



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

281-73/16
Belgrade



Заштитник грађана
Zaštitnik građana



БЕОГРАДСКИ ЦЕНТАР
ЗА ЛЈУДСКА ПРАВА

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NATIONAL PREVENTIVE MECHANISM

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

Report on the Visit to the Asylum Centre in Sjenica

Be;grade, September 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	Asylum Centre in Sjenica
PURPOSE OF THE VISIT	Monitoring of the 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	1 September 2016
NOTICE OF VISIT	The visit was pre-notified
VISIT TEAM	<p>Team Leader: Jelena Samardžić, <i>Protector of Citizens Professional Service/NPM</i></p> <p>Team Members: Marko Štambuk, <i>Belgrade Centre for Human Rights</i> Anja Stefanović, <i>Belgrade Centre for Human Rights</i> Raduan Mansouri, <i>Arabic interpreter</i> Момир Турудић, <i>Farsi interpreter</i></p>

COOPERATION WITH THE NPM TEAM

The Sjenica Asylum Centre staff fully cooperated with the NPM Team and facilitated its full performance of its duties. They responded to all the NPM Team's questions and provided it with access to all facilities and installations, insight in the documentation and the chance to take photographs without restriction, as well as to conduct private interviews with all the migrants it wished to talk to.

1. Introduction

The NPM Team has to date visited the Sjenica Asylum Centre three times in order to monitor the implementation of its recommendations⁴ in order to improve the treatment of irregular migrants/asylum seekers in the Republic of Serbia. It prepared the reports on its visits⁵, which it forwarded to the Asylum Centre and the Commissariat for Refugees and Migration.

The Sjenica Asylum Centre is located in Hotel Berlin. Apart from the Manager and Deputy Manager, the Asylum Centre is staffed by four security guards, four cooks, two cleaning ladies and two English interpreters, one of whom extends interpretation services during medical examinations of the asylum seekers at the local Outpatient Health Centre.

The Centre can take in 200 asylum seekers and can expand its accommodation capacity by adding another 50 beds. The Centre accommodated 438 people since the beginning of the year: 175 were men, 98 were women, 160 were accompanied and five were unaccompanied minors. The breakdown by month stood as follows: none in January, 21 in February, 106 in March, two in April, 10 in May, five in June, 62 in July and 232 in August. The migrants/asylum seekers stay between ten days and one month at the Centre on average before moving on.

There were 225 people at the Centre on the day of the NPM Team's visit: 69 were men, 51 were women, 104 were accompanied minors and one minor was unaccompanied. Most were nationals of Iraq (119) and Afghanistan (82). Sixteen migrants were waiting for the Commissariat for Refugees and Migration to transport them to the Asylum Centre in Banja Koviljača.

The Asylum Centre staff told the NPM Team that the Social Welfare Centre (SWC) had not taken any of the actions regarding unaccompanied minors laid down in the law since the beginning of the year although the Asylum Centre had been notifying it that it had admitted five unaccompanied minors by e-mail. One unaccompanied minor had been living in the Centre around five days at the time of the NPM Team's visit. The Centre staff said that the SWC had been notified of his admission but that it had not taken any measures within its remit to protect him by 1 September 2016.

FINDING

The Sjenica Social Welfare Centre has not been implementing measures to protect unaccompanied foreign minors accommodated in the Sjenica Asylum Centre.

FOUNDATIONS

*Underage individuals (hereinafter: children) and adults under 26 years of age (hereinafter: young people or youths) shall be beneficiaries in the meaning of paragraph 1 of this Article if, due to their family or other circumstances, their health, safety or development is at risk or they will undoubtedly be unable to achieve their optimal level of development without the support of the social welfare system, especially in the event they are:... 5) foreign nationals or stateless persons;*⁶

⁴ Recommendation No 75-6/14

⁵ Reports on the Visits to the Sjenica Asylum Centre (Report No 71 -62/14 of 22 September 2014 and Report No 71 - 22/15 of 9 April 2015).

⁶ Social Welfare Act, Article 42(2(5)).

