



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
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Заштитник грађана
Zaštitnik građana



БЕОГРАДСКИ ЦЕНТАР
ЗА ЛЈУДСКА ПРАВА

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 Shelter for Foreigners in Padinska Skela

Belgrade, June 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.

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	Shelter for Foreigners in Padinska Skela
PURPOSE OF THE VISIT	Monitoring of the treatment of migrants and asylum seekers by the relevant authorities
VISIT CONDUCTED BY	Protector of Citizens in cooperation with the Belgrade Centre for Human Rights
DATE OF VISIT	9 June 2017
NOTICE OF VISIT	The visit was not pre-notified
VISIT TEAM	<p>Team Leader Marko Anojčić, <i>Professional Service of the Protector of Citizens /NPM</i></p> <p>Team Members: Jelena Jelić, <i>Professional Service of the Protector of Citizens /NPM</i> Marko Mladenović, <i>Professional Service of the Protector of Citizens-Sector for the Rights of the Child, Gender Equality and Protection of Social and Cultural Rights</i> Dušan Pokuševski, <i>Belgrade Centre for Human Rights</i></p> <p>Interpreters: Milena Roaji, <i>Farsi interpreter</i> Raduan Mansouri, <i>Arabic interpreter</i></p>

COOPERATION WITH THE OFFICIALS WITH THE NPM TEAM

All police officers at the Padinska Skela Shelter for Foreigners fully cooperated with the NPM Team, providing it with all the information it required and facilitating its perusal of the documentation. The NPM Team was provided with access to the facilities in which the foreigners are detained and the opportunity to privately interview foreigners of its choice.

COURSE OF THE VISIT

After the NPM Team outlined its mandate and the aim of its visit and introduced the Team members to the Shelter management, the Shelter officials provided it with information about the current situation in the Shelter and compliance with the NPM's recommendations. The NPM Team then split into several groups, which perused the relevant documentation and toured the accommodation facilities (men's and women's annexes) where they interviewed the foreigners. At the end of its visit, the NPM Team held a wrap up meeting with the management, at which it shared its main impressions about the visit and findings on the situation in the Shelter and respect for the migrants' rights.

1. INTRODUCTION

The NPM visited the Shelter for Foreigners in Padinska Skela twice in 2016, with a view to monitoring the treatment of foreigners detained in this institution. It prepared reports on these visits in which it issued a total of 17 recommendations to the Ministry of Internal Affairs and the Shelter for Foreigners on how to eliminate the identified shortcomings and improve their treatment of foreigners. The Report on the Visit conducted on 21 June 2016⁴ included seven recommendations and the Report on the Visit conducted on 12 August 2016⁵ included 10 recommendations.⁶ Both the Reports and the Ministry's replies on compliance with the recommendations were published on NPM's website.⁷

The gravest shortcoming identified by the NPM Team in 2016 concerned the absence of continuous medical supervision of the foreigners staying at the Shelter, as, at the time of the 2016 visits, the foreigners were treated at the nearby penitentiary in Padinska Skela when necessary and, consequently, did not undergo the mandatory check-ups or the check-ups on admission. Furthermore, it found that the police officers had access to the foreigners' medical data as they were the ones who kept records of the medical examinations and the foreigners' health documentation in their case files. In addition, the NPM ascertained that the foreigners had trouble familiarising themselves with the applicable procedures and with understanding the legal and factual situation they were in because they were served notices of the rights of arrested persons under Article 69 of the Criminal Procedure Code,⁸ that documentation on the treatment of foreigners drawn up to protect their rights and interests was available only in Serbian and that foreigners speaking neither English nor Serbian had difficulty communicating with the police officers. The NPM had also identified shortcomings in the conditions the foreigners were detained in, the hygiene and furnishing of the facilities, and concluded that the Shelter was understaffed.

In its replies, the Ministry of Internal Affairs specified that it would take additional measures to ensure the Padinska Skela penitentiary extended continuous health care to the foreigners, as the Ministry did not have the space or the human or financial resources to do so itself. Furthermore, the NPM was notified that the Ministry did not have full-time interpreters on staff and that the resolution of this problem was hindered by the lack of funding and the fact that the Ministry did not need to engage interpreters on a regular basis. As per the factsheet on the foreigners' rights, the Ministry said it would wait for the adoption of a new Act on Foreigners and that it would take measures to comply with most of the other recommendations depending on available funds. The bill on foreigners was in the preliminary draft stage and had not been submitted to parliament for adoption by the time this Report was completed.⁹

⁴ No. 281-48/16 of 6 July 2016.

⁵ No. 281-65/16 of 19 August 2016.

