



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
281-71/16
Belgrade



Заштитник грађана
Zaštitnik građana



BEOGRADSKI CENTAR
ZA LJUDSKA PRAVA

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NATIONAL PREVENTIVE MECHANISM

**MONITORING OF TREATMENT OF MIGRANTS/ASYLUM SEEKERS IN THE
REPUBLIC OF SERBIA**

Report on the Visit to the Asylum Centre in Bogovađa

Belgrade, August 2016

MANDATE OF THE NATIONAL PREVENTIVE MECHANISM

Under the Act Ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Degrading or Humiliating Treatment or Punishment¹, the National Preventive Mechanism for the Prevention of Torture (NPM) shall visit institutions where persons are or may be deprived of their liberty with a view to deterring any form of torture or other form of ill-treatment by state authorities or public officials and to providing guidance to state authorities on putting in place accommodation and other living conditions in institutions where persons are deprived of liberty in accordance with the valid regulations and standards.

The NPM is entitled to unimpeded and unannounced access to all institutions where persons are or may be deprived of liberty at all times; to hold private interviews with such persons, with public officials, who are under the obligation to cooperate with it, and with any other persons who may have information of relevance to the treatment of persons deprived of liberty; to access all documentation regarding those persons; to issue recommendations to the competent authorities with a view to improving the treatment of persons deprived of liberty and the conditions in which they are held or detained.

Under Article 2a of the Act, the Protector of Citizens shall perform NPM duties and, in performing these duties, cooperate with the Ombudspersons of the autonomous provinces and with associations, the Statutes of which include the goal of improving human rights and freedoms in accordance with the law.

The Protector of Citizens has formed a separate unit, the “National Preventive Mechanism Secretariat”, which performs NPM professional duties, pursuant to the NPM’s remit defined in Article 4 of the Optional Protocol to the Convention against Torture. The Secretariat is managed by the NPM Secretary, who operates in accordance with the guidelines issued by the Deputy Protector of Citizens charged with the rights of persons deprived of liberty.

The Protector of Citizens and the AP of Vojvodina Provincial Ombudsperson signed a Memorandum on Cooperation in Performing NPM Duties², under which the Provincial Ombudsperson shall actively partake in the visits by NPM Monitoring Team to institutions in the territory of the AP of Vojvodina where persons are deprived of liberty.

Pursuant to the procedure implemented after the publication of the Public Call³, the Protector of Citizens selected the following associations with which it will cooperate in performing NPM duties: the Belgrade Centre for Human Rights (BCHR), the Victimology Society of Serbia, Group 484, the Mental Disability Rights Initiative - Serbia (MDRI-S), the Committee of Human Rights Lawyers (YUCOM), the International Aid Network (IAN), the Human Rights Committee – Valjevo, the Helsinki Committee for Human Rights in Serbia and the Human Rights Centre – Niš.

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

2 Signed on 12 December 2011.

3 Published in the Official Gazette of the Republic of Serbia on 29 January 2016.

After its visits, the NPM prepares reports, which it forwards to the visited institutions. Thereinafter, the NPM maintains continuous dialogue with the visited institutions and the authorities within which they operate, with a view to eliminating the identified deficiencies that may lead to torture or inhuman or humiliating treatment.

MAIN INFORMATION ABOUT THE VISIT

VISITED INSTITUTION	Bogovađa Asylum Centre
PURPOSE OF THE VISIT	Monitoring of Treatment of Migrants/Asylum Seekers in the Republic of Serbia
VISIT CONDUCTED BY	Protector of Citizens, in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	24 August 2016
NOTICE OF VISIT	The visit was pre-notified
VISIT TEAM	<p>Team Leader: Jelena Jelić, <i>Protector of Citizens Professional Service/NPM</i></p> <p>Team Members: Marko Anojčić, <i>Protector of Citizens Professional Service/NPM</i></p> <p>Dušan Pokuševski <i>Belgrade Centre for Human Rights</i></p> <p>Marko Štambuk, <i>Belgrade Centre for Human Rights</i></p> <p>Raduan Mansouri <i>Arabic interpreter</i></p>

COOPERATION WITH THE NPM TEAM

All Asylum Centre staff cooperated with the NPM Team, providing it with access to all the premises and installations and the chance to photograph the premises, unimpeded and unmonitored interviews with all the migrants the NPM Team's members wished to talk to, as well as insight in documentation on request.

