



**REPUBLIC OF SERBIA  
PROTECTOR OF CITIZENS**

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# **NATIONAL PREVENTIVE MECHANISM**

## **2014 Report**

Belgrade, 2015

*Dear reader,*

*This is the third annual report on the activities of the Protector of Citizens performed in the capacity of the National Preventive Mechanism in the Republic of Serbia.*

*Prevention of torture derives from the duties of the Republic of Serbia towards its citizens and from the international convention accessed by Serbia.*

*In 2014, 79 visits were made to places of detention and 345 recommendations were issued to the competent authorities based on the identified irregularities in their work.*

*By presenting the findings and general and specific recommendations for improvement of the situation, the Report offers a clear and accessible route towards a torture-free society as the ultimate ideal we should strive to attain. However, the Report makes it clear that practical steps towards this unattainable ideal are not themselves shrouded in mystery, nor are they unattainable; indeed, most of them are not even too onerous or costly.*

*All we need to do is to take these steps as quickly as possible, without excuses and exceptions, for the sake of victims of torture and for the sake of our own dignity. If even one human being is exposed to inhuman treatment, the dignity of each and every one of us is threatened.*

*I would like to express my gratitude to all authorities, citizens' associations and individuals I cooperated with during the reporting period in the capacity of the National Preventive Mechanism.*

*Saša Janković,*

*Protector of Citizens*

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## 1. Introduction

### 1.1. General evaluation of compliance with prohibition of torture and other cruel, inhuman or degrading treatment and punishment in the Republic of Serbia <sup>1</sup>

The Constitution of the Republic of Serbia guarantees human dignity and inviolability of physical and mental integrity and explicitly prohibits torture, inhuman or degrading treatment or punishment. The Republic of Serbia ratified the main international and regional conventions in the field of protection of human rights, including the UN Convention against Torture and the Optional Protocol to the Convention. Under the Law amending the Law on Ratification of the Optional Protocol enacted in 2011, the Protector of Citizens has been designated as the National Preventive Mechanism (NPM) which acts in cooperation with Ombudsmen of autonomous provinces and associations pursuing the goals of promoting and protecting human rights and freedoms. In 2012, the Protector of Citizens assumed the duties of the NPM in accordance with the Optional Protocol. In the past three years, the Protector of Citizens has performed numerous activities which largely contributed to the prevention of torture and abuse in the Republic of Serbia.

Acting in the capacity of the NPM, the Protector of Citizens has persistently faced a lack of awareness of the general public that every citizen is entitled to fundamental human rights, including those arrested, detained, incarcerated or put under surveillance, those placed in psychiatric hospitals or residential social security institutions, those who stay at centres for foreigners or any other person deprived of liberty in any manner by a decision of a public authority. Commitment to prohibition of abuse and torture and to respect of other international standards in the field of protection of human rights was in Serbia for a long time perceived as something imposed from outside, as acceptance of foreign rules that have no footing in these parts of the world. The theories put forth that claimed the local culture of human rights had its specific aspects and that local tradition should be taken into account resulted in views that penal policy should be made more stringent, while some have even gone so far as to justify abuse. We have also periodically witnessed renewed populist cries for the re-introduction of the death penalty and repeated motions to introduce chemical castration.

What is encouraging is that the prevailing opinion of the public authorities responsible for the treatment of persons deprived of liberty appears to be that abuse and torture must be eliminated; it is also encouraging that the required level of cooperation with the Protector of Citizens acting in the capacity of NPM has been achieved and that most of the 1,000-strong recommendations issued have been complied with, which has brought about to a significant change in the public perception of prohibition of torture, with many instances of improved treatment of persons deprived of liberty.

On 23 October 2014, the National Assembly of the Republic of Serbia passed conclusions based on a review of the Report on Activities of NPM for 2013, which stated that in his report on the activities of NPM, the Protector of Citizens comprehensively assessed the situation and the quality of exercise of the rights of persons deprived of liberty, highlighting the necessary improvements of the situation and prevention of torture and other forms of abuse. In addition, the National Assembly ordered the competent authorities to implement these recommendations without delay and to notify the National Assembly thereof in writing by 31 December 2014 at the latest, but the competent authorities failed to do so.

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<sup>1</sup> For more information, see Chapter 6 of this Report.

A conclusion that can be drawn after years of monitoring the treatment of persons deprived of liberty is that torture does not exist in Serbia as a measure organised and supported by public authorities. However, during numerous visits to institutions where persons deprived of liberty are or can be placed, numerous instances of unlawful or inappropriate treatment of such persons were identified. If they are persistent, such shortcomings can constitute inhuman or degrading treatment or even torture. This is largely a result of shortcomings in the system, which is designed in a way that does not effectively prevent such instances, coupled with the lack of a mechanism that would detect such instances and provide for effective investigation, and the lack of a system for detection of such cases, carrying out of effective investigations, identification of persons responsible for the omissions, prosecution of perpetrators and proper recourse to persons whose rights were violated.

An illustrative example of this is a case of torture identified in early 2012 in a recommendation by the Protector of Citizens<sup>2</sup>, which was confirmed in mid-2013 by a judgement of the Constitutional Court.<sup>3</sup> The prison administration has still not found the direct perpetrators and the responsible officers who should have taken necessary measures to prevent or to timely identify and investigate the mistreatment, but failed to do so. What is worrying is that the prosecutors' office has suspended the investigation and that no judicial proceedings have been initiated, which resulted in a failure to apportion criminal liability in the case where two public authorities previously found that a person deprived of liberty was subjected to torture, inhuman or degrading treatment or punishment. It is obvious that the competent public authorities should step up their fight against impunity for torture. In this context, in addition to prosecutor's offices and courts, internal control mechanisms of public authorities should have an important role in terms of increasing their efficiency.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states that "With regard to the assessment of the Protector of Citizens that the competent public authorities fail to comply with their duties in the fight against impunity for torture, that they do not always conduct timely and detailed procedures to determine whether the rights of persons deprived of liberty were violated, that individual responsibility for violation of these rights and responsibility for omissions in the work and organisation of work was apportioned to responsible persons only in few cases, as well as that few persons responsible for violation of these rights were punished, and particularly having in mind that the Protector of Citizens and the Constitutional Court identified certain cases of abuse, the National Assembly orders the competent public authorities to fully comply with their duties in the fight against impunity for torture, to take all necessary measures and activities to prevent abuse and, in accordance with the law, to conduct timely and detailed procedures to investigate all substantiated allegations of abuse and apportion subjective and objective responsibility and to punish those responsible."

With the aim of ensuring efficient fight against impunity for torture, in addition to prosecutor's offices and courts, internal control mechanisms of public authorities should have an important role in terms of increasing their efficiency.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: "With the aim of ensuring more efficient and comprehensive control over the work of the Administration for the Enforcement of Penal Sanctions, the National Assembly advises the Ministry of Justice to consider the recommendations of the Protector of Citizens on activities that should be undertaken to separate the supervision unit from the Administration for the Enforcement of Penal Sanctions, so that the work of institutions and the Administration is overseen by the supervision unit as a separate organisational unit of the Ministry of Justice, and also to propose appropriate amendments to laws and other regulations in that regard."

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<sup>2</sup> Case No. 12-3630/12.

<sup>3</sup> Decision of the Constitutional Court of the Republic of Serbia No. Uż-4100/2011.

It is necessary to develop a system of continual training on human rights for judges, prosecutors, decision-makers and all officers directly treating persons deprived of liberty in the Republic of Serbia, particularly trainings on prohibition of torture and other forms of abuse.

The conditions for police detention in certain police stations have been improved, but there is still a large number of inadequately equipped custody cells in certain police stations, i.e. They are not compliant with the applicable standards. The police interrogate suspects in rooms which do not have audio and video surveillance equipment.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states: "With regard to the assessment of the Protector of Citizens that many existing custody cells in police stations are not compliant with the minimum standards of the European Committee for the Prevention of Torture regarding necessary accommodation conditions, the National Assembly orders the Government to allocate necessary funds for construction or refurbishment of custody cells in police stations in accordance with the applicable standards in budget proposal for 2015."

In spite of recommendations by NPM, the applicable Instructions on Treatment of Persons brought in by Police and Persons in Custody of the Ministry of Internal Affairs has not been improved and in accordance with its provisions, which are not compliant with the applicable standards, police officers are mainly present during medical check-ups of detained persons; the installed video surveillance systems invades the privacy of detained persons in a large number of cases (toilets are also under video surveillance); police officers mainly put handcuffs on detained persons during transport.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: "With regard to the assessment of the Protector of Citizens that the Instructions on Treatment of Persons brought in by Police and Persons in Custody are not compliant with the applicable regulations and standards and decisions of the European Court of Human Rights (use of physical restraint, presence of non-medical staff during physical examinations, lack of duty to install alarms, authorisations of control mechanisms etc.), which results in dilemmas for police officers regarding exercise of police authorities and divergent practices in their actions, the National Assembly orders the Ministry of Internal Affairs to make the Instructions on Treatment of Persons brought in by Police and Persons in Custody compliant with the applicable regulations, standards and decisions of the European Court of Human Rights."

There is still an impression that detention is often too readily ordered, that its duration is excessive and that courts rarely order measures such as bail bonds, which provide an effective alternative to detention. The circumstances surrounding the enforcement of detention measures, the violation of the presumption of innocence of detainees and the conditions in which such measures are enforced constitute a sort of punishment before sentencing.

During the reporting period, the situation improved significantly with regard to overpopulation of detention units. Most detainees have the space of minimum eight cubic meters and four square meters at their disposal in dormitories. Although many detention facilities have recently seen adaptation and refurbishment, some rooms in detention units are dilapidated, worn-down and unclean. Rooms are not sufficiently aired, which makes the position of non-smokers particularly difficult because they are placed in the same rooms with smokers. In certain rooms natural light is insufficient, while artificial lighting is poor.

The problem in the system for enforcement of detention measures in Serbia is that detainees mainly spend the whole day indoors, locked up in their cells/dormitories. Detainees are as a rule not allowed to spend spare time during the day outside of their cells, in communal areas with other

detainees, unless they have been segregated from them under court orders. An encouraging sign is that plans are afoot to create day rooms where detainees will spend a certain part of the day together.

In most cases, detainees are not allowed to work or to participate in social and cultural activities. In addition, provisions have not been made to ensure their physical activity, especially in bad weather. With the exception of the District Prison in Belgrade, detainees are not allowed to receive visits by spouse, children and other close persons in separate rooms.

In Conclusions 72. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: “With regard to the findings of the Protector of Citizens that as a rule detainees do not have an opportunity to spend free time during the day outside their cells in communal rooms with other detainees in cases where no court-ordered contact restrictions apply; that in most cases they do not have an opportunity to do productive work, nor are they included in social and cultural activities; that detainees are not grouped together according to the type of criminal offence of which they are indicted, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of detainees, i.e. to allow them to exercise all their rights in accordance with the applicable regulations and standards”.

Detained women are still placed in prison detention units across Serbia. Due to the relatively small number of women per detention unit, some of them are *de facto* placed in solitary confinement while in detention, often for extended periods. Although in the penal enforcement system isolation/solitary confinement is a special/disciplinary measure of a strictly limited duration, it currently seems to be the norm for some female detainees, which speaks volumes of the inadequacies of the detention system for women.

In Conclusions 72. of the National Assembly of the Republic of Serbia of 23 October 2014 states: “With regard to the assessment of the Protector of Citizens that women in detention are mostly and commonly isolated for long periods because their number in detention units tend to be low, whereas this is meant to be a disciplinary or a special measure of strictly limited duration for men in the penal enforcement system, the National Assembly orders the competent authorities to exercise increased caution with the aim of reducing isolation of female detainees for a long periods during detention”.

Large penal and correctional institutions are still overpopulated, three-level bunk beds are still used and in certain institutions there are cases of persons serving prison sentences who sleep on the floor. Efforts have been observed to increase the use of alternative sanctions in order to reduce the burden on the prison capacities.

Many facilities<sup>4</sup> do not adhere to the principle of communal incarceration. Namely, convicts are not allowed to spend their spare time during the day in communal areas with other convicts; instead, they are isolated in their cells all the time (alone or in small groups). The situation is similar with convicts under increased supervision, because instead of exercising increased supervision of the convicts, this measure mainly includes their isolation.

In Conclusions 72. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: “With regard to the findings of the Protector of Citizens that many convicts in closed units do not have an option to spend free time during the day in communal rooms with other convicts, including in particular persons under increased supervision, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of

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<sup>4</sup> The special unit of the Penal and Correctional Institution in Požarevac for organised crime sentences, the newly-built Penal and Correctional Institution Belgrade in Padinska Skela, VII pavilion of the Penal and Correctional Institution in Požarevac, II pavilion of the Penal and Correctional Institution in Niš and also numerous district prisons.

Justice to enable all convicts, except those in solitary confinement or isolation, to spend free time during the day in communal rooms with other convicts”.

Activities of corrections officers with convicts remain sporadic. A certain number of convicts were involved in the refurbishment of prison facilities, which resulted in significant improvements in the conditions of their placement. However, many convicts still do not have a possibility to do productive work. It is necessary to increase the volume of culture-related activities. The procedure of classification of convicts is still not transparent enough. The criteria for advancement are insufficiently explained to convicts, while corrections officers mainly administrate questionnaires. Lack of flexibility of the advancement criteria in correctional work makes progress of convicts to more favourable correctional groups more difficult, so many convicts are still released from prisons from the same correctional groups where they were classified immediately upon admission to prisons.

In Conclusions 72. of the National Assembly of the Republic of Serbia of 23 October 2014 states: “With regard to the assessment of the Protector of Citizens that there are significant shortcomings in active, individual and collective correctional work of corrections officers with convicts, the National Assembly orders the Ministry of Justice to improve treatment of convicts in penal facilities in terms of more intensive and effective work of corrections officers with convicts, increasing their work engagement where possible, education and the highest level of exercise of religious rights and to pass new or modify the existing regulations without delay, which would ensure implementation of the law in accordance with the applicable standards in that regard.”

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: “Due to significant shortcomings, pointed out by the Protector of Citizens in his Report, regarding active individual and collective correctional work of corrections officers with convicts, work engagement of convicts and their education, use of a system of subsequent reclassification of convicts which enables convicts to progress into a more favourable correctional group in case of good behaviour, preparation of convicts for release and establishing of cooperation with social welfare organisations, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of convicts in order to rectify the said shortcomings and emphasizes the duty to pass regulations for implementation of the law in accordance with the applicable standards without delay.”

The prison facilities intended for underage persons and women<sup>5</sup> are central institutions (and the only such institutions) and 200 persons can be placed in each of them. These institutions, particularly those intended for underage persons, have strong informal systems, which makes appropriate correctional work impossible. Another problem in these central institutions is that incarcerated persons are far away from their homes, which makes their contacts with their families considerably difficult.

Shortcomings in health care in prisons are numerous. First of all, health care is not provided on a continual basis, which can be seen from the fact that convicts’ medical records are not forwarded to institutions where convicts were admitted nor are medical records transferred to institutions where convicts are transferred. First medical examinations are superficial, incarcerated persons are not examined without their clothes and there are no protocols specifying the content of medical examinations. The duty to perform periodic medical examinations set by the regulations was not implemented in practice, but this duty has been cancelled by the new Law on Enforcement of Penal Sanctions. There are still cases of non-medical staff being present during medical examinations. Lack of medicines is observable, which results

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<sup>5</sup> The Penal and Correctional Institution for Women in Požarevac, the Juvenile Penal and Correctional in Valjevo and the Penal and Correctional Facility in Kruševac.



from the fact that medicines are procured individually by institutions, instead of being purchased through centralised procurement.

Physicians mainly do not exercise their role in the protection against abuse because in certain cases they fail to identify and describe in detail all injuries observed, particularly because they fail to provide their opinion about cause and effect between the coercion used or an explanation how the injuries were inflicted and the injuries observed directly during examination. Incarcerated persons with mental disorders are still placed in the regular prison system, which is not appropriate for their needs and causes a large safety risk for those persons and their environment and is in any case a large burden for staff who are not trained to act in such cases.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states: "The National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve its treatment of convicts in terms of provision of health care, in accordance with the applicable regulations and standards. This is based on the assessment of the Protector of Citizens that there are serious shortcomings in the provision of health care to convicts in penal facilities, particularly regarding the provision of necessary medicinal products and therapy, medical examinations after prison intake procedure, lack of unique medical examination protocols, failure to perform periodic medical examinations of convicts and daily medical examinations of patients, inclusion of non-medical staff, placement of convicts with mental disorders in regular prison regime, failure to submit compulsory periodic reports on health condition of convicts, sanitary and hygiene conditions in institutions, the quality of food, physical activities of convicts etc., stipulated by the Law on Enforcement of Penal Sanctions. Taking into account that the Protector of Citizens repeated his assessments stated in all previous annual reports that competence for health care services in penal facilities should be transferred from the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to the Ministry of Health, which is one of the preconditions for efficient investigation of allegations of violent treatment of persons deprived of liberty, the National Assembly emphasizes it is necessary for the Government to consider this issue as soon as possible and propose to the National Assembly amendments to the relevant legal arrangements."

In the field of work of psychiatric hospitals, certain improvements have been observed during visits in application of procedures for involuntary commitment of patients. Namely, courts deliberate and decide on involuntary commitment in the manner and within the time limit set by the law. Hearings are conducted at the hospitals, where persons who are to be committed are also interrogated, and decisions on involuntary commitment are given to patients. Hospitals have improved informing of patients on the code of conduct in hospitals and on their rights through provision of special brochures which are distributed to patients and their families and/or guardians immediately upon admission for treatment in a hospital. Although some adaptation and renovation work was done in certain hospitals, the rooms in the large psychiatric hospital in Kovin are dilapidated and do not meet the applicable standards.

The Law on the Protection of Persons with Mental Disabilities<sup>6</sup> contains numerous shortcomings. It provides that community-based mental health care should be organised as an additional activity at the existing psychiatric institutions and medical centres, which lack trained human resources and are unwilling to provide this service. Due to such arrangements, efforts aimed at deinstitutionalisation in Serbia remain marginal. The Law provides for isolation of psychiatric patients, which not only violates the applicable standards, but was effectively abolished as a practice in Serbia many years ago. In addition, the Law sets out the powers of police officers with regard to maintaining order within psychiatric hospitals, which is not compliant with the

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<sup>6</sup> Official Gazette of RS, No. 45/13.

applicable standards, because they are uniformed and armed persons. The Protector of Citizens informed the public of these shortcomings and made proposals for their elimination<sup>7</sup>.

The existing psychiatric hospitals are large: between several hundreds and one thousand patients are placed in each of them. By and large, they mostly resemble asylums, because many patients placed in them are excluded from the community, most of them for well over a month, while some remain committed for ten years or so or even for life. Many of the patients are kept there primarily due to social considerations, as no community-based treatment and support are available.

Court decisions on involuntary commitment of persons with mental disorders are still mainly based on expert evaluations of physicians employed in hospitals which proposed such measure. In addition, there are still cases of consent for hospitalisation and treatment in a hospital being given by agitated persons brought by the police, although statements given under such circumstances cannot be legally relevant.

Certain users of social welfare homes, including children with developmental disorders, are isolated for extended periods of time. No significant progress towards deinstitutionalisation of such institutions has been made so far. As early as in 2013, NPM issued a recommendation to the competent authorities to take all necessary actions with the aim of reducing the existing number of users in the "Veternik" residential centre in the next two years, i.e. to reduce the number of over 500 users of various age to 100 adults or 50 children. The Ministry of Labour, Employment, Veteran and Social Affairs has not fully cooperated with the Protector of Citizens and has not taken the necessary measures to remedy the identified shortcomings pursuant to the recommendations given to it. Indeed, the Minister has, on several occasions, publicly opposed the recommendations and warned the Serbian public there had been instances of cannibalism among the persons placed in a facility. It is completely inappropriate to state the above as an argument not to go ahead with the deinstitutionalisation of facilities where persons with intellectual impairments are placed. In addition, the Protector of Citizens is of the opinion that bringing up the issue of cannibalism among persons with intellectual impairments serves no other purpose but to unnecessarily scare the public, which further reinforces the stigmatisation of those persons.

In Conclusions 74. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: "With regard to the assessment of the Protector of Citizens that many children are still placed in social welfare homes because conditions have not been provided for their community care; that those children are excluded from the normal social environment for unacceptably long periods, and thus they do not acquire or over time lose social and other skills necessary for living outside the institutions; that financial and other living conditions in such institutions are not compliant with the applicable standards and that understaffing is a pressing issue; that the number of children placed in those institutions significantly exceeds the statutory maximum and that in many cases, contrary to regulations, children are placed together with adult users; and that the existing shortcomings of the institutional child care system display elements of inhuman or degrading treatment, the National Assembly orders the competent public authorities to intensify activities on deinstitutionalisation, i.e. reduction of capacities of the existing social welfare homes and their phasing out, while ensuring full community child care and providing comprehensive support."

Increased supervision of users is not performed as increased monitoring of users and provision of additional support/care; instead, it involves *de facto* isolation. What is worrying is the fact that demented persons in gerontology centres and care homes for elderly are deprived of liberty exclusively on the basis of a physician's opinion.

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<sup>7</sup>[http://ombudsman.npm.rs/index.php?option=com\\_content&view=category&layout=blog&id=111&Itemid=114&lang=sr](http://ombudsman.npm.rs/index.php?option=com_content&view=category&layout=blog&id=111&Itemid=114&lang=sr).

In Conclusions 74. of the National Assembly of the Republic of Serbia of 23 October 2014 states: “With regard to the assessment of the Protector of Citizens that in social welfare homes a number of children with mental disorders and/ or intellectual disabilities are isolated, and having in mind the position of the UN Committee against Torture that isolation of persons with severe or acute mental disorder is not allowed, as well as the position of the UN Special Rapporteur on Torture that isolation of such persons, regardless of its duration, constitutes cruel, inhuman or degrading treatment, the National Assembly orders the competent public authorities to take all available measures to prevent social welfare homes from isolating children with mental disorders and/ or intellectual disabilities.”

Public authorities have not established a systemic approach which would ensure effective actions in accordance with the applicable regulations and international standards in the field of asylum-seeking and migrations.

According to the figures of the Ministry of Internal Affairs, in 2014 there were 23,429 foreign nationals who illegally entered the territory of the Republic of Serbia, mostly from the war-stricken areas and majority of them intending to continue on to Northern and Western European countries. In that period, certificates have been issued to 16,730 foreigners who expressed a wish to seek asylum in the Republic of Serbia. During visits to places where foreigners are registered, the NPM found that these certificates had been issued by default to all foreigners who came, although most of them never stated any intent to seek asylum in the Republic of Serbia. This is supported by the fact that, out of the total number of foreigners registered, only 388 of them have applied for asylum and almost all of them left Serbia within a short period of time. The NPM believes that an insufficiently effective system for managing migration flows through the Republic of Serbia has resulted in an increase in the number of illegal entries by irregular migrants into the country.

For that purpose, the Protector of Citizens, acting in the capacity of the National Preventive Mechanism, issued 27 recommendations to the Ministry of Internal Affairs and the Commissariat for Refugees and Migration in early 2014 for potential improvements in the treatment of irregular migrants/asylum-seekers in the Republic of Serbia. In 2014 his activities were focused on overseeing compliance with these recommendations, which prompted a large number of visits to relevant authorities and institutions. On the basis of direct inspection of activities of the competent authorities and collected data, NPM found that the competent authorities have not complied with the majority of recommendations issued.

Foreigners who obtained certificates of their intent to seek asylum in the Republic of Serbia *de facto* legalised their stay in the Republic of Serbia; however, instead of reporting to an asylum centre within 72 hours, they move towards Serbia’s Northern border, unimpeded by the police. It is beyond believe that the competent authorities allow thousands of these migrants to move individually across the territory of the Republic of Serbia, without any restrictions or control.

This has given rise to an informal system which has taken on an important role with regard to the position of migrants and their crossing of borders to neighbouring countries, with ample scope for corruption among Serbian officials.

In Conclusions 72. of the National Assembly of the Republic of Serbia of 23 October 2014 states the following: “With regard to the assessment of the Protector of Citizens that there are numerous illegalities and irregularities in the treatment by competent authorities of irregular migrants and foreigners who expressed their intention to seek asylum in the Republic of Serbia, the National Assembly, endorsing all recommendations the Protector of Citizens gave to the Ministry of Internal Affairs and the Commissariat for Refugees and Migration in that regard, orders the authorities to which those recommendations were given to fully implement them without delay, particularly to register all migrants who entered into the territory of the Republic of Serbia, to keep migrants under full control of the competent authorities pending final

resolution of their status, i.e. deportation in accordance with the applicable regulations, as well as to pass decisions on asylum requests in an expedited procedure, while thwarting all attempts to abuse rights, with full respect for all minimum rights of irregular migrants and asylum-seekers, in accordance with the rules of the international law and the applicable standards.”

## **1.2. Key information on activities of the Protector of Citizens in the capacity of the National Preventive Mechanism (NPM) in 2014<sup>8</sup>**

In 2014, NPM visited 79 places of detention. 38 scheduled and 41 visits with a specific purpose were made.

As part of the scheduled visits, the NPM visited 25 police stations, 3 prisons, 2 psychiatric hospitals, 5 care homes for the elderly. In addition, the NPM also performed 3 monitoring procedures in case of persons repatriated in the readmission at the “Nikola Tesla” Airport. On the basis of these visits, the NPM sends reports to the visited institutions with recommendations for rectifying the identified shortcomings that result or may result in torture or mistreatment.

In 2014, the NPM focused on visits with a specific purpose relating to the prevention of abuse of refugees and migrants in the Republic of Serbia. Through oversight of compliance with the NPM’s recommendations for improving the treatment of refugees and migrants in the Republic of Serbia<sup>9</sup>, the NPM visited 41 institutions together with the Belgrade Centre for Human Rights. He visited 23 police stations, 5 regional border police centres, 5 camps for asylum-seekers, 5 penal institutions, 2 juvenile correctional facilities and the Shelter for Foreigners in Padinska Skela.

With the aim of promoting and protecting the rights of persons deprived of liberty and prevention of torture, in 2014 NPM representatives took part in numerous conferences, round tables and workshops. The Deputy Protector of Citizens, who is in charge of rights of persons deprived of liberty, held several lectures for students at the Faculty of Law and issued about 30 press releases in connection with prohibition of abuse and improvements in the field of prevention of torture.

The NPM has continued its successful cooperation with the OSCE Mission to Serbia. A representative of the NPM took part in the workshop titled “Prevention of Torture”, organised in Belgrade in February 2014 by the OSCE Mission to Serbia, whose aim was to represent the importance of regional cooperation and exchange of experiences between Western Balkans countries. With the support of the OSCE Mission to Serbia, a representative of the NPM took part in the two-day OSCE meeting “Prevention of Torture” held in Vienna in April 2014.

