



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
281-65/16
Belgrade

Ref. No. Date:



Заштитник грађана
Zaštitnik građana



BEOGRADSKI CENTAR
ZA LJUDSKA PRAVA

NATIONAL PREVENTIVE MECHANISM

**MONITORING OF THE TREATMENT OF MIGRANTS/ASYLUM SEEKERS AND THE
IMPLEMENTATION OF NPM RECOMMENDATIONS**

Report on the Visit to the Shelter for Foreigners in Padinska Skela

Belgrade, August 2016

1. 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 RS – 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	Shelter for Foreigners in Padinska Skela
PURPOSE OF THE VISIT	Monitoring of the treatment of migrants/asylum seekers
VISIT CONDUCTED BY	Protector of Citizens, in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	12 August 2016
NOTICE OF VISIT	The visit was not pre-notified
VISIT TEAM	<p>Team Leader: Miloš Janković, <i>Deputy Protector of Citizens</i></p> <p>Team Members: Jelena Unijat, <i>NPM Secretary</i> Jelena Jelić, <i>Protector of Citizens/NPM</i> Ana Okanović, <i>Protector of Citizens/Gender Equality Department</i> Marko Štambuk, <i>Belgrade Centre for Human Rights</i> Marko Gagić, <i>Arabic interpreter</i> Milena Roayi <i>Farsi interpreter</i></p>

COOPERATION OF OFFICIALS WITH THE NPM TEAM

All police officers in the Shelter for Foreigners fully cooperated with the NPM Team, providing it with all the information it required and free access to the documentation on request.

1. Introduction

The NPM Team visited the Shelter for Foreigners on 21 June 2016 in order to monitor the follow-up on its 2015 recommendations. On that occasion, the NPM issued seven recommendations on the elimination of the identified shortcomings.⁴ The Ministry of Internal Affairs Border Police Directorate notified the NPM⁵ that one recommendation had been fulfilled, that two have not been fulfilled and that four recommendations would be followed up on after the Act on Foreigners was amended and funding approved.

On the day of the NPM Team's visit, 12 August 2016, there were 52 people, found to have illegally entered Serbia, in the Shelter. Of them, 34 were awaiting readmission and individuals who had come to Serbia from Bulgaria. The police officers said that six individuals (four nationals of Afghanistan and two nationals of Pakistan) were in the Shelter for identification purposes and to testify in criminal proceedings initiated against defendants charged with illegal state border crossing and human smuggling. There were 12 women and 20 children in the Shelter on the day of the visit. Four people (an Afghani woman and her two children and a national of Bosnia and Herzegovina) expressed the intention to seek asylum during their detention in the Shelter.⁶

Most of the detained persons were nationals of Afghanistan (37), Iraq (5), Pakistan (3), Bosnia and Herzegovina (2), Morocco (2), the Former Yugoslav Republic of Macedonia (1), Romania (1) and Lebanon (1).

2. Tour of the Accommodation Facilities and Interviews with the Detainees

The NPM Team toured the Shelter accommodation facilities and interviewed the detainees. It established that hygiene was still unsatisfactory, i.e. that the Shelter detainees did not maintain adequately the hygiene of their premises, especially the showers and toilets. During its June 2016 visit, the NPM established that hygiene was poor although a much smaller number of people were in the Shelter at the time. The NPM thus reiterates its recommendation⁷:

1.

RECOMMENDATION

The Shelter for Foreigners should take the available measures to influence the Shelter residents to maintain personal hygiene and the hygiene of the premises they are occupying,

The Shelter for Foreigners should provide the necessary cleaning utensils and products.

There is a TV set in the women's annex, which, according to the police officers and interviewees, is not operational. The one TV set in the men's annex works, but the Shelter residents can watch only Serbian TV channels on it.

⁴ Report on the Visit to the Shelter for Foreigners, 281-48/16.

⁵ Enactment 03/8/6/2 No. 26-171/16, of 5 August 2016.

⁶ Who are still in the Shelter under Article 51(2) of the Asylum Act (Official Gazette of the Republic of Serbia, No. 109/2007).

⁷ Report on the Visit to the Shelter for Foreigners, 281-48/16.

2.

<p><i>FINDING</i></p> <p>The women's annex in the Shelter for Foreigners does not have an operational TV set, while only Serbian channels can be watched on the TV set in the men's annex.</p>
<p><i>FOUNDATIONS</i></p> <p><i>Foreigners in the Shelter shall reside, exercise their rights and fulfil their obligations in accordance with the following daily schedule:</i></p> <ul style="list-style-type: none"> - 7-8 am – wake up, make the bed, wash up; - 8-9 am - breakfast; - 9-11 am – clean rooms and other common premises, submit a request to talk with the inspector and talk with the inspector, submit a request for and undergo a medical examination, maintain the Shelter grounds, watch TV, read newspapers and other literature, play allowed games, make telephone calls, maintain personal hygiene and wash clothes, et al; - 11 am-1 pm – outdoor exercise; - 1-2 pm – lunch; - 2-5 pm – afternoon rest and free activities in rooms (reading, writing, playing allowed games, napping, et al); - 5-5:30 – free activities, telephoning, et al; - 5:30-6:30 - dinner; - 6:30-9 pm – free activities, watch TV, et al; - 9 pm – lights out (all foreigners must be in their rooms). <p><i>Exceptionally, the Shelter Manager may postpone lights out, until 11 pm at the latest, to enable the foreigners to watch a movie, sports event or another broadcast.⁸</i></p> <p><i>Obviously, such centres should provide accommodation which is adequately-furnished, clean and in a good state of repair, and which offers sufficient living space for the numbers involved. Further, care should be taken in the design and layout of the premises to avoid as far as possible any impression of a carceral environment. As regards regime activities, they should include outdoor exercise, access to a day room and to radio/television and newspapers/magazines, as well as other appropriate means of recreation (e.g. board games, table tennis). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.⁹</i></p>
<p>RECOMMENDATION</p> <p>All foreigners in the Shelter should be provided with access to a TV and, depending on the available funding, the opportunity to watch foreign TV channels.</p>

The police officers told the NPM Team that they tried not to separate families with children whenever they could. On the day of the visit, one family was accommodated in a separate dormitory in the women's annex. None of the NPM Team's interviewees complained about how the Shelter police officers treated them. They said they knew why they had been referred to the Shelter and were familiar with the deportation procedure.

The foreigners spend an hour in the morning and an hour in the afternoon outdoors. The Shelter staff say they cannot spend more time outdoors due to lack of staff that would monitor them. A large number of children were in the Shelter at the time of the visit – they were not engaged in

⁸ Shelter for Foreigners House Rules, paragraph 11.

⁹ European Committee for the Prevention of Torture Standards. Excerpt from the CPT's 7th General Report [CPT/Inf (97) 10], paragraph 29.

any meaningful activities and had nothing to occupy them and the time they spent outdoors was limited. The NPM therefore issues the following recommendation:

3.

RECOMMENDATION:

The Shelter for Foreigners should enable women with children to spend more time outdoors.

One room in the women's annex of the Shelter has been redecorated into the so-called "children's room". Apart from its brightly coloured walls, this room is not equipped with any amenities suitable for children. The officials said these amenities would be funded from donations.

4.

FINDING

The children's room has no amenities.

FOUNDATIONS

Families, women, children and foreigners with special needs shall be accommodated separately, in a specially designated part of the Shelter.¹⁰

RECOMMENDATION

The Shelter for Foreigners should equip the children's room with child-friendly amenities.

During its interviews with the female residents of the Shelter, the NPM team noticed that they were quite agitated and displeased because they were "pent up". As no psycho-social support is available in the Shelter for Foreigners, the NPM issues the following recommendation:

5.

RECOMMENDATION

The Ministry of Internal Affairs should arrange periodic visits by a psychologist to extend psychological support to people detained in the Shelter for Foreigners.

3. Shelter Staff Work Arrangements

The NPM Team recognised the efforts police officers have been making to enable the individuals held in the Shelter to exercise their rights, given that eight police officers are charged with security, two officers in each of the four shifts. However, the foreigners have a harder time exercising their rights when more of them are detained in the Shelter, due to the lack of staff. The NPM thus issues the following recommendation:

6.

¹⁰ Shelter for Foreigners House Rules, paragraph 13(5).

RECOMMENDATION

The Ministry of Internal Affairs should designate more police officers to the Shelter for Foreigners when necessary, to ensure that the staff can perform their duties without hindrance.

In its June 2016 Report,¹¹ the NPM Team concluded that oral communication between the Shelter staff and foreigners not speaking Serbian was conducted mostly in English, and, in case the foreigners did not speak English, with the help of other foreigners speaking their language and English. The NPM issued a recommendation on this issue to the Shelter. In its reply¹² to the NPM, the Border Police Directorate said that they were planning on having the release form, the receipt on temporarily seized items and the factsheet on the foreigners' rights translated. Given that the problem of everyday communication with the foreigners will not be overcome only by translating the relevant documentation, the NPM issues the following recommendation:

7.

RECOMMENDATION

With a view to enabling communication between the Shelter staff and foreigners, who understand neither English nor Serbian, the Ministry of Internal Affairs should arrange for interpreters for the languages these people understand, in particular Arabic and Farsi.

The Shelter Register, in which the personal data of the detained foreigners are entered, is kept only manually, which precludes rapid data search.

8.

RECOMMENDATION

The Shelter for Foreigners should keep its records also in electronic format.

During its June 2016 visit, the NPM Team established that foreigners in the Shelter had trouble accessing health care, even when there were much smaller numbers of them. In response to NPM's recommendation on the need to provide the foreigners in the Shelter with continuous health care, the Border Police Directorate notified the NPM that the Ministry lacked both human and financial capacities and the space to arrange the presence of medical staff.

According to the Shelter staff, a number of foreigners at one point launched a hunger strike. Monitoring their health was difficult during the strike. The Shelter officers had trouble ensuring the presence of a doctor who would check up on the protesters every day, because the Padinska Skela penitentiary doctor was on annual leave at the time. The NPM thus reiterates the following recommendation¹³:

9.

RECOMMENDATION

The Ministry of Internal Affairs should ensure the provision of continuous health care to foreigners referred to the Shelter for Foreigners.

¹¹ Report on the Visit to the Shelter for Foreigners, 281-48/16, June 2016.

¹² Enactment 03/8/6/2 No. 26-171/16, of 5 August 2016.

¹³ *Ibid.*

The Shelter staff said they had trouble organising the transportation of foreigners referred to the Shelter due to the lack of official vehicles. The Shelter car pool is old and in poor shape.

10.

RECOMMENDATION

The Ministry of Internal Affairs should place an adequate number of official vehicles at the disposal of the Shelter for Foreigners staff to ensure their unimpeded performance of duties.