1. INTRODUCTION

No migrants/asylum seekers stayed at the Bogovađa Asylum Centre from September 2015 until 17 July 2016, when the Centre reopened. A total of 365 people, including 129 minors and 64 women, had been accommodated in it from that day to the day of the NPM Team's visit.

The Centre can take in up to 180 people. In exceptional circumstances, it can put in a hundred extra beds and accommodate 280 people.

On the day of the visit, 218 people were staying at the Centre: 131 were adults (85 men and 46 women) and 87 were under age (48 boys and 39 girls). They were nationals of the following countries: Afghanistan (134, 60 of whom minors), Syria (38, 17 of whom minors), Pakistan (19), Iraq (14, of whom 7 minors), Iran (9, of whom 2 minors), Cuba (2) and Egypt (1). An Afghani couple and their baby born in Serbia were also staying at the Centre.

Five unaccompanied minors stayed in the Centre since it reopened. Three were from Pakistan and two from Afghanistan. They had not been issued certificates of intent to seek asylum. They came to the Centre in a group but soon left it, before the Asylum Centre staff contacted the relevant Social Welfare Centre. No unaccompanied minors were staying at the Centre on the day of the visit. Nor has the Centre accommodated any women unaccompanied by their family members.

The Centre staff told the NPM Team that the officers of the Commissariat for Refugees and Migration (hereinafter: Commissariat), representatives of the Red Cross and various civil society organisations focusing on the protection of asylum seekers frequently talked to the migrants and had not found any indication yet that any of the migrants in the Centre were human trafficking victims. Posters informing the migrants in several languages about how to protect themselves and who to seek help from if they are at risk of falling victim of human traffickers have been put up in a number of places in the Centre. The contact details of the Human Trafficking Victims Protection Centre are listed on the posters.

2. ACCOMMODATION

The Centre has 45 rooms in which the migrants are accommodated⁴, as well as shared bathrooms, an Internet room, kitchen, dining room, two TV dens and Children's Corner. Next to this building is the Management Building, housing the staff offices, first aid room and the office used by the Ministry of Internal Affairs officers. Another building is used as a laundry room, where the bed linen and migrants' clothes are washed and dried. The grounds include a children's playground and three fields, for soccer, basketball and volleyball. The Centre compound is under video surveillance. Its gate is open from 7 am to 10 pm. The NPM Team's general impression is that the living conditions of the migrants/asylum seekers in this Centre are very good.

⁴ Families are usually accommodated in rooms with 3-7 beds, while persons of the same sex, who have come to the Centre without their family members, are accommodated in the rooms with more beds (up to 13).

The hygiene in the Centre rooms and other premises is very good. Six cleaning ladies have been engaged to maintain the hygiene; the migrants/asylum seekers are under the obligation to clean up their rooms. The Centre Manager said they had new bed linen and blankets. The bed linen is changed twice a week. The Centre residents can wash their laundry once a week, according to the room schedule. The Centre also supplies the migrants with hygiene packages and diapers for the infants. The Centre waste is collected twice a week. A Red Cross representative said that the current Centre residents were very neat and that this was one of the reasons why the hygiene in the Centre was satisfactory.

Migrants/asylum seekers have five PCs with Internet connections at their disposal. Their use has been limited to 30 minutes to ensure that all Centre residents have the chance to use them. The WiFi signal is weak because the Centre lacks the technical requirements to install cable data transmission. Everyone in the Centre is allowed to use the telephone booth.

The Children's Corner is fully equipped. The Centre staff said that it was not used yet, because the Centre just reopened in mid-July and had not yet engaged a staff member specialised in working with children.

1.

RECOMMENDATION

The Commissariat for Refugees and Migration should facilitate the use of the Children's Corner in the Bogovađa Asylum Centre by engaging a staff member specialised in working with children.

3. ORGANISATION OF WORK

Two Commissariat officers are engaged in the Centre. They work in weekly shifts and sleep in the Centre, wherefore they are available at all times. Police officers occasionally visit the Centre, during their regular patrols. A total of 17 people have been engaged by the Red Cross to perform various duties in the Centre (hygiene, nutrition, et al). In addition, the Centre has engaged the Valjevo-based Dekapolit security guards, who work in three shifts.

The Centre also admits migrants without certificates of intent to seek asylum. Only 37 of the 218 migrants⁵ in the Centre on the day of the NPM Team's visit had been issued certificates of intent to seek asylum. Migrants without certificates are transferred by the Centre staff in groups of four or five to the closest police station, in Valjevo, which has the technical capacity to issue them the certificates and register them.