In addition, cooperation with the UNCHR Office in Serbia and the Belgrade Centre for Human Rights and Group 484 has been intensified, with a view of implementing activities aimed at improving and protecting of the rights of asylum-seekers in Serbia.

In November 2014, the Protector of Citizens, acting in the capacity of the NPM, together with the OSCE Mission to Serbia and the UNHCR Office held the First South-East OPCAT Forum. The Forum was attended by members of the UN Subcommittee on Prevention of Torture (SPT), representatives of national preventive mechanism of the Southeast Europe countries and representatives of the NPMs of Romania, Germany, Greece, the Czech Republic, France, Poland, Estonia and Azerbaijan, members of the European Committee for the Prevention of Torture (CPT), the Association for the Prevention of Torture (APT) and other international organisations, as well as representatives of the civil society. A press conference titled “Prevention of Torture

<sup>8</sup> For more information see Chapter 5 of this Report.

<sup>9</sup> Recommendation 75-6/14, available at: <http://www.zastitnik.rs/index.php/lang-sr/2012-02-07-14-03-33/3190-2014-02-14-08-47-05>.

and Other Forms of Torture and Fight against Impunity” was also held. In addition to the participants in the Forum, the conference was also attended by representatives of the relevant ministers and of Committees of the National Assembly of the Republic of Serbia, as well as courts and prosecution offices.

In 2014, the Protector of Citizens continued his cooperation with members of the Southeast Europe NPM Network. In May 2014, a representative of the Serbian NPM took part in the Network meeting titled “Methodology of Writing NPM Reports” held in Ljubljana (Slovenia). In October 2014, NPM representatives attended a special training session titled “Monitoring of Psychiatric Institutions in the Context of Protection from Torture and Inhuman and Degrading Treatment” held in Skopje (Macedonia).

In February 2014, the Protector of Citizens, the Ministry of Internal Affairs and the Belgrade Centre for Human Rights held a press conference titled “Challenges faced by the Republic of Serbia in the Field of Asylum and Migrations.” In March 2014, NPM representatives took part in the conference “Situation in the Field of Mental Health and Measures taken in the Deinstitutionalisation Process”, organised by the Helsinki Committee for Human Rights and the International Assistance Network. On the UN International Day in Support of Victims of Torture, the 26th of June, the Committee of the Lawyers’ Committee for Human Rights organised a press conference titled “The Role of Health Care Services in the Prevention of and Punishment for Torture”, in which the Deputy Protector of Citizens in charge of this field and a representative of the NPM presented the health care situation in prisons. In September 2014, Group 484, the Belgrade Centre for Human Rights and the Belgrade Centre for Security Policy held a conference titled “System of Asylum and Migrations”, which was addressed by the Deputy Protector of Citizens in charge of this field and a representative of the NPM.

In 2014 the Serbian NPM received study visits from representatives of the Georgian NPM, the Public Monitoring Commissions (PMC) of Russia and the Ukrainian NPM. During those study visits, the Serbian NPM presented his work and visited places of detention together with the representatives of these monitoring mechanisms. The Serbian NPM was also visited by representatives of the NPMs, public authorities and non-governmental organisations of Montenegro and Albania.

## 2. Prohibition of Torture

### 2.1. National legislation

The Constitution of the Republic of Serbia<sup>10</sup> guarantees human dignity and inviolability of physical and mental integrity and explicitly prohibits abuse<sup>11</sup>.

*Article 25, paragraph 2 of the Constitution of the Republic of Serbia.*

No one shall be subjected to torture, inhuman or degrading treatment or punishment<sup>12</sup>.

<sup>10</sup> Official Gazette of RS, No. 98/2006.

<sup>11</sup> Constitution of the Republic of Serbia, Articles 23, 24 and 25.

<sup>12</sup> Taken from Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Prohibition of torture is also envisaged by other regulations, including inter alia the Criminal Procedure Code<sup>13</sup>, the Law on Police<sup>14</sup> and the Law on Enforcement of Penal Sanctions<sup>15</sup>. According to the Criminal Code<sup>16</sup>, torture and abuse is a separate criminal offence<sup>17</sup>.

*Article 137 of the Criminal Code of the Republic of Serbia.*

(1) Whoever abuses another person or treats another person in a humiliating and degrading manner shall be sentenced to imprisonment for up to one year.

(2) Whoever inflicts severe pain or suffering on another person by forcing, coercing or in any other inadmissible manner with the aim of obtaining a confession, a statement or any other information from that person or a third person or intimidating or unlawfully punishing that person or any third person or with any other aim based on any form of discrimination shall be sentenced to imprisonment in the duration of between six months and five years.

(3) If the criminal offences referred to in paragraphs 1 and 2 of this Article is committed by an official in discharge of his/her duties, such person shall be sentenced to imprisonment in the duration of between three months and three years for the criminal offence referred to in paragraph 1 and imprisonment in the duration of between one and eight years for the criminal offence referred to in paragraph 2.

## 2.2. International instruments

Serbia is a state party to all major conventions on prohibition and prevention of torture. The International Covenant on Civil and Political Rights<sup>18</sup>, which in its Article 7 accepts the provision on prohibition of torture from Article 5 of the Universal Declaration of Human Rights<sup>19</sup>, was ratified in 1971<sup>20</sup>.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>21</sup> (Convention against Torture) was ratified in 1991<sup>22</sup>. It is one of the most important international instruments against torture.

*Article 1, paragraph 1 of the Convention against Torture.*

The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

In addition to providing the most comprehensive definition of torture, the Convention against Torture contains a set of provisions relevant for elimination of torture.

<sup>13</sup> Official Gazette of FYR, Nos. 70/2001 and 68/2002 and Official Gazette of RS, Nos. 58/2004, 85/2005, 115/2005, 85/2005 - other law, 49/2007, 20/2009 - other law, 72/2009 and 76/2010.

<sup>14</sup> Official Gazette of RS, Nos. 101/2005, 63/2009 - decision of the Constitutional Court and 92/2011.

<sup>15</sup> Official Gazette of RS, Nos. 85/2005, 72/2009 and 31/2011.

<sup>16</sup> Official Gazette of RS, Nos. 85/2005, 88/2005 - corrigendum, 107/2005 - corrigendum, 72/2009, 111/2009 and 121/2012.

<sup>17</sup> Article 4 of the Convention against Torture: (1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

<sup>18</sup> Signed on 19 December 1966 in New York.

<sup>19</sup> Adopted by the UN General Assembly on 10 December 1948 in Paris.

<sup>20</sup> Official Gazette of SFRY, No. 7/71.

<sup>21</sup> Adopted on 10 December 1984 in New York.

<sup>22</sup> Official Gazette of SFRY - International Agreements, No. 9/91.

*Article 2, paragraph 1 of the Convention against Torture.*

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

The Convention against Torture also contains the provisions which prohibit expelling and extradition of a person to a state where he/she would be subjected to torture.

*Article 3, paragraphs 1 and 2 of the Convention against Torture.*

No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

The Convention against Torture obliges State Parties to ensure that education and information regarding the prohibition against torture are fully included in the training of officers, medical staff, public office holders and any other persons who in any manner come into contact with persons deprived of liberty<sup>23</sup>.

*Article 12 of the Convention against Torture.*

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

In that context, each State Party must ensure that any individual who alleges he has been subjected to torture has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities, ensuring that the complainant and witnesses are protected against all mistreatment or intimidation as a consequence of his complaint or any evidence given<sup>24</sup>.

*Article 14, paragraph 1 of the Convention against Torture.*

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.<sup>25</sup>

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made<sup>26</sup>.

The Convention against Torture establishes the Committee against Torture<sup>27</sup>. The States Parties shall submit to the Committee reports on the measures they have taken to give effect to their undertakings under this Convention. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee<sup>28</sup>. The Republic of Serbia submitted reports to the Committee and the Committee made comments on these reports<sup>29</sup>.

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<sup>23</sup> Article 10, paragraph 1 of the Convention against Torture.

<sup>24</sup> Article 13 of the Convention against Torture.

<sup>25</sup> Article 14 of the Convention against Torture.

<sup>26</sup> Article 15 of the Convention against Torture.

<sup>27</sup> Article 17 of the Convention against Torture.

<sup>28</sup> Article 19, paragraph 1 of the Convention against Torture.

<sup>29</sup> Comments made by the Committee against on its 41<sup>st</sup> session held from 3 to 21 November 2008 on the Report of the Republic of Serbia.

The Republic of Serbia is a Member State of the Council of Europe. The European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>30</sup> and the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>31</sup> (European Convention against Torture) were ratified in 2003.<sup>32</sup>

The European Convention for the Prevention of Torture establishes the Committee for the Prevention of Torture.<sup>33</sup> Each Party must permit visits by the Committee to any place where persons are deprived of their liberty.<sup>34</sup> A Party must provide the Committee with access to its territory and the right to travel without restriction, full information on the places where persons deprived of their liberty are being held, as well as unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction and the right to interview in private persons deprived of their liberty and any person whom it believes can supply relevant information.<sup>35</sup> After each visit, the Committee draws up a report on the facts found during the visit.<sup>36</sup> By the end of 2014, the Committee has visited Serbia three times, in 2004, 2007 and 2011.<sup>37</sup>

### 3. Optional Protocol to the Convention against Torture

Through the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment<sup>38</sup> (Optional Protocol) the State Parties reaffirmed that abuse is prohibited and constitutes serious violations of human rights<sup>39</sup>.

Under the Optional Protocol the State Parties have agreed to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>40</sup>

The objective of the Optional protocol to ensure visits or continuous presence of a preventive mechanism in institutions where persons deprived of liberty are held stems from the underlying belief that the main problem of closed-type institutions is exactly the fact that they are closed and whatever happens in them takes place far away from the public's eye.

Each State Party must allow visits by the mechanisms established under the Optional Protocol to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (places of detention).<sup>41</sup>

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<sup>30</sup> Made on 4 November 1950 in Rome.

<sup>31</sup> Signed on 26 November 1987 in Strasbourg.

<sup>32</sup> Official Gazette of Serbia and Montenegro – International Agreements, Nos. 9/2003, 5/2005 and 7/2005 - corrigendum and Official Gazette of Serbia and Montenegro – International Agreements, No. 9/2003).

<sup>33</sup> Article 1 of the European Convention for the Prevention of Torture.

<sup>34</sup> Article 2 and Article 7, paragraph 1 of the European Convention for the Prevention of Torture.

<sup>35</sup> Article 8 of the European Convention for the Prevention of Torture.

<sup>36</sup> Article 10, paragraph 1 of the European Convention for the Prevention of Torture.

<sup>37</sup> Reports on visits to the Republic of Serbia and responses of the Serbian Government are available at the official website of the European Committee for the Prevention of Torture [www.cpt.coe.int/en/states/srb.htm](http://www.cpt.coe.int/en/states/srb.htm).

<sup>38</sup> Adopted on 18 December 2002 in New York at the 57<sup>th</sup> session of the UN General Assembly under the Resolution A/RES/57/199 and entered into force on 22 June 2006.

<sup>39</sup> Preamble of the Optional Protocol.

<sup>40</sup> Article 1 of the Optional Protocol.

<sup>41</sup> Article 4, paragraph 1 of the Optional Protocol.



### 3.1. Subcommittee on Prevention of Torture<sup>42</sup>

The Optional Protocol establishes Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>43</sup>.

The Subcommittee on Prevention of torture shall visit any places of detention and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.<sup>44</sup>

The State Parties to the Optional Protocol undertake:

- To receive the Subcommittee on Prevention in their territory;
- To grant unrestricted access to all places of detention, their installations and facilities, and liberty to choose such places;
- The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;
- To grant the Subcommittee on Prevention unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention, the number of places and their location, unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention, as well as to provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.<sup>45</sup>

The Subcommittee on Prevention has not yet visited Serbia.

### 3.2. National Preventive Mechanisms (NPM)

According to the Optional Protocol, each State Party must set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment<sup>46</sup>

NPM is entitled to:

- Access to all information concerning the number of persons deprived of their liberty in places of detention, as well as the number of places and their location;
- Access to all places of detention and their installations and facilities, with the liberty to choose such places;
- The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the NPM believes may supply relevant information, by its own choice<sup>47</sup>.

NPM is authorised to regularly examine the treatment of the persons deprived of their liberty in places of detention, to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into

<sup>42</sup> [www2.ohchr.org/english/bodies/cat/opcat/](http://www2.ohchr.org/english/bodies/cat/opcat/).

<sup>43</sup> Article 2, paragraph 1 of the Optional Protocol.

<sup>44</sup> Article 11, item (a) of the Optional Protocol.

<sup>45</sup> Articles 12 and 14 of the Optional Protocol.

<sup>46</sup> Article 3 of the Optional Protocol.

<sup>47</sup> Article 20 of the Optional Protocol.

consideration the relevant norms of the United Nations, as well as to submit proposals and observations concerning existing or draft legislation<sup>48</sup>.

The States Parties shall guarantee the functional independence of the NPM as well as the independence of their personnel<sup>49</sup>.

No authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the NPM any information, whether true or false, and no such person or organisation shall be otherwise prejudiced in any way<sup>50</sup>.

The States Parties undertake to make available the necessary resources for the functioning of the NPM<sup>51</sup>.

The relation between NPM and public authorities is based on the principles of trust and cooperation.

The competent authorities of the State Party concerned shall examine the recommendations of the NPM and enter into a dialogue with it on possible implementation measures<sup>52</sup>.

The competent authorities of the State Party must publish and distribute annual reports of the NPM.

### 3.3. Setting up of NPM in Serbia

Serbia signed the Optional Protocol on 25 September 2003 and ratified it on 1 December 2005<sup>53</sup>.

Serbia became a State Party to the Optional Protocol on 26 September 2006<sup>54</sup>.

With four years of delay, Serbia complied with its duty to maintain, designate or establish independent national preventive mechanism at the latest one year after the entry into force of the Optional Protocol or of its ratification or accession.<sup>55</sup>

Serbian NPM has been established under the Law amending the Law on Ratification of the Optional Protocol adopted on 28 July 2011.<sup>56</sup>

In accordance with the agreement reached during a public debate, Serbia did not form a new NPM authority; instead, Serbia opted for an authentic, complex NPM model, which implies that the tasks of the NPM are carried out by the existing independent public authority in cooperation with authorities of decentralised units and the civil sector.

<sup>48</sup> Article 19 of the Optional Protocol.

<sup>49</sup> Article 18, item 1 of the Optional Protocol.

<sup>50</sup> Article 21, item 1 of the Optional Protocol.

<sup>51</sup> Article 18, item 3 of the Optional Protocol.

<sup>52</sup> Article 22 of the Optional Protocol.

<sup>53</sup> Official Gazette of Serbia and Montenegro - International Agreements, No. 16/2005, amendments 2/2006.

<sup>54</sup> 30 days after the ratification instrument was submitted to the United Nations Secretary-General.

<sup>55</sup> Article 17 of the Optional Protocol.

<sup>56</sup> The Law amending the Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Official Gazette of RS - International Agreements, No. 7/11.

The Protector of Citizens shall carry out the duties of the NPM in cooperation with Ombudsmen of the autonomous provinces and associations pursuing the goals of promoting and protecting human rights and freedom<sup>57</sup>.

When this complex NPM model was chosen in Serbia, due consideration was given to the principles relating to the status of national institutions for the promotion and protection of human rights<sup>58</sup>.

Pursuant to the Serbian Constitution<sup>59</sup>, the Protector of Citizens is an independent public authority which protects the citizens' rights and oversees work of public administration authorities and any other authorities vested with public powers<sup>60</sup>. Under the Law on the Protector of Citizens<sup>61</sup>, the Protector of Citizens is an independent public authority which autonomously performs its duties and protects and ensures promotion of citizens' rights<sup>62</sup>. In April 2010 the Protector of Citizens was recognised as an authority acting on the basis of the Paris Principles<sup>63</sup>.

The Protector of Citizens is an independent and autonomous public authority, a general-type Ombudsman, accredited as a National Human Rights Institution with the "A" status at the International Coordinating Committee (ICC).

Under the Law on the Protector of Citizens, the Protector of Citizens is authorised to visit places where persons deprived of liberty are placed, to interview in private persons deprived of liberty and all employees in such institutions and to access any information of relevance for achievement of the objectives of his preventative actions, regardless of the degree of confidentiality of such information<sup>64</sup>.

The powers of the Protector of Citizens in the field of persons deprived of liberty set out by the Law on the Protector of Citizens is equivalent to the NPM mandate specified by the optional Protocol.

The statement of reasons for the draft law establishing the NPM<sup>65</sup> contemplates the provision of the material resources needed for the exercise of the NPM's mandate, including the employment of the necessary number of staff at the Secretariat of the Protector of Citizens, and the provision of the necessary funds as a dedicated line within the budget of the Protector of Citizens<sup>66</sup>

## 4. Methodology, Resources and Organisation of NPM in 2014

### 4.1. Methodology of NPM

The approach taken by the Serbian NPM is exclusively preventative. The NPM does not oversee the lawfulness and regularity of work of the competent institutions on a case-by-case basis; instead, it timely notifies about this the organisational unit of the Protector of Citizens which acts on complaints of persons deprived of liberty.

The Serbian NPM visits institutions where persons deprived of liberty are placed according to the previously established methodology.

<sup>57</sup> Article 2a of the Law amending the Law on Ratification of the Optional Protocol.

<sup>58</sup> Article 18, item 4 of the Optional Protocol.

<sup>59</sup> Official Gazette of RS, No. 98/2006.

<sup>60</sup> Article 138, paragraph 1 of the Serbian Constitution.

<sup>61</sup> Official Gazette of RS, No. 79/2005 and 54/2007.

<sup>62</sup> Article 1, paragraph 1 and 2 and Article 2, paragraph 1 of the Law on the Protector of Citizens.

<sup>63</sup> [http://www.ohchr.org/Documents/Countries/NHRI/Chart\\_Status\\_NIs.pdf](http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf).

<sup>64</sup> Article 21 paragraphs 1 and 2 and Article 22 of the Law on Protector of Citizens.

<sup>65</sup> The Law amending the Law on Ratification of the Optional Protocol to the Convention against Torture.

<sup>66</sup> Draft Law amending the Law on Ratification of the Optional Protocol, explanation.

The work methodology of the Serbian NPM is primarily based on the provisions of the Optional Protocol which set out the mandate of the NPM to make regular visits to institutions where persons deprived of liberty are or may be placed.

The Serbian NPM plans to visit all institutions where persons deprived of liberty are placed in the first four years of its work.

The NPM methodology recognizes the following types of visits: scheduled, follow-up visits, visits with a specific purpose and *ad hoc* visits.

Visits can be announced and unannounced. After the initial period during which visits were mostly announced, the aim is to make more unannounced visits in the coming months and years. This will ensure more comprehensive insight in the actual situation, which will increase the preventative effect.

The methodology of the Serbian NPM is focused on preparation and implementation of unannounced visits to institutions where persons deprived of liberty are or can be placed.

After the initial period, when the objective set under the methodology was to make scheduled visits to all institutions, the increase of follow-up visits is planned for the following period. This ensures monitoring of the situation found during scheduled visits, particularly compliance of the competent authorities with recommendations given by the NPM.

The methodology of the Serbian NPM is focused on follow-up visits to places of detention.

Preparations for visits to a facility involve taking stock of the available information concerning the facility. This is followed by assignment of specific tasks; as a rule, the visit team is divided into four thematic groups; the first one is tasked with observing the conditions of placement (the group for observation of the conditions of placement), the second one is tasked with providing legal protection at the facility (the legal group), the third one deals with correctional work with persons deprived of liberty (the correctional work group), while the fourth group is tasked with reviewing the exercise of health care by inmates (the health care). In order to make the gathering of information during visits more efficient, all team members are provided in advance with the working material (questionnaires, report structure and models of specific sections of the report) which they use as guidance.

The NPM teams in charge of visits to institutions where persons deprived of liberty are placed are multi-disciplinary and as a rule include experienced lawyers, a psychiatrist, a forensic physician and a psychologist.

Visits take place according to pre-determined stages. The first stage is an interview with the facility's management, while the second stage is a joint tour of the facility. During the third stage, members of the NPM team's thematic groups (legal, correctional work and health care) interview the managers of the reference services and examine documentation. The fourth stage involves interviews with persons deprived of liberty, while the fifth stage consists of a brief meeting of all thematic groups, followed by a final interview with the facility's management in which the team present their preliminary impressions of the visit and the situation they observed. However, these stages are not mandatory and the actual structure of a visit will depend on the type of visit and other circumstances.

To enable more efficient and systematic work, questionnaires have been developed for team members to use and fill out during the visits. They also have at their disposal compendiums of quotations from relevant regulations and standards applicable in the specific areas of their work.

According to the work methodology, reports are as a rule expected to follow a predetermined structure. However, depending on the type of visit and the type of data collected during a control

visit, the predetermined report structure may be modified and adapted to any specific needs if requested by team members.

In the reports of visits to facilities where persons deprived of liberty are placed, the NPM lists the identified omissions and makes proposals for remedying any shortcomings that may lead to torture or mistreatment. Where a shortcoming or irregularity is identified, the pertinent recommendation is supported by references to relevant regulations and standards with which the current situation or actions must be made compliant.

The reports are submitted to the visited facilities and the ministry in charge, together with an invitation to attend a meeting in which opportunities for compliance with the recommendations would be examined.

The NPM's methodology calls for dialogue with the visited facility and the ministry in charge.

The aim of the dialogue with the visited facilities and the ministries in charge is to take stock of the current situation at the visited facility and in the system as a whole, primarily as a means of devising the best way to ensure compliance with the recommendations made by the NPM after the visits.

In order to strike a balance between confidentiality and transparency, the NPM publishes each report, with all personal data anonymised, once it has received a reply from the competent authorities to the recommendations set out in the report. The reports and the replies made by the competent authorities are posted on the website of the Protector of Citizens and on the NPM page.

According to the NPM methodology, special attention is paid to the protection of persons deprived of liberty, employees at places of detention and all other persons who had contacts with the NPM, who provided information on the treatment of persons deprived of liberty or drew attention to instances of mistreatment.

The methodology of the Serbian NPM attaches great importance to thwarting any attempts at retaliation by protecting the sources of information, i.e. The identity of the persons who provided the information. If their identity has been recognised, the NPM exercises its preventive activity through follow-up visits to those persons in order to examine their situation and how they are treated by the staff of the detention facilities. Furthermore, persons in charge are advised that any retaliation against persons who cooperated with the NPM constitutes the most severe form of mistreatment.

The NPM methodology provides for intensive efforts against impunity for torture or any other form of mistreatment. Any instances of torture or mistreatment are promptly brought to the attention of the competent authorities, upon which they are expected to undertake all available measures and activities within their spheres of competence in order to identify the employees responsible for such actions.

The methodology of the Serbian NPM places great emphasis on supporting the activities undertaken by the competent authorities in the fight against impunity for torture and apportionment of both individual and objective responsibility.

## **4.2. Material resources and financial independence of NPM**

In order to effectively fulfil its mandate in accordance with the Law on Ratification of the Optional Protocol, the NPM needs to be provided with the required material resources and financial independence.

In the adopted budget of the Protector of Citizens for 2013, the amount of RSD 7,236,267.30 (approximately € 60,302.00) was earmarked for the activities of the NPM.

In 2014, the staff entrusted with NPM duties used two offices in the building allocated to the Protector of Citizens. They also used a van to transfer the members of the visit team. The staff entrusted with NPM had at their disposal all necessary office equipment and supplies.

### 4.3. Special NPM unit and its functional independence

In late 2012, the reactive duties of responding to complaints of persons deprived of liberty conducted at the Secretariat of the Protector of Citizens had been separated from the proactive duties involved in the prevention of torture. This resulted in the *de facto* formation of a separate organisational unit of the NPM, managed by an operational manager reporting to the Protector of Citizens or a Deputy designated by him.

In order to work effectively, the NPM needs to have a sufficient number of employees with the required knowledge in the field of prevention of torture.

In 2014, the Secretariat of the Protection of Citizens had three employees assigned to work on NPM duties. Of those three, two are employed indefinitely, while one is on a fixed-term employment contract.

The understaffing issue prevents the NPM from exercising the full scope of its duties, which will affect the efficiency of the fight against torture in the Republic of Serbia.

### 4.4. Participation of Provincial Ombudsman in NPM activities

In accordance with the signed Memorandum on Cooperation, in 2014 the Protector of Citizens continued cooperating with the Ombudsman of the Autonomous Province of Vojvodina (Provincial Ombudsman) in visits to places of detention in the territory of the Autonomous Province of Vojvodina. In March 2014, the Protector of Citizens, in cooperation with the Ombudsman of the Autonomous Province of Vojvodina and the OSCE Mission to Serbia, organised a dialogue with representatives of the Ministry of Internal Affairs and police administrations in the territory of the Autonomous Province of Vojvodina. In December 2014, the Protector of Citizens, the Provincial Ombudsman and the OSCE Mission to Serbia organised a round table titled "Role of National Preventive Mechanism (NPM) in Prevention of Torture, Inhuman and Degrading Treatment of Persons with Mental Disorders". The round table was attended by representatives of the Ministry of Health, the Provincial Secretariat for Health Sector, Social Policy and Demography, psychiatric hospitals and the Ministry of Internal Affairs.

In 2014, representatives of the Provincial Ombudsman participated in 21 visits to institutions where persons deprived of liberty are placed.

The Provincial Ombudsman systematically monitored the position of persons placed in care homes for elderly and gerontology centres and for that purpose visited 4 institutions.

### 4.5. Participation of the Civil Sector in NPM activities

Acting in the capacity of the NPM under the Agreement amending the Agreement on Cooperation with Associations, in 2014 the Protector of Citizens continued his cooperation with non-governmental organisations, including: the Belgrade Centre for Human Rights (in the field of use of police powers and treatment of asylum-seekers), the Committee of Human Rights Lawyers (in the field of detention), the Helsinki Committee in Serbia (in the field of enforcement

of penal sanctions), the International Assistance Network (in the field of rights of persons with mental disorders in detention), MDRI (in the field of rights of persons with disabilities in social security institutions), the Victimology Society of Serbia (in the field of rights of women in the prison system), the Human Rights Centre of Nis (in the field of rights of persons with disabilities in the prison system), the Human Rights Committee of Valjevo and Dialogue Valjevo (in the field of rights of juveniles in the prison system).

During the reporting period, members of the associations which had cooperation agreements with the NPM activities were actively involved, in accordance with the NPM methodology, in the visits to detention institutions, preparation of reports and recommendations, as well as in the dialogue with the visited institutions and the competent ministries.

