



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

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Belgrade

Ref. No. 40611 Date: 19 October 2016



Заштитник грађана
Zaštitnik građana



БЕОГРАДСКИ ЦЕНТАР
ЗА ЛЈУДСКА ПРАВА

NATIONAL PREVENTIVE MECHANISM

MONITORING OF THE FULFILMENT OF NPM RECOMMENDATIONS

Report on the Visit to the Belgrade Border Police Station at “Nikola Tesla” Airport

Belgrade, October 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.

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.

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.

MAIN INFORMATION ABOUT THE VISIT

VISITED INSTITUTION	Belgrade Police Station at “Nikola Tesla” Airport
PURPOSE OF THE VISIT	Monitoring of the fulfilment of NPM recommendations
VISIT CONDUCTED BY	Protector of Citizens in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	7 October 2016
NOTICE OF VISIT	The visit was pre-notified
VISIT TEAM	<p>Team Leader: Jelena Jelić, <i>Protector of Citizens Professional Service</i></p> <p>Team Members: Marko Anojčić, <i>Protector of Citizens Professional Service</i> Dušan Pokuševski, <i>Belgrade Centre for Human Rights</i> Marko Štambuk, <i>Belgrade Centre for Human Rights</i></p>

COOPERATION WITH THE NPM TEAM

All police officers of the Belgrade Border Police Station at “Nikola Tesla” Airport (hereinafter: BPS) fully cooperated with the NPM Team, providing it with all the information and unimpeded access to documentation on request.

1. Introduction

Following its visit to the Nikola Tesla Airport Border Police Station (BPS) on 29 June 2015, the NPM issued Report on the Visit⁴ in which it recommended measures to eliminate the identified deficiencies. The BPS commander said the BPS acted on the recommendation on the fingerprinting and photographing of foreigners who expressed the intention to seek asylum in the Republic of Serbia and that all foreigners without valid documents needed to establish their identity were photographed and fingerprinted.

As per NPM's recommendation on the accommodation of foreigners not fulfilling the requirements to enter the Republic of Serbia, the Ministry of the Interior (hereinafter: MOI) sent a letter to "Nikola Tesla" Airport management outlining steps to be taken to fulfil the required standards in the room in which they are held. However, the NPM ascertained during its visit that the Airport management had not made any adaptations to the room i.e. had not acted on the recommendation.

The NPM recommendation on establishing and keeping records of foreigners held in the Airport room and all the relevant developments has not been fulfilled either because a law on records kept by the MOI has not been enacted yet, i.e. the legal requirements are not in place.

The BPS commander qualified cooperation with the European Border and the Coast Guard Agency (FRONTEX) and participation in the MARRI Centre project as very good. The BPS officers told the NPM Team that the number of Airport passengers has increased significantly in 2016. Nearly five million passengers were registered in the first nine months of the year, compared with around 4.3 million passengers in 2015. The BPS officers, however, said that the number of foreigners expressing the intention to seek asylum has fallen – this BPS issued 16 certificates of intent to seek asylum until 30 September 2016, as opposed to 260 in 2015.

2. Passenger Control and Identity Checks

A number of foreign nationals tried to reach EU countries or enter the Republic of Serbia via "Nikola Tesla" Airport although they did not fulfil the entry requirements (they were travelling with forged travel documents, lacked the requisite visas, etc.). In the first six months of the year, 600 foreign nationals were denied entry to the Republic of Serbia: 150 were women and 120 minors (76 boys and 44 girls). None of the minors were unaccompanied. Most were nationals of Turkey (298), Tunisia (90), Bangladesh (18) and Cuba (18); most had come from Turkey, Tunisia, Russia and Germany.

Serbia admitted 5,921 third-country nationals via "Nikola Tesla" Airport under readmission agreements in the first nine months of the year.

3. Communication and Notice of Rights

Foreign nationals refused entry to the Republic of Serbia are notified of their legal status only orally and only in English. Given that not all foreigners understand English, they should be notified of their rights in the language they understand.

⁴ Report on the Visit to "Nikola Tesla" Airport, Ref. No. 71-59/15 of 3 July 2015.

1.

FINDING

Foreign nationals refused entry to the Republic of Serbia are notified of their legal status only orally and only in English.

FOUNDATIONS

The CPT recommends that the Serbian authorities take the necessary steps in order to ensure that all persons held at the transit zone of "Nikola Tesla" International Airport: ... receive an information notice setting out their legal position and rights, this notice should be available in an appropriate range of languages;...⁵

Immigration detainees should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedure applicable to them.

The CPT has observed that these requirements are met in some countries, but not in others. In particular, visiting delegations have on many occasions met immigration detainees who manifestly had not been fully informed in a language they understood of their legal position. In order to overcome such difficulties, immigration detainees should be systematically provided with a document explaining the procedure applicable to them and setting out their rights. This document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of an interpreter.⁶

RECOMMENDATION

The MOI is to prepare a factsheet on the rights and legal status of foreigners refused entry to the Republic of Serbia at Belgrade Airport "Nikola Tesla" and have it translated into languages spoken by most foreigners (English, Arabic, Farsi, Urdu...).