The Asylum Office has not registered any of the migrants issued certificates of intent to seek asylum, wherefore none of the Centre residents have been issued IDs.

2.

⁵ The Centre officials said that a group of around 60 migrants had been bussed to the Centre some 7-10 days before the NPM Team's visit.

FINDING

The Asylum Office has neither registered nor issued identity cards to any of the Bogovađa Asylum Centre residents with certificates of intent to seek asylum.

FOUNDATIONS

An authorised officer of the Asylum Office shall register foreigners and their family members. Registration shall include:

- 1) *establishing their identity;*
- 2) *taking their photographs;*
- 3) *taking their fingerprints, and*
- 4) *temporary seizure of all identification papers and documents, which can be of relevance in the asylum procedure, of which a certificate shall be issued to the foreigners.*

Foreigners in possession of passports, identity cards or other identification documents, residence permits, visas, birth certificates, travel tickets and/or other documents or official communication of relevance to the asylum procedure, shall be obliged to submit them upon registration or submission of an asylum application, before their interview at the latest.

Foreigners shall be issued identity cards for asylum seekers upon the completion of their registration. Foreigners who deliberately obstruct, avoid or refuse the registration referred to in paragraph 1 of this Article shall not be allowed to submit asylum applications.

The manner of conducting the registration referred to in paragraph 1 of this Article shall be prescribed by the Minister.⁶

The Asylum Office shall ensure that authorised Office staff are on duty in each Asylum Centre every day.

The authorised Office staff shall register foreigners, who have expressed the intention to seek asylum on their admission to an Asylum Centre, in accordance with the Asylum Act, whereupon they shall promptly issue them identity cards. During the procedure, the staff shall in each particular case review the need to issue an order restricting the movement of the foreigners at issue (referring them to the Shelter for Foreigners under enhanced police supervision or prohibiting them from leaving an Asylum Centre, a designated address or area).⁷

RECOMMENDATION

The Asylum Office should register all foreigners in the Bogovađa Asylum Centre, who have certificates of intent to seek asylum in the Republic of Serbia, and issue them asylum seekers' identity cards.

Furthermore, the migrants in the Centre have not been registered in accordance with the Rulebook on Records of People Accommodated in the Asylum Centres. On admission to the Centre, the staff take their basic personal data, such as their first and last names and country of

⁶ Asylum Act (Official Gazette of the RS No.109/2007), Article 24.

⁷ Protector of Citizens Recommendations No 75-6/14 of 10 February 2014, Recommendation 5.2 and 5.3.

origin, but the Centre still has not established records on the prescribed forms (Family and Individual Forms); nor has it opened case files on the accommodated migrants. The Centre officials said they planned to do this in the upcoming period.

3.

FINDING

The Bogovađa Asylum Centre has not opened case file on migrants admitted to the Centre nor established records on the prescribed forms.

FOUNDATIONS

This Rulebook shall govern in greater detail the keeping and content of records of persons accommodated in the Asylum Centres (hereinafter: Centres).

The Commissariat for Refugees shall keep records of persons accommodated in the Centres.

The records must be kept in both hard copy and electronic format.

The entry of data in the records shall be performed in the Centres operating as part of the Commissariat for Refugees.

Records shall be kept in the following forms:

OB-1 – Family Form;

OB-2 – Individual Form, and

OB-3 – Notice of Absence Form.

The forms referred to in paragraph 1 of this Article shall be printed on 210 x 297 mm sized paper.

The forms referred to in paragraph 1 of this Article are published together with and constitute an integral part of this Rulebook.

The forms referred to in Article 3(1) of this Rulebook shall constitute the Family Case Files of the persons accommodated in the Centres (hereinafter: Case Files).

In addition to the forms referred to in Article 3(1), the Case Files shall include photocopies of documents and enactments regarding the accommodation of the persons in the Centres.

The Case Files shall be assigned family reference numbers entered in the Family Forms.

Family reference numbers shall comprise seven digits, the first and second of which designate the number assigned to the particular Centre and the third and fourth of which designate the calendar year. Given that the Case Files are opened in the order in which the families are admitted to the Centres, the fifth, sixth and seventh digits shall designate order of their admission in the calendar year, starting with 001.

Personal reference numbers of persons entered in the Individual Forms shall comprise the family reference number, followed by a slash, followed by two digits designating the ordinal number under which those persons have been entered in the Family Forms.