In addition, in 2014 the Protector of Citizens also cooperated with the Youth Initiative for Human Rights, the organisation "ApsArt", Group 484, the Association of Former Convicts "Libertas" and the Association of Users of Psychiatric Services and their Families "Duša" (Soul).

During the reporting period, the NPM also took part in numerous projects of civil society organisations, with which it cooperates in the field of prevention of abuse.

In 2014, the Serbian NPM intensified cooperation with the Belgrade Centre for Human Rights in the visits with a specific purpose. In this context, the focus was on monitoring the institutions where asylum-seekers in the Republic of Serbia are placed. 41 visits with a specific purpose were made, while the plan of visits for 2015 envisages intensive monitoring of treatment by competent authorities of refugees from war-torn regions.

The association Youth Initiative for Human Rights in cooperation with NPM organised training for prison services staff titled "Acting of the Staff of the Administration for the Enforcement of Penal Sanctions in accordance with Modern Standards of Prohibition of Abuse". In addition, in cooperation with the Youth Initiative for Human Rights, under the project titled "Building free of torture and impunity societies in the Western Balkans", a study visit to Montenegro was organised for representatives of the Serbian NPM and under the same project representatives of NMPs of Albania and Montenegro made a study visit to the Serbian NPM.

#### **4.6. Participation of External Experts in NPM activities**

The NPM teams for visits to places of detention should be multidisciplinary teams.

As the representatives of the Protector of Citizens, the Provincial Ombudsman and relevant associations in the teams formed to visit detention places are mostly lawyers, engagement of external associates from other professions is necessary to ensure the efficient work of the NPM.

In the course of its work, the NPM hires experts in the fields of forensic medicine, psychiatry, psychology, special prevention and internal medicine.

In 2014, the following experts participated in activities of the NPM: Mr. Đorđe Alempijević, PhD, forensic medicine expert, University School of Medicine of the University of Belgrade; Mr. Zoran Ilić, PhD, Department for Prevention and Treatment of Behavioural Disorders, University School of Special Education and Rehabilitation of the University of Belgrade; Mr. Dragan Ječmenica, PhD, forensic medicine expert, University School of Medicine of the University of Belgrade; Mr. Vladimir Jović, psychiatrist, University School of Philosophy of the University of Pristina/Kosovska Mitrovica and Dr. Radomir Samardžić, psychiatrist.

Expert contributions of the hired external experts resulted in the improvement of the quality of work of the NPM, primarily the prepared reports and numerous recommendations issued with the aim of eliminating identified shortcomings.

## 4.7. Training of NPM members

A representative of the NPM participated in two professional trainings on prevention of torture. In October 2014, the NPM of FYR Macedonia organised training for members of the Southeast Europe NPM Network titled "Monitoring of Psychiatric Institutions in the Context of Protection from Torture and Inhuman and Degrading Treatment", which was also attended by representatives of the Serbian NPM. In December 2014, the Commissariat for Refugees and Migration in cooperation with the Institute of Humanitarian Right in Sanremo organised training for representatives of governmental institutions and NGOs as part of the project titled "Protection of Asylum-seekers and Refugees".

In the future work of the NPM it is necessary to focus more on professional training for members of the NPM.

## 4.8. Other forms of cooperation

The Protector of Citizens has continued his cooperation with the OSCE Mission to Serbia. A representative of the NPM took part in the workshop titled "Prevention of Torture", organised in Belgrade in February 2014 by the OSCE Mission to Serbia in cooperation with Civic Solidarity organisation, the aim of which was to present the importance of regional cooperation and exchange of experiences of the West Balkans countries. With support from the OSCE Mission to Serbia, a representative of NPM attended a two-day OSCE meeting titled "Prevention of Torture" held in Vienna in April 2014.

Cooperation with the UNCHR Office in Serbia has been intensified, as well as cooperation with the Belgrade Centre for Human Rights and the Group 484, with the aim of implementing the activities for improvement and protection against abuse of asylum-seekers in Serbia.

In November 2014, acting in the capacity of NPM, the Protector of Citizens organised the first South-East OPCAT Forum and the conference titled "Prevention of Torture and Other Forms of Torture and Fight against Impunity".

## 5. Exercise of NPM's Mandate in 2014

### 5.1. Visits to places of detention

In 2014, the NPM visited 79 places of detention. 38 scheduled and 41 visits with a specific purpose were made.

As part of the scheduled visits, the NPM visited 25 police stations, 3 prisons, 2 psychiatric hospitals, 5 care homes for elderly. In addition, the NPM also performed 3 monitoring procedures in case of persons repatriated in the readmission process at the "Nikola Tesla" Airport. On the basis of these visits, the NPM sends reports to the visited institutions with recommendations for rectifying the identified shortcomings that result or may result in torture or mistreatment.

In 2014, the NPM focused on visits with a specific purpose relating to the prevention of abuse of refugees and migrants in the Republic of Serbia. As part of oversight of compliance with the NPM's recommendations for improving the treatment of refugees and migrants in the Republic of Serbia<sup>67</sup>, the NPM visited 41 institutions together with the Belgrade Centre for Human Rights.

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<sup>67</sup> Recommendation number 75-6/14, available at: <http://www.zastitnik.rs/index.php/lang-sr/2012-02-07-14-03-33/3190-2014-02-14-08-47-05>.



He visited 23 police stations, 5 regional border police centres, 5 camps for asylum-seekers, 5 penal institutions, 2 juvenile correctional facilities and the Shelter for Foreigners in Padinska Skela.

In 2014, an unannounced night visit was made to the police administration Kruševac. The Plan of Visits for 2015 includes mostly unannounced visits.

Breakdown of implementation of the Plan of Visits for 2014:

VISITS	Visits planned in 2014	Visits made in 2014
Police stations	37	48
Prisons (including detention units)	7	8
Psychiatric hospitals	5	2
Social welfare homes	3	/
Care homes for elderly and pensioners / gerontology centres	7	5
Monitoring procedures in case of persons repatriated in the readmission	1	3
Regional border police centres	5	5
Camps for asylum-seekers	5	5
Shelters	1	1
Facilities for the placement of underage foreign nationals	2	2
<b>TOTAL</b>	<b>73</b>	<b>79</b>

## 5.2. Cooperation between public authorities and NPM during visits

In 2014, the NPM has been given free access to all places of detention, allowed to interview all persons deprived of liberty and employees found on site and given access to the full documentation.

During the NPM's visits to places of detention in 2014, the competent authorities and facilities acted in compliance with Article 20 of the Optional Protocol.

## 5.3. Reports of visits to places of detention

In the course of 2014, the NPM prepared 43 reports of visits to places of detention. Of those reports, 13 were reports with recommendations from scheduled visits, while 30 were reports from thematic visits.

The reports of the visits and the observed situation were drawn up by visit team members, including representatives of the Protector of Citizens, of the Provincial Ombudsman of the Autonomous Province of Vojvodina and the involved associations, as well as the experts engaged for this purpose.

## 5.4. Recommendations for remedying the identified shortcomings

In the reports on visits to places of detention, the NPM issues recommendations for remedial action to the competent authorities.

In the course of 2014, the NPM issued 345 recommendations for remedial action to the competent authorities.

Each recommendation includes a reference to the facts found and the identified shortcomings and lists the relevant regulations and standards with which the visited facility or the competent authority needs to comply. The reports have been submitted to the visited facilities and the ministries in charge, together with an invitation to a meeting in order to consider the possibilities for implementing the recommendations contained therein.

All recommendations issued to the visited institutions can be found in ADDENDUM I to this Report.

## 5.5. Establishing dialogue with government authorities

To ensure full compliance with the recommendations set out in the reports of the visits, in 2014 the NPM continued the ongoing dialogue with the Ministry with the Ministry of Interior and to the visited police administrations<sup>68</sup>. The aim of this dialogue was to improve the police treatment of persons deprived of liberty, prevent torture and improve the treatment of asylum-seekers and irregular migrants. Furthermore, the NPM has engaged in dialogue with the Ministry of Health, the Provincial Secretariat of Health, Social Policy and Demography, the Ministry of Interior and the visited psychiatric hospitals<sup>69</sup> in the field of mental health and deinstitutionalisation, more specifically the formation of special community-based units.

The NPM holds periodic meetings with the visited facilities and the Ministries in charge in order to review the recommendations and the current level of compliance with the applicable standards against torture, with a view to devising ways of ensuring implementation of the recommendations and compliance with the standards. These meetings focus on complex problems in the functioning of the facilities which cannot be adequately addressed internally or by individual efforts and require cross-departmental cooperation, in which case the NPM acts as an intermediary in the efforts to address the issues.

### 5.5.1 Review of NPM's Report by the National Assembly

The National Assembly reviewed the 2013 Annual Report of the National Preventive Mechanism for the first time. The parliament found the Report to be detailed and comprehensive, with an exhaustive presentation of activities aimed at improving the situation with regard to the status of persons deprived of liberty and creation of a torture-free society, with full respect for the dignity and rights of all persons whose freedom of movement is restricted. The National Assembly adopted by a majority vote the Conclusions<sup>70</sup> in which the parliament ordered the competent authorities to comply with the recommendations of the Protector of Citizens and to report on the outcome to the National Assembly by 31 December 2014. According to the information available to the Protector of Citizens, the competent authorities have not done as instructed.

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<sup>68</sup> the Police Administration of Šabac, the Police Administration of Smederevo, the Police Administration of Novi Sad, the Police Administration of Zrenjanin, the Police Administration of Pančevo, the Police Administration of Sremska Mitrovica, the Police Administration of Sombor, the Police Administration of Subotica, the Police Administration of Kikinda, the Police Administration of Novi Pazar and the Police Administration of Prijepolje.

<sup>69</sup> Special Psychiatric Hospital "Sveti Vračevi" Novi Kneževac; Special Psychiatric Hospital "Dr. Slavoljub Bakalović" Vršac and Special Psychiatric Hospital Kovin.

<sup>70</sup> Official Gazette of RS, No. 114/14.

In its review of the 2013 Annual Report of the National Preventive Mechanism, the National Assembly recognised the importance of the recommendations made by the NPM to the Ministry of Interior and adopted the Conclusions of the Committee on Justice, Public Administration and Local Self-government<sup>71</sup> which endorse the recommendations. In its Conclusions, the National Assembly ordered the Ministry of Interior and the Government to bring the Instructions on Treatment of Persons brought in by Police and Persons in police Custody in compliance with the applicable regulations, standards and rulings of the European Court of Human Rights and to provide the necessary funds in the 2015 budget for the construction or adaptation of custody cells in police stations to make them compliant with the applicable standards. The Conclusions of the National Assembly ordered the competent authorities to implement the recommendations fully and without delay and notify the National Assembly thereof in writing by 31 December 2014.

With regard to position of persons in pre-trial detention (hereinafter *detainees*), the National Assembly ordered the Administration for Enforcement of Penal Sanctions of the Ministry of Justice to improve the treatment of detainees and to allow them the full enjoyment of all pertinent rights, in full compliance with all applicable regulations and standards. The National Assembly endorsed the recommendations made by the Protector of Citizens with a view to improving the position of persons deprived of liberty and preventing mistreatment and ordered the competent authorities to implement them without delay<sup>72</sup>. The Administration for Enforcement of Penal Sanctions of the Ministry of Justice has been ordered to undertake all necessary measures to improve the treatment of convicted persons in accordance with the recommendations made by the Protector of Citizens.

In connection with the review of the 2013 Report of the National Preventive Mechanism<sup>73</sup> by the National Assembly, the Committee on the Rights of the Child passed a Conclusions<sup>74</sup> which ordered the competent public authorities to step up their deinstitutionalisation efforts and phase out the existing social welfare homes, while ensuring community-based care for all children and providing comprehensive support and appropriate action to ensure that social welfare homes discontinue the practice of placing children with mental and/or intellectual difficulties in solitary confinement.

In connection with the review of the 2013 Report of the National Preventive Mechanism<sup>75</sup> by the National Assembly, the Committee on Human and Minority Rights passed a Conclusions<sup>76</sup> which ordered the authorities addressed by the recommendations to immediately and fully implement all recommendations and in particular to register all migrants who enter the territory of the Republic of Serbia, to ensure that migrants are under full control by the competent authorities pending the final resolution of their status or their deportation in accordance with the applicable regulations and to ensure that asylum applications are processed in expedite proceedings, while at the same time thwarting all attempts at abusing any of the rights afforded to the migrants, with full respect of the minimum rights of irregular migrants and asylum-seekers in accordance with the rules of international law and the applicable standards.

Relevant Conclusions of the National Assembly of the Republic of Serbia are attached hereto in ANNEX II.

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<sup>71</sup> [http://www.zastitnik.rs/attachments/3518\\_odbor%20pravosudje.pdf](http://www.zastitnik.rs/attachments/3518_odbor%20pravosudje.pdf).

<sup>72</sup> National Assembly Resolution No. 73, adopted in the fourth session of the Second Regular Convocation in 2014 held on 23 October 2014.

<sup>73</sup> Report available at [http://zastitnik.rs/attachments/3471\\_IZV%20NPM%202013%20final.pdf](http://zastitnik.rs/attachments/3471_IZV%20NPM%202013%20final.pdf).

<sup>74</sup> [http://www.zastitnik.rs/attachments/3518\\_odbor%20za%20prava%20deteta.pdf](http://www.zastitnik.rs/attachments/3518_odbor%20za%20prava%20deteta.pdf).

<sup>75</sup> Report available at [http://zastitnik.rs/attachments/3471\\_IZV%20NPM%202013%20final.pdf](http://zastitnik.rs/attachments/3471_IZV%20NPM%202013%20final.pdf).

<sup>76</sup> [http://www.zastitnik.rs/attachments/3518\\_odbor%20ljudska%20i%20manjinska.pdf](http://www.zastitnik.rs/attachments/3518_odbor%20ljudska%20i%20manjinska.pdf).

## 5.7. Events and promotion of NPM/Prevention of Torture

With the aim of promoting and protecting the rights of persons deprived of liberty and prevention of torture, in 2014 NPM representatives took part in numerous conferences, round tables and workshops. Deputy Protector of Citizens, who is in charge of rights of persons deprived of liberty, held several lectures for students at the Faculty of Law and issued about 30 press releases in connection with prohibition of abuse and improvements in the field of prevention of torture.

In February 2014, the Protector of Citizens, the Ministry of Internal Affairs and the Belgrade Centre for Human Rights held a press conference titled “Challenges faced by the Republic of Serbia in the Field of Asylum and Migrations.” In March 2014, NPM representatives took part in the conference “Situation in the Field of Mental Health and Measures taken in the Deinstitutionalisation Process”, organised by the Helsinki Committee for Human Rights and the International Assistance Network. On the UN International Day in Support of Victims of Torture, the 26th of June, the Committee of the Lawyers’ Committee for Human Rights organised a press conference titled “The Role of Health Care Services in the Prevention of and Punishment for Torture”, in which the Deputy Protector of Citizens in charge of this field and a representative of the NPM presented the health care situation in prisons. In September 2014, Group 484, the Belgrade Centre for Human Rights and the Belgrade Centre for Security Policy held a conference titled “System of Asylum and Migrations”, which was addressed by the Deputy Protector of Citizens in charge of this field and a representative of the NPM.

In November 2014, the Protector of Citizens, acting in the capacity of the NPM, together with the OSCE Mission to Serbia and the UNHCR Office held the First South-East OPCAT Forum. The Forum was attended by members of the UN Subcommittee on Prevention of Torture (SPT), representatives of national preventive mechanism of 19 countries, members of the European Committee for the Prevention of Torture (CPT), the Association for the Prevention of Torture (APT) and other international organisations, as well as Serbian representatives of the civil society. A press conference titled “Prevention of Torture and Other Forms of Torture and Fight against Impunity” was held on the following day. In addition to the participants in the Forum, the conference was also attended by representatives of the relevant ministers, as well as courts and prosecution offices.

The NPM’s website (<http://npm.rs>), available both in Serbian and in English, contains all news, reports of visits and replies of the visited authorities regarding their compliance with the recommendations, as well as information on all other activities undertaken by the Serbian NPM.

## 5.8. Cooperation with the Subcommittee on Prevention of Torture

In 2014 the Serbian NPM continued cooperation with the Subcommittee on Prevention of Torture.<sup>77</sup>

In November 2014, the First South-East OPCAT Forum was also attended by members of the UN Subcommittee on Prevention of Torture, including the Chair of the Subcommittee Mr. Malcolm Evans, as well as members Ms Margarete Osterfeld, Mr. Viktor Zaharia, Ms Aneta Stancevska, Ms Marija Definis Gojanović and Mr. Miloš Janković.

<sup>77</sup> Guidelines of the Subcommittee on Prevention of Torture, sections 39 and 40, available on the Subcommittee’s website: [http://www2.ohchr.org/english/bodies/cat/opcat/docs/SPT\\_Guidelines\\_NPM\\_en.doc](http://www2.ohchr.org/english/bodies/cat/opcat/docs/SPT_Guidelines_NPM_en.doc).

## 5.9. Cooperation with other NPMs

The Serbian NPM has continued cooperating with other NPM's within the framework of the Southeast Europe NPM Network.

In 2014, the Protector of Citizens continued his cooperation with members of the Southeast Europe NPM Network. In May 2014, a representative of the Serbian NPM took part in the Network meeting titled "Methodology of Writing NPM Reports" held in Ljubljana (Slovenia). In October 2014, NPM representatives attended a special training session titled "Monitoring of Psychiatric Institutions in the Context of Protection from Torture and Inhuman and Degrading Treatment" held in Skopje (FYR Macedonia).

In 2014 the Serbian NPM received study visits from representatives of the Georgian NPM, the Public Monitoring Commissions (PMC) of Russia and the Ukrainian NPM. During those study visits, the Serbian NPM presented his work and visited places of detention together with the representatives of these monitoring mechanisms. The Protector of Citizens was also visited by representatives of the NPMs, public authorities and non-governmental organisations of Montenegro and Albania.

In cooperation with the Spanish NPM, the Serbian NPM monitored the repatriation of returnees from the Kingdom of Spain and the Federal Republic of Germany at the "Nikola Tesla" Airport.

The Forum held in November 2014 was attended by members of 19 national preventive mechanisms, including: Azerbaijan, Albania, Austria, Bosnia and Herzegovina, Bulgaria, Greece, Estonia, Lithuania, Hungary, FYR Macedonia, Germany, Poland, Romania, Slovenia, Serbia, France, Croatia, Montenegro and Czech Republic.

## 5.10. Distribution of NPM's Annual Report

The States Parties to the Optional Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.<sup>78</sup>

The 2013 Annual Report of the NPM has been submitted to the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Constitutional Court, the Supreme Court of Cassation and the Republic Public Prosecutors' Office.

With the support of the OSCE Mission to Serbia, the Report has been translated into English and published in both Serbian and English. The Report, in the form of a publication in Serbian, has been submitted to the Committees and Commissions of the National Assembly, independent public authorities, line ministries, all correctional facilities, all police administrations, social security institutions, special psychiatric hospitals, university schools and the associations and experts with whom the NPM cooperated in various specialist areas.

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.<sup>79</sup>

The English version of the Report has been submitted to the UN Subcommittee on Prevention of Torture (SPT), the UN Committee against Torture (CAT), the Council of Europe Office in Belgrade, the European Committee for the Prevention of Torture (CPT), the Association for the

<sup>78</sup> Article 23 of the Optional Protocol.

<sup>79</sup> Article 22 of the Optional Protocol.

Prevention of Torture (*APT*) and other relevant international organisations. The Report has also been submitted to other NPMs.

The NPM posts its Annual Reports in Serbian and in English on the NPM's website<sup>80</sup> and on the website of the Protector of Citizens<sup>81</sup>.

## 6. Background and NPM's Activities by Specific Areas in 2014

There has been no effective fight against impunity for torture in the Republic of Serbia. In the course of 2014, the NPM found multiple instances of irregularities which involved failure to perform medical examination of persons deprived of liberty after the use of force in accordance with the applicable regulations and standards, which is essential for determining whether the use of force was justified, whether the examined person was subjected to mistreatment and, ultimately, how best to provide health care to a person against whom force was used.

In this context, the Administration for Enforcement of Penal Sanctions has complied with the relevant recommendation made by the Protector of Citizens<sup>82</sup> and has undertaken measures to improve the manner in which medical examination of persons deprived of liberty after the use of force is performed, as well as to improve the reporting arrangements in cases of suspected violence against the examined persons.

In addition to strengthening the role of physicians in the fight against impunity for torture, it is also necessary to improve the oversight of places of detention and to strengthen their internal controls for this purpose. Among other things, the Supervision Unit should be separated from the Administration for Enforcement of Penal Sanctions and attached to the Ministry of Justice as a separate organisational unit<sup>83</sup>; furthermore, the functioning of internal control mechanisms with regard to the respect for human rights at psychiatric hospital and social welfare homes should also be improved.

An illustrative example of this is a case of torture identified in early 2012 in a recommendation by the Protector of Citizens<sup>84</sup>, which was confirmed in mid-2013 by a judgement of the Constitutional Court.<sup>85</sup> The prison administration has still not found the direct perpetrators and the responsible officers who should have taken necessary measures to prevent or to timely identify and investigate the mistreatment, but failed to do so. What is worrying is that the prosecutors' office has suspended the investigation and that no judicial proceedings have been initiated, which resulted in a failure to apportion criminal liability in the case where two public authorities previously found that a person deprived of liberty was subjected to torture, inhuman or degrading treatment or punishment. It is obvious that the competent public authorities should step up their fight against impunity for torture. In this context, in addition to prosecutor's offices and courts, internal control mechanisms of public authorities should have an important role in terms of increasing their efficiency.

<sup>80</sup> <http://ombudsman.npm.rs/index.php?limitstart=28&lang=sr>.

<sup>81</sup> [http://www.zastitnik.rs/attachments/2902\\_izvestaj\\_%20NPM\\_%202012.pdf](http://www.zastitnik.rs/attachments/2902_izvestaj_%20NPM_%202012.pdf).

<sup>82</sup> Recommendation of 6 October 2014, ref. No. 29004/29006.

<sup>83</sup> In its Resolution No. 73 of 23 October 2014, the National Assembly advised the Ministry of Justice to consider the recommendations made by the Protector of Citizens with regard to separation of the Supervision Unit from the Administration for Enforcement of Penal Sanctions and to propose relevant amendments to laws and other regulations in that context.

<sup>84</sup> Case No. 12-3630/12.

<sup>85</sup> Decision of the Constitutional Court of the Republic of Serbia No. Uđ-4100/2011.

In Conclusions 73. of the National Assembly of the Republic of Serbia of 23 October 2014 states that “With regard to the assessment of the Protector of Citizens that the competent public authorities fail to comply with their duties in the fight against impunity for torture, that they do not always conduct timely and detailed procedures to determine whether the rights of persons deprived of liberty were violated, that individual responsibility for violation of these rights and responsibility for omissions in work and organisation of work was apportioned to responsible persons only in few cases, as well as that few persons responsible for violation of these rights were punished, and particularly having in mind that the Protector of Citizens and the Constitutional Court identified certain cases of abuse, the National Assembly orders the competent public authorities to fully comply with their duties in the fight against impunity for torture, to take all necessary measures and activities to prevent abuse and, in accordance with the law, to conduct timely and detailed procedures to investigate all substantiated allegations of abuse and apportion subjective and objective responsibility and to punish those responsible.”

## 6.1. Police custody

As part of oversight of treatment of persons brought in by the police and persons placed in police custody, in 2014 the Serbian National Preventive Mechanism visited a total of 19 police stations. The NPM prepared 7 reports of visits to police administrations in 2014, including one report of a visit conducted in late 2013<sup>86</sup> which was submitted to the visited facility and the competent Ministry in early 2014. The reports of the visits contained a total of 120 recommendations. Of those, the competent authorities have complied with 67 recommendations, while 8 recommendations have not been complied with and 45 need to be monitored further.

Similarly as in the past, many of the recommendations given by the Serbian NPM concerned improvements in the conditions of placement in custody cells. Those recommendations that did not require any financial investment have mostly been implemented. On the other hand, those that did require financial investment (reconstruction of rooms, installation of heating, installation of video surveillance etc.) have not been implemented in most cases; instead, the competent services of the Ministry of Interior have been notified of the required adaptation works and their cost. Shortage of funds is the most commonly cited reason for failure to comply with the recommendations.

The NPM has recommended the decommissioning of two custody cells<sup>87</sup> because they do not meet the minimum standards for the placement of persons in police custody; furthermore, the NPM has called for adaptation of certain custody cells<sup>88</sup> and has demanded that the conditions of placement be brought in compliance with the applicable standards. Just as last year, due to a lack of rooms suitable for remanding persons in police custody, it has been observed that persons remanded in custody are often held in police offices<sup>89</sup> or transferred to other police stations, for example in the case of the Police Administration of Vranje, which has only one custody cell situated in the Police Station in Surdulica, although its police stations are dispersed over a wide geographic area. Namely, due to a shortage of custody cells, police officers at the Police Administration of Vranje, the Police Station in Bujanovac, the Police Station in Preševo, the Police Station in Trgovište, the Police Station in Bosilegrad and the Police Station in Vladičin Han transfer all persons they detain to the Police Station in Surdulica or the District Prison in Vranje, which makes their work much more difficult and complicated and increases safety risks both for the persons in police custody and the assigned police officers.

Furthermore, not all of the visited police administrations/stations have dedicated areas where persons who are in police custody for more than 24 hours could spend some time in fresh air.

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<sup>86</sup> Report of the Visit to the Police Administration of the City of Belgrade, case No. 71-71/13.

<sup>87</sup> Custody cells in the Police Station in Kula and the Police Station in Apatin.

<sup>88</sup> Rooms in the headquarters of the Police Administration of Novi Pazar, the Police Station in Tutin, the Police Station in Sjenica, the Police Station in Surdulica and the headquarters of the Police Administration of Sombor.

<sup>89</sup> The Police Station in Mionica and the Police Station in Mali Idoš.

In a certain number of cases, the NPM has found that reports drawn up by physicians after the use of force against detainees did not contain information on the alleged origin of any bodily harm inflicted on the examined persons or the physician's opinion whether the injuries could have been caused in the manner alleged by the person in police custody. As a rule, such reports also do not state whether the examination was conducted in the presence of police officers. To ensure that the control of justifiability and regularity of any use of force is as impartial and sound as possible, it is necessary to record all relevant and needed information concerning the circumstances in which force was used.