⁶ Given that the NPM noted during its August 2016 visit that some of the shortcomings it had identified during its prior visit had not been eliminated, it reiterated the relevant recommendations in its August 2016 Report; the reiterated recommendations will be outlined in this Report only once.

⁷ Border Police Administration's Reply to the Recommendations of the Protector of Citizens of 12 August 2016, "Treatment of Foreigners in Shelter for Foreigners Improved," 18 January 2017.

⁸ Official Gazette of the Republic of Serbia, Nos. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14.

⁹ The Ministry of Internal Affairs forwarded the Preliminary Draft Act on Foreigners to the Protector of Citizens for comment on 23 May 2017.

2. SITUATION ON THE DAY OF THE VISIT

The exercise of rights by foreigners in the Shelter has changed little since the NPM's previous visit. It has even deteriorated in some important aspects; foreigners can no longer be treated at the Padinska Skela penitentiary; the number of police officers working at the Shelter has been reduced, resulting in the limitation of the exercise of specific rights by the foreigners. The following major improvements have, however, been noted: the Shelter has been provided with one more vehicle to transport the foreigners and all the foreigners can now watch both domestic and foreign TV channels.

A total of 201 foreigners, nine of them women and two girls, have been detained in the Shelter since the beginning of the year, i.e. the number of minors was much smaller than in the past.¹⁰ Both girls were accompanied by their mothers.

Twenty-one foreigners were detained at the Shelter at the time of the visit; 19 were men and two were women. Most had come from Algeria (seven men) and Libya (three men). One woman was a national of Poland and had been transferred from the women's penitentiary in Požarevac, where she had been serving a misdemeanour sentence, and the other woman was a national of Cuba, who was detained in the Shelter with her partner, a Syrian national.

According to the officials, very few foreigners want to notify the diplomatic-consular offices of their countries of their detention in the Shelter – around 5% of them have expressed such a wish.

Most of the interviewed foreigners did not complain about the way they were treated by the Shelter staff or other police officers they came across in Serbia. Some complained about poor communication with specific Shelter police officers or that they ignored them. Most of the foreigners confirmed that they were provided with the opportunity to exercise their rights in the degree alleged by the Shelter staff.

¹⁰ During its visit on 21 June 2016, the NPM Team ascertained that 10 foreign minors had been detained in the Shelter since the beginning of the year.

3. COMPLIANCE WITH NPM'S RECOMMENDATIONS

1.

2016 RECOMMENDATION

The Ministry of Internal Affairs is to provide foreigners referred to the Shelter for Foreigners with a factsheet on their rights immediately on admission, informing them of the legal situation they are in and the rights they are entitled to

REPLY

The new House Rules, to be adopted after the new Act on Foreigners is enacted, will govern the form and content of the factsheet.

The public officials are under the duty to notify all foreigners of the grounds for their detention, and their rights in detention, including the right of appeal.

NPM'S 2017 FINDINGS

The recommendation has not been complied with

Foreigners still are not provided with adequate written notice of their rights and the legal situation they are in on admission to the Shelter. The Shelter officials told the NPM they had asked the Ministry of Internal Affairs to prepare the factsheets three months ago, but had not received any reply from it. They said they continued notifying the foreigners of their rights orally in English in the event the latter did not speak Serbian both on their admission to the Shelter and throughout their detention.

A number of foreigners interviewed by the NPM Team said they had no idea why they were detained in the Shelter or what would happen to them, and that no one had notified them of their rights. The foreigners were in possession of rulings ordering their detention in the Shelter, but some of them did not understand what the rulings said. Although this may be the consequence of their personal views on the procedure for their deportation or their lack of understanding of the content of rulings ordering their detention in the Shelter, foreigners nevertheless need to be provided with factsheets explaining to them the applicable procedure(s) and their rights in a language they understand; this safeguard will facilitate the resolution of the problem.

RECOMMENDATION

The Ministry of Internal Affairs is to provide foreigners referred to the Shelter for Foreigners with factsheets notifying them of their legal situation and rights immediately on admission.

2.

2016 RECOMMENDATION

The Shelter for Foreigners is to improve the hygiene of the dormitories in the annex designated for the accommodation of men by painting the walls and replacing the dilapidated cabinets for personal items and sanitary equipment.

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

put in place conditions for the maintenance of such hygiene by providing them with the necessary cleaning utensils and products

REPLY

The Ministry shall act on the recommendation in accordance with its financial possibilities.