The Notice of Absence Forms shall be filled for all person accommodated in the Centre, who give notice of absence, under the ordinal numbers of the notices of absence.

The Case Files shall be opened the day the persons are admitted to the Centre, or, at the latest, the next workday, and shall bear the date of admission to the Centre.

The authorised official entering and recording the data in the records shall be held fully accountable for their accuracy and the safekeeping of the Case Files.

Data on persons accommodated in the Centre shall be confidential and accessible only to authorised personnel. The Case Files shall be archived when the persons leave the Centres.⁸

RECOMMENDATION

The Bogovađa Asylum Centre shall start keeping records of persons accommodated in the Centre without delay.

The Centre has no interpreters or translators on staff. The officials communicate with the migrants and notify them of their rights and obligations in English. The officials told the NPM Team that most of the migrants understood English and that they solicited the help of English-speaking migrants to communicate with those who did not speak or understand English. The officials said that they had displayed the Centre House Rules in English on a number of occasions but that the migrants always tore them down. They said that they had asked the Commissariat to provide them with Farsi and Arabic interpreters, who would be continuously present, to overcome the barriers in communication with the migrants.

4.

RECOMMENDATION

The Commissariat for Refugees and Migration should ensure continuous presence or availability of interpreters in the Bogovađa Asylum Centre to facilitate unimpeded communication with the foreigners accommodated in it.

The migrants are free to leave and return to the Centre. The Centre officials say that it is mostly peaceful in the Centre, save for sporadic incidents. They told the NPM Team about the incidents in which the migrants deliberately broke windows, a clash between two migrants and occasional noise, as well as that nearby farmers have reported theft of their corn. Some incidents broke out after the migrants got drunk on the liquor they bought outside the Centre. The security guards keep logbooks and each shift registers all important events, observations during their tours of the Centre grounds, the Centre visitors, developments during the everyday activities, etc. The Centre staff file written reports on extraordinary events, such as violations of the Centre House Rules, to the Commissariat for Refugees and Migrations, but not to the Asylum Office as well.

5.

FINDING

The Bogovađa Asylum Centre does not notify the Asylum Office of violations of the Centre House Rules.

FOUNDATIONS

The authorised Centre officials shall notify the Asylum Office of any violations of the prescribed House Rules for the latter to take measures in accordance with the Asylum Act.⁹

⁸ Rulebook on Records of People Accommodated in the Asylum Centres (*Official Gazette of the RS* No. 31/08), Articles 1-9.

⁹ Rulebook on Asylum Centre House Rules (*Official Gazette of the RS* No. 31/08), Article 20.

RECOMMENDATION

Authorised officials of the Bogovađa Asylum Centre should notify the Asylum Office of violations of the prescribed House Rules.

Some migrants notify the Centre staff that they will be leaving the Centre and try to leave Serbia and continue their journey, while others do not. The practice of approving temporary leaves of absence does not exist anymore. The Centre takes in again the migrants, who failed to cross the border and return to the Centre.

4. HEALTH CARE

The Centre has established cooperation with the Valjevo Outpatient Health Clinic. It notifies the Clinic of the arrival of new migrants. The Clinic Director, a paediatrician, visits the Centre and the migrants up to three times a week and performs examinations in the first aid room. The Centre also has an isolation room, where two children with measles and their families were staying on the day of the NPM Team's visit. The Clinic doctors or the paramedics come to the Centre when necessary. The Centre staff said that the Clinic's visiting nurse came every day to check up on the two young mothers and their new-borns living in the Centre at the time of the NPM Team's visit.

Although they have been in the Centre for over a month, many migrants have not undergone the mandatory comprehensive check-ups due to the large influx of migrants and the duration of the medical examinations, coupled with the Centre's limited capacity. The Clinic Director said that the Danish Refugee Council has engaged a doctor who would work in the Centre every day as of 1 September 2016.

The Centre staff transport migrants to hospital for examinations. They, for instance, transferred one migrant in need of hospitalisation, who spent seven days in hospital, and two migrant women to the maternity ward to have their babies. The originals of the examination reports are issued to the patients and the copies of the reports are kept in a registry in the official premises. On the other hand, as the staff told the NPM Team, reports on mandatory comprehensive check-ups are kept in the Outpatient Health Clinic. During its perusal of the registry with the medical reports, the NPM Team also came upon complete reports of a gynaecological examination of a migrant woman.