Although the recommendations and reports of the NPM have been calling for amendments to the Instructions on Treatment of Persons brought in by Police and Persons in police Custody<sup>90</sup>, the Ministry of Interior has not undertaken any activities to make them compliant with the positive regulations and applicable standards. Notwithstanding the NPM's recommendation, the Police Administration of Sombor has continued the practice of using handcuffs on all persons who are brought to police stations. It should be noted that, where the use of force is not absolutely necessary, it constitutes a violation of human rights and dignity and should be resorted to only where specific circumstances of the case warrant it, taking into account all objective circumstances.

The NPM is of the opinion that there is no justification for any further delays with regard to amendment of the provisions<sup>91</sup> of the Instructions on Treatment of Persons brought in by Police and Persons in police Custody which provide for mandatory use of handcuffs when transporting persons brought in by the police and mandatory attendance of medical examinations of persons in police custody by police officers.<sup>92</sup>

In compliance with the NPM's recommendations, certain positive tendencies have been observed in 2014; namely, certain police stations<sup>93</sup> have improved the conditions in their custody cells and have adapted them to meet the applicable standards. Furthermore, the police officers of the police administrations of Kruševac, Novi Pazar, Vranje and Sombor give all persons in police custody written notice of their rights, while the police officers of certain police stations<sup>94</sup> do not keep medical records on police files and instead provide them to the persons concerned, taking into account the fact that medical records constitute particularly sensitive personal data. In certain police stations<sup>95</sup>, police officers do not attend the medical examinations of persons in police custody. Furthermore, in 2014 police officers have been trained on proper treatment of persons brought in by the police and persons held in police custody. As part of that training, they were also trained to provide first aid, while some police stations<sup>96</sup> have also provided first aid kits.

#### **General recommendations for remedying the identified shortcomings**

**Custody cells in police stations should be made compliant with applicable standards and the funds required for that purpose should be provided without any further delays. The Instructions on Treatment of Persons brought in by Police and Persons in police Custody should be brought in compliance with the applicable regulations and standards.**

<sup>90</sup> Instructions on Treatment of Persons brought in by Police and Persons in Custody, 01 No. 7989/12-10 of 10 December 2012.

<sup>91</sup> Section 13 paragraph 2 and section 26 paragraph 3.

<sup>92</sup> See e.g. judgement of the European Court of Human Rights in *Berlinski v. Poland* (App. No. 27715/95 and 30209/96), pp. 59.

<sup>93</sup> The Police Administration of Kruševac and the Border Police Station at the "Nikola Tesla" Airport

<sup>94</sup> Report of the Visit to the Police Administration of the City of Belgrade case No. 71-71/13, Report of the Visit to the Police Administration of Sombor case No. 71-5/14, Report of the Visit to the Police Administration of Valjevo, case No. 71-18/14, Report of the Visit to the Police Administration of Subotica бр, предмета 71- 4/14.

<sup>95</sup> Report of the Visit to the Police Administration of Vranje, case No. 71-45/14, Report of the Visit to the Police Administration of Valjevo, case No. 71-18/14, Report of the Visit to the Police Administration of Novi Pazar, case No. 71-57/14.

<sup>96</sup> The Police Administration of Novi Pazar, the Police Administration of Valjevo, the Police Administration of Sombor.



**Police officers shall not bind all persons brought in police stations; instead, this shall be done only where justified reasons pertain and where strictly necessary, in cases where this is provided by the law.**

**Police officers shall not attend medical examinations of persons in police custody, unless explicitly asked to do so by the attending physician and only in exceptional circumstances. Police officers shall timely provide physicians with all available information relevant for the physician's decision whether to request that a police officer be present during the medical examination of a person in police custody.**

**Police stations should provide designated areas where persons who spend more than 24 hours in police custody could spend time in fresh air.**

**Police officers should receive training on how to use police powers against persons with mental disorders, i.e. it should ensure that police officers act in compliance with the Law on the Protection of Persons with Mental Disabilities.**

## 6.2. Enforcement of pre-trial detention

During the reporting period, the NPM issued a total of 16 recommendations to the visited detention units. Of that number, 7 recommendations have been complied with, while 9 have not.

The Law on Enforcement of Penal Sanctions<sup>97</sup> enacted in 2014 provides for a special form of judicial protection of the rights of persons in pre-trial detention (hereinafter *detainees*): detainees are allowed to lodge complaints with a penal judge, either orally for the record or in writing. The new Bylaw on Enforcement of Pre-Trial Detention Measures<sup>98</sup> provides in greater detail than the previously applicable bylaw in this field for the manner in which detainees can exercise their right to health care and their right to visits, as well as the remedial procedure available to detainees to protect their rights.

2014 saw the enactment of the new Law on Enforcement of Penal Sanctions<sup>99</sup>, with amended provisions governing the enforcement of pre-trial detention measures, as well as the enactment of the pertinent implementing regulation.

The number of detainees has been declining in recent months and the overcrowding problem at detention units has been alleviated as a result. Presumably, this could be attributed to the effectiveness of the new Code of Criminal Proceedings, which introduced the so-called "prosecutor's investigation"; however, another reason is the attorneys' strike from September 2014 to the second half of January 2015. However, since attorneys refused to appear in court for trials during their strike, courts did not hold hearings of detainees, which prejudiced the right of detained persons arising from the duty of courts to keep the duration of detention as short as possible.

Just as in the previous reporting period, accommodation conditions and other living arrangements in certain detention units did not comply with the applicable regulations and standards, with most detainees not provided with the statutory minimum of eight cubic metres and four square metres in the dormitories. Some rooms in detention units are extremely dilapidated, with unusable sanitation facilities, dirty, unaired, without sufficient natural light and with poor artificial lighting.

<sup>97</sup> Official Gazette of RS No. 55/14.

<sup>98</sup> Bylaw on Enforcement of Detention Measures, Official Gazette of RS No. 132/14.

Accommodation conditions in certain detention units do not comply with the applicable standards.

Detainees spend the whole day locked up in their cells/dormitories, except during the walking exercise hours. They are not allowed to spend the spare time during the day outside their cells, in communal areas with other detainees, unless they have been segregated from them under court orders. Detainees are in most cases not allowed to work or to participate in social and cultural activities. They also lack sufficient opportunities for physical exercise, especially during inclement weather.

Contrary to applicable standards, detainees are as a rule not allowed to spend the spare time during the day outside their cells, in communal areas with other detainees, unless they have been segregated from them under court orders.

Women in pre-trial detention are placed in the detention units of penal facilities; however, due to their relatively low numbers per detention unit, some of them are in virtual solitary confinement during their pre-trial detention. Thus, what is meant to be a disciplinary punishment for incarcerated persons effectively becomes the only available arrangement for women in detention. In addition, visits to the correctional facilities have revealed a problem with inadequate sanitary packages for women, although this issue has been remedied following the NPM's recommendations.

Compared with the previous reporting period, there have been no major improvements with regard to the conditions of detention and the enjoyment of all rights afforded to detainees, although certain steps in the right direction have been observed. While the issue of assigning detainees to dormitories according to the severity of the criminal offence for which they are indicted is still not sufficiently taken into consideration, some penal and correctional facilities have improved their practice in this regard in compliance with the recommendations made by the Protector of Citizens (e.g. The Penal and Correctional Facility in Šabac). Furthermore, the detention unit of the Penal and Correctional Facility in Šabac places non-smoking detainees in rooms where they would not be exposed to tobacco smoke, if they so request upon their remand.

Most detention units allow detainees to spend minimum two hours a day outside in fresh air; all detention units afford a minimum of one hour in fresh air to the detainees, which is fully compliant with the applicable international standards in this respect<sup>100</sup>.

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<sup>100</sup> The Law on Enforcement of Penal Sanctions provides that incarcerated persons must be allowed to spend minimum two hours of their spare time in fresh air, while the applicable international standards provide for minimum one hour in fresh air.

### **General recommendations for remedying the identified shortcomings**

**The inadequately equipped detention units should be upgraded and made compliant with the applicable regulations and standards.**

**The Administration for Enforcement of Penal Sanctions should take the necessary activities to amend the Bylaw on Enforcement of Detention Measures, which would contain detailed provisions to allow detainees to spend the spare time during the day outside their cells, in communal areas with other detainees, unless they have been segregated from them under court orders and to allow detainees to work and to participate in social and cultural activities.**

**Detainees should be allowed to work and to participate in social and cultural activities.**

**The necessary activities should be undertaken to ensure that female detainees are not placed in *de facto* solitary confinement due to their low numbers.**

**When assigning detainees to dormitories, the severity of the crime for which they are indicted should be taken into account.**

**Detainees with severe disabilities in detention units should be provided with appropriate accommodation, treatment and rehabilitation.**

### **6.3. Enforcement of penal sanctions**

In the course of 2014, the NPM conducted two scheduled visits to penal and correctional facilities and a visit to the Juvenile Correctional Facility in Kruševac. In early 2014, a Report with Recommendations was issued to the Juvenile Penal and Correctional Facility in Valjevo, which pertained to a visit conducted in late 2013. The said reports contained a total of 114 recommendations. Of that number, the competent authorities have implemented 51 recommendations, 25 need a follow-up, while 38 recommendations have not been implemented.

The Republic of Serbia has enacted the new Law on Enforcement of Penal Sanctions<sup>101</sup> and its implementing instruments have been enacted, as well as the Law on Enforcement of Non-Custodial Sanctions and Measures.<sup>102</sup> The Action Plan on Implementation of the Strategy for Development of the System for Enforcement of Criminal Sanctions in the Republic of Serbia by 2020<sup>103</sup> has also been passed and a network of offices for alternative sanctions has been formed.

Although certain facilities have been upgraded during the reporting period to meet the applicable standards relating to material conditions and other living arrangements, many rooms in penal and correctional facilities remain dilapidated. Large penal and correctional facilities ("Zabela" in Požarevac and facilities in Sremska Mitrovica and Niš) remain overcrowded.

**Accommodation conditions and other living arrangements for convicts and persons charged with misdemeanours at certain prison facilities still do not comply with the applicable standards.**

There is only one penal and correctional facility for incarcerated women and one juvenile correctional facility for the incarceration and correctional commitment of juvenile offenders. The fact that there is only one institution where juveniles are incarcerated and one where they are placed in the juvenile corrections system (in Valjevo and Kruševac respectively), both of which are overpopulated, creates fertile ground for informal systems which undermine the effects of correctional sessions. This also prejudices the principle that persons should serve their sentences as close to their place of residence as possible, thus making regular contact with family members and close persons more difficult. The principle of incarceration as close to the place of residence

<sup>101</sup> Official Gazette of RS No. 55/14.

<sup>102</sup> Official Gazette of RS No. 55/14.

<sup>103</sup> Resolution of the Government of RS No. 021-8527/14 of 7 August 2014.

as possible is also violated in the case of female inmates, because all of them are placed in the Penal and Correctional Institution for Women in Požarevac.

In spite of a major step forward in terms of occupational engagement of inmates, many of them are still without work. The number of employees who work on training and occupational engagement of inmates and the number of trainers at the Training and Occupational Engagement Department does not meet the occupational needs of convicts and persons found guilty of misdemeanours.

Active individual and collective correctional work of corrections officers with convicts needs to be further intensified. There is a need to improve the system of subsequent reassignment of inmates in order to provide possibilities for transfers to better correctional groups as a reward for good behaviour, in order to reduce the currently high number of inmates who are released directly from closed wards of the correctional facilities.

The programmes designed to provide social support and assistance to convicts after their release from the facilities remain perfunctory and convicts are largely left to their own devices once they are released back into the community, which increases the risk of their reoffending, as they are ill-prepared for life outside of prison. In this context, in the coming month and years we expect to see improvements as a result of implementation of the Law on Enforcement of Non-Custodial Sanctions and Measures and operation of the newly-formed custodial offices.

Certain penal facilities (e.g. "Zabela" in Požarevac) lack corrections officers they need for proper correctional treatment of inmates, in particular for individual and group sessions with the inmates, which hinders functional and reward-based assignment of inmates to specific groups and the award of extended privileges to them.

It has been found that many persons serving prison sentences are not able to spend their spare time during the day outside the dormitories, in communal areas with other inmates.<sup>104</sup>

Numerous shortcomings persist in the provision of health care to persons serving prison sentences. Most of the recommendations related to irregularities that had been observed in other facilities in the past<sup>105</sup>. Medical examinations upon admission to a prison facility are mostly superficial and do not follow a uniform protocol. This is primarily due to the lack of medical staff, especially physicians – both general practitioners and specialists in psychiatry. The lack of physicians at the Special Prison Hospital in Belgrade is particularly worrying. There are also shortcomings in the administration of medicines and treatment. At many facilities, these are administered by non-medical staff. Moreover, non-medical staff often attends medical examinations even when this is not demanded by a health care professional, which violates the inmates' privacy and the right to confidentiality of their medical information.

Persons serving prison sentences who have severe mental disorders are still placed in regular prison facilities, which are not adequate for their medical and psycho-social treatment.

The Protector of Citizens is of the opinion that these persons should be placed in the Special Prison Hospital or an in-patient health care facility within their respective penal institution (which should have the capacity for their treatment), or in some other appropriate medical institution.

Certain improvements have been made in the situation of persons deprived of liberty at the visited facilities as a result of the recommendations made by the Protector of Citizens.

The facility in Šabac has hired another lawyer to provide professional legal assistance to an inmate who is subject to disciplinary proceedings. Measures have been undertaken to provide a

<sup>104</sup> Report of the Visit to the Penal and Correctional Facility in Šabac, No. 71-23/14, and Report of the Visit to the District Prison in Novi Sad, No. 71-77/14.

<sup>105</sup> Annual NPM reports for 2012 and 2013.

suitable room for searches, where persons would be searched with full respect for their privacy and dignity. The facility has put in place measures to enable persons placed in closed units to take examinations outside of the facility. In the absence of a dental surgery, the facility has arranged for dental services to be provided to its inmates at the Medical Centre of Šabac. The food served to inmates is now more varied.

Acting in compliance with the NPM's recommendations, the District Prison in Novi Sad now allows the convicts placed in the closed ward to receive visits once every two months in a designated room. The room is equipped and adapted for receiving visits by persons close to inmates. Overall, the number of disciplinary proceedings, which used to be institutes for even the slightest breaches of discipline, has been reduced. The recommendation to photograph all injuries sustained by persons deprived of liberty – both those sustained during extraordinary events and those that could be the result of the use of force – has been complied with. This has afforded persons deprived of liberty the same level of protection in cases where their right to bodily integrity is jeopardised by the use of excessive force.

### **Juvenile Correctional Facility in Kruševac**

In June 2014, the NPM's team visited the Juvenile Correctional Facility in Kruševac. The Facility was issued 30 recommendations for eliminating the identified shortcomings, of which 13 have been implemented, while 17 have not.

The Juvenile Correctional Facility in Kruševac is the only facility in the Republic of Serbia where juvenile corrections are enforced. As already explained, the fundamental issue is the fact that the Facility is the only institution of its kind in Serbia, which means it is constantly overcrowded and this creates fertile ground for informal systems which undermine the effects of correctional sessions. This also prejudices the principle that persons should serve their sentences as close to their place of residence as possible, thus making regular contact with family members and close persons more difficult.

In the course of 2013, the Facility commissioned eight new pavilions in two complexes. However, the intensive work unit, the open unit, the intake unit and the corrections unit are in a state of disrepair. Due to a lack of funding, the Facility has been unable to renovate those units and to provide a designated room for visits by persons close to the inmates.

One of the recommendations made by the Protector of Citizens was to provide adequate intensive, varied and comprehensive correctional sessions. Namely, juvenile offenders placed in the juvenile correctional facility are not provided with intensive, varied and comprehensive correctional sessions suited to the wards' developmental needs, with multiple educational activities and programmes aimed at correcting offending behaviour. Furthermore, due to a shortage of corrections officers, the correctional groups tend to be too large, which makes sound correctional work with the wards all the more difficult.

A particularly grave concern was the inability to provide proper educational and correctional sessions to inmates at the Intensive Correctional Treatment Department (a separate unit outside the perimeter of the Facility, surrounded by high walls) due to poor conditions of accommodation, the lack of educational and cultural material and insufficient number of corrections officers. It has also been found that the originally designed corrections programme for the wards of this Department is not revised on a regular basis.

An analysis of the medical documentation relating to two cases in which the use of force was involved and direct examinations of the wards by a forensic medicine expert of the NPM team revealed that bodily harm was not described in detail in the medical sheets of the wards concerned relating to the initial and follow-up medical examinations conducted after the use of force. From the identified difference in the number, pattern and localisation of injuries caused to those persons it could be concluded that the medical examinations had not been done thoroughly and that the relevant sheets in the medical documentation did not list all existing injuries. Furthermore, the number, scope, localisation, pattern and nature of the injuries sustained by the

wards seemed to indicate that the force used on them had been disproportionate and was not intended to subdue them, but to intentionally cause them pain. Accordingly, the NPM recommended that the physician of the Facility should describe all injuries in detail, regardless of the circumstances in which they were sustained, and that the warden of the Facility should undertake measures without delay to ensure that each case in which use of force is involved can be analysed on the basis of complete medical documentation and to ensure that it can be determined beyond doubt that the minimum amount of force required was used against the wards and the use of force was not an excuse for intentional infliction of pain upon juvenile offenders.

The Facility also complied with the NPM's recommendation in connection with Record of Injuries. Namely, the NPM recommended that the existing Record of Injuries should include both the allegations made by the examined person concerning the origin of the injuries and the physician's conclusion on the manner in which the injuries occurred, i.e. The physician's medical opinion whether the injuries could have occurred in the manner alleged by the injured person. Furthermore, the Facility introduced the practice whereby its physician makes entries of all instances of bodily harm in dedicated Record of Injuries.

Acting in compliance with the NPM's recommendations, the Facility and the Administration for Enforcement of Penal Sanctions worked together with representatives of the Ministry of Education, Science and Technological Development to ensure that the diplomas issued to the Facility's wards at the end of their vocational training courses at the Facility are recognised as valid and equivalent to the diplomas received from regular VET schools, to enable the Facility's wards to compete in the job market for specific jobs on an equal footing with other members of the community.

#### **General recommendations for remedying the identified shortcomings**

**The recommendations of the Protector of Citizens which concern improvements in the accommodation arrangements at penal facilities have not been implemented.**

**Large penal and correctional facilities ("Zabela" in Požarevac and facilities in Sremska Mitrovica and Niš) remain overcrowded.**

**The Ministry of Justice should undertake measures within its sphere of competence in order to ensure that there is more than one penal and correctional facility for women and more than one penal and correctional facility/juvenile facility where juveniles serve their prison sentences/juvenile corrections sentences.**

**Many persons serving prison sentences are not able to spend their spare time during the day outside the dormitories, in communal areas with other inmates.**

**Numerous shortcomings persist in the provision of health care to persons serving prison sentences, primarily due to the lack of medical staff, especially physicians - both general practitioners and specialists in psychiatry. There are also shortcomings in the procurement of medicines and treatment. Moreover, non-medical staff often attends medical examinations even when this is not demanded by a health care professional.**

**Health care services in penal institutions report to those institutions, i.e. to the Administration for Enforcement of Penal Sanctions, instead of to the Ministry of Health.**

**Incarcerated persons with mental disorders are still placed in the regular prison system, which is not appropriate for their medical and psychosocial treatment.**

**Certain penal facilities (e.g. "Zabela" in Požarevac) lack corrections officers they need for proper correctional treatment of inmates, in particular for individual and group sessions with the inmates, which hinders functional and reward-based assignment of inmates to specific groups and the award of extended privileges to them.**

**In spite of a major step forward in terms of occupational engagement of inmates at penal facilities, many of them are still without work and occupational activities remain insufficient.**

**There is no appropriate mechanism in place for gradual reintegration of released convicts into the community.**

**The Supervision Unit has not been separated from the Administration for Enforcement of Penal Sanctions and attached to the Ministry of Justice and Public Administration, which would have enabled it to oversee the work of the Administration as a whole.**

#### **6.4. Detention of persons with mental disorders to psychiatric hospitals**

In the course of 2014, the NPM visited Special Psychiatric Hospital “Sveti Vracevi” to inspect compliance with earlier recommendations, as well as Special Hospital for Psychiatric Diseases “Dr. Slavoljub Bakalović” in Vršac as part of regular inspection visits. He also issued a Report with Recommendations to Special Hospital for Psychiatric Diseases “Kovin”<sup>106</sup>.

During the visits it was found that courts acted and passed decisions on involuntary commitment in accordance with the Law<sup>107</sup> and within the time limits set by the Law. Hearings are held at the hospital, where the person whose involuntary commitment is decided on gives his/her statement. The patient is required to sign an advice of delivery of the court decision, which advice of delivery is then returned to the court with the patient’s signature as proof of his/her receipt of the decision on involuntary confinement<sup>108</sup>.

Certain psychiatric hospitals have done adaptation and renovation work<sup>109</sup>. Toilets are now designed to provide privacy to patients. Hospitals encourage patients to wear their day clothes during the day and hospital rooms and other areas where patients stay (communal areas, halls, dining rooms...) are decorated to create a more humane environment and reflect the specific nature of the patients who use them. Hospitals encourage patients to bring with them their personal belongings and photographs, as well as books and magazines.

However, the rooms in the large psychiatric hospital in Kovin are dilapidated and do not meet the applicable standards<sup>110</sup>. Large rooms, some of them even featuring more than 20 beds, are not conducive to creating a positive therapeutic environment, nor do they give the patients their privacy<sup>111</sup>. Furthermore, hospital rooms and other areas where patients stay (communal areas, halls, dining rooms...) are mostly not decorated to create a more humane environment and reflect the specific nature of the patients who use them.

Psychiatric hospitals hold information sessions for their patients and provide technical support in the organisation and conduct of elections for and operations of the Patients’ Council<sup>112</sup>, thus allowing patients to participate in the making of decisions that are important and relevant for their stay and treatment at the hospitals.

Hospitals keep records of the exact time when the physical restraint/binding of a patient began (which is entered immediately upon applying the measure), the exact time when the restraints

<sup>106</sup> Visit conducted in December 2013.

<sup>107</sup> Law on the Protection of Persons with Mental Disabilities (Official Gazette of RS No. 45/2013).

<sup>108</sup> Report of Visit to the Special Psychiatric Hospital “Sveti Vračevi”, No. 71-15/14, and Report of Visit to the Special Psychiatric Hospital Kovin, No. 71-73/13.

<sup>109</sup> Special Psychiatric Hospital “Sveti Vračevi” Novi Kneževac and Special Psychiatric Hospital “Dr. Slavoljub Bakalović” Vršac.

<sup>110</sup> Special Psychiatric Hospital Kovin, No. 71-73/13.

<sup>111</sup> Special Psychiatric Hospital Vršac, 71-26/14, and Special Psychiatric Hospital Kovin, No. 71-73/13.

<sup>112</sup> Special Psychiatric Hospital Kovin, No. 71-73/13 and Special Psychiatric Hospital “Sveti Vračevi” No. 71-15/14.

are removed (which they enter immediately upon removing the restraints), the reasons for applying this measure, the name of the physician who ordered or approved the measure, a description of any injuries caused to patients or staff and any other relevant circumstances.<sup>113</sup> Patients are not physically restrained in rooms where other, unrestrained patients stay. In accordance with the recommendation of the NPM, physical restraint is performed by binding one limb only.

Hospitals have improved their arrangements for informing patients of their treatment at the hospital and their rights by providing brochures which are distributed to patients and their families and/or guardians immediately upon admission. Patients who are not capable of understanding the brochure are given assistance by appropriate means in order to introduce them to the content of the brochure to the extent that their intellectual capacities allow.

An encouraging development is the organisation of training and professional advancement sessions for the medical staff of the hospitals. However, the staff of psychiatric wards of General Hospitals also needs to undergo training.

The length of patients' stay at hospitals for non-medical reasons in itself constitutes inhuman treatment. As there are no appropriate community-based mental health services that would be capable of caring for patients after their hospital treatment, there is no continuity of care and proper psychosocial rehabilitation is lacking. This can lead to an aggravation of the underlying disorder and may contribute to rapid deterioration of personality.

Cooperation between psychiatric hospitals and centres for social work in connection with community-based care for the patients who have been institutionalised for years, many of them due to social considerations, remains unsatisfactory. Upon examination of several medical histories, we found that hospitals tend to ask centres for social work to arrange for the transfer of such patients to social welfare homes, as the patients allegedly did not have any relatives who were willing to take care of them upon their discharge from the hospital.

With a view to improving the position of patients, it will be necessary to step up the efforts towards introducing community-based mental health care. Support should be provided to the families who are willing to take in the patients upon their discharge. An encouraging development is the plan to open a Community-based Mental Health Care Centre in Kikinda, which would be staffed by physicians of the Special Psychiatric Hospital "Sveti Vračevi".

A crucial issue faced by psychiatric hospitals is the lack of medical staff and occupational therapists. Due to the insufficient human resources, employees are not able to fully meet patients' needs. Hospitals have applied to the Ministry of Health for staff increases on many occasions, but this issue remains unresolved.

Cooperation between psychiatric hospitals and general hospitals is unacceptably poor. General hospitals do not accept clinical evidence for patients referred to them from psychiatric hospitals, even if the conditions are life-threatening. Patients with severe conditions are sometimes sent from general hospitals to special psychiatric hospitals simply because they were once treated in one of those special hospitals, even if their mental health is not a primary consideration at the given moment.

#### **General recommendations for remedying the identified shortcomings**

**The Ministry of Health should without any further delay implement all necessary activities aimed at rationalization of services in secondary and tertiary psychiatric institutions, focusing on day hospitals and out-patient treatment and should initiate intensive activities on the introduction of the services of community-based mental health protection.**

<sup>113</sup> Special Psychiatric Hospital Kovin, No. 71-73/13, and Special Psychiatric Hospital "Sveti Vračevi", No. 71-15/14.



**The Ministry of Health should put in place measures within its sphere of competence to amend the Law on the Protection of Persons with Mental Disabilities, including the provisions governing voluntary and involuntary hospitalisation procedures, the role of police in relation to persons with mental disorders, the use of physical restraint and in particular solitary confinement of patients. Once the Law has been amended, it will be necessary to work on amendments to the Bylaw on Detailed Conditions for Use of Physical Restraint and Solitary Confinement of Persons with Mental Disorders Hospitalized for Treatment in Psychiatric Institutions.**

**The Ministry of Health should put in place measures to adapt the accommodation capacities of the Social Psychiatric Hospital "Kovin."**

## 6.5. Detention of persons to social welfare homes

In 2014, the Serbian NPM visited a total of 5 social welfare homes. The NPM compiled three reports<sup>114</sup> of the visits conducted in 2014 and one report<sup>115</sup> of a visit conducted in 2013. Based on the Report of Visit to the Residential Institution "Veternik" of 2013, the NPM prepared 3 systemic recommendations<sup>116</sup> which were sent to the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat of Health, Social Policy and Demographics in 2014.