NPM'S 2017 FINDINGS

The recommendation has not been complied with

No maintenance work has been performed either in the male annex or other parts of the Shelter since the NPM's previous visits; nor have the decrepit furniture and appliances been replaced. The Shelter officials informed the NPM that the preparation of a design for renovating the entire facility and the construction of another facility accommodating up to 100 people was under way. Part of the funding was provided through a donation of the International Organization for Migration (IOM).

During its tour of the male annex, the NPM Team ascertained that the state of hygiene, furniture and installations in it were the same as before. Some rooms were dirty, musty and lacked ventilation. In addition, the bed linen was visibly dirty and, according to the foreigners interviewed in the annex, it had not been changed since they were detained in the Shelter (over two months ago).

The NPM welcomes the steps taken by the Ministry of Internal Affairs towards fully renovating and extending the Shelter's capacity, which is expected to provide foreigners detained in this institution with adequate living conditions. However, in view of the fact that the design is still in the development stage, i.e. that the renovation will not be completed in the imminent future, the NPM is of the view that the foreigners detained in the Shelter should not suffer the consequences of the desultory conditions. In view of these considerations and the fact that painting the walls does not cost very much and actually falls under regular maintenance of the Shelter's interior, which should be performed periodically (once a year), the NPM expects of the Ministry to maintain at least minimum hygiene and living conditions until the complete overhaul of the Shelter.

RECOMMENDATION

The Shelter for Foreigners is to paint the walls of the dormitories and maintain material conditions until the overhaul of the entire facility.

The Shelter for Foreigners is to regularly wash the mattresses, bed linen and blankets and replace old ones with new ones.

3.

2016 RECOMMENDATION

In the NPM's view, in addition to the above-mentioned provisions, the new Guidance is also to include provisions on personal items foreigners detained at the Shelter are allowed to hold on to and on the safekeeping of items temporarily seized from them, as well as provisions on the exercise and protection of the foreigners' rights (including the right to and procedure for raising the realisation of their rights with the police officers and for filing complaints with the Shelter Manager if they believe their human and minority rights and freedoms have been violated by an action or non-action of a Shelter staff member).

Furthermore, given that the valid Guidance lays down that foreigners may take baths at least twice a week in the summer and once a week in the winter, which is insufficient for

maintaining personal hygiene, the new Guidance is to provide the foreigners with more opportunities to wash themselves.¹¹

In addition, visits by priests should not be contingent on the presence of a greater number of foreigners of the same religion, like now. Every foreigner should be provided with the opportunity to be visited by and talk to his/her priest, in accordance with the Shelter House Rules.

REPLY

The new House Rules will comprise more detailed provisions; these rights have not been limited in practice.

NPM'S 2017 FINDINGS

Monitoring to continue

Most of the interviewed foreigners did not complain about the conditions for maintaining their personal hygiene (*See Recommendation No. 8*).

On the other hand, they are allowed one visit a week, lasting around 20 minutes, which is insufficient for maintaining contact with the outside world.¹² The foreigners also said that they were unable to use the phone because of the shortage of phone cards for sale. Their allegations were confirmed by the Shelter staff as well, who explained that there was a shortage of phone cards manufactured by the company with which a contract had been concluded.

The foreigners' personal belongings are still seized and receipts thereof are kept in their case files.

Given that the visit took place during Ramadan, meals were distributed after sundown to foreigners observing it.

Under the Preliminary Draft Act on Foreigners forwarded to the Protector of Citizens for comment, the foreigners' right to express their dissatisfaction with the conditions in the Shelter shall be governed thoroughly in the Shelter House Rules, to be adopted by the Minister of Internal Affairs within six months from the day the Act comes into force.

RECOMMENDATION

The Shelter for Foreigners is to allow foreigners to receive visitors for at least an hour every week.

The Ministry of Internal Affairs is to ensure foreigners detained in the Shelter unimpeded use of the telephone.

4.

¹¹ At least three times a week.

¹² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Factsheet on Immigration Detention CPT/Inf (2017) 3, published in 2017, Part V, paragraph 6:

Immigration detainees should be offered the possibility to have visits several times per week. As a minimum, they should be allowed to receive at least one visit of one hour per week.

2016 RECOMMENDATION

The Ministry of Internal Affairs is to ensure that the Shelter release forms, receipts of temporarily seized items and the factsheet on the foreigners' rights are translated into the languages understood by most foreigners referred to the Shelter (English, Arabic, Farsi, Urdu, etc.), and made available.

The Ministry of Internal Affairs is to provide interpreters for the languages spoken by foreigners, who speak neither English nor Serbian, in case they have to communicate with the Shelter staff and health professionals clearly and precisely.

