



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

281-74/16
Belgrade



Заштитник грађана
Zaštitnik građana



**BEOGRADSKI CENTAR
ZA LJUDSKA PRAVA**

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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 Tutin

Belgrade, 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.

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

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.

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	Tutin 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	2 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 Tutin 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 visited the Tutin Asylum Centre in September 2014 and March 2015 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. Following the visits, it prepared reports⁵, which it forwarded to the Asylum Centre and the Commissariat for Refugees and Migration.

The Tutin Asylum Centre (hereinafter: Centre) has been established in wooden barracks within the compound of a former factory. It can take in between 130 and 150 people, but its capacity can be extended by renovating the facility currently serving as a storage house. The Centre is staffed by 13 people (four Commissariat officers, four security guards, two cleaning ladies, a driver, a steward and a doctor).

The Centre accommodated 302 migrants, 107 of them minors, in the first eight months of the year: 32 in January, 18 in February, 59 in March, 22 in April, none in May, one in June, 32 in July and 138 in August. The Centre had the most residents (206) in May 2014, during the Obrenovac flooding. On the day of the NPM Team's visit, 91 people, 53 male and 38 female, were staying at the Centre. Forty five of them were under age, including two unaccompanied minors. Most were nationals of Afghanistan (44), Iraq (34) and Cuba (12); the authorities were unable to establish the country of origin of one Centre resident.

The Centre staff notify the competent Social Welfare Centre (hereinafter: SWC) by telephone of all unaccompanied minors they admit. They say that the SWC has been undertaking the measures within its remit. However, the SWC had not appointed a guardian to the two unaccompanied minors in the Centre on the day of the NPM Team's visit, although had already been there some seven days. The Centre Manager said that they had notified the SWC of their presence, but that none of its staff had visited the Centre to take the measures within its remit. The Centre management subsequently notified the NPM Team that the two minors had left the Centre and that the SWC representatives had not visited them prior to their departure.

FINDING

The Tutin Social Welfare Centre did not take measures to protect unaccompanied foreign minors accommodated in the Tutin 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

⁴ Recommendation No 75-6/14

⁵ Reports on the Visits to the Tutin Asylum Centre (Report No 71 -61/14 of 22 September 2014 and Report No 71 - 21/15 of 9 April 2015).

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

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

The migrants are admitted to the Centre only if they possess certificates of intent to seek asylum. The Management includes copies of the certificates in the case files opened for each of the accommodated migrants, who keep the originals. A migrant's case file includes the following: a copy of the certificate of intent to seek asylum, Family Form, Individual Form, lab test and X-ray referral forms issued by a doctor. The Manager said that most asylum seekers living in the Centre had been issued certificates of intent by the Belgrade Police Directorate.

The Centre staff communicate with the asylum seekers in French and English; a local Arabic interpreter is engaged if necessary. The asylum seekers are notified of their rights and obligations in the Centre on admission. The House Rules in English, French and Arabic are visibly displayed in the Centre.

The Centre is open from 9 am to 10 pm. Residents absent more than 24 hours are deleted from the registry of beneficiaries. Asylum seekers can complain about the Centre's work by e-mail to the Management Board of the municipal Social Welfare Centre. The staff mentioned their good cooperation with the Tutin Police Station, the officers of which visit the Centre on a daily basis.

The Centre staff said that the Asylum Office staff had visited the Centre three times since the beginning of 2016 to register the asylum seekers. They last visited the Centre in July. The Manager said that the Centre had not accommodated as many asylum seekers as the Asylum Office staff had registered since the beginning of the year. On the day of the NPM Team's visit, none of the asylum seekers living in the Centre and in possession of certificates of intent had been issued identity cards for asylum seekers.

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

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.

FINDING

The Asylum Office has neither registered nor issued identity cards to persons in possession of certificates of intent to seek asylum staying in the Tutin Asylum Centre.

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.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 Bogovađa 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 Centre residential quarters are comprised of rooms with multiple beds (four or more bed bunks), a kitchen, a dining room, separate male and female bathrooms (toilets and showers) and a common lavatory with four wash basins. All rooms have cabinets and nightstands where the residents can put their personal belongings. The dining room is in another part of the Centre with

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.

a separate entrance and it doubles as the living room. It is furnished with chair, tables and a TV set. The beneficiaries are allowed to use the WiFi.

The hygiene in the Centre is satisfactory. The bed linen is changed two or three times a week. The beneficiaries can wash their clothes in the Centre's two washing machines.

3. Nutrition

The nutrition fulfils Islamic dietary requirements. The menu and the breakfast/lunch/dinner schedule are visibly displayed at the Centre entrance. The food for the meals is supplied by a private supplier. The Centre formed the menu based on the beneficiaries' suggestions. The Management also keeps a photo archive of the served meals.

4. Health Care

On admission to the Centre, all migrants undergo a mandatory comprehensive health examination performed by a doctor of the local health institution in a separate room within the Centre. A doctor of the Tutin Outpatient Health Clinic visits the Centre to examine ill migrants and prescribe them medications and/or refer them to specialists in Tutin or Novi Pazar. The prescribed therapies are issued to the Centre staff. The costs of the medications not funded under the mandatory health insurance are covered by the Danish Refugee Council.

5. Interviews with Migrants/Asylum Seekers

Most of the migrants/asylum seekers the NPM talked to in the Tutin Centre had entered Serbia from Bulgaria or the Former Yugoslav Republic of Macedonia. One family said they had passed through Montenegro on their way to the Centre. The migrants the NPM Team interviewed perceive Serbia as a transit country on their way to the European Union, primarily Germany, Austria and Sweden.

The NPM Team interviewed all categories of migrants living the Centre, including families, as well as men and women travelling on their own. It focused on particularly vulnerable categories, including the cases of a victim of domestic violence and a person belonging to a sexual minority.

The NPM Team interviewed an Afghani refugee woman, who had been transferred from the Sjenica to the Tutin Asylum Centre after she had been subjected to domestic violence. She said she was extremely satisfied with how the police, doctors and the managements of both the Sjenica and Tutin Centres treated her after she sought help and was separated from the offender. The Tutin Centre Management guaranteed that all Centre security guards were familiar with her situation and were looking out for her safety. When she arrived in the Tutin Centre, she was given a room on her own, which she could lock.

All Centre beneficiaries were in possession certificates of intent and none complained about how they were treated by the police (in Sjenica and Tutin) when they were issued the certificates. They said they talked to the police in English. One migrant woman said women were searched by female officers and, if none were on duty, they were not searched at all.

The interviewed migrants did not complain about how they were treated by the Centre Manager or staff; nor did they allege they were denied the rights guaranteed to persons in Asylum Centres, including the right to medical assistance. The information provided by the beneficiaries indicates that the practice of performing comprehensive medical examinations of refugees and migrants on their arrival to the Centres varies. They said that some of them had undergone check-ups, others said they had not.