Through the reports of the visits, the competent authorities were issued a total of 49 recommendations. Of that number, the competent authorities have implemented 24 recommendations, 2 recommendations have not been implemented, 15 recommendations require follow-up activities, while in 8 cases the addressed authorities have not yet responded to the recommendations.

During the reporting period, the NPM has not observed any improvements in the care for persons placed in social welfare homes or any major advancements towards deinstitutionalisation. Large social welfare homes still have users whose sole reason for being placed there is the lack of community-based care and the absence of support to their families and guardians in their care for these persons. Apart from being unsuitable for the placement of beneficiaries, the existing social welfare homes lack staff, including in particular physicians, pedagogues and care-givers; also, there have been no visible efforts to bring the number of beneficiaries placed in such institutions down to the maximum allowed under the statute.

With the aim of removing most of the users from the Social Welfare Homes, bringing their number in line with the statutory maximum, providing for separate accommodation of children and adults and facilitation of community-based care for the users, in 2014 the NPM prepared recommendations in which he drew the attention of the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat of Health, Social Policy and Demographics to the identified shortcomings in the work of the Residential Institution "Veternik", the need to remove most of the users from the Institution in the next two years and the need to provide community-based support or accommodation, coupled with a reduction in the capacity of the Residential Institution to maximum 50 users, all of whom must be children and youth, in accordance with the relevant regulations and applicable standards.

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<sup>114</sup>Report of Visit to the Residential Care Facility Voždovac and the authority's response available at <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3572-2014-11-25-09-17-29>, Report of Visit to the Gerontology Centre "Srem" in Ruma and the authority's response available at <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3792-2015-04-14-14-18-00>, Report of Visit to the Gerontology Centre in Šabac case No. 71 -81/14.

<sup>115</sup>Report of Visit to the Residential Care Facility "Veternik" and the authority's response available at <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3360-2014-06-19-13-00-21>.

<sup>116</sup>Recommendations issued to the Residential Care Facility "Veternik" No. 75-54/14 available at <http://www.zastitnik.rs/index.php/lang-sr/2012-02-07-14-03-33/3418-2014-08-01-11-28-35>.

A particular concern is the fact that many children are also placed at social welfare homes<sup>117</sup>; also, some persons placed in social welfare homes have restricted freedom of movement (they are locked up) and many of them are occasionally physically restrained (bound) without proper legal grounds or applicable procedures.

Competent authorities do not act in compliance with international regulations and standards, including in particular the Convention on the Rights of Persons with Disabilities. Serbia, as a state party, has a duty to grant all persons with disabilities the right to social inclusion and the freedom to make their own choices. It also has a duty to put in place effective and appropriate measures to facilitate the exercise of this right by persons with disabilities and their full and effective participation and inclusion in the community. Based on the current state of affairs, it would seem that the government has not taken an active role to ensure the inclusion of persons with disabilities in community life.

The Ministry of Labour, Employment, Veteran and Social Affairs has not fully cooperated with the National Preventive Mechanism and has not taken the necessary measures to remedy the identified shortcomings pursuant to the recommendations given to it.

Based on the reports of visits to social welfare homes for the elderly, the NPM has found that, in addition to the issues concerning the staff structure, ranging from a shortage of staff to medical staff that is untrained to deal with dependent and semi-dependent users, there were also issues involved in the provision of treatment activities to such users and with taking dependent and semi-dependent users out for fresh air. Namely, due to the shortage of staff, dependent and semi-dependent users often spend most of the day in their rooms and, since the staff does not receive any education, training or seminars, the treatment services for dependent users tend to be less varied. The accommodation conditions for dependent and semi-dependent users tend to be worse than those of independent users. They are placed in rooms with multiple beds<sup>118</sup>, with no screens provided, which violates their right to privacy, as they are often in full view of other users when changing, grooming etc.; also, they are not provided with overhead handrails. SOS alarms in the rooms of dependent and semi-dependent users are either out of order or broken, which effectively prevents these users from alerting the staff in the event of an emergency. It has been found that the social welfare homes keep no records of submitted applications, complaints and appeals and have no procedures in place for their handling.

The social welfare homes for the elderly have mostly complied with the NPM's recommendations for improving the status of their users. Namely, they have undertaken measures to make the SOS alarm systems functional, overhead handrails have been provided and screens have been installed to protect users' privacy. Furthermore, plans have been made to train the staff involved in the work with users and records of submitted applications, complaints and appeals have been formed.

#### **General recommendations for remedying the identified shortcomings**

**It is necessary to commence with the activities recommended in the Conclusions of the Committee on the Rights of the Child of the National Assembly and step up efforts towards comprehensive deinstitutionalization, i.e. reduction of capacities and closing of the existing social welfare homes, as well as on community-based care for persons with intellectual and mental problems.**

**It is necessary to commence with the activities recommended in the Conclusions of the Committee on the Rights of the Child of the National Assembly and undertake available measures and activities to ensure that social security institutions discontinue the practice of placing children with mental and/or intellectual difficulties in solitary confinement.**

<sup>117</sup>At the time of the visit, 96 users were aged between 6 and 18.

<sup>118</sup> Report of Visit to the Gerontology Centre "Srem" in Ruma and Report of Visit to the Gerontology Centre Šabac.

**Social welfare homes should discontinue the practice of placing users in solitary confinement.**

**It is necessary to pass regulations that would govern the conditions and procedure for restricting the freedom of movement and using physical restraints on users in social welfare homes.**

**Measures should be put in place to provide a sufficient number of staff (physicians, pedagogues and caregivers) in social welfare homes.**

**It is necessary to ensure that children are placed separately from adults at social welfare homes.**

**The number of users placed in social welfare homes should not exceed the maximum capacity set by the law.**

## **6.6. Treatment of refugees/migrants**

In the course of 2014, the NPM focused on the position of asylum-seekers in the Republic of Serbia. In this context, the NPM had intensive cooperation with the UNHCR Office and the Belgrade Centre for Human Rights. The Protector of Citizens, acting in the capacity of the National Preventive Mechanism, issued 27 recommendations<sup>119</sup> to the Ministry of Interior and the Commissariat for Refugees and Migration in February 2014 in connection with improvements in the treatment of irregular migrants/asylum seekers in the Republic of Serbia. In the course of 2014, the NPM monitored compliance with these recommendations through visits to relevant authorities and institutions.<sup>120</sup> The NPM issued 30 reports<sup>121</sup> to the visited institutions which took stock of the current level of compliance of the competent authorities with the recommendations, followed by a special report<sup>122</sup> which summed up the findings regarding compliance with the recommendations issued by the NPM.

According to the figures of the Ministry of Internal Affairs, in 2014 there were 23,429 foreign nationals who illegally entered the territory of the Republic of Serbia. Of them, 16,730 expressed intent to seek asylum and 1350 of those have been registered, 460 have been issued with identity cards and 388 have applied for asylum. Asylum was granted to only one person, while five persons received subsidiary protection.

The huge discrepancy between the number of persons who expressed intent to seek asylum and the number of persons who actually applied for asylum, especially those who took part in proceedings pursuant to asylum applications, shows their aim never was to seek asylum in the first place; instead, they looked for opportunities to be given shelter at asylum centres and to legalise their stay in the Republic of Serbia until they have made arrangements to move on across the border to Western European Countries.

<sup>119</sup> Recommendation No. 75-6/14 available at <http://www.ombudsman.rs/index.php/lang-sr/2012-02-07-14-03-33/3190-2014-02-14-08-47-05>.

<sup>120</sup> A total of 41 institutions were visited (police administrations/stations, regional border police centres, centres for accommodation of asylum-seekers, penal institutions, juvenile correctional facilities and the Shelter for Foreigners in Padinska Skela).

<sup>121</sup> Reports of visits available at [http://ombudsman.npm.rs/index.php?option=com\\_content&view=category&layout=blog&id=89&Itemid=82&lang=sr](http://ombudsman.npm.rs/index.php?option=com_content&view=category&layout=blog&id=89&Itemid=82&lang=sr).

<sup>122</sup> Report available at <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3754-2015-03-24-12-07-14>.

Persons who express intent to seek asylum tend to stay in the territory of the Republic of Serbia between several days and several weeks, until they make arrangements to cross the national border of the Republic of Serbia.

Through the reports on compliance with the recommendations, the NPM has identified certain improvements in the treatment of migrants/asylum-seekers in the Republic of Serbia. First of all, in accordance with the relevant recommendations, an Asylum Office has been formed and staffed with much more employees than the former Asylum Department. The Ministry of Interior has stepped up its efforts to identify and register foreign nationals found in the territory of the Republic of Serbia. The Commissariat for Refugees and Migration has ended the practice of issuing certificates of temporary absence to asylum-seekers. Also, as from September 2014, duty police officers have been present at asylum centres on a daily basis and have been reporting regularly to the Border Police Administration on the remaining available beds at the asylum centres. The Border Police Administration forwards this information to police stations, which then refer persons who expressed intent to seek asylum to those asylum centres where beds are available. The asylum centres have increased their intake capacities by about 760 persons in total.

However, notwithstanding these improvements, there are still certain shortcomings, both in terms of Serbia's national security and in terms of respect for the rights of asylum-seekers/migrants. First of all, the competent authorities of the Republic of Serbia have not adequately established direct and effective control of foreign nationals in the process of migration through the territory of the Republic of Serbia, so that some of the foreigners found in the country remain invisible to the system, while some of them leave Serbia before the asylum application procedure has even been initiated. As regards the provision of information on the rights and obligations of foreign nationals found in Serbia during their stay in the country, the Ministry of Interior has still not prepared brochures on the rights and obligations of those persons in languages they understand. Communication between foreigners found in Serbia and police officers is mostly conducted in English, with the occasional involvement of interpreters for Arabic, Turkish and English<sup>123</sup>.

Certain shortcomings have been identified in the medical examinations performed at the asylum centres, ranging from incomplete examination at some asylum centres<sup>124</sup>, through unavailability of any form of medical examination<sup>125</sup> to examinations that are performed only on certain days during a week<sup>126</sup>. The Shelter for Foreigners<sup>127</sup> offers no medical examination upon admission at all; instead, examinations are performed only when the Shelter staff determines that a foreign national has visible injuries or health issues. Migrants punished for misdemeanours are not allowed phone calls to their country of origin in order to inform a person of their choice of their incarceration and certain prisons notify the diplomatic and consular missions of the person's country of origin of their incarceration without his/her consent.

#### **General recommendations for remedying the identified shortcomings**

**The system for managing migrations should be improved by providing comprehensive and consistent application of the existing standards in the field of asylum and migrations.**

**It is necessary to improve effective implementation of the asylum procedure, from registration of foreign nationals who wish to seek asylum in the Republic of Serbia, through issuing of identity cards, filing of asylum applications and hearings to passing of decisions to grant/deny asylum.**

<sup>123</sup> Reports of visits to the Police Administration of Vranje, No. 71 -46/14, and the Police Administration of Subotica No. 71-67/14.

<sup>124</sup> Report of Visit to the Asylum Centre in Sjenica, No. 71-62/14.

<sup>125</sup> Reports of Visits to the Asylum Centre in Tutin, No. 71-61/14, and IJA in Sjenica, No. 71-62/14.

<sup>126</sup> Reports of visits to the Asylum Centre in Banja Koviljača No. 71 -52/14; the Asylum Centre in Bogovađa, No. 71 - 90/14; and the Asylum Centre in Krnjača, No. 71 - 85/14.

<sup>127</sup> Report of Visit to the Shelter for Foreigners No. 71 - 84/14.

**Medical examinations at the Shelter for Foreigners and at all asylum centres should be performed in accordance with the applicable regulations and standards (including timely examination immediately upon admission).**

**Brochures on the rights and obligations of foreign nationals found in Serbia should be provided to them in languages they can understand.**

**Ensure that certificates of intent to apply for asylum include a photograph of the asylum-seeker.**

**Enable irregular migrants punished for misdemeanours are not allowed phone calls to their country of origin and discontinue the practice of notifying the diplomatic and consular missions of the person's country of origin without his/her consent.**

## **6.7. Reception of repatriated persons in the readmission process**

In the course of 2014, the NPM made three visits to the "Nikola Tesla" Airport for the purpose of finding facts on the treatment of persons repatriated to the Republic of Serbia pursuant to decisions of competent authorities of countries with which Serbia has readmission agreements. One such repatriation operation under a readmission agreement was monitored jointly with the Spanish NPM, which monitored the deportation process up to the moment when the repatriated persons were remanded to the custody of the Border Police of the Republic of Serbia.

During the visits it was found that police officers waited for groups of repatriated persons immediately upon landing and introduced them to their rights and the procedure for exercising those rights in a language they understand. If necessary, emergency medical care is provided on the spot. After that the persons are interviewed at the Readmission Office of the Commissariat for Refugees and Migrations. The interviewing officers record basic personal and medical data of the repatriated persons, subject to their consent, and provide them with information on the readmission process and their rights and obligations; they also complete questionnaires relating to their specific needs, which serve as the basis for future assistance provided to them, thus facilitating their reintegration. They are allowed to make phone calls to their relatives and friends and advised to contact the Commissariat for Migrations and other services at the local level for further assistance. If they have no money for the fare to their place of residence, they are provided with transportation.

Repatriated persons who have no family or any other kind of support or accommodation in Serbia are sent to emergency shelters in Šabac, Bela Palanka and Zaječar. Those shelters provide them with bed and meals for up to 14 days.

All officials at the "Nikola Tesla" Airport (officers of the Border Police Station and the Readmission Office of the Commissariat for Refugees and Migrations) have complied with their statutory duty to cooperate with the NPM and have provided all requested information. No instances of mistreatment of persons repatriated in the readmission process have been recorded.

## ANNEX I

### **NPM's Recommendations to Serbian Government Authorities**

#### **I/I Part One**

##### **Recommendations made in 2014 in the Reports of Visits conducted in late 2013**

1. Police Administration of Belgrade and the police stations it comprises
2. Juvenile Penal and Correctional Facility in Valjevo
3. "Veternik" Residential Centre for Children and Youth with Developmental Problems
4. Special Psychiatric Hospital in Kovin
5. Ministry of Interior and Commissariat for Refugees and Migrations / Asylum-seekers

#### **I/II Part Two**

##### **Recommendations made in 2014 in the Reports of Visits conducted in 2014**

1. Border Police Administration ("Nikola Tesla" Airport)
2. Police Administration of Kruševac (night visit)
3. Police Administration of Novi Pazar and the police stations it comprises
4. Police Administration of Subotica and the police stations it comprises
5. Police Administration of Valjevo and the police stations it comprises
6. Police Administration of Vranje and the police stations it comprises
7. Police Administration of Sombor and the police stations it comprises
8. Penal and Correctional Facility in Šabac
9. District Prison in Novi Sad
10. Juvenile Correctional Facility in Kruševac
11. Social Welfare Homes for the Elderly Voždovac
12. Gerontology Centre "Srem" in Ruma

#### **I/III Part Three**

##### **Recommendations made in 2015 in the Report of a Visit conducted in 2014**

1. Gerontology Centre in Šabac

## **I/I Part One**

### **- Recommendations made in 2014 in the Reports of Visits conducted in late 2013**

#### **I/I - 1 Police Administration of the City of Belgrade and the police stations it comprises<sup>128</sup>:**

Written notice of the rights of persons remanded in custody shall be given whenever persons are remanded in custody on any grounds (Code of Criminal Procedure, Law on Police, Law on Misdemeanours and Law on Road Safety).

The Ministry of Interior shall amend the existing Instructions on Treatment of Persons brought in by Police and Persons in Custody and bring them in compliance with the relevant standards of the Council of Europe by stipulating that police officers are not allowed to be present during medical examination of persons deprived of liberty, unless explicitly asked to do so by the attending physician. Police officers shall be present during medical examination only at the explicit request of a physician, which fact shall be recorded in an official note.

The documentation/case files compiled in connection with the deprivation of liberty or remanding in custody cannot contain medical records of the person created in connection with the medical examination of the person concerned after the passing of a decision to remand the person in police custody or in the period immediately preceding the passing of such decision. If a medical doctor or another health care professional who examines a person remanded in custody under a relevant decision or who attends to such person in other ways believes it is in the best medical interest of the patient/person remanded in custody to provide a police officer with certain information and/or instructions, i.e. medical data (e.g. if medicines must be administered at specific intervals, if special handling is required etc.), the medical doctor or another health care professional shall provide such information and/or instructions to the police officer in charge. The police officer in charge shall make an official note of the information thus received without delay, which information shall be included in that person's custody files.

The Police Station in Zvezdara shall provide persons remanded in custody without delay with a decision or order to remand them in custody, as well as all other relevant documentation (notice of the person's rights, receipt for confiscated items, medical report etc.) and persons remanded in custody shall be allowed to keep this documentation on their person while they are remanded in custody.

The Police Station in Stari grad shall create a custody report on the standard form also for any persons remanded in custody under the Code of Criminal Procedure and the Law on Road Safety and all custody reports shall be made available to the persons remanded in custody, who shall sign such reports; alternatively, if a person in custody refuses to sign a report, a note to that effect shall be included in the report.

The Ministry of Interior shall amend the Instructions on Treatment of Persons brought in by Police and Persons in Custody by stipulating that binding is to be applied only when strictly necessary, rather than whenever a person in custody is transported, as is currently the case.

At the Police Administration of the City of Belgrade, police officers shall not use handcuffs on every person brought in by police vehicles; instead, this shall be done only when justified reasons pertain, in the cases provided for by the law.

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<sup>128</sup> Report of the Visit to the Police Administration of the City of Belgrade, 71-71/13.

At the Police Station in Stari grad, receipts for the temporarily confiscated and returned items shall be signed by the persons in custody from whom such items have been confiscated.

The Police Administration of Belgrade shall undertake appropriate measures to ensure adequate airing of custody cells.

The Police Station in Savski venac shall undertake appropriate measures to ensure custody cells are sufficiently aired and lit. Furthermore, heating shall be installed in these rooms. The Police Station in Savski venac shall whitewash its custody cells for sanitation purposes and shall maintain them in a proper sanitary condition in the future.

The Police Station in Stari grad shall undertake appropriate measures to ensure custody cells are sufficiently aired and lit. The Police Station in Stari grad shall whitewash its custody cells for sanitation purposes and shall maintain them in a proper sanitary condition in the future.

The Police Station in Stari grad shall install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Zvezdara shall undertake appropriate measures to ensure its custody cell is sufficiently lit. Furthermore, heating shall be installed in this room.

The Police Station in Zvezdara shall install buttons for alarming the police officer on duty in its custody cell.

The Police Station in Palilula shall undertake appropriate measures to ensure its custody cells are sufficiently lit and heated.

The Police Station in Palilula shall install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Mladenovac shall undertake appropriate measures to ensure its custody cells are sufficiently lit. The Police Station in Mladenovac shall whitewash its custody cells for sanitation purposes and shall maintain them in a proper sanitary condition in the future.

The existing custody cell in the Police Station in Sopot shall no longer be used for holding persons in custody. The Police Station in Sopot shall provide a separate custody cell which is compliant with the applicable standards.

The Police Station in Novi Beograd shall undertake appropriate measures to ensure its custody cells are sufficiently lit and heated. The Police Station in Novi Beograd shall whitewash its custody cells for sanitation purposes and shall maintain them in a proper sanitary condition in the future. The Police Station in Novi Beograd shall provide clean and dry sanitation facilities with proper sanitation equipment by making the necessary adaptations to the existing toilet.

The Police Station in Grocka shall undertake appropriate measures to ensure custody cells are sufficiently aired and lit. The Police Station in Grocka shall whitewash its custody cells for sanitation purposes and shall maintain them in a proper sanitary condition in the future; it shall also maintain its sanitation facilities in a sanitary condition.

The Police Station in Grocka shall install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Rakovica shall undertake appropriate measures to ensure that custody cells have sufficient lighting, that they are safe for reading without causing visual impairments; it shall also ensure the cells are well-aired and shall install heating. The Police Station in Rakovica



shall whitewash its rooms for sanitation purposes and shall maintain them in a proper sanitary condition in the future.

Toilets at the Police Station in Rakovica used by persons remanded in custody should be refurbished and maintained in a sanitary condition.

The Police Station in Vračar shall improve natural and artificial lighting of its custody cells to make them sufficiently lit and safe for reading without causing visual impairments and shall provide sufficient inflow of fresh air.

The Police Station in Vračar shall install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Voždovac shall undertake appropriate measures to ensure its custody cells are sufficiently lit and aired. The Police Station in Voždovac shall install heating in its custody cells.

The Police Station in Voždovac shall install buttons for alarming the police officer on duty in its custody cells.

The existing custody cells in the Police Station in Barajevo shall no longer be used for holding persons in custody. The Police Station in Barajevo shall provide custody cells which are compliant with the applicable standards.

The Police Station in Obrenovac shall undertake appropriate measures to ensure that custody cells have sufficient natural and artificial lighting and that they are well-aired and heated.

The Police Station in Obrenovac shall whitewash its rooms for sanitation purposes and shall maintain them in a proper sanitary condition in the future.

The Police Station in Obrenovac shall install buttons for alarming the police officer on duty in its custody cells.

The rooms used for interrogation should be emptied of all items that are not part of standard office supplies.

The Police Administration of the City of Belgrade shall undertake appropriate measures and provide a designated area where persons remanded in custody could spend some time in fresh air.

The Police Administration of the City of Belgrade and the police stations it comprises shall improve the fire protection system by visibly placing an evacuation plan and instructions for action in the event of a fire in every police station, with the aim of protecting the physical integrity of persons remanded in custody.

The Police Administration of the City of Belgrade and the police stations it comprises shall arrange for and implement appropriate first aid training for police officers and shall equip the premises with the required first aid kits.

### **I/I-2 Juvenile Correctional Facility in Valjevo<sup>129</sup>:**

At the Juvenile Correctional Facility in Valjevo, detainees with no prior convictions shall not be placed in the same rooms/dormitories with those who have prior convictions and special care

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<sup>129</sup> Report of the Visit to the Juvenile Correctional Facility in Valjevo, 71-40/13.

shall be taken to ensure that detainees are assigned to dormitories according to the severity of the criminal offence for which they are indicted.

All officers of the Security Department of the Juvenile Correctional Facility in Valjevo who are in charge of supervising the detainees shall perform their duties in such a way as to cause minimum disturbance to the detainees' eight-hour sleep at night.

The Juvenile Correctional Facility in Valjevo shall regularly replace lightbulbs in all rooms/dormitories.

The Juvenile Correctional Facility in Valjevo shall renovate the sanitation facilities and shower rooms at the "Boarding School" facility to make them fully compliant with the applicable hygienic and sanitary conditions and to protect the privacy of those who use them.

The Juvenile Correctional Facility in Valjevo shall address the issue of dampness and renovate the toilet fixtures within the joint sanitation facilities at the semi-open unit, in accordance with the applicable regulations and standards.

The Juvenile Correctional Facility in Valjevo shall erect canopies in both areas for outdoor walks within the Increased Surveillance Unit to shelter the users who are out for walks from precipitation.

The Juvenile Correctional Facility in Valjevo shall provide sufficient natural lighting in the rooms of the Increased Surveillance Unit where disciplined wards are held and shall furthermore provide adequate artificial lighting.

The Juvenile Correctional Facility in Valjevo shall renovate the toilet fixtures within the joint sanitation facilities and the separate sanitation facilities in the dormitories where wards are placed in solitary confinement in accordance with the applicable regulations and standards.

The Juvenile Correctional Facility in Valjevo shall provide a day room for the wards who are segregated and placed under increased surveillance.

The Juvenile Correctional Facility in Valjevo shall dry all dampness from the walls in the dormitories of the Increased Surveillance Unit and shall whitewash the walls for sanitation purposes.

The Increased Surveillance Unit at the Juvenile Correctional Facility in Valjevo shall provide the required space for the placement of inmates so that each inmate in a dormitory has minimum eight cubic metres and four square metres of space at his disposal.

The Juvenile Correctional Facility in Valjevo shall renovate without delay the communal bathroom and the sanitation facilities in the dormitories of the Increased Surveillance Unit to make them fully compliant with the applicable hygienic and sanitary conditions.

The Juvenile Correctional Facility in Valjevo shall whitewash all rooms of the intake unit for sanitation purposes and shall repair the floors.

The Juvenile Correctional Facility in Valjevo shall erect a canopy in the area for outdoor walks within the "Interrogation Jail" to shelter the users who are out for walks from precipitation.

The Juvenile Correctional Facility in Valjevo shall provide an indoor area with exercise equipment for the physical exercise of inmates.

The Juvenile Correctional Facility in Valjevo shall renovate the kitchen and equip it in accordance with the applicable standards.

Reports of disciplinary action which are prepared in the hearings of inmates who are subject to disciplinary action shall specify whether the person concerned was given access to professional assistance.

The Penal and Correctional Facility in Valjevo shall keep separate records of complaints and appeals, which shall include information on the resolution of complaints, the dates when relevant decisions were passed and advice on available legal remedy.

The Juvenile Correctional Facility in Valjevo shall undertake measures without delay to ensure better video surveillance coverage of the Facility. The Juvenile Correctional Facility in Valjevo shall visibly place a notice of video surveillance in the visiting room.

The Penal and Correctional Facility in Valjevo shall undertake measures without delay to equip the rooms used for placement of persons deprived of liberty with sound alarms to alert the guards in the event of any incidents.

At the Juvenile Correctional Facility in Valjevo, any person against whom force has been used shall be taken for an examination by a physician immediately after the use of force and once again between 12 and 24 hours after the use of force. The Facility must keep records of examinations by physicians, with details of the exact time of such examination.

The Correctional Work Department at the Juvenile Correctional Facility in Valjevo is in need of an internal reorganisation, which would ensure that the corrections officers, and other staff of that Department as appropriate, become more actively involved in the work with the inmates placed in the Increased Surveillance Unit. It is necessary to define more precisely the duties and tasks of corrections staff in their work with this category of inmates, especially those who are sentenced to juvenile prison.

The Juvenile Correctional Facility in Valjevo shall prepare a practical guidebook for inmates which will reflect the specific nature of the facility itself and the procedures followed by some of its departments in their work, including in particular the Security Department and the Correctional Work. The guidebook shall clearly specify duties and lay down procedures to be followed by the expert team in charge of admission.

The Juvenile Correctional Facility in Valjevo shall make more use of correctional groups as an organisational and methodical form of correctional work with inmates. Accordingly, the Juvenile Correctional Facility in Valjevo shall focus more on the formation of correctional groups, subject to relevant criteria governing the formation of those groups, especially in respect of the population sentenced to juvenile prison.

