



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
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Belgrade



Заштитник грађана
Zaštitnik građana



BEOGRADSKI CENTAR
ZA LJUDSKA PRAVA

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NATIONAL PREVENTIVE MECHANISM

MONITORING OF THE TREATMENT OF MIGRANTS AND ASYLUM SEEKERS BY THE
RELEVANT AUTHORITIES OF THE REPUBLIC OF SERBIA

Report on the Visit to the Banja Koviljača Asylum Centre – Monitoring of the Fulfilment of 2015 Recommendations

Belgrade, March 2017

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 the 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 the 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	Banja Koviljača Asylum Centre
PURPOSE OF THE VISIT	Monitoring of the fulfilment of the recommendations in the Report on the Visit to Banja Koviljača No. 71 - 80/15 of 4 September 2015
VISIT CONDUCTED BY	Protector of Citizens in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	2 March 2017
NOTICE OF VISIT	The visit was pre-notified
VISIT TEAM	<p>Team Members: Jelena Samardžić, <i>Protector of Citizens/NPM</i> Marko Mladenović, <i>Professional Service of the Protector of Citizens /Child Rights Department</i> Dušan Pokuševski, <i>Belgrade Centre for Human Rights</i> Milena Vasić <i>Belgrade Centre for Human Rights</i> Interpreter Milena Roaji, <i>Farsi interpreter</i></p>

COOPERATION OF THE OFFICIALS WITH THE NPM TEAM

All officials of the Banja Koviljača Asylum Centre fully cooperated with the NPM Team, extending it all the information it required and providing it with unimpeded access to its documentation on request.

COURSE OF THE VISIT

During the visit, the NPM Team talked with the Centre management, perused the relevant documentation, toured the rooms in which the migrants were accommodated and conducted private interviews with migrants of its choice.

INTRODUCTORY OBSERVATIONS ABOUT THE 2017 VISIT

A total of 119 migrants were accommodated in the Banja Koviljača Asylum Centre (hereinafter: Centre) on the day of the NPM Team's visit. The Centre Manager said that all of them had certificates of intent to seek asylum in the Republic of Serbia. However, most of the migrants the NPM Team interviewed said they wanted to continue their journey towards one of the EU Member States. Three migrants staying at the Centre have been granted subsidiary protection⁴ in the Republic of Serbia. Herewith the breakdown of the migrants in the Centre by their countries of origin Afghanistan - 67, Syria - 17, Iraq - 11, Iran - 10, Palestine - 2, Cuba - 3, Russian Federation - 2, Bangladesh - 1, Nepal - 1, Somalia - 1, Uzbekistan - 1, Former Yugoslav Republic of Macedonia - 1, Ukraine - 1 and one ethnic Serb from Croatia, who has been living in the Centre for around seven years now. Thirty-eight of the migrants were women and 27 were men; 53 were minors (27 girls and 26 boys) accompanied by their parents or relatives and one was an unaccompanied minor. The migrants do not hold on to their certificates of intent, but hand the originals over to the Asylum Office staff on admission; the staff archive the certificates in the migrants' case files. Most certificates of intent have been issued by the Belgrade City Police Administration.

According to the Centre Manager, the Centre had room to take in up to 118 people on the day of the NPM Team's visit, but its accommodation capacity could be extended to take in 134 people. During its tour of the Centre facilities, the NPM Team noted that the accommodation conditions and hygiene were good. As far as the assignment of migrants to rooms is concerned, the Centre endeavours to accommodate migrants with their ethnic kin. There have been no major incidents among migrants of different nationalities. The minor incidents could mostly be ascribed to alcohol consumption, not ethnic intolerance. In case of a clash breaking out between the migrants, the security guards warn them to stop and, if they do not, they call the police in. No cases of violence against women have been reported in the Centre.

The Centre is staffed by three civil servants and three workers engaged to perform technical duties, i.e. to maintain the hygiene in and outside the Centre, plus one worker to help out. A representative of the Asylum Office is constantly in the Centre to register the migrants. The Asylum Office has three offices at its disposal. Asylum Office representatives conduct surveys with the new arrivals to ascertain whether they really wish to remain in Serbia, with a view to taking the other asylum procedure steps.

A doctor's room opened in the Centre in late 2016 to extend health care to the migrants. A general practitioner and a nurse have been engaged full time. They work in the doctor's room six days a week (except on Sundays) from 7 am to 3 pm, and perform general check-ups, and refer the migrants to specialists for examination if necessary. The work of the medical staff at the Centre is funded by the Danish Refugee Council. The Manager told the NPM Team the Centre had a problem cooperating with the General Hospital in Loznica. Namely, all specialist examinations of the migrants are performed at this Hospital, wherefore the Centre staff who take the migrants to the Hospital are forced to spend the whole workday there until the doctors find the time to examine the migrants. Furthermore, the Centre has no official cars they can use to drive the ill migrants to the relevant health or other institutions, which has significantly impeded its work, especially in emergency and unexpected situations or when they need to drive the migrants to see a doctor. The Centre staff use their own cars or hire a cab in such situations. The Manager said that the EU was expected to donate vehicles to the Ministry of the

⁴ Subsidiary protection has been granted to migrants from Somalia, Iraq and Ukraine.

Interior and the Commissariat for Refugees and Migration in the forthcoming period and that he had heard the Commissariat would be provided with some 24 vehicles. The NPM team read media reports on the handover of a donation of 24 vehicles by the European Commission Directorate-General for Neighbourhood and Enlargement to the Commissariat.

RECOMMENDATION

In view of the increase in the number of migrants staying at the Banja Koviljača Asylum Centre and, thus, its greater workload and constant need to transport the migrants, the Commissariat for Refugees and Migration is to review the possibility of designating one official vehicle to the Centre and to take the adequate measures to secure such a vehicle.

Two people have been engaged to organise cultural-educational activities for the migrants; they are remunerated by the Danish Refugee Council. One of them works eight hours at the Centre and gives the migrants Serbian language and sewing lessons, while the other holds 90-minute English language lessons three times a week (on Tuesdays, Thursdays and Saturdays). All interested migrants may take part in these activities. Zumba classes, attended by a large number of migrant women, are also organised. Representatives of the Psychosocial Innovation Network (PIN) have also been coming to the Centre to extend psychological and educational support to the Centre residents.

The Banja Koviljača Asylum Centre does not have a kitchen. The food is prepared at a nearby restaurant and distributed in the Centre. The NPM Team was told that there were problems in delivering the food, especially in the winter, because the Centre is on a hill and the vehicles cannot reach it due to ice and snow. Some of the Centre residents complained about the quality of the food they were receiving. The NPM Team, however, had the opportunity to check the food served the migrants during its visit and did not gain the impression that it was of poor quality.

**MONITORING OF THE FULFILMENT OF THE RECOMMENDATIONS IN THE 2015
REPORT ON THE VISIT TO THE BANJA KOVILJAČA ASYLUM CENTRE**

1.

NPM 2015 RECOMMENDATION

The Commissariat for Refugees and Migration and the Banja Koviljača Asylum Centre are to ensure the continuous presence or availability of interpreters in the Centre, to allow unhindered communication between the staff and the foreigners residing in it.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The staff communicate with the Centre residents either in English, or with the help of Arabic and Somali interpreters engaged full-time by the Centre. If the Centre needs a Farsi interpreter, it engages Farsi interpreters via Belgrade-based non-government organisations (the Belgrade Centre for Human Rights, the Asylum Protection Centre, Group 484). The Manager said that Farsi interpreters had been present in the Centre more frequently in the past, but rarely nowadays. He qualified the lack of a Farsi interpreter as a problem the Centre faced on a daily basis, especially when the migrants had to be examined by a doctor, because the doctors in the Centre insisted on the presence of interpreters during the examinations. In such situations, if the patient speaks Farsi, the staff tries to ensure the presence of a Farsi interpreter, or, if that is impossible, a Farsi telephone interpreter.

Some migrants said that their communication with the Centre staff was difficult, both when they attempted to converse with them and when they tried to receive any information about the issues that mattered to them.

2.

NPM 2015 RECOMMENDATION

The Commissariat for Refugees and Migration and the Banja Koviljača Asylum Centre are to reschedule the working hours of the AC staff and introduce either shifts or on duty rostering after hours, to ensure round the clock presence of the staff in the AC and their ability to respond to the needs of the AC residents.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The Manager said that out of hours duty has not been introduced because it was unnecessary. The Centre staff work from 7:30 am to 3:30 pm on workdays. Furthermore, the Manager and two of his colleagues are always on call after hours to deal with urgent matters. The Manager said that all duties and activities regarding the migrants were conducted during the working hours and that the security guards were on duty in the Centre 24/7 and alerted the Manager and other staff on call to any unforeseen circumstances. Given that the number of migrants accommodated in the Centre has significantly increased since the NPM Team's last visit in 2015⁵, that it is now full, and given the uncertainties about the migrants' length of stay in the Centre, **the NPM is of the view that the Commissariat for Refugees and Migration should review the possibility of introducing shifts or out of hours duty in the Centre.**

3.

NPM 2015 RECOMMENDATION

⁵ Twenty-one people were accommodated in the Centre on the day of the NPM Team's visit in 2015 and 119 on the day of the NPM Team's visit in 2017.

In cooperation with the Commissariat for Refugees and Migration, the Banja Koviljača AC is to take the relevant measures to provide the adequate accommodation and rehabilitation to Centre residents with health problems.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The Manager said that ill migrants were always provided with the appropriate health care and treatment. The migrant in need of adequate rehabilitation after a traffic accident, who was staying at the Centre during the NPM Team's 2015 visit, has recovered successfully.⁶ This migrant is still living in the Centre.

The Centre management told the NPM Team that two Afghan nationals staying at the Centre were suffering from type 2 diabetes and were receiving their insulin therapies. It said that the Centre had engaged a nutritionist working at the Banja Koviljača health centre to prescribe them the diet they needed.

4.

NPM 2015 RECOMMENDATION

The Asylum Office is to ensure that migrant women staying at the Banja Koviljača Asylum Centre are frisked by female police officers, i.e. that at least one female police officer is seconded to the Banja Koviljača Asylum Centre.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The Asylum Office has not seconded a female police officer to frisk migrant women during their registration in the Centre for security reasons and to find documents helping establish their identity. The Manager said that migrant women usually were not frisked and that where such searches were necessary, they were performed with a metal detector. The migrant men are frisked by the security guards.

5.

NPM 2015 RECOMMENDATION

The Ministry of Labour, Employment and Veteran and Social Affairs is to take measures to ensure an efficient procedure of appointing guardians for unaccompanied foreign minors on their admission to an Asylum Centre.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The Centre staff told the NPM Team there was only one unaccompanied migrant boy staying at the Centre on the day of its visit. The boy told the NPM Team he was from Afghanistan and had set out on his own. His parents, three brothers and four sisters have remained in Afghanistan. The boy intends to live and pursue his education in the Republic of Serbia. He was accompanied by his guardian from the Šid Social Work Centre (hereinafter: SWC) when he was admitted to the Centre on 27 February 2017. He had been staying at the Reception Centre in Adaševci until then. On 28 February 2017, the Loznica SWC, which has jurisdiction over the territory in which the Centre is located, was notified both orally and in writing of his admission and asked to appoint the minor a new guardian; perusal of the documentation corroborated these claims. The Loznica SWC officers had not responded to the Centre's

⁶ More in the Report on the Visit to the Banja Koviljača Asylum Centre No. 71 – 80/15 of 4 September 2015, available at http://www.npm.ils.rs/attachments/126_ENG%20Izvestaj%20o%20poseti%20CA%20B.%20Koviljaca,%20CSR%20i%20PS%20Loznica.pdf; the authorities' responses are available in Serbian at <http://www.zastitnik.rs/index.php/izvestaji/posebnii-izvestaji/4398-2015-11-04-14-15-10>

request and come to the Centre until the day of the NPM Team's visit. The Manager said that Loznica SWC staff appointed guardians for the unaccompanied minors and that they visited their wards "when necessary", usually when the minors were to be taken for a specialist examination.

However, according to the information subsequently obtained from the Loznica SWC Director and officers, the SWC immediately appointed a guardian for the minor, as soon as it was notified of his admission to the Centre, without the guardian first meeting the boy. The Loznica SWC officers said that the lack of interpreters was the reason why they did not conduct the relevant guardianship procedure, visited the unaccompanied minors or communicated with their wards. Lack of interpreters has particularly affected underage unaccompanied children, because the language barrier exacerbated their exercise of their rights and the protection of their rights. The Loznica SWC staff also said that the Šid SWC, which had appointed a guardian for the minor while he was staying in the Adaševci Centre, had not forwarded the case file and available documentation to the Loznica SWC, which has assumed the guardianship duties and responsibilities for the minor when he came under their jurisdiction.

6.

NPM 2015 RECOMMENDATION

The NPM is of the view that the Ministry of Labour, Employment and Veteran and Social Affairs is to engage a person in the Loznica SWC who will exclusively act as a guardian of unaccompanied foreign minors accommodated in the Banja Koviljača Asylum Centre.

ACTIONS TAKEN TO FULFIL THE NPM RECOMMENDATION

The information obtained by the NPM Team during its meeting with the Centre management regarding the appointment of guardians to unaccompanied foreign minors staying at the Centre and the information obtained during the oversight of the SWC Loznica by the Protector of Citizens Professional Service, the NPM Team found that the Loznica SWC still has not engaged an additional member of staff to exclusively act as a guardian of the unaccompanied foreign minors accommodated in the Banja Koviljača Asylum Centre. The duties of guardians of unaccompanied minors are performed by the Loznica SWC Children and Youths Service, staffed by a total of five officers performing all the duties in the fields of guardianship, family law and other forms of protection of children within the remit of the guardianship authority.

THE NPM REITERATES ITS 2015 RECOMMENDATION

The Ministry of Labour, Employment and Veteran and Social Affairs is to engage a person in the Loznica SWC who will exclusively act as a guardian of unaccompanied foreign minors accommodated in the Banja Koviljača Asylum Centre.