The procedure for using services under this law and provided by the Republic of Serbia, an autonomous province or a local self-government unit shall be conducted by a social welfare centre either ex officio or on the request of the beneficiary.⁷

- 1) The guardian appointment procedure shall be urgent.*
- 2) The guardianship authority shall issue a temporary conclusion on the accommodation of a ward within 24 hours from the moment it is notified of the need to appoint the ward a guardian.*
- 3) The guardianship authority shall conduct an inventory of any property of the ward within eight days from the day it is notified of the need to appoint the ward a guardian.*
- 4) The guardianship authority shall issue a ruling on the appointment of a guardian immediately or within a maximum 30 days from the day it is notified of the need to appoint a guardian for an underage child or from the day it is served a court decision depriving an adult of his or her legal capacity.⁸*

RECOMMENDATION

The Sjenica Social Welfare Centre is to implement without delay all the requisite measures to protect unaccompanied foreign minors accommodated in the Asylum Centre in Sjenica.

The Centre Manager said that only persons with certificates of intent to seek asylum were admitted to this establishment. Those that arrive without such certificates during the night are accommodated until the morning and then referred to the Sjenica Police Station to express the intention to seek asylum if they want to. All the asylum seekers in the Centre on the day of the NPM Team's visit had been issued their certificates by the Belgrade police.

The Centre staff mostly communicates with the residents in English. An Arabic interpreter is engaged if necessary. Ministry of Internal Affairs officers visit the Centre every day.

The Centre is open from 7 am to 11:30 pm and its residents have the freedom of movement. They are deleted from the registry of residents if they are absent more than 24 hours. None of the migrants/asylum seekers, who had exceeded the 24-hour deadline, had ever returned to the Centre.

The Centre staff told the NPM Team that the Asylum Office had visited the Centre twice in 2016 and registered the asylum seekers. The Office staff last visited the Centre in March, when they registered 75 Afghani nationals. Only three Centre residents, living in the Centre for a longer period of time, had asylum seeker IDs on the day of the NPM Team's visit.

FINDING

The Asylum Office has not registered or issued identity to all Sjenica Asylum Centre residents.

FOUNDATIONS

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

- 1) establishing their identity;*

⁷ Social Welfare Act, Article 68(1).

⁸ Family Act (Official Gazette of the RS Nos. 18/2005, 72/2011 - other law and 6/2015), Article 332.

- 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.⁹

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).¹⁰

RECOMMENDATION

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

2. Living Conditions

The asylum seekers are accommodated in the hall of the Berlin Hotel and the renovated section of the facility that has a separate entrance. Apart from the dormitories, the Centre is comprised of a living room, kitchen, and two bathrooms with five shower cabins and seven toilets. The Hotel hall houses the larger, 130-bed dormitory, while the smaller dormitory, with 70 beds, is located in the renovated part of the Hotel.

Makeshift rooms separated by curtains are located in the hall, to the left of the Hotel entrance. These rooms are furnished with beds and closets. Separate rooms are to the right of the hall. The Hotel hall has a living room, doubling as the dining room and TV den. Asylum seekers are also accommodated in six rooms in the renovated part of the Hotel. The Centre residents have at their disposal two PCs hooked up to the Internet and WiFi. The Centre House Rules in English and Arabic are visibly displayed in the Hotel hall.

⁹ Asylum Act (Official Gazette of the RS No.109/2007), Article 24.

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

The Centre bed linen is changed once a week. The residents wash their clothes by hand or in a washing machine at their disposal. The Manager said that the Centre had hot water round the clock. The Commissariat for Refugees and Migration supplies the migrants with hygiene packages. The Centre provides the migrants with cleaning utensils to maintain the hygiene in their quarters. The NPM Team noted during its visit that hygiene in most of the rooms and bathrooms was not at a satisfactory level, because it depended on the habits of the residents/users.

The Centre compound includes a basketball court. Its residents may also play indoor soccer in the local sports hall twice a week. The Centre plans on renovating one room and turning it into a Children's Corner. The Ana and Vlade Divac Foundation will supply the Corner with furniture, apparel, toys and didactic materials.