REPLY

*Measures shall be taken.*¹³

*The Ministry of Internal Affairs does not have interpreters on staff and will take measures to address the problem, albeit with difficulty due to lack of funding and absence of the need to employ interpreters on a full-time basis.*¹⁴

NPM'S 2017 FINDINGS

The recommendation has not been complied with

No measures have been taken to comply with this recommendation, wherefore the shortcomings regarding the possibility of the foreigners familiarising themselves with applicable procedures in the Shelter and the staff's communication with foreigners speaking neither English nor Serbia continue to persist.

The factsheets and receipts issued to the foreigners have not been translated, i.e. they are still given these documents in Serbian. Furthermore, the staff still mostly communicate with the foreigners in English, whereas their communication with foreigners, who speak neither Serbian nor English, is still interpreted by the other foreigners. The Shelter occasionally uses the interpreters of non-government organisations visiting the institution to extend various forms of assistance to the foreigners. The Shelter cannot use the services of interpreters interpreting conversations between police officers and migrants in Serbia, whose services are funded by international organisations.

The interviewed foreigners, who do not speak Serbian, told the NPM Team that the staff communicated with them in English and that they gesticulated when they were at a loss for words in English. Some foreigners, who do not speak English well, complained that they had difficulty communicating with the staff.

RECOMMENDATION

The Ministry of Internal Affairs is to ensure that forms of documents issued to foreigners detained in the Shelter for Foreigners (release minutes, receipts for temporarily seized belongings, factsheets, et al) are translated into and available in languages understood by most foreigners detained in the Shelter (English, French, Arabic, Farsi, Urdu, etc.)

The Ministry of Internal Affairs is to provide interpreters in the languages understood by the foreigners, who speak neither Serbian nor English, in case the Shelter staff need to communicate with them clearly and precisely.

¹³ Memo on compliance with the recommendations in the Report on the Visit on 21 June 2016.

¹⁴ Memo on compliance with the recommendations in the Report on the Visit on 12 August 2016.

5.

2016 RECOMMENDATION

The Ministry of Internal Affairs is to amend the Guidance on Treatment of Persons in Police Custody by laying down that physical restraints shall be applied only when strictly necessary, not during the transportation of all persons, as provided for by the valid regulations.

The Shelter for Foreigners police officers are not to physically restrain every foreigner they transport in their official vehicles, but only when they assess that their physical restraint is necessary and in instances specified by the law.

REPLY

Police officers have been acting in accordance with the Guidance and will ask the Ministry of Internal Affairs to provide a legal interpretation of whether the Guidance is in compliance with the Police Act.

NPM'S 2017 FINDINGS

Recommendation partly complied with

The Guidance on Treatment of Persons in Police Custody¹⁵ has not been amended yet as recommended, wherefore Article 13(2) of the Guidance still lays down that transported persons shall be physically restrained. Furthermore, the Shelter has not yet received a legal interpretation regarding the compliance of the Guidance with the Police Act.

It was, however, ascertained during the visit that foreigners were less frequently physically restrained during their transportation from the Shelter than earlier; six of them were physically restrained since the beginning of the year, as opposed to 2016, when 39 foreigners were subjected to such a measure. The staff told the NPM Team that foreigners were only restrained when they were transported in official vehicles without the protective grid between the back seats, where they are seated, and the front seats, where the police officers sit. Some of the interviewed foreigners said that they had not been restrained when they were taken out of the Shelter.

6.

2016 RECOMMENDATION

Authorised police officers in the Shelter for Foreigners are to review every use of means of coercion by police officers working in the Shelter and assess whether it was justified and appropriate in each individual case.

REPLY

Every use of means of coercion is reviewed to assess whether it was justified.

¹⁵ 01 Ref. No. 7989/12-10 of 10 December 2012.

NPM'S 2017 FINDINGS

Recommendation has been complied with

The NPM Team perused the documentation and ascertained that it was properly kept, that detailed reports had been drawn up on each use of means of coercion and that the justification and lawfulness of their use was reviewed by the police officers' superiors.

Physical restraint of foreigners was the only means of coercion applied since the beginning of the year, and only when they were transported elsewhere.

7.

2016 RECOMMENDATION

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

Health professionals are to keep the health documentation and treatment records of the foreigners confidential and non-medical staff are not to have access to data in such documentation and records.

Only medical staff is to administer therapy (medications et al) to foreigners in the Shelter.