4. Treatment of Foreigners Not Fulfilling Requirements to Enter the Republic of Serbia

The BPS officers' practice has not changed since the NPM Team's previous visit.⁷ Namely, foreigners not fulfilling the requirements to enter the Republic of Serbia are returned to the state they had come from, either at their own expense or the expense of the airlines that flew them in. Passengers with valid travel documents, who fulfil the requirements for entering another country, are allowed to buy tickets to that country and are not returned to the country they had come from.

Foreigners not fulfilling the requirements to enter Serbia are accommodated in a separate room guarded by Airport staff until the departure of the plane returning them to the country they came from or taking them to the country they may enter. During its 2015 visit, the NPM Team found that this room did not fulfil the requirements for longer (several-day) accommodation of foreigners. Given that the "Nikola Tesla" Airport management did not fulfil the recommendation the NPM Team made in its previous Report⁸, the NPM Team reiterates:

⁵ European Commission for the Prevention of Torture (CPT) Report on the visit to Serbia in 2015 (CPT/Inf (2016) 21), paragraph 40.

⁶ CPT Standards, revised in 2015, paragraph 30. Excerpts from the CPT's 7th General Report [CPT/Inf (97) 10], published in 1997.

⁷ Report on the Visit to "Nikola Tesla" Airport, Ref. No. 71-59/15 of 3 July 2015.

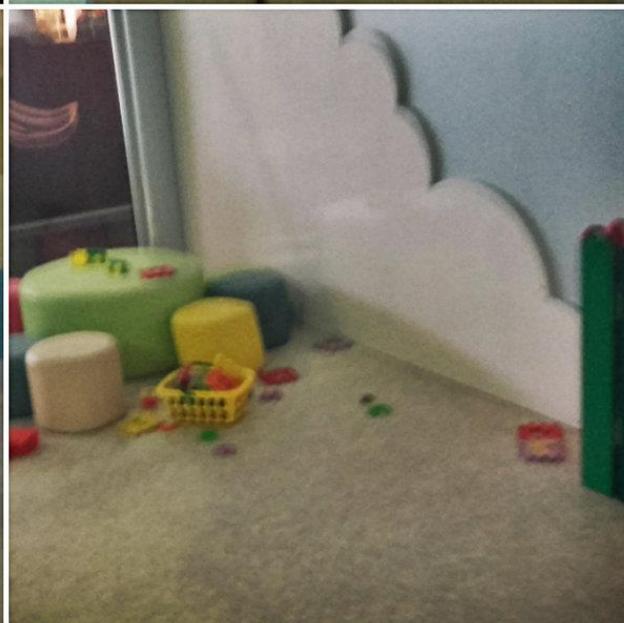
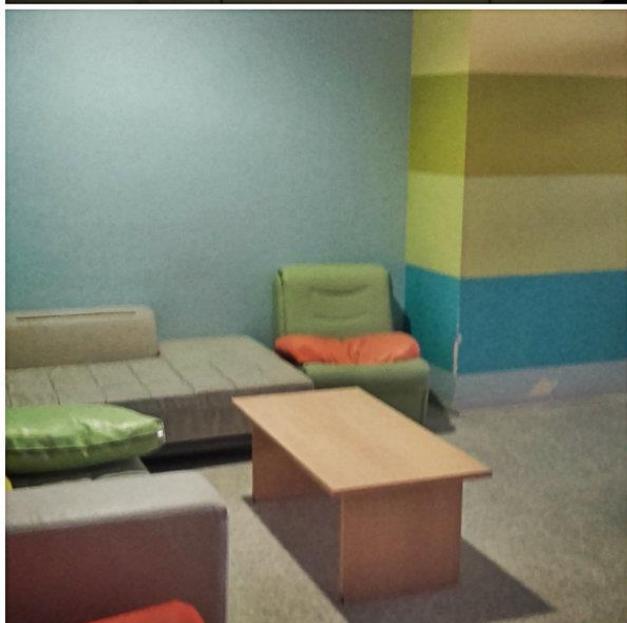
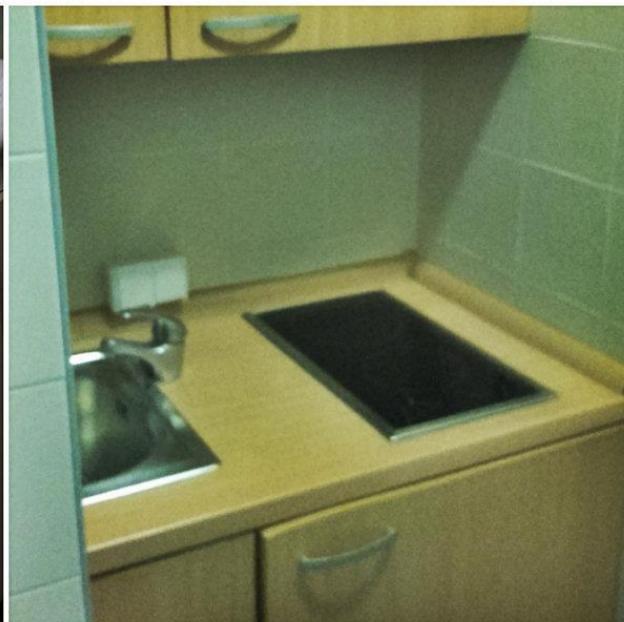
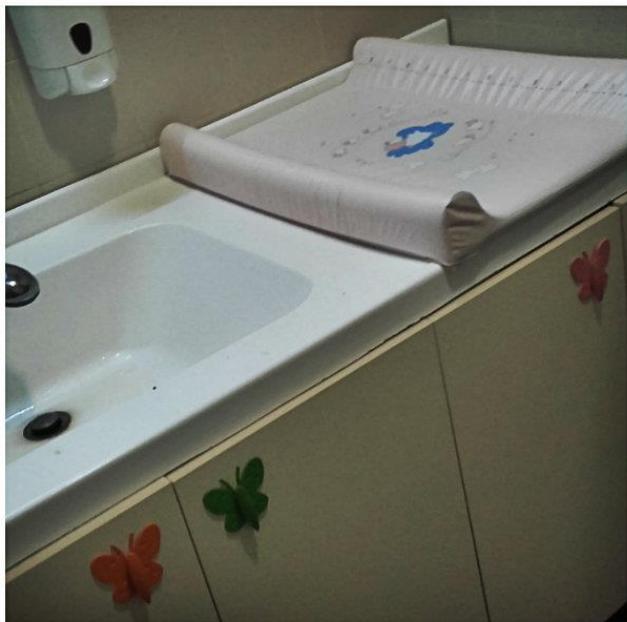
⁸ Report on the Visit to "Nikola Tesla" Airport, Ref. No. 71-59/15 of 3 July 2015.