Placement in the Increased Surveillance Unit for security reasons should not necessarily be an obstacle to modification of the treatment programme; instead, it should be seen as one of the criteria for modification of the treatment programme and the reason for focusing more intensively on this prison population. Procedures should be put in place for a continual review of the course of treatment of these persons.

The Juvenile Correctional Facility in Valjevo shall, within its means and obligations and taking into account the specific needs of inmates, especially those sentenced to juvenile prison, focus more on social support and assistance to inmates during and after their incarceration. Individual correctional treatment programmes must be complemented with post-penal social support and assistance. It is not enough to merely call for cooperation and inform external entities of the need for such cooperation; instead, the Facility should begin with the efforts and provide specific services immediately upon admission of inmates at the Facility.

The Juvenile Correctional Facility in Valjevo shall undertake measures to enable all inmates, regardless of the ward they are in, to enjoy their right to secondary education, in accordance with

the applicable correctional treatment programme, with special emphasis on persons with special needs, i.e. persons with learning or cognitive disabilities. The Penal and Correctional Facility in Valjevo shall undertake the necessary measures to grant inmates the enjoyment of their right to free secondary education.

The Juvenile Correctional Facility in Valjevo shall undertake the necessary measures to provide inmates at the semi-open unit with a suitable and properly fitted and equipped area where they could spend their spare time.

Detainees placed at the Juvenile Correctional Facility in Valjevo shall be allowed to spend minimum two hours every day in fresh air.

The Juvenile Correctional Facility in Valjevo shall provide an area with exercise devices intended for physical exercise of persons placed in the Increased Surveillance Unit.

The detention unit of the Juvenile Correctional Facility in Valjevo shall provide an area with exercise devices intended for physical exercise of detainees.

The Juvenile Correctional Facility in Valjevo shall allow visits to detainees of minimum one hour, in accordance with the applicable regulations.

The Juvenile Penal and Correctional Facility shall provide rooms adapted to the needs of inmates with disabilities, taking into account the type and severity of their special needs.

The Juvenile Correctional Facility in Valjevo shall procure the services of minimum one psychiatrist by hiring a physician specialised in the relevant field, in order to ensure that a physician specialised in psychiatry (or neuropsychiatry) is present at the Facility minimum twice a week for at least four hours, to provide an integrated approach to health care of the juvenile population through the inclusion of a psychiatrist in the multidisciplinary team.

Ensure that staff in charge of providing health care is validly licensed in accordance with the law by the relevant medical chamber.

Provide the job classification for the Health Care Service at the Facility.

Hire additional staff for health care jobs, including a minimum number of nurses (paramedics) to ensure their presence at the Facility on a 24/7 basis.

The Juvenile Penal and Correctional Facility in Valjevo shall ensure that only medical staff can access the medical documentation kept on the Facility's premises used by the Health Care Service, including personal medical records and other personal data of the patients.

The Facility's physician shall present the warden within one month with written findings and recommendations on ways to improve hygiene at the inpatient clinic of the Facility's Health Care Service and describe the current state of sanitation conditions and facilities, heating, lighting and ventilation at the inpatient clinic.

The existing worn-out mattresses shall be decommissioned and suitable replacements shall be provided.

The Facility shall ensure that bed sheets are changed at statutory intervals, minimum once every 15 days, and shall ensure that bed sheets, underwear and clothes are washed and dried at the Facility's joint laundry room.

The Juvenile Correctional Facility in Valjevo shall immediately implement a smoking ban on the premises of the inpatient clinic of the Facility's Health Care Service in all rooms where patients sleep, as well as in the day room; the smoking ban in those rooms must be clearly indicated by an appropriate sign. A separate smoking room shall be designated and clearly labelled as such.

The Juvenile Correctional Facility in Valjevo shall renovate the sanitation facilities used by persons placed at the inpatient clinic without delay to make them fully compliant with the applicable hygienic and sanitary conditions.

The Juvenile Correctional Facility in Valjevo shall prepare a plan and conduct regular (periodic) examinations of persons deprived of liberty at intervals not longer than three months. Such examinations must, as a minimum, cover all aspects included in the initial medical examination, with any additional measures undertaken as appropriate taking into account the health status of individual inmates. The findings of such regular (periodic) examinations shall be notified in writing to the Facility's warden minimum once a year, or more frequently if necessary due to improved or deteriorated health of an inmate, and in any case whenever any change in an inmate's health status is found. Furthermore, the Facility shall prepare a plan for regular physical examination of juveniles by an appropriate health care institution at least once a year.

At the Juvenile Correctional Facility in Valjevo, the physician shall state the following in written reports of examinations conducted after the use of force: 1) allegations made by the person against whom force was used about the way in which force was used and 2) an opinion whether there is a link between the force used and the injuries sustained.

The Juvenile Correctional Facility in Valjevo shall keep proper records in its book "Visits of the Increased Surveillance Unit" by filling out all fields on the form and by ensuring that each row (each number) contains information on one visited person only.

The Facility shall ensure without delay that inmate with the initials C.U. is referred to a hospital properly equipped and staffed with personnel duly qualified for the treatment of persons with mental disorders, namely the Special Prison Hospital. Retaining persons with undeniably diagnosed mental disorders of a primarily psychotic nature at the Facility, even if they receive therapy prescribed by a specialist, when the Facility lacks suitable equipment and properly trained staff to treat such persons, can be seen as inhuman treatment, especially if it occurs over extended periods of time.

Should any similar cases occur in the future, the Facility will ask the attending psychiatrist to give an opinion after every examination (including initial examination and check-ups) if proper treatment can be provided at the Facility or the patient should be referred to a relevant specialised institution. Furthermore, the Facility shall observe without exceptions any recommendations made by a psychiatrist with regard to the intervals at which check-up examinations have to be performed.

The physician will maintain the Record of Injuries and enter relevant information in the appropriate fields for each patient, ensuring in particular that the following details are provided: 1) allegations of the injured person about the way in which the injuries were sustained and 2) the physician's opinion whether there is a link between the event described by the injured person and the injuries sustained.

The physician shall present the warden with written findings and recommendations on ways to improve hygiene at the Facility and among the inmates and shall describe the current state of sanitation conditions and facilities, heating, lighting and ventilation in the rooms used by inmates.

### **I/I - 3 -“Veternik“ Residential Centre for Children and Youth with Developmental Problems<sup>130</sup>:**

It is necessary to promote the development of initial and continual training for professionals and other staff involved in providing care and rehabilitation services.

The Facility will prepare an analysis of the required number of employees and treatment types, draw up a work organisation schedule which will ensure that all users are involved in rehabilitation activities and identify the required training programmes that will promote working with users with severe disabilities.

The bed-ridden users should be provided with adequate living conditions and necessary rehabilitation as soon as possible.

The Facility should remedy the identified shortcomings concerning continual surveillance of the users placed in the “increased surveillance” rooms.

“Increased surveillance” should not be used as a disciplinary measure.

The conditions in the “increased surveillance” rooms have to be improved.

Refrain from placing users in solitary confinement, because solitary confinement of users for any duration constitutes inhuman or degrading treatment and, especially where the conditions of placement are inadequate, may constitute torture.

Restraint should not be used as a disciplinary measure. This is a strictly medical measure and can be ordered only by a physician.

A sufficient number of physicians and other medical staff with relevant specialisations should be provided for the treatment of users.

It is necessary to form a team of experts of various specialisations which would make an individualised rehabilitation plan for each individual user, with various forms of treatment: medical care and treatment, dietary habits and quality of diet, physical therapy, speech correction, correction of sensomotoric disorders (eyesight, hearing), occupational therapy, work therapy, sociotherapy, recreation, hobbies... A rehabilitation plan should be made in writing for every user.

In cases where relevant health care institutions refuse to provide adequate health care outside the Residential Centre, this fact should be communicated to the director of the health care institution concerned and the management of the Residential Centre, who shall then notify the line Ministry of Health and provide relevant medical documentation.

Upon admission, users and their family members should be made aware of the procedures in place at the Facility and their rights. It is also necessary to put in place relevant formal procedures for filing pleas, complaints and appeals against the Facility and its employees, which may be filed by users or their parents/guardians, as well as relevant procedures for their handling. Records should be made of all filed applications, complaints and appeals.

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<sup>130</sup> Report of Visit to the Residential Centre for Children and Youth with Developmental Problems, 71-26/13.

#### **I/I - 4 - Special Psychiatric Hospital in Kovin<sup>131</sup>:**

The dilapidated facilities should be renovated. The existing large rooms should be divided into several smaller ones.

The hospital shall provide fixtures where patients will be able to put their personal belongings in the hospital rooms and in other areas where patients stay (communal areas, halls, dining rooms...) and shall decorate them to create a more humane environment and reflect the specific nature of the patients who use them.

The Hospital shall encourage patients to bring with them their personal belongings: books, magazines and photographs.

The Hospital shall encourage patients to wear their day clothes during the day.

Privacy of patients should be ensured in toilets and bathrooms.

Special Psychiatric Hospital in Kovin shall visibly place written notice of the rights and duties of the Hospital's patients in all wards.

The Hospital shall, within its means, provide brochures to inform patients by appropriate means of their rights and obligations and the hospital rules, which shall be available to patients and their families.

Special Psychiatric Hospital in Kovin shall ensure that consent is sought from the patient or his/her guardian for subsequent introduction of any new medical measure before such measure can be applied.

Special Psychiatric Hospital in Kovin shall notify the president of the competent court of the problems it faces in involuntary commitment and involuntary hospitalisation of persons with mental disorders at the psychiatric institution, in accordance with the provisions of the Law on the Protection of Persons with Mental Disabilities which pertain to the powers of courts in the process of involuntary commitment of persons.

The Hospital shall forward to the Protector of Citizens a copy of its communication without delay.

Special Psychiatric Hospital in Kovin shall notify the authorities in charge of overseeing the work of guardianship authorities in cases where competent centres for social work refuse to cooperate.

Patients at Special Psychiatric Hospital in Kovin shall not be restrained in the same rooms where unrestrained patients stay.

Special Psychiatric Hospital in Kovin shall complete its records of use of restraints by providing the following information: which less restrictive measures had been applied before it was decided to restrain a patient; information on visits to restrained patients by the psychiatrist in charge and by other medical staff; whether the patient's legal representative was informed of the restraining measure and, if so, when; any injuries inflicted on the patients or on hospital staff; and any comments made by the patient.

Individual treatment plans for the Hospital's patients shall be supplemented with all necessary psychosocial rehabilitation programmes, including occupational therapy, group therapy, individual psychotherapy, drama, music and sport activities etc.

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<sup>131</sup> NPM's Report of the Visit to the Special Psychiatric Hospital in Kovin, No. 71 -73/ 13.

Experts of various profiles and the patients themselves shall be involved in the preparation of treatment plans.

Individual plans should also include a plan of support after discharge. This plan shall be made in writing and insert in the medical record of each patient.

The Hospital shall undertake all available measures to involve patients in an organised fashion in the making of important decisions relevant for their stay and treatment at the Hospital.

The Hospital shall hold information sessions for patients and staff and provide technical support in the organisation and conduct of elections for and operations of the Patients' Council.

In cases where other health care institutions refuse to provide adequate health care, the Hospital shall notify the head of the health care institution, providing relevant medical documentation, and shall alert the Ministry of Health.

The Hospital shall, without delay, conduct an analysis of the current needs for relevant community-based mental health services that could continue caring for patients after their discharge in the geographic area covered by the Hospital.

The Hospital shall submit this analysis to the Ministry of Health, the Provincial Secretariat for Health, Social Policy and Demography and the Protector of Citizens.

It is necessary to involve more patients in social and psychological rehabilitation programmes by assigning them duties and responsibilities, offering them to work at the workshop, providing group sessions and individual interviews etc. Such programmes need to be developed in all wards, especially the closed-type ones. It would be beneficial if the Hospital improved the existing psychosocial and rehabilitation activity programmes and introduced new ones.

In the context of introducing new activities, it is necessary to assess the needs for hiring relevant professionals and providing any additional training in accordance with the plan of developing new activities.

Staff should be more responsive to the patients' opinions and wishes when deciding on the activities in which they would be involved.

The Hospital should consider introducing full-time working hours for Central Occupational Therapy and the day room "Sunny Corner", to enable greater occupational engagement of patients and higher participation in occupational therapy.

The Hospital should develop specific measures that would enable the introduction of physical exercise and other leisure activities at all wards, in ways that are best suited to the patients, their health status and their interests.

The Hospital should involve patients in the process of designing new activities.

The Hospital should make arrangements for the use of suitable visiting rooms.

The Hospital shall, without delay, conduct an analysis of the existing funding system for the Hospital, which would point to any existing shortcomings and enable patients to fully enjoy their right to treatment and rehabilitation, thus allowing the Hospital to function more efficiently.

The Hospital shall submit the analysis to the Ministry of Health, the Provincial Secretariat of Health, Social Policy and Demographics and the Protector of Citizens.



## **I/I - 5 - Ministry of Interior and Commissariat for Refugees and Migrations / Asylum-seekers<sup>132</sup>:**

If a foreign national is found in the territory of the Republic of Serbia without documents that can provide proof of identity<sup>133</sup>, if a foreign national has illegally entered the Republic of Serbia<sup>134</sup> or if a foreigner has no evidence that his/her stay in the Republic of Serbia is legal<sup>135</sup>, police officers shall escort him/her to the nearest police station, where his/her identity would be checked and determined<sup>136</sup>, after which the foreign national will be searched for any identity documents and the relevant information would be checked and entered in the statutory records.

A foreign national will be informed in a language he/she can understand of his/her legal status and his/her rights and obligations while staying in the Republic of Serbia.

Where it is likely based on appearance that a foreign national is under 18 years of age, police officers shall immediately alert a guardianship authority and invite it to participate in the handling of the person, to act as a coordinator and to pass decisions within its remit.

Police officers shall use police powers and the measures and actions provided for by the Law on Protection of State Borders and the Law on Foreigners against the person referred to in paragraph I above in order to remove such person from the Republic of Serbia or to place the person at the Shelter for Foreign Nationals under Increased Police Surveillance ("Shelter").

The existing number of available places at the Shelter should be increased to enable accommodation and provision of various forms of care to all foreign nationals who cannot be deported immediately and whose identity has not been determined or who do not have any travel documents on their person, for which purpose the required amount of funds shall be allocated from the budget of the Republic of Serbia.

A foreign national brought to the Shelter shall be provided with accommodation and support in accordance with the applicable regulations and standards, including in particular provision of appropriate accommodation, meals, hygiene, communication in a language he/she can understand, provision of health care and social support, means to satisfy his/her cultural and religious needs etc.

Underage foreign nationals shall be placed at the Shelter together with their parents, except where the guardianship authority in charge considers that other placement arrangements would be more beneficial for the child.

Where the conditions set out in the Law of Foreigners are met, an undocumented foreign national in the Republic of Serbia shall be expelled without delay, for which purpose the necessary funds shall be allocated from the budget of the Republic of Serbia.

A foreign national who expresses intent to seek asylum in the Republic of Serbia or a foreign national who would normally be deported to a territory where he/she is likely to be persecuted because of his/her race, gender, religion, ethnicity, nationality, affiliation with a group or

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<sup>132</sup> Recommendation No. 75-6/14 based on the Report of the Visit to the Asylum Centre in, October 2013, No. 71-59/13, follow-up visits to that and other asylum centres and data analyses and interviews with police officers in connection with the treatment of migrants and asylum-seekers found in Serbia.

<sup>133</sup> Passport, identity card for foreign national, special identity card or other photo ID.

<sup>134</sup> Outside of designated places or times for crossing the national border; by avoiding border controls; by using someone else's passport or an invalid or forged passport or other document; by providing inaccurate information to the border police; during the period in which a foreigner is not allowed to enter the Republic of Serbia as a result of expulsion, deportation or cancellation of residence permit.

<sup>135</sup> A stay without a visa, residence permit or other legal grounds.

<sup>136</sup> Including: photographing, fingerprinting and taking of any other biometric data.

political opinion<sup>137</sup>, especially if there is a risk he/she would be subject to torture or inhuman or degrading treatment or punishment in the territory where he/she should be deported, shall be treated in accordance with the Law on Asylum.

A foreigner who expresses intent to seek asylum in the Republic of Serbia shall be registered and, if necessary, searched for identity documents, after which he/she shall be issued a certificate of intent to seek asylum. The certificate shall contain a photograph and other biometric data.

A foreigner who expresses intent to seek asylum shall be sent to an Asylum Centre<sup>138</sup> ("Centre") and instructed to report to an authorised officer of the Centre or the Asylum Office within 72 hours; alternatively, if the conditions set out in the Law on Asylum are met, he/she shall be escorted to the Centre by police officers without delay.

Asylum Centres should be established and organised with the sole aim of ensuring an efficient asylum-seeking process.

The existing number of available places at the Asylum Centres should be increased to enable accommodation and provision of various forms of care to all foreign nationals who referred or escorted to the Centres under the Law on Asylum, for which purpose the required amount of funds shall be allocated from the budget of the Republic of Serbia.

A foreign national referred or escorted to the Centre shall be provided with accommodation and support in accordance with the applicable regulations and standards, including in particular provision of appropriate accommodation, meals, hygiene, communication in a language he/she can understand, provision of health care and social support, means to satisfy his/her cultural and religious needs etc.

Underage foreign nationals shall be placed at the Centre together with their parents, except where the guardianship authority in charge considers that other placement arrangements would be more beneficial for the child.

Authorised officers of the Centre shall abolish the practice of granting asylum-seekers leaves of absence outside of the Centre.

The Centres shall abolish the practice of "keeping" rooms or beds for foreigners who leave their premises for any reason. Any beds vacated by their previous occupants shall be allocated without delay to newly-received foreign nationals referred or escorted to the Centre.

The Police Directorate of the Ministry of Interior shall form an Asylum Office as an independent organisational unit outside of the Border Police Administration, provide a sufficient number of authorised officers, give them appropriate training and provide them with the resources they need in their work.

The Asylum Office shall introduce daily duty shifts of its authorised officers at each Centre.

An authorised officer of the Asylum Office shall register a foreigner who expressed intent to seek asylum immediately upon admission at the Centre in accordance with the Law on Asylum, after which the foreign national shall be issued an identity card and the officer shall examine, on a

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<sup>137</sup> Except in cases when there is reasonable suspicion that a foreigner might pose a security threat for the Republic of Serbia or if he/she has been convicted of a felony by a valid and enforceable judgement, which makes him/her a threat to public order.

<sup>138</sup> The Centre to which an asylum-seeker will be referred or escorted to will be determined jointly by the Asylum Office and the Commissariat for Refugees and Migrations.

case-by-case basis, whether it is necessary to impose restrictions on the person's freedom of movement<sup>139</sup>.

A foreign national shall be advised, in a language he/she can understand, of his obligation to file an application with the Asylum Office or the duty officer of the Asylum Office assigned to the Centre within 15 days of his/her registration; the officer shall advise the foreign national of the consequences of failure to meet this time limit, explain how to file the application and provide help in the writing of the application.

An authorised officer of the Asylum Office shall, without delay, hear a foreigner who expressed intent to seek asylum in a language he/she can understand the asylum procedure shall be implemented and closed within the shortest possible period.

The Asylum Office shall approve a foreign national's request to be allowed to leave the premises of an Asylum Centre if there are no reasons to restrict his/her movement in accordance with the Law on Asylum.

A foreign national who does not apply for asylum within the period set out in the Law on Asylum, a foreign national whose asylum application has been dismissed or rejected or a foreign national whose asylum procedure has been suspended shall be expelled from the Republic of Serbia in accordance with the Law on Foreigners, unless he/she is entitled to stay in the Republic of Serbia on other grounds.

A foreign national who cannot be expelled from the Republic of Serbia immediately after the passing of a decision to expel him/her shall be placed at the Shelter until the conditions for his/her expulsion are met.

The funds needed for expulsion of foreign nationals from the Republic of Serbia shall be allocated from the budget of the Republic of Serbia.

Within 15 days of receipt of this recommendation, the Ministry of Interior shall present the Government of the Republic of Serbia and the Minister in charge with a draft regulation or draft amendments to any regulation needed to ensure full compliance with this recommendation and shall forward a copy thereof to the Protector of Citizens without delay.

## **I/II Part Two**

### **- Recommendations made in 2014 in the Reports of Visits conducted in 2014**

#### **I/II - 1 Border Police Administration (Border Police Station at the "Nikola Tesla" Airport)<sup>140</sup>**

The Border Police Administration shall undertake appropriate measures to ensure that custody cells at the "Nikola Tesla" Airport are sufficiently lit and aired.

The Border Police Administration shall install buttons for alarming the police officer on duty and video surveillance equipment in the police custody rooms at the "Nikola Tesla" Airport.

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<sup>139</sup> By placing the person at the Shelter for Foreigners under increased police surveillance or by prohibiting the person from leaving the Asylum Centre or a specific address or area.

<sup>140</sup> Report on Material Condition of the Police Custody Rooms at the "Nikola Tesla" Airport, 71-13/14.

### **I/II - 2- Police Administration of Kruševac<sup>141</sup>:**

The Police officers the Police Administration of Kruševac shall give all persons remanded in custody under the Code of Criminal Procedure and the Law on Road Safety oral notice of their rights and provide them with the written form "Rights of Persons brought in by Police and Persons remanded in Custody". Persons remanded in custody shall confirm their receipt of the notice of their rights by signing the second counterpart of the document, which shall remain the custody file; if a person remanded in custody refuses to sign the notice of rights, this fact shall be stated on the notice.

At the Police Administration of Kruševac, persons remanded in custody shall be given a remand order without delay, together with all other relevant documents (notice of the person's rights, receipt for confiscated items, medical report etc. and persons remanded in custody shall be allowed to keep this documentation with them for the duration of their remand.

The Police Administration of Kruševac shall include in its remand reports all relevant facts concerning the health status of persons remanded in custody, including in particular any visible injuries, in which case an assessment shall be made in order to determine whether the person concerned should be examined by a physician.

The Police Administration of Kruševac shall undertake appropriate measures and activities to renovate and equip custody cells in accordance with the applicable standards.

The Police Administration of Kruševac shall undertake the necessary measures and activities to install a button for alarming the police officer on duty in the custody cell.

The Police Administration of Kruševac shall visibly place a note in its custody cells to inform the occupants the cells are covered by video surveillance. The Police Administration of Kruševac shall undertake the necessary measures and activities without delay to improve the video surveillance system in the custody cell in order to respect the privacy of persons remanded in custody by ensuring the part of the room where the squat toilet is placed, either by blurring that part of the image or by placing a screen around the sanitation facilities.

### **I/II - 3 - Police Administration of Novi Pazar and the police stations it comprises<sup>142</sup>:**

The Police Administration of Novi Pazar shall ensure that all persons remanded in custody are given written notice of the rights of persons brought in by police and persons remanded in custody, in accordance with section 4 of the Instructions on Treatment of Persons brought in by Police and Persons in Custody, as a special form written in a language which the person concerned understands. Apart from this form, arrested persons and persons remanded in custody under the Code of Criminal Procedure shall also be given special forms, in accordance with the applicable Code of Criminal Procedure. All forms shall be given in two counterparts, one of which shall be inserted in the case file with the signature of the person remanded in custody or with a notice stating that the person refused to sign the form, while the other counterpart shall remain with the person remanded in custody.

The Ministry of Interior shall amend the existing Instructions on Treatment of Persons brought in by Police and Persons in Custody and bring them in compliance with the relevant standards of the Council of Europe by stipulating that police officers are not allowed to be present during medical examination of persons deprived of liberty, unless explicitly asked to do so by the attending physician. Police officers shall be present during medical examination only at the explicit request of a physician, which fact shall be recorded in an official note. Police officers shall

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<sup>141</sup> Report of the Visit to the Police Administration of Kruševac, 71-40/14.

<sup>142</sup> Report of the Visit to the Police Administration of Novi Pazar, 71-57/14.

warn the physician of any security-related aspects that may be relevant for the physician's decision whether to allow non-medical personnel to be present during a medical examination.

The Police Administration of Novi Pazar and the police stations it comprises shall count the time when a person was deprived of liberty or showed up in response to a summons as the time of commencement of remand under the Code of Criminal Procedure and the remand order shall be provided within maximum two hours of the time of deprivation of liberty or of the time when a suspect is informed he/she is in remand. The Police Administration of Novi Pazar and the police stations it comprises shall count the time when a person remanded in custody is ordered off the road as the time of commencement of remand under the Law on Road Safety.

The Police Administration of Novi Pazar and the police stations it comprises shall make reports of all remands using the standard form. After the remand period, a printed copy of the remand report shall be given to the person remanded in custody for inspection. The report shall be signed by a police officer and the person remanded in custody; alternatively, a notice shall be made of the fact that the person remanded in custody refused to sign the report. The printed copy of the remand report shall always be inserted in the remand files.

The NPM is of the opinion that written statements should be taken from persons against whom force was used to obtain their opinion on the circumstances surrounding the use of force and the possible infliction of injuries, as well as statements from any witnesses to the incident, to ensure that the assessment of the justifiability of the use of force is as impartial as possible.

The Police Administration of Novi Pazar shall whitewash the custody cell and maintain it in a sanitary condition. Furthermore, measures shall be undertaken to renovate the sanitation facilities in the custody cell, install a flushing button and maintain the facility in a sanitary condition. The Police Administration of Novi Pazar shall undertake measures to provide more natural and artificial lighting in the custody cell and to allow fresh air to circulate and provide natural ventilation. Heating shall be installed on the premises of the Police Administration of Novi Pazar.

The Police Administration of Novi Pazar shall undertake all necessary measures to improve the video surveillance system in the custody cell in order to respect the privacy of persons remanded in custody by ensuring the part of the room where the squat toilet is placed, either by blurring that part of the image or by placing a screen around the sanitation facilities.

The Police Station in Tutin shall undertake the necessary measures to provide more natural light in the custody cells and to provide proper ventilation. The Police Station in Tutin shall undertake measures to install a flushing tank in the sanitation facilities.

It is necessary to ensure that custody cells in the Police Station in Tutin are covered by video surveillance, while ensuring privacy in the toilet area, and to enable recording and archiving of surveillance footage in order to protect the safety of persons remanded in custody and reduce the risk of violence and other events that could pose security threats. The Police Station in Tutin shall undertake measures to install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Sjenica shall whitewash the custody cell and maintain it in a sanitary condition. Furthermore, measures shall be undertaken to renovate the sanitation facilities in the custody cell, install a flushing button and maintain the facility in a sanitary condition. The Police Station in Sjenica measures shall be undertaken to provide more natural and artificial lighting in the custody cell and to allow fresh air to circulate and provide natural ventilation.