3. Nutrition

The meals are provided by a private supplier and conform to Islamic dietary requirements. The breakfast/lunch/dinner schedule is visibly displayed at the Centre entrance. The menus are set on a weekly basis.

4. Health Care

The Centre Manager told the NPM Team that the asylum seekers are taken to the at the Sjenica Outpatient Health Clinic on admission for their check-ups. The Asylum Centre staff drive the migrants to the Sjenica Clinic, and in case a more serious intervention is necessary, to the health centre in Užice. The Centre staff say that the check-ups include lung X-rays but not blood lab tests. The asylum seekers the NPM Team interviewed said they had not undergone any check-ups on admission to the Centre.

FINDING

Check-ups of asylum seekers on admission to the Centre are incomplete.

FOUNDATIONS

Medical examinations of asylum seekers shall comprise:

- 1) *Medical history (infectious and non-infectious diseases, vaccination status);*
- 2) *Objective examination;*
- 3) *Other diagnostic examinations (lab tests, X-rays).¹¹*

Diagnostic tests for infectious diseases shall comprise:

- 1) *Blood lab tests (Sedimentation, Leucocytes, Blood Differential Test);*
- 2) *Lung X-rays for tuberculosis;*
- 3) *Stool culture lab tests for causes of: abdominal typhoid and paratyphoid, other Salmonella and Shigella species, and intestinal protozoa;*

In addition to the tests referred to in paragraph 1 of this Article, asylum seekers originating or having come from tropical countries must also undergo the following tests:

- 1) *Blood lab tests for malarial parasites (ELISA, stained thin and thick blood smears);*

¹¹ Article 3, Rulebook on Medical Examinations of Asylum Seekers on Admission in Asylum Centres (Official Gazette of the RS No. 93/2008).

2) *Stool culture tests for causes of cholera. Lab tests for other infectious diseases shall be conducted as well in the event epidemiological indicators are identified during the examinations.*¹²

RECOMMENDATION

In cooperation with the Sjenica Outpatient Health Clinic, the Sjenica Asylum Centre is to take all the requisite measures to ensure that asylum seekers undergo full health examinations on admission to the Centre.

The medications prescribed by the doctors to the asylum seekers and covered by mandatory health insurance are issued to the asylum seekers personally. The Centre funds the medications not on the free medications list of the state Health Insurance Fund.

5. Interviews with Migrants/Asylum Seekers

The NPM Team interviewed several migrants/asylum seekers.

Most of the migrants the NPM Team interviewed during its visit to the Sjenica Asylum Centre had illegally entered Serbia from the Former Yugoslav Republic of Macedonia or Bulgaria. One of them said he had transited through Albania and crossed the administrative border with Kosovo before he arrived in Sjenica.

The interviewed migrants had certificates of intent to seek asylum. None of them complained about how they were treated by police officers (of the Sjenica Police Station). They said that migrant women were searched by female police officers or not searched at all if none were on duty in the police station while they were there. None of the interviewed migrants intends on staying on in the Republic of Serbia.

None of the interviewed asylum seekers complained of the way they were treated by the Centre staff or of any problems with the local community. They complained about the lack of bathrooms and hot water in the Centre, as well as that they have not been provided with clothes and shoes. They said they had not been informed of their rights and obligations on admission, but that they read about them in the House Rules that are visibly displayed in the establishment. They said they communicated in English with the Centre staff.

The NPM Team interviewed an unaccompanied minor. He had arrived at the Centre ten or so days earlier but had not been appointed a guardian. He had expressed the intention to seek asylum in the Sjenica Police Station and had not been referred to any of the institutions designated for accommodating unaccompanied minor migrants. He underwent a check-up on admission; they measured his blood pressure and performed a blood test. The other interviewed migrants said they had not undergone health examinations on admission to the Sjenica Asylum Centre.¹³

¹² Article 4, Ibid.

¹³ See Recommendation 4: Health Care.