. The police officers shall explain to such persons why they are applying their powers to establish their identity before asking them to sign the consent form.

Methods and procedures applied to establish the identity of a person and the data about the officer who established the identity of the person shall be specified in the report on the implemented identity establishment procedure.⁶

Police officers shall take aliens found in the territory of the Republic of Serbia without adequate identity documents⁷, aliens who illegally entered the territory of the Republic of Serbia⁸ and all other aliens lacking proof of lawful presence in the territory of the Republic of Serbia⁹ to the nearest police station and immediately check or establish their identity¹⁰, search them to find their personal and other documents, check their data and enter them in the prescribed records.¹¹

RECOMMENDATION

The “Nikola Tesla” Airport Belgrade BPS should fingerprint and photograph all aliens who express the intention to apply for asylum and enter the data in the relevant records.

6. Removal of Aliens from the Republic of Serbia via the Airport

A total of 150 aliens were removed or left the Republic of Serbia via the Airport pursuant to rulings ordering them to leave the country in 2014 and 57 aliens have been removed or left the Republic of Serbia pursuant to such rulings since the beginning of 2015.

A number of them left the Republic of Serbia of their own accord, after rulings ordering them to leave the country were issued, while the others were removed from the Aliens Shelter. The aliens removed from the Shelter are escorted by the Shelter police officers and handed over to the Airport BPS officers, who then escort them to the planes.

7. Placement in the Aliens Shelter

Only one alien was taken from the Airport to the Aliens Shelter in 2015. He had attempted to fly out of Serbia with a forged passport. The Airport BPS police officers, who were tipped off by foreign authorities, established that the alien’s passport was forged and took him to the Aliens Shelter.

⁵ Article 44, *Ibid.*

⁶ Article 10, Rulebook on Police Powers (Official Gazette of RS No. 54/2006).

⁷ Travel documents, alien ID cards, special ID cards or other public documents with photographs.

⁸ Entry at a place or time other than designated for crossing the state border, avoidance of border controls; use of another’s, invalid or forged travel or other documents; supplying untrue data to the border police; entry during the validity of a protective measure removing an alien from the territory of the Republic of Serbia, security measure of expelling an alien from the country or order to leave the country.

⁹ Residence without a visa, a residence permit or on other legal grounds.

¹⁰ *Inter alia*: photographing, fingerprinting and taking of other biometric data.

¹¹ Item 1, Protector of Citizens Recommendation of 10 February 2014 (Ref. No. 75-6/14).

8. Airport Room in Which Aliens Not Fulfilling Entry Requirements are Held

The Airport room, in which aliens not fulfilling entry requirements are held, is at the end of the Airport Terminal.

The room is about 80 square metres in size and furnished with around 25 armchairs and several blankets, but lacks beds or mattresses people can sleep on. The room has adequate natural and artificial lighting. Ventilation is poor. The bathroom at the end of the room is in good condition and hygiene is satisfactory. Aliens held in the room have access to a potable water dispenser. There is no open air space the aliens can spend time in.

The officials showed the NPM Team the plan of the new terminal to be built. One room (around 90 m² in size) is designated for holding aliens not fulfilling the entry requirements.



FINDING

The “Nikola Tesla” Airport room, in which aliens not fulfilling entry requirements are held, is not adequate for extended stay.

The aliens have no opportunity to spend time in open air.

FOUNDATIONS

Point of entry holding facilities have often been found to be inadequate, in particular for extended stays. More specifically, CPT delegations have on several occasions met persons held for days under makeshift conditions in airport lounges. It is axiomatic that such persons should be provided with suitable means for sleeping, granted access to their luggage and to suitably-equipped sanitary and washing facilities and allowed to exercise in the open air on a daily basis. Further, access to food and, if necessary, medical care, should be guaranteed.¹²

RECOMMENDATION

“Nikola Tesla” Airport should ensure an adequate room for holding aliens not fulfilling entry requirements, in keeping with the valid standards, as well as an adequate open air exercise area.

¹² 7th General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1997), paragraph 26.

9. Belgrade BPS Detention Facilities at "Nikola Tesla" Airport

There are two detention rooms in the BPS for holding persons under the Police Act and the Criminal Procedure Code. Neither detention room has windows, or, consequently, natural lighting. The artificial lighting in them is satisfactory. The cells are under video surveillance and have alarm buttons for calling the security guards. Each cell has a wooden bunk. No one was detained in the rooms at the time of the visit, wherefore there were no blankets in them. Neither room has sanitary facilities; the persons detained in them are taken to the toilet used by the police when necessary. Potable water is not readily available and the police officers bring it from the water dispenser on request. According to the police officers, persons are usually detained in the rooms up to 24 hours, 48 hours at most.

The NPM Team visited the detention facilities in 2014 and drafted a more detailed Report with Recommendations (Ref No. 71-13/14 of 3 April 2014). The Belgrade BPS acted on the recommendations within the set deadline.