It is necessary to ensure that custody cells in the Police Station in Sjenica are covered by video surveillance, while ensuring privacy in the toilet area, and to enable recording and archiving of surveillance footage in order to protect the safety of persons remanded in custody and reduce

the risk of violence and other events that could pose security threats. The Police Station in Tutin shall undertake measures to install buttons for alarming the police officer on duty in its custody cells.

The Police Administration of Novi Pazar shall provide first aid kits at the Administration's headquarters and at the Police Station in Tutin.

The Police Administration of Novi Pazar shall improve the fire protection system by visibly placing an evacuation plan and instructions for action in the event of a fire in every police station, with the aim of protecting the physical integrity of persons remanded in custody.

**I/II - 4 - The Police Administration of Subotica and the police stations it comprises<sup>143</sup> :**

The documentation/case files compiled in connection with the deprivation of liberty or remanding in custody may not include medical documentation relating to the person concerned in connection with medical examinations performed while the person was in custody. By way of exception, information on the health status of a person remanded in custody shall be available to police officers only where this is relevant for the case. In other words, police officers should be given access to medical information of persons deprived of liberty only to the extent necessary for them to perform their duties. Police officers should obtain a written report from the physician with information relevant for the further course of action to be taken by the police, including: the physician's opinion whether the person can be remanded by the police taking into account the person's health, notice of any injuries or health issues, details of any special care that should be provided while the person is remanded (e.g. therapy, any specific diet etc.), how such care should be provided etc.

At the Police Administration of Subotica, police officers shall not use handcuffs on every person brought in by police vehicles; instead, this shall be done only upon careful examination of facts that warrant the use of handcuffs on the person, in the cases provided for by the law.

The Police Administration of Subotica shall undertake appropriate measures and provide an area where persons remanded in custody can spend time in fresh air.

The Police Administration of Subotica shall improve the fire protection system by visibly placing an evacuation plan and instructions for action in the event of a fire in every police station, with the aim of protecting the physical integrity of persons remanded in custody.

The Police Administration of Subotica shall arrange for and implement appropriate first aid training for police officers in the Police Station in Bačka Topola and the Police Station in Mali Iđoš.

The Police Station in Mali Iđoš shall not hold persons in custody in offices for hours on end. The Police Administration of Subotica shall undertake appropriate measures to provide suitable custody cells in the Police Station in Mali Iđoš.

**I/II - 5 - Police Administration of Valjevo and the police stations it comprises<sup>144</sup>:**

The Ministry of Interior shall amend the existing Instructions on Treatment of Persons brought in by Police and Persons in Custody and bring them in compliance with the relevant standards of the Council of Europe by stipulating that police officers are not allowed to be present during medical examination of persons deprived of liberty, unless explicitly asked to do so by the attending physician. Police officers shall be present during medical examination only at the

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<sup>143</sup> Report of the Visit to the Police Administration of Subotica, 71-4/14.

<sup>144</sup> Report of the Visit to the Police Administration of Valjevo, 71-18/14.

explicit request of a physician, which fact shall be recorded in an official note. Police officers shall warn the physician of any security-related aspects that may be relevant for the physician's decision whether to allow non-medical personnel to be present during a medical examination.

The documentation/case files compiled in connection with the deprivation of liberty or remanding in custody may not include medical documentation relating to the person concerned in connection with medical examinations performed while the person was in custody. By way of exception, information on the health status of a person remanded in custody shall be available to police officers only where this is relevant for the case. In other words, police officers should be given access to medical information of persons deprived of liberty only to the extent necessary for them to perform their duties. Police officers should obtain a written report from the physician with information relevant for the further course of action to be taken by the police, including: the physician's opinion whether the person can be remanded by the police taking into account the person's health, notice of any injuries or health issues, details of any special care that should be provided while the person is remanded (e.g. therapy, any specific diet etc.), how such care should be provided etc.

The Police Administration of Valjevo and the police stations it comprises shall count the time when a person was arrested or *de facto* deprived of liberty or the time of appearance of a suspect or a person invited to give a statement as a citizen who was warned he/she would be brought in by force if he/she did not appear as the time of commencement of remand.

The Police Station in Osečina shall allow persons remanded in custody to keep the remand order and all other relevant documentation (notice of the person's rights, receipt for confiscated items etc.) for the duration of the remand.

The Ministry of Interior shall amend the Instructions on Treatment of Persons brought in by Police and Persons in Custody by stipulating that handcuffs shall be used on persons only when strictly necessary, rather than whenever a remanded person is transported, as is currently the case. At the Police Station in Ljig, the Police Station in Mionica and the Police Station in Osečina, police officers shall not use handcuffs on every person brought in by police vehicles; instead, this shall be done only when justified reasons pertain, in the cases provided for by the law.

At the Police Station in Mionica shall provide a suitable custody cell without any further delays.

The Police Station in Mionica shall not hold persons in custody in offices for hours on end.

The Police Administration of Valjevo shall undertake the necessary measures to ensure that video footage is stored/archived for a period of minimum 30 days and to visibly place a note in its custody cells to inform the occupants the cells are covered by video surveillance.

The Police Administration of Valjevo shall install buttons for alarming the police officer on duty in its custody cells.

The Police Station in Osečina shall undertake measures to whitewash and regularly maintain the custody cell. Furthermore, adequate natural and artificial lighting should be provided and the sanitation facilities in the custody cell should be renovated.

The custody cell in the Police Station in Osečina should be covered by video surveillance and recording and archiving of surveillance footage should be enabled in order to protect the safety of persons remanded in custody and reduce the risk of violence and other events that could pose security threats.

The Police Station in Ljig shall visibly place a note in its custody cells to inform the occupants the cells are covered by video surveillance.

The Police Station in Lajkovac shall undertake appropriate measures to ensure regular tidying and sanitation of the custody cell itself and the mattresses, blankets and pillows used in the custody cell.

It is necessary to ensure that custody cell in the Police Station in Lajkovac is covered by video surveillance, while ensuring privacy in the toilet area, and to enable recording and archiving of surveillance footage in order to protect the safety of persons remanded in custody and reduce the risk of violence and other events that could pose security threats.

The Police Administration of Valjevo shall provide first aid kits at the Administration's headquarters and all police stations it comprises.

The Police Administration of Valjevo shall improve the fire protection system by visibly placing an evacuation plan and instructions for action in the event of a fire in every police station, with the aim of protecting the physical integrity of persons remanded in custody.

#### **I/II - 6 - Police Administration of Vranje and the police stations it comprises<sup>145</sup>:**

The Police Administration of Vranje and the police stations it comprises shall give all persons remanded in custody under the Code of Criminal Procedure oral notice of their rights and the form of written notice of the rights of arrested persons in accordance with Article 69 of the Code of Criminal Procedure and shall also provide them with the written form "Rights of Persons brought in by Police and Persons remanded in Custody". The Police Administration of Vranje and the police stations it comprises shall ensure that all persons remanded under the Law on Police, the Law on Misdemeanours and the Law on Road Safety are given written notice of their rights in accordance with the Instructions on Treatment of Persons brought in by Police and Persons in Custody. Persons remanded in custody shall confirm their receipt of the notice of their rights by signing the counterpart of the document which remains in the custody file.

The Police Administration of Vranje shall not, if persons remanded in custody did not ask for it, notify persons close to them at its own discretion.

Police officers shall be present during medical examination only at the explicit request of a physician, which fact shall be recorded in an official note which shall clearly state reasons for the presence of a police officer. Police officers shall warn the physician of any security-related aspects that may be relevant for the physician's decision whether to allow non-medical personnel to be present during a medical examination.

The Police Administration of Vranje and the police stations it comprises shall keep uniform remand records in writing in accordance with the Instructions on Treatment of Persons brought in by Police and Persons in Custody.

The Police Administration of Vranje and the police stations it comprises shall count the time when a person was deprived of liberty or showed up in response to a summons as the time of commencement of remand under the Code of Criminal Procedure and the remand order shall be provided within maximum two hours of the time of deprivation of liberty or of the time when a suspect is informed he/she is in remand. The Police Administration of Vranje and the police stations it comprises shall count the time when a person remanded in custody is ordered off the road as the time of commencement of remand under the Law on Road Safety.

The Police Administration of Vranje shall undertake measures to hire female police officers at the Police Station in Trgovište and the Police Station in Bosilegrad to enable more efficient performance of police duties in cases where women are remanded in custody.

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<sup>145</sup> Report of the Visit to the Police Administration of Vranje, 71-45/14.



The Police Administration of Vranje shall undertake appropriate measures and activities to provide suitable custody cells in police stations.

The Police Station in Surdulica shall undertake measures to improve natural and artificial lighting at the custody cell and to allow fresh air to circulate and provide natural ventilation.

The Police Station in Surdulica shall undertake the necessary measures to ensure that video footage is stored/archived for a period of minimum 30 days and to visibly place a note in its custody cells to inform the occupants the cells are covered by video surveillance.

**I/II - 7- Police Administration of Sombor and the police stations it comprises<sup>146</sup>:**

The Police Administration of Sombor and the police stations it comprises shall ensure that all persons remanded in custody under the Law on Police, the Law on Misdemeanours, the Code of Criminal procedure and the Law on Road Safety are given written notice of the rights of persons remanded in custody.

The documentation/case files compiled in connection with the deprivation of liberty or remanding in custody may not include medical documentation relating to the person concerned in connection with medical examinations performed while the person was in custody. By way of exception, information on the health status of a person remanded in custody shall be available to police officers only where this is relevant for the case. In other words, police officers should be given access to medical information of persons deprived of liberty only to the extent necessary for them to perform their duties. Police officers should obtain a written report from the physician with information relevant for the further course of action to be taken by the police, including: the physician's opinion whether the person can be remanded by the police taking into account the person's health, notice of any injuries or health issues, details of any special care that should be provided while the person is remanded (e.g. therapy, any specific diet etc.), how such care should be provided etc.

The Police Administration of Sombor and the police stations it comprises shall ensure that all persons remanded under the Code of Criminal Procedure are given a remand order within 2 hours of deprivation of liberty (arrest). The time of appearance of a suspect or a person invited to give a statement as a citizen who was warned he/she would be brought in by force if he/she did not appear shall count as the time of commencement of remand.

The Police Administration of Sombor shall give persons remanded in custody the remand order and all other relevant documentation (notice of the person's rights, receipt for confiscated items etc.) and persons remanded in custody shall be allowed to keep this documentation on their person while they are remanded in custody.

The Police Administration of Sombor shall allow every person remanded in custody to read the remand report, which fact shall be confirmed by the signature of the person remanded in custody; where the person remanded in custody refuses to sign the report, a note to that effect shall be included in the report.

The Ministry of Interior shall amend the Instructions on Treatment of Persons brought in by Police and Persons in Custody by stipulating that binding is to be applied only when strictly necessary, rather than whenever a person in custody is transported, as is currently the case.

At the Police Administration of Sombor and in and the police stations it comprises, police officers shall not use handcuffs on every person brought in by police vehicles; instead, this shall be done only when justified reasons pertain, in the cases provided for by the law.

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<sup>146</sup> Report of the Visit to the Police Administration of Sombor, 71-5/14.

At the Police Administration of Sombor, receipts for the temporarily confiscated and returned belongings shall be signed by the persons in custody from whom such belongings have been confiscated or shall include a written notice of their refusal to sign the report.

It is necessary to perform the required renovation work on the toilet used by persons remanded in custody at the Police Administration of Sombor and regularly maintain it in a sanitary condition.

The existing custody cell in the Police Station in Apatin shall no longer be used for holding persons in custody. The Police Station in Apatin shall provide a separate custody cell which is compliant with the applicable standards.

The existing custody cells in the Police Station in Kula shall no longer be used for holding persons in custody. The Police Station in Kula shall provide dedicated custody cells which shall comply with the applicable standards.

The Police Administration of Sombor shall install buttons for alarming the police officer on duty in its custody cells.

The Police Administration of Sombor shall visibly place a note in its custody cells to inform the occupants the cells are covered by video surveillance.

The Police Administration of Sombor and the police stations it comprises shall undertake appropriate measures to provide a designated area where persons remanded in custody can spend time outdoors.

The Police Administration of Sombor and the police stations it comprises shall improve the fire protection system by visibly placing an evacuation plan and instructions for action in the event of a fire in every police station, with the aim of protecting the physical integrity of persons remanded in custody.

The Police Administration of Sombor and the police stations it comprises shall arrange for and implement appropriate first aid training for police officers.

The Police Administration of Sombor and the police stations it comprises shall undertake the necessary measures to ensure that video footage is stored/archived for a period of minimum 30 days, both at the Police Administration and at all police stations it comprises.

#### **I/II - 8 - Penal and Correctional Facility in Šabac<sup>147</sup>:**

The Penal and Correctional Facility in Šabac shall allow spend spare time during the day outside of their dormitories, in communal areas with other detainees, unless they have been segregated from them under court orders.

The closed unit does not have a designated day room for convicts.<sup>148</sup>

The Penal and Correctional Facility in Šabac shall provide detainees with clean blankets.

At the Penal and Correctional Facility in Šabac, detainees with no prior convictions shall not be placed in the same rooms/dormitories with those who have prior convictions.

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<sup>147</sup> Report of Visit to the the Penal and Correctional Facility in Šabac, 71-23/14.

<sup>148</sup> Reference to the recommendation relating to the detention unit.

The Penal and Correctional Facility in Šabac shall undertake all available measures and activities to influence convicts to keep good personal hygiene and maintain the rooms where they stay in a sanitary condition and the Facility shall enable this by providing the necessary products and equipment.

The Penal and Correctional Facility in Šabac shall renovate the joint sanitation facilities on the first floor where convicts are placed, in accordance with the applicable regulations and standards.

The Penal and Correctional Facility in Šabac shall renovate the sanitation fixtures in the communal bathroom on the second floor where the dormitory of the intake unit is situated.

The Penal and Correctional Facility in Šabac shall ensure a varied, high-quality diet for inmates, including in particular fresh fruits and vegetables and dairy products.

The Penal and Correctional Facility in Šabac shall give convicts who are subject to disciplinary proceedings access to professional legal assistance by a lawyer.

The Penal and Correctional Facility in Šabac shall place visible notice of video surveillance in the room for visits by defence attorneys.

In the future, heads of departments and other authorised officers at the Penal and Correctional Facility in Šabac shall provide written replies to petitions filed by convicts in connection with the exercise of their rights. All petitions shall be entered in the records of petitions.

The Penal and Correctional Facility in Šabac shall undertake measures without delay to provide an appropriate room where persons would be searched with full respect for their privacy and dignity. The Facility shall undertake the necessary activities to hire female officers at the Security Department.

The Penal and Correctional Facility in Šabac shall visibly place notice of video surveillance in every room covered by video surveillance. The Penal and Correctional Facility in Šabac shall undertake measures to improve the video surveillance system and to keep the recorded footage for minimum 30 days.

The Penal and Correctional Facility in Šabac shall install an alarm button with sound and visual signals for alerting the security officer on duty.

When giving their opinion on the behaviour of a convict for the purposes of disciplinary proceedings, corrections officers at the Penal and Correctional Facility in Šabac shall not provide a description of the misconduct or a proposal for the course of action, because this prejudices the outcome of the disciplinary proceedings and sways the decision-makers towards declaring a convict guilty of a misconduct. Deciding whether to discipline a convict and what the type and scope of the disciplinary action should be is the sole responsibility of the body in charge of disciplinary proceedings.

The Penal and Correctional Facility in Šabac shall segregate convicts during disciplinary proceedings pursuant to an alleged serious misconduct on the basis of a decision made by the warden or a person authorised by him/her. Such decision shall be inserted in the case file of the disciplinary proceedings.

The warden of the Penal and Correctional Facility in Šabac shall pass orders and instructions on (in)admissible forms of convict behaviour at the Facility. When passing those orders/instructions, the warden shall consider whether the fact that a convict has passed beneath the window of the General Affairs Department can be seen as undisciplined, rude and aggressive behaviour which disrupts life and work at the Facility.

The Penal and Correctional Facility in Šabac shall undertake measures without delay to arrange for medical examination of every convict who is about to be placed in solitary confinement, after which the attending physician shall give an opinion writing which shall be inserted in the case file of the discipline proceedings.

The Penal and Correctional Facility in Šabac shall renovate the sanitation facilities in the room used for disciplining, solitary confinement and segregation.

In their future work, the corrections officers of the Penal and Correctional Facility in Šabac shall write a note of every interview with a convict and insert it in the convict's file and shall keep a list of individual, group and other correctional activities performed in accordance with an individual treatment plan.

The Penal and Correctional Facility in Šabac shall undertake appropriate measures and activities to allow persons placed at the closed unit to take examinations outside of the Facility where necessary.

The Penal and Correctional Facility in Šabac should hire additional staff for training and occupational treatment, i.e. it should hire more instructors (8).

Detainees at the Penal and Correctional Facility in Šabac shall be allowed to spend two hours a day outdoors, in accordance with the Law on Enforcement of Prison Sanctions and the Code of Criminal Procedure.

The Penal and Correctional Facility in Šabac shall provide a designated area (gymnasium) fitted with exercise equipment for physical activity of convicts and detainees during precipitation.

The Penal and Correctional Facility in Šabac shall fit the area designated for walks by convicts and detainees with exercise equipment, within available means.

The Penal and Correctional Facility in Šabac shall allow detainees to receive visits of minimum one hour in duration, in accordance with the applicable regulations.

The Facility shall undertake the necessary measures to hire additional staff for health care jobs, including a minimum number of nurses (paramedics) to ensure their presence at the Facility on a 24/7 basis. Within maximum three months, the Facility shall procure the services of minimum one psychiatrist by hiring a physician specialised in the relevant field, in order to ensure that a physician specialised in psychiatry (or neuropsychiatry) is present at the Facility minimum twice a week for at least four hours, to provide an integrated approach to health care through the inclusion of a psychiatrist in the multidisciplinary team.

The Facility's physician shall submit periodic written reports to the warden concerning the health condition of convicts, with recommendations for their physical activity. Copies of the written recommendations shall be kept at the Facility's outpatient clinic.

The Penal and Correctional Facility in Šabac shall in the future regularly air the room used for segregation of diseased inmates and maintain it in a sanitary condition.

The required equipment should be provided in the room designated for medical examination, including: Ambu resuscitator; a negatoscope for viewing x-ray films; and a surgical set of instruments for minor surgeries in a cassette. The Facility shall procure this within maximum 6 months. In addition to the necessary procurements, the Facility should also consider procuring a portable electrocardiography machine and an otoscope.

The Facility shall ensure that therapy prescribed by a physician is administered to convicts exclusively by medical staff.

The fact that non-medical staff are not allowed to be present during medical examination of persons deprived of liberty shall be stated on visibly placed notices in waiting rooms, on the outer side of doors to doctors' offices and inside doctors' offices; all officers of the Security Department should also be given notice of this. If a physician demands the presence of non-medical staff during examination or other medical work, such request and the identities of the non-medical staff who are present must be entered in the medical record of the person deprived of liberty.

The initial examination of detainees/convicts must include full-body examination without clothes, for the purpose of detecting any bodily harm that may be linked with violent treatment of persons deprived of liberty. In connection with such examination, medical records must include relevant statements: either a statement that a full-body examination was performed and no injuries were found or a description of any injuries found.

It is necessary to prepare a plan and perform regular (periodic) examinations of persons deprived of liberty at intervals not longer than three months. Such examinations must, as a minimum, cover all aspects included in the initial medical examination, with any additional measures undertaken as appropriate taking into account the health status of individual inmates. The findings of such regular (periodic) examinations shall be notified in writing to the Facility's warden minimum once a year, or more frequently if necessary due to improved or deteriorated health of an inmate, and in any case whenever any change in an inmate's health status is found.

As the Facility has no dental surgery, it should arrange for a relevant health care institution to provide dental services to persons deprived of liberty by setting a weekly quota of patients who would be received, which quota shall be distributed at relatively regular intervals (every two or three days); the arranged weekly quota shall not include persons deprived of liberty who are referred for emergency dental services outside of the Facility (e.g. toothache, tooth abscesses etc.) and such persons shall be provided with emergency dental services during the working hours of the dental establishment and based on an assessment of the Facility's physician.

The Facility's physician shall forthwith, and in any case within maximum seven days, establish and begin maintaining records of convicts' injuries. In such records, the physician shall present the allegations of the injured person about the way in which the injuries were sustained and the physician's opinion on the origin of the injuries.

The Penal and Correctional Facility in Šabac shall ensure that, within maximum six months, the closed section of the Facility occupied by detainees and convicts, who spend most of their time in their rooms, is provided with dormitories designated as non-smoking areas. These rooms shall be marked in accordance with the Law on Protection of the Population from Exposure to Tobacco Smoke. Other measures provided for by the said Law shall be implemented as well. The dormitories designated as non-smoking areas shall be used for the placement of detainees and convicts who demand to be protected from exposure to tobacco smoke.

The physician shall present the warden with written findings and recommendations on ways to improve hygiene at the Facility and among the inmates and shall describe the current state of sanitation conditions and facilities, heating, lighting and ventilation in the rooms used by inmates.

#### **I/II - 9- District Prison in Novi Sad<sup>149</sup>:**

The District Prison in Novi Sad shall provide the required amount of space per detainee, so that each detainee has minimum eight cubic metres and four square metres of space at his disposal.

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<sup>149</sup> Report of the Visit to the District Prison in Novi Sad, 71-77/14.

The District Prison in Novi Sad shall ensure that detainees spend their spare time during the day (in the morning and in the afternoon) outside of their dormitories, in communal rooms with other detainees, unless they have been segregated from them under court orders.

The District Prison in Novi Sad shall remove dampness from the walls in all dormitories and whitewash the walls for sanitation purposes.

The District Prison in Novi Sad shall provide detainees with lockers for their personal belongings.

The District Prison in Novi Sad shall provide a designated day room in the closed unit, with sufficient chairs and tables and with access to radio and television programmes.

The District Prison in Novi Sad shall provide the required amount of space per convict at the closed unit, so that each convict has minimum eight cubic metres and four square metres of space at his disposal.

The District Prison in Novi Sad shall provide the convicts placed at the closed unit with sufficient lockers for their personal belongings.

The District Prison in Novi Sad shall not put smokers and non-smokers in the same room.

The District Prison in Novi Sad shall undertake all available measures and activities to influence convicts to keep good personal hygiene and maintain the rooms where they stay in a sanitary condition and the facility shall enable this by providing the necessary products and equipment.

The District Prison in Novi Sad shall replace the worn-out sanitation fixtures and fittings in the sanitation facilities and the communal bathrooms.

The District Prison in Novi Sad shall visibly place menus in the dining room not later than on the last day of the week in respect of the following week.

The District Prison in Novi Sad shall allow persons deprived of liberty to purchase items from the canteen twice a week, it being understood that this cannot be done on two consecutive days, without any restrictions concerning the types of products they may purchase. The District Prison in Novi Sad shall fit the communal areas with refrigerators for persons deprived of liberty to keep any perishable food they bought from the canteen.

Searches of visitors at the District Prison in Novi Sad shall be conducted in accordance with the applicable regulations, in a manner which respect the personal dignity of visitors and protects their personal belongings.

The District Prison in Novi Sad shall undertake measures without delay to ensure better coverage of the facility with video surveillance. Any areas under video surveillance shall be visibly marked as such.

The District Prison in Novi Sad shall undertake measures without delay to equip the rooms used for placement of persons deprived of liberty with sound alarms to alert the guards in the event of any incidents.

Although the Law on Enforcement of Penal Sanctions does not provide for mandatory photographing of injuries sustained during incidents, the practice of taking photographs which has been implemented by the District Prison in Novi Sad has been shown to be very useful both in disciplinary proceedings against convicts and as a form of protection if convicts dispute the origin of injuries sustained in connection with an incident. Furthermore, according to security officers and the warden, photographs also provide protection for the staff of the Security

Department against false accusations as to the way in which injuries were sustained. In view of these facts, the District Prison in Novi Sad should establish a uniform practice of photographing any injuries, both those sustained during incidents and those sustained from the use of force. This would provide persons deprived of liberty with an equal level of protection if their right to physical integrity is violated by use of excessive force.

The District Prison in Novi Sad shall not initiate or conduct disciplinary proceedings for threats or damage to or destruction of large quantities of property in cases where it is obvious that the property itself has a relatively low value. The District Prison in Novi Sad shall ask the responsible Ministry without delay for guidance and interpretation of applicable regulations with regard to the concept of large quantities of property.

The District Prison in Novi Sad shall renovate the rooms used for solitary confinement in accordance with the statutory standards.

It is necessary to increase the total number of correctional groups at the closed unit and reduce the number of convicts in each correctional group in order to increase the chances of successful completion of the treatment programmes and enable each convict to progress to a more favourable correctional group.

The District Prison in Novi Sad shall undertake measures and prepare a training programme for the staff involved in correctional work and resocialisation of convicts, in order to increase the quality of correctional work aimed at achieving the best possible outcome in terms of reintegration and rehabilitation of convicts. The District Prison in Novi Sad shall undertake measures to provide continual training to the staff engaged in correctional work with convicts. When defining individual goals in its future work, the Correctional Work Department shall take into account primarily those factors that are within a convict's control and which he can influence in order to achieve the set individual goals. Accordingly, it shall also define measurable criteria which would allow it to realistically assess the attainment of a goal. Workshop facilitators shall keep lists of group activities, with conclusions and convicts' comments regarding the workshops, and shall insert the lists in the files of the convicts who participated in the workshops.

The District Prison in Novi Sad shall undertake measures to enable all convicts to participate in some form of education or training, according to their individual needs and inclinations, it being understood that priority should be given to those who are illiterate and have no vocational qualifications.

The District Prison in Novi Sad shall undertake measures to increase the number of convicts with occupational assignments that prepare them for working and living in the community after their release.

The District Prison in Novi Sad shall erect a canopy in the area for outdoor walks within the closed unit to shelter the users who are out for walks from precipitation.

The District Prison in Novi Sad shall erect a canopy in the area for outdoor walks within the detention unit to shelter the users who are out for walks from precipitation.

Detainees in the District Prison in Novi Sad shall be allowed to spend minimum two hours outdoors every day.

The District Prison in Novi Sad shall provide a designated area (gymnasium) fitted with exercise equipment for physical activity of convicts and detainees during precipitation.

The District Prison in Novi Sad shall fit the area designated for walks by convicts at the closed unit and detainees with exercise equipment, within available means.

The District Prison in Novi Sad shall in the future allow all interested convicts to participate in literary, drama, arts or music groups or any other activities, regardless whether the individual goals set for them include such activities or not.

The District Prison in Novi Sad shall undertake measures to give all persons deprived of liberty access to copies of relevant regulations which govern the enforcement of penal sanctions in a language they can understand.

The District Prison in Novi Sad shall allow detainees to receive visits of minimum one hour in duration, in accordance with the applicable regulations.

The District Prison in Novi Sad shall allow all convicts to receive visits in a designated visiting room once every two months.

The District Prison in Novi Sad shall fit the room for visits by close persons with additional elements (a table, chairs, armchairs etc.) and shall regularly maintain the room and the bathroom in a sanitary condition. The District Prison in Novi Sad shall adapt the room for visits by close persons so that it can be used for visits by children.

The District Prison in Novi Sad shall adapt the content of the sanitary packs to suit the needs of women.

The facility shall hire a sufficient number of paramedics to ensure the presence of minimum one person with medical qualifications at the facility on a 24/7 basis and at all times (on weekdays, on weekends and on public holidays). The facility shall ensure that a physician specialised in psychiatry (or neuropsychiatry) is present at the Facility minimum twice a week for at least four hours, to provide an integrated approach to health care through the inclusion of a psychiatrist in the multidisciplinary team.

The Facility's physician shall forthwith present the allegations of the injured person about the way in which the injuries were sustained and the physician's opinion on the origin of the injuries in the existing Record of Injuries.

The Facility's physician shall submit periodic *written* reports to the warden concerning the health condition of convicts, with recommendations for their physical activity. Copies of the written recommendations shall be kept at the Facility's outpatient clinic.

The facility shall provide all currently missing equipment. Furthermore, the facility shall consider the procurement of any other equipment identified as lacking by its officers.

District Prison in Novi Sad shall modify the "General Medical Examination Sheet" in heading 5, "Existing Conditions and Objective Examination upon Admission", sub-heading "Objective Examination" by removing the printed text which implies and prejudices a normal result.

Taking into account the fact that the facility's physician is required to submit periodic written reports to the warden concerning the health condition of convicts for the purpose of assessing the health status of persons deprived of liberty, they should be subjected to periodic medical examinations. Therefore, taking into account the available professional resources of the Health Care Department, the facility shall prepare a plan and perform regular (periodic) examinations of persons deprived of liberty at intervals not longer than three months. Such examinations must, as a minimum, cover all aspects included in the initial medical examination, with any additional measures undertaken as appropriate taking into account the health status of individual inmates. The findings of such regular (periodic) examinations shall be notified in writing to the Facility's warden minimum once a year.

The facility's physician shall, without delay, describe in detail any injuries sustained by inmates in all instances of bodily harm by using the statutory medical documentation in accordance with the rules of the medical profession, regardless of the circumstances surrounding the infliction of



the injury. The facility's warden shall undertake measures without delay to ensure that each instance of use of force is analysed on the basis of complete medical documentation, so as to determine beyond doubt whether the force used was minimal under the circumstances and assess whether the use of force was an excuse to punish a person deprived of liberty. In this context, the facility's warden shall: (1) arrange for training of all officers of the Security Department on safe techniques for physically restraining persons with minimum force; (2) warn all employees at the facility that any use of force outside of the scope provided for by the law, regardless whether it is a matter of the force being disproportionate or if the force was used to punish a person deprived of liberty, constitutes mistreatment and the responsible officers will be subject to disciplinary and criminal liability; (3) in the specific case of the convict with the initials B.A., take action against the responsible officers within his sphere of competence in connection with the recommendation given under 2 above and notify the relevant public prosecutors' office.

The District Prison in Novi Sad shall make arrangements for timely transportation of persons deprived of liberty to their specialist appointments and other medical interventions at health care institutions outside of the facility.

The District Prison in Novi Sad shall provide regular periodic dental examinations at intervals not longer than 12 months, while dental interventions shall include more than just tooth extraction and shall focus more on filling and other dental services.

The District Prison in Novi Sad shall refer all convicts with severe mental disorders to the Special Prison Hospital or another suitable health care institution without delay. In the future, persons with severe mental disorders shall be placed at the District Prison in Novi Sad only if this facility subsequently develops the capacities needed to provide them with proper treatment.

#### **I/II - 10 - Juvenile Correctional Facility in Kruševac<sup>150</sup>:**

The Juvenile Facility shall undertake measures to provide for better airing of dormitories.

The Juvenile Facility shall renovate all rooms of the Intensive Work Unit and all sanitation facilities, including in particular communal bathrooms, in accordance with the applicable regulations and standards.

The Juvenile Facility shall install an alarm button for alerting the guard on duty in all dormitories at the Intensive Work Unit.

The Juvenile Facility shall renovate the open unit in accordance with the applicable regulations and standards.

The Juvenile Facility shall undertake appropriate measures and activities to make the rooms at the intake unit compliant with the applicable regulations and standards.

The Juvenile Facility shall undertake appropriate measures and activities to make the rooms at the unit where convicts are held compliant with the applicable regulations and standards.

The Juvenile Facility shall fully renovate its kitchen.

The Juvenile Facility should ensure a sufficient number of correctional staff by hiring new employees at the Intensive Work Unit.

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<sup>150</sup> Report of Visit to the Juvenile Correctional Facility in Kruševac, 71-35/14.

The Juvenile Facility shall ensure that correctional groups include maximum 10 wards.

In its future work, the Corrections Department shall make official notes to indicate whether centres for social work have presented the treatment programme to the wards' parents/guardians. In cases where the treatment programme has not been presented to parents/guardians, such note will state the reasons for this. These notes shall be inserted in the wards' files.

To ensure the drafting of a relevant bylaw, the Juvenile Facility shall submit to the Administration for Enforcement of Penal Sanctions a draft document setting out the rules and levels of the scoring system which meet the demands of ward categorisation at the Juvenile Facility.

In their future work, the corrections staff of the Juvenile Facility will make official notes of the observations and proposals concerning possible progression of a ward to the next level made by multidisciplinary team members involved in the work with a ward after each session, or the reasons why the conditions for the ward's progression have not been met. These official notes shall be inserted in the wards' files.

When a ward is reassigned from the Open-type Unit to the Intensive Work Unit, the corrections staff shall cooperate with other team members to review the original treatment plan and shall present the revised treatment plan to the warden for endorsement and signature. The corrections staff shall monitor and evaluate on a regular basis the implementation of all activities envisaged by the revised treatment programme and shall make a note after each activity.

The Intensive Work Unit should provide intensive, varied and comprehensive treatment suited to the wards' developmental needs, with more educational activities focused on correcting problematic behaviour and returning to the Open-type Unit.

In their future work, the corrections staff of the Juvenile Facility shall make notes after any type of group activity to record the title of the workshop, the names of those who participated, the subject matter covered by the workshop and the purpose of the workshop; also, wards should be given an opportunity to voice their comments and observations.

The existing Scoring and Ranking Rules need to be amended with regard to the benefits and privileges available to wards. Specifically, a clear statement of the benefits associated with the first level is needed.

The Juvenile Facility and the Administration for Enforcement of Penal Sanctions worked together with representatives of the Ministry of Education, Science and Technological Development to ensure that the diplomas issued to the Juvenile Facility's wards at the end of their vocational training courses at the Facility are recognised as valid and equivalent to the diplomas received from regular VET schools, to enable the Juvenile Facility's wards to compete in the job market for specific jobs on an equal footing with other members of the community.

In their future work, instructors will produce weekly reports on the level of effort put in by the wards and their progression in vocational training and shall submit such reports to a corrections officer for review. Each such report shall be discussed in the sessions of the multidisciplinary team and decisions shall be made to revise the treatment where appropriate.

The Juvenile Facility shall undertake measures to ensure that female wards have equal access to and use of the gymnasium and the exercise areas within the perimeter of the Juvenile Facility as their male counterparts.

To ensure a sound, varied and continual reform process, the wards who are temporarily placed at the Intensive Work Unit should be allowed to participate in culture and art activities and other

activities organised and implemented at the Open-type Unit, in order to prevent the harmful effects of solitary confinement and isolation.

The Juvenile Facility shall provide a designated room for visits by close persons.

Within maximum six months, the Juvenile Facility shall procure the services of a psychiatrist/neuropsychiatrist by hiring a physician specialised in the relevant field, in order to ensure that a physician specialised in psychiatry (or neuropsychiatry) is present at the Facility minimum three times a week for at least four hours, to provide an integrated approach to health care through the inclusion of a psychiatrist in the multidisciplinary team and to enable the use of other mental health treatment methods apart from medication and facilitate proper mental health prevention in the specific juvenile population.

The Juvenile Facility's physician shall forthwith present the allegations of the injured person about the way in which the injuries were sustained and the physician's opinion on the origin of the injuries in the existing Record of Injuries.

The Juvenile Facility shall develop and implement a suicide prevention programme through joint multidisciplinary efforts with relevant expert services.

The Juvenile Facility's physician shall submit periodic *written* reports to the warden concerning the health condition of inmates, with recommendations for their physical activity. Copies of the written recommendations shall be kept at the Juvenile Facility's outpatient clinic.

The expired glucometer test strips must be disposed of without delay and valid test strips must be purchased for the device.

The Juvenile Facility's physician shall, without delay, describe in detail any injuries sustained by inmates in all instances of bodily harm by using the statutory medical documentation in accordance with the rules of the medical profession, regardless of the circumstances surrounding the infliction of the injury. The Juvenile Facility's warden shall undertake measures without delay to ensure that each instance of use of force is analysed on the basis of complete medical documentation (*see above*), so as to determine beyond doubt whether the force used was minimal under the circumstances and assess whether the use of force was an excuse to intentionally inflict pain on a juvenile offender. In this context, the Juvenile Facility's warden shall: (1) arrange for training of all officers of the Security Department on safe techniques for physically restraining persons with minimum force; (2) warn all employees at the Juvenile Facility that any intentional inflicting of pain constitutes mistreatment and the responsible officers will be subject to disciplinary and criminal liability; (3) in any specific cases involving individual wards, take action against the responsible officers within his sphere of competence in connection with the recommendation given under 2 above and notify the relevant public prosecutors' office.

The Juvenile Facility shall undertake measures within its sphere of competence to remove the wards with mental disorders from regular placement and place them at an appropriate institution where they would be provided with proper psychiatric treatment.

The Juvenile Facility's physician shall forthwith begin presenting the allegations of the injured person about the way in which the injuries were sustained and the physician's opinion on the origin of the injuries, i.e. his opinion whether there is a link between the force used and the injuries sustained in the existing Record of Injuries.

The Juvenile Facility's physician shall record all identified instances of bodily harm in the Record of Injuries.

The physician shall present the warden with written findings and recommendations on ways to improve hygiene at the Juvenile Facility and among the wards and shall describe the current state of sanitation conditions and facilities, heating, lighting and ventilation in the rooms used

by wards; furthermore, the physician shall also present his findings with regard to the quantity and quality of food.

### **I/II - 11 - Residential Care Facility for the Elderly Voždovac<sup>151</sup>:**

The existing SOS buttons of staff alarms need to be checked and repaired on a regular basis.

A separate room should be designated for users who smoke in all pavilions.

Dampness should be removed from bathroom walls and the walls should be whitewashed for sanitation purposes.

The Residential Care Facility should establish and regularly maintain records of filed applications, complaints and appeals.

The Residential Care Facility shall undertake the necessary measures to register the Inpatient Clinic (Pavilion F) as a separate health care and social security unit within the social security institution.

The Residential Care Facility shall make an assessment of the need for nurses and forward it to the Ministry of Labour, Employment, Veteran and Social Affairs, while a copy of the assessment with the response by the Ministry of Labour, Employment, Veteran and Social Affairs should be submitted to the Protector of Citizens.

The Residential Care Facility shall undertake available measures to hire more physical therapists in order to provide more accessible and higher-quality physical therapy.

The administration of the Residential Care Facility and the expert psychosocial service shall develop accessible and customised psychosocial rehabilitation activities for the users and involve them in as many programmes as possible. The Residential Care Facility shall occasionally assess the quality and type of the activities available to users, focus on the individual abilities and needs of users and develop new, stimulating forms of engagement for them.

The administration of the Residential Care Facility shall assess the needs for occupational therapists and forward it to the Ministry of Labour, Employment, Veteran and Social Affairs, while a copy of the assessment with the response by the Ministry of Labour, Employment, Veteran and Social Affairs should be submitted to the Protector of Citizens.

The resident psychologist and social workers should be included in occupational therapy activities in order to develop programme services.

It is necessary to provide relevant amenities and implement as many programme activities as possible for semi-dependent and dependent users in accordance with their individual needs, in accordance with the principle of equal access to services for all categories of users.

The Residential Care Facility needs to provide a designated room suitable for occupational therapy and a hall for culture and entertainment events.

The Residential Care Facility shall create a special record of the use of restraints on users, with entries of the exact time when the physical restraint/binding of a patient began (which is entered immediately upon applying the measure), the exact time when the restraints are removed (which they enter immediately upon removing the restraints), the reasons for applying this measure, the name of the physician who ordered or approved the measure, a description of any injuries caused to patients or staff and any other relevant circumstances. The Residential Care Facility shall complete its records of use of restraints by providing the following information: which less

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<sup>151</sup> Report of Visit to the Residential Care Facility for the Elderly Voždovac, 71-53/14.

restrictive measures had been applied before it was decided to restrain a user; information on visits to restrained users by the psychiatrist in charge and by other medical staff; whether the user's legal representative was informed of the restraining measure and, if so, when; any injuries inflicted on the patients or on hospital staff; and any comments made by the user.

In its future operation, the Residential Care Facility shall examine on a case-by-case basis whether the use of physical restraints is proportionate and adequate given the user's health status. Before resorting to physical restraints, the Residential Care Facility shall attempt other, less restrictive measures. The Residential Care Facility shall limit the duration of the use of physical restraints to the shortest possible period in order to preserve users' physical integrity and dignity. The Residential Care Facility shall ensure that a user put in restraints is placed in a separate room, where no other users are present.

For the purpose of examining possible amendments to the existing provisions and ensuring a sufficient number of resident care-givers, the Residential Care Facility shall assess the needs for care-givers and submit it to the Ministry of Labour, Employment, Veteran and Social Affairs, with a copy to the Protector of Citizens.

The Residential Care Facility shall undertake measures and prepare a training programme for the staff involved in user rehabilitation work, with the aim of improving the quality of health care and psychosocial rehabilitation of users. The Residential Care Facility shall undertake measures to provide continual training to all employees of the Residential Care Facility who work directly with users.

#### **I/II - 12 - Gerontology Centre "Srem" in Ruma<sup>152</sup>:**

The Centre shall not place more than four users in each room.

The Centre shall provide beds with handles to all users who have mobility difficulties.

The system for alerting medical staff in case of emergencies should be repaired.

Dampness should be removed from the rooms and bathrooms in the "B" building and they should be whitewashed for sanitation purposes.

The Centre shall undertake measures to ensure all users wear their daily clothes during the day.

The Centre shall provide a sufficient number of screens in rooms to protect users' privacy.

The Centre shall provide appropriate equipment for serving meals in bed to users with mobility difficulties.

The Centre shall establish and regularly maintain records of filed applications, complaints and appeals.

The Centre shall reorganise its psychosocial service by assigning the employees to spend more of their time working directly with users. The psychosocial service shall provide a sufficient number of accessible and tailored rehabilitation activities for users and involve them in as many of these activities as possible.

Expert staff shall continually motivate users to ensure as many of them as possible participate in the Users' Council.

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<sup>152</sup> Report of Visit to the Gerontology Centre "Srem" in Ruma, 71-70/14.

### **I/III Part Three**

#### **- Recommendations made in 2015 in the Report of a Visit conducted in 2014**

##### **I/III - 1 - Gerontology Centre in Šabac<sup>153</sup>**

The Centre shall not place more than four users in each room.

The Centre shall undertake measures to provide a sufficient number of showers in accordance with applicable regulations.

The Centre shall undertake measures to provide a separate showering area in the bathrooms. A system for alerting medical staff in case of emergencies should be installed.

The halls, communal rooms and smoking rooms in the New Building should be whitewashed.

Dampness should be removed from the bathrooms on the ground floor of the Inpatient Clinic and they should be whitewashed for sanitation purposes.

The Centre shall undertake measures to enable users to wear their daily clothes during the day.

The Centre shall undertake measures to ensure that existing screens are used on a regular basis when users change clothes or keep their personal hygiene, in order to protect users' privacy.

The Centre shall establish and regularly maintain records of filed applications, complaints and appeals.

The Centre shall undertake measures to provide relevant amenities and implement as many programme activities as possible for the dependent users, all of which should take place in communal rooms and in fresh air.

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<sup>153</sup> Report of Visit to the Gerontology Centre in Šabac, 71-81/14.

## ANNEX II

### Conclusions of the National Assembly of the Republic of Serbia

Pursuant to Article 8, paragraph 1 of the Law on National Assembly ("Official Gazette", No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly ("Official Gazette of RS", No. 20/12 - consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

#### C O N C L U S I O N BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM FOR 2013

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented activities of the Protector of Citizens in capacity of the National Preventive Mechanism in the field of protection and improvement of human and minority freedoms and rights.

2. With regard to the findings of the Protector of Citizens that as a rule detainees do not have an opportunity to spend free time during the day outside their cells in communal rooms with other detainees in cases where no court-ordered contact restrictions apply; that in most cases they do not have an opportunity to do productive work, nor are they included in social and cultural activities; that detainees are not grouped together according to the type of criminal offence of which they are indicted, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of detainees, i.e. to allow them to exercise all their rights in accordance with the applicable regulations and standards.

3. With regard to the assessment of the Protector of Citizens that women in detention are mostly and commonly isolated for long periods because their number in detention units tend to be low, whereas this is meant to be a disciplinary or a special measure of strictly limited duration for men in the penal enforcement system, the National Assembly orders the competent authorities to exercise increased caution with the aim of reducing isolation of female detainees for a long periods during detention.

4. With regard to the findings of the Protector of Citizens that many convicts in closed units do not have an option to spend free time during the day in communal rooms with other convicts, including in particular persons under increased supervision, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to enable all convicts, except to those in solitary confinement or isolation, to spend free time during the day in communal rooms with other convicts.

5. With regard to the assessment of the Protector of Citizens that there are significant shortcomings in active, individual and collective correctional work of correctional officers with convicts, the National Assembly orders the Ministry of Justice to improve treatment of convicts in penal facilities in terms of more intensive and effective work of correctional officers with convicts, increasing their work engagement where possible, education and the highest level of exercise of religious rights and to pass new or modify the existing regulations without delay, which would ensure implementation of the law in accordance with the applicable standards in that regard.

6. With regard to the assessment of the Protector of Citizens that there are numerous illegalities and irregularities in the treatment by competent authorities of irregular migrants and foreigners who expressed their intention to seek asylum in the Republic of Serbia, the National Assembly, endorsing all recommendations the Protector of Citizens gave to the Ministry of Internal Affairs and the Commissariat for Refugees and Migration in that regard, orders the authorities to which those recommendations were given to fully implement them without delay, particularly to register all migrants who entered into the territory of the Republic of Serbia, to keep migrants under full control of the competent authorities pending final resolution of their status, i.e. deportation in accordance with the applicable regulations, as well as to pass decisions on asylum requests in an expedited procedure, while thwarting all attempts to abuse rights, with full respect for all minimum rights of irregular migrants and asylum seekers, in accordance with the rules of the international law and the applicable standards.

7. The National Assembly endorses the recommendations the Protector of Citizens gave in the capacity of the National Preventive Mechanism to the competent public authorities with the aim of improving the position of persons deprived of liberty, i.e. to prevent abuse, and orders the competent authorities to implement these recommendations without delay, as well as to notify the National Assembly thereof in writing by 31 December 2014 at the latest.

8. This Conclusion is to be published in the "Official Gazette of the Republic of Serbia".

RS No. 72

Done in Belgrade, on 23 October 2014

**NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA**

PRESIDENT

Maja Gojković



Pursuant to Article 8, paragraph 1 of the Law on National Assembly (“Official Gazette”, No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly (“Official Gazette of RS”, No. 20/12 - consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

**C O N C L U S I O N**  
**BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF**  
**THE NATIONAL PREVENTIVE MECHANISM**  
**FOR 2013**

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented the activities of the Protector of Citizens in the capacity of the National Preventive Mechanism within his scope of his powers under constitution and law and assessed the situation and the quality of exercise and protection of the rights of persons deprived of liberty, highlighting the necessary improvements of the situation and prevention of torture and other forms of abuse.

2. With regard to the assessment of the Protector of Citizens that the competent public authorities fail to comply with their duties in the fight against impunity for torture, that they do not always conduct timely and detailed procedures to determine whether the rights of persons deprived of liberty were violated, that individual responsibility for violation of these rights and responsibility for omissions in work and organization of work was apportioned to responsible persons only in few cases, as well as that few persons responsible for violation of these rights were punished, and particularly having in mind that the Protector of Citizens and the Constitutional Court identified certain cases of abuse, the National Assembly orders the competent public authorities to fully comply with their duties in the fight against impunity for torture, to take all necessary measures and activities to prevent abuse and, in accordance with the law, to conduct timely and detailed procedures to investigate all substantiated allegations of abuse and apportion subjective and objective responsibility and to punish those responsible.

3. With regard to the assessment of the Protector of Citizens that many existing detention rooms in police stations are not compliant with the minimum standards of the European Committee for the Prevention of Torture regarding necessary accommodation conditions, the National Assembly orders the Government to allocate necessary funds for construction or refurbishment of detention rooms in police stations in accordance with the applicable standards in budget proposal for 2015.

4. With regard to the assessment of the Protector of Citizens that the Instructions on Treatment of Arrested and Detained Persons are not compliant with the applicable regulations and standards and decisions of the European Court of Human Rights (use of physical restraint, presence of non-medical staff during physical examinations, lack of duty to install alarms, authorizations of control mechanisms etc.), which results in dilemmas for police officers regarding exercise of police authorities and divergent practices in their actions, the National Assembly orders the Ministry of Internal Affairs to make the Instructions on Treatment of Arrested and Detained Persons compliant with the applicable regulations, standards and decisions of the European Court of Human Rights.

5. Due to significant shortcomings, pointed out by the Protector of Citizens in his Report, regarding active individual and collective correctional work of correctional officers with convicts, work engagement of convicts and their education, use of a system of subsequent reclassification of convicts which enables convicts to progress into a more favorable correctional group in case of good behavior, preparation of convicts for release and establishing of cooperation with social welfare organizations, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of convicts

in order to rectify the said shortcomings and emphasizes the duty to pass regulations for implementation of the law in accordance with the applicable standards without delay.

6. It is particularly important to amend regulations on enforcement of penal sanctions for organized crime without delay, in accordance with the recommendation of the European Committee for the Prevention of Torture, which assessed the existing penal enforcement system as borderline inhuman and degrading.

7. The National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve its treatment of convicts in terms of provision of health care, in accordance with the applicable regulations and standards. This is based on the assessment of the Protector of Citizens that there are serious shortcomings in the provision of health care to convicts in penal facilities, particularly regarding the provision of necessary medicinal products and therapy, medical examinations after prison intake procedure, lack of unique medical examination protocols, failure to perform periodic medical examinations of convicts and daily medical examinations of patients, inclusion of non-medical staff, placement of convicts with mental disorders in regular prison regime, failure to submit compulsory periodic reports on health condition of convicts, sanitary and hygiene conditions in institutions, the quality of food, physical activities of convicts etc., stipulated by the Law on Enforcement of Penal Sanctions.

8. Taking into account that the Protector of Citizens repeated his assessments stated in all previous annual reports that competence for health care services in penal facilities should be transferred from the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to the Ministry of Health, which is one of the preconditions for efficient investigation of allegations of violent treatment of persons deprived of liberty, the National Assembly emphasizes it is necessary for the Government to consider this issue as soon as possible and propose to the National Assembly amendments to the relevant legal arrangements.

9. With the aim of ensuring more efficient and comprehensive control over the work of the Administration for the Enforcement of Penal Sanctions, the National Assembly advises the Ministry of Justice to consider the recommendations of the Protector of Citizens on activities that should be undertaken to separate the supervision unit from the Administration for the Enforcement of Penal Sanctions, so that the work of institutions and the Administration is overseen by the supervision unit as a separate organizational unit of the Ministry of Justice, and also to propose appropriate amendments of laws and other regulations in that regard.

10. The National Assembly endorses the recommendations the Protector of Citizens gave in the capacity of the National Preventive Mechanism to the competent public authorities with the aim of improving the position of persons deprived of liberty, i.e. to prevent abuse, and orders the competent authorities to implement these recommendations without delay and to notify the National Assembly thereof in writing by 31 December 2014 at the latest.

11. This Conclusion shall be published in the "Official Gazette of the Republic of Serbia".

RS No. 73

Done in Belgrade, on 23 October 2014

**NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA**

PRESIDENT

Maja Gojković

Pursuant to Article 8, paragraph 1 of the Law on National Assembly ("Official Gazette", No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly ("Official Gazette of RS", No. 20/12 - consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

**C O N C L U S I O N**  
**BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF**  
**THE NATIONAL PREVENTIVE MECHANISM**  
**FOR 2013**

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented the activities of the Protector of Citizens in the capacity of the National Preventive Mechanism in the field of child rights.

2. With regard to the assessment of the Protector of Citizens that many children are still placed in residential social welfare institution because conditions have not been provided for their community care; that those children are excluded from the normal social environment for unacceptably long periods, and thus they do not acquire or over time lose social and other skills necessary for living outside the institutions; that financial and other living conditions in such institutions are not compliant with the applicable standards and that understaffing is a pressing issue; that the number of children placed in those institutions significantly exceeds the statutory maximum and that in many cases, contrary to regulations, children are placed together with adult users; and that the existing shortcomings of the institutional child care system display elements of inhuman or degrading treatment, the National Assembly orders the competent public authorities to intensify activities on deinstitutionalization, i.e. reduction of capacities of the existing residential social welfare institutions and their phasing out, while ensuring full community child care and providing comprehensive support.

3. With regard to the assessment of the Protector of Citizens that in residential social welfare institutions a number of children with mental disorders and/or intellectual disabilities are isolated, and having in mind the position of the UN Committee against Torture that isolation of persons with severe or acute mental disorder is not allowed, as well as the position of the UN Special Rapporteur on Torture that isolation of such persons, regardless of its duration, constitutes cruel, inhuman or degrading treatment, the National Assembly orders the competent public authorities to take all available measures to prevent residential social welfare institutions from isolating children with mental disorders and/or intellectual disabilities.

4. The National Assembly endorses the recommendations the Protector of Citizens gave to the competent authorities in the capacity of the National Preventive Mechanism with the aim of improving the position of convicted persons placed in the Juvenile Correctional Institution Valjevo, as well as users placed in the Centre for Children and Youth with Disabilities "Veternik".

5. This Conclusion shall be published in the "Official Gazette of the Republic of Serbia".

RS No. 74

Done in Belgrade, on 23 October 2014

**NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA**

PRESIDENT  
Maja Gojković