2.

RECOMMENDATION

The MOI is to take measures within its remit to provide room for the accommodation of foreigners refused entry to the Republic of Serbia under the valid regulations.

The NPM Team noted that the situation in the transit zone has improved inasmuch as mothers with children are no longer held in the room with other foreigners, but in a room designated and equipped especially for them. Next to the room, furnished with armchairs and toys, is a kitchenette, toilet and shower cabin with hot water and a baby changing table.



The meals for the foreigners detained in the transit zone are provided at the expense of “Nikola Tesla” Airport and the airlines which flew them to the Republic of Serbia.

As the NPM Team noted in its 2015 Report, some foreigners denied entry to the country spend longer periods of time (up to several days) in the transit zone, and are not allowed to leave it, i.e. spend some time outdoors. The relevant authorities did not act on NPM's recommendation to provide them with the opportunity to spend time outdoors. In view of this fact and the CPT recommendation following its fourth regular visit to Serbia in 2015, the NPM Team reiterates:

3.

FINDING

Foreigners denied entry to the territory of the Republic of Serbia spend longer periods of time in the "transit zone" (up to several days), during which they may not leave it i.e. do not have the opportunity to spend time outdoors.

GROUND

The CPT recommends that the Serbian authorities take the necessary steps in order to ensure that all persons held at the transit zone of "Nikola Tesla" International Airport: ... are offered at least one hour's outdoor exercise per day if they are required to spend 24 hours or more in the transit zone; ...⁹

RECOMMENDATION

The MOI is to ensure that foreigners refused entry to the Republic of Serbia at "Nikola Tesla" Airport are offered at least one hour's outdoor exercise per day if they are required to spend 24 hours or more in the transit zone.

The foreigners are extended medical services by the Airport Medical Unit and undergo examinations at their own request. They are transferred to the relevant health institutions if necessary.

5. Treatment of Foreigners Who Express the Intention to Seek Asylum

The BPS issues certificates of intent to seek asylum to foreigners not fulfilling the requirements to enter Serbia who express the intention to seek asylum. They are then referred to one of the Asylum Centres. Their transfer from the Airport to the Asylum Centres is organised and conducted by the MOI Directorate for Foreigners. Only foreigners without travel documents are fingerprinted. The BPS issued 16 certificates of intent in the first nine months of 2016.

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

Some of the foreigners ordered to leave the Republic of Serbia departed the country via Airport "Nikola Tesla" of their own accord, while others were removed from the Shelter for Foreigners. The latter are escorted from the Shelter to their planes by the police officers working in the Shelter. Not one foreigner was referred from the Airport to the Shelter for Foreigners in the first nine months of the year.

7. Use of Means of Coercion

As of 7 October 2016, BPS officers used means of coercion eight times (fixation seven times and physical force once).

Perusal of cases on use of means of coercion established that the BPS regularly drew up reports and kept records of use of the means of coercion.

⁹ CPT Report on the visit to Serbia in 2015(CPT/Inf (2016) 21), paragraph 40.