6.**FINDING**

Non-medical Bogovađa Asylum Centre staff have access to the Centre registry, which includes the migrants' detailed medical reports and specialist examination results.

FOUNDATIONS

Patients are entitled to confidentiality of all the personal information they disclosed to the competent health professionals, including information about their state of health and potential diagnostic or therapeutic procedures. They are also entitled to the protection of their privacy during diagnostic tests and treatment on the whole.

Competent health professionals may not divulge personal information referred to in paragraph 1 of this Article to third parties.¹⁰

Data on the state of health and data in medical records shall constitute personal data and particularly sensitive data on the patient's personality, in accordance with the law.

The confidentiality of the data referred to in paragraph 1 of this Article shall be safeguarded by all health care professionals and other persons working in health institutions, private practices, medical school departments extending health care, other legal persons performing specific duties in the health care field in accordance with the law, mandatory health insurance organisations, as well as legal persons performing voluntary health insurance activities, with which the patients are insured and to which such data are available and necessary for performing their legally prescribed competences.¹¹

Health professionals and other staff of employers referred to in Article 21, paragraph 2 of this law may be relieved of the duty to safeguard the confidentiality of the data referred to in Article 21, paragraph 1 of this law, only with the written consent of the patient or his legal representative, or under a court decision.

The competent health professionals may disclose information about the patients' state of health provided that the patients or their legal representatives consent to the disclosure of such information in a written statement or permission notarised by the relevant authority, which is kept in the medical records.¹²

*Data regarding the ethnicity, race, sex, language, religion, membership of a political party or trade union, **state of health**, welfare allowances, victims of violence, criminal convictions and sex life may be processed pursuant to the free consent of the data subjects, unless the law prohibits processing of such data even with their consent.*

Exceptionally, data regarding membership of a political party, state of health or welfare allowances may be processed without the consent of the data subjects if so provided by the law.

Processing referred to in paragraphs 1 and 2 must be specially designated and protected.¹³

RECOMMENDATION

Only medical staff engaged in the Bogovađa Asylum Center may have access to the migrants' medical reports and specialist examination results.

Migrants are provided with the therapy/medications prescribed by the doctors. The Danish Refugee Council has signed a contract with the Valjevo City Pharmacy, where the Centre staff are issued the prescribed medications. The migrants also have access to dental care within the Outpatient Health Clinic.

5. NUTRITION

The Red Cross is in charge of the nutrition of the migrants in the Centre. Most of the costs of food are covered by the Commissariat; the Centre occasionally receives donations in food. The

¹⁰ Patient Rights Act (Official Gazette of the RS No 45/13), Article 14 (1 and 2).

¹¹ *Op. cit.* Article 21 (1 and 2).

¹² *Op. cit.* Article 22 (1 and 2).

¹³ Personal Data Protection Act (Official Gazette of the RS Nos 97/2008, 104/2009 – other law, 68/2012 – Constitutional Court Decision and 107/2012), Article 16 (1-3).

migrants are provided with fruit and vegetables several times a week. In addition to the regular meals, the Red Cross and the Commissariat provide the Centre residents with supplementary food, such as dates, different types of cookies, chocolate, as well as baby food jars.

The breakfast/lunch/dinner schedule is displayed at the dining room entrance. The migrants, however, said they were unsure whether the meat they were served fulfilled their religious dietary requirements and that they avoided eating it. The Centre Manager said that the residents were served only chicken, beef and fish.

7.

RECOMMENDATION

The Bogovađa Asylum Centre should visibly display information that the meals fulfil the Islamic dietary requirements in the languages the migrants/asylum seekers understand.

Sanitation and bacteriology checks and checks of the quality of the food and water are performed by the local Public Health Institute. The Centre officials say the Institute's staff frequently visit the Centre (two or three times a week).

6. INTERVIEWS WITH MIGRANTS/ASYLUM SEEKERS

The NPM Team interviewed several migrants/asylum seekers.

Most of them said they had no intention of seeking asylum in Serbia and that they were waiting for their turn to enter Hungary, in accordance with the list drawn up by the Hungarian authorities. They want to reach one of the European states (Germany, the Netherlands, Sweden, et al). They said they were familiarised with their rights and obligations in the Centre and that they were satisfied with the living conditions and hygiene in it. They said they had no objections about the way they were treated by the Centre staff and that they communicated with them only in English. The weak WiFi Internet signal and the fact that they usually did not eat the meat they were served because they were unsure of what type of meat it was were the two problems they mentioned.