REPLY

The Ministry of Internal Affairs lacks the space and the human and financial resources to comply with the recommendation.¹⁶

Additional measures shall be taken to ensure that the Padinska Skela penitentiary regularly extends health care to the foreigners. The foreigners shall also be taken to health institutions.¹⁷

NPM'S 2017 FINDINGS

The recommendation has not been complied with

The extension of health care to foreigners detained in the Shelter for Foreigners has been aggravated since the NPM's previous visit. Not only are they not provided with continuous health care, but the contract on their treatment in the nearby penitentiary has been cancelled as well. The confidentiality of their health data has not been ensured and their therapy is still not administered by health professionals. The Shelter staff said that the contract had been broken off because the Department for Material and Financial Affairs of the Ministry of Justice's Penal Sanctions Enforcement Administration held that the penitentiary could not sell the services of its doctors and medications.

Foreigners in need of medical assistance are now taken to the Padinska Skela Health Station, part of the Palilula Out-Patient Health Clinic Dr. Milutin Ivković and to the more distant Clinical Centre of Serbia and the Clinical Hospital Centre Zvezdara, while the penitentiary doctors extend them aid only in emergencies. Medical reports on the examinations and health of the foreigners/patients are in their case files kept by the Shelter and the prescribed therapy is administered by the police officers.

Given the Shelter's limited human and technical capacities, the foreigners are taken to a doctor only when their health deteriorates, not for regular check-ups or treatment of chronic diseases. Some foreigners complained to the NPM Team members that they had asked the

¹⁶ Memo on compliance with recommendations in the Report on the Visit of 21 June 2016.

¹⁷ Memo on compliance with recommendations in the Report on the Visit of 12 August 2016.

police officers to take them to a doctor to examine the changes on their skin that may be the consequence of the conditions they were living in, but to no avail.

Most of the foreigners taken to see a doctor spent hours there, and some of them had to be hospitalised. According to the officials, their hospitalisation lasted up to one month; three foreigners were hospitalised in the Belgrade psychiatric hospital Dr. Lazar Lazarević for 10-15 days in 2017. The costs of treatment, which can be extremely high, are covered by the Ministry.

One of the interviewed foreigners confirmed he had been urgently taken to a doctor, that even a female police officer noticed he was unwell and persuaded him to take him for a check-up, that he was cared for and that the police officers every day gave him his medications, which he was buying himself. Given that he complained that he was running out of money, the NPM Team raised the issue with the Shelter management, which said that it had already established cooperation with a humanitarian organisation to address such situations and that the latter would provide the medications for the foreigners.

The situation, characterised by the foreigners' obviously impeded access to medical treatment, absence of mandatory check-ups on admission and continuous medical supervision, violations of the confidentiality of their health data and the improper practice of delegating the administration of their therapy to non-medical staff, also impinges on the work of the police officers, who now have to transport the foreigners in need of emergency aid to faraway health institutions, which also raises security issues. The NPM is thus of the view that the Ministry of Internal Affairs is to take measures to address this problem without delay.

To address the needs of the foreigners detained in the Shelter, it would suffice, at a minimum, to ensure the presence of a medical technician several hours a day at this institution. The technician could monitor the health of all foreigners detained in the Shelter, screen the new arrivals, organise medical examinations in health institutions, administer therapy and supervise the general conditions of hygiene.¹⁸

The Shelter management said that the Shelter for Foreigners could set aside a room in which health professionals could examine the foreigners. A separate medical unit is planned in the design for renovating and expanding the Shelter.

RECOMMENDATION

The Ministry of Internal Affairs is to ensure without delay the presence of a qualified health professional, who has the qualification of a medical technician at a minimum, in the Shelter for Foreigners on a daily basis. The professional is to perform medical screening of all newly admitted foreigners, receive requests for medical examinations, ensure the provision and distribution of prescribed medicines, keep the medical documentation and supervise the general conditions of hygiene

¹⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment XIX Standards, XIX General Report, (2009) 27, published in 2009, paragraph 91:

At a minimum, a person with a recognised nursing qualification must be present on a daily basis at all centres for detained irregular migrants. Such a person should, in particular, perform the initial medical screening of new arrivals (in particular for transmissible diseases, including tuberculosis), receive requests to see a doctor, ensure the provision and distribution of prescribed medicines, keep the medical documentation and supervise the general conditions of hygiene.

8.

2016 RECOMMENDATION

The Shelter for Foreigners is to 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.

REPLY

Foreigners are provided with tooth brushes and toothpaste, soap, shampoo, detergent on arrival and have access to cleaning utensils and products on a daily basis. Police officers check the hygiene conditions.

NPM'S 2017 FINDINGS

Recommendation partly complied with

The interviewed foreigners confirmed they were provided with hygiene items and had access to hot water in the Shelter. Some, however, noted that they were on occasion given products the shelf life of which had expired: the NPM Team members saw for themselves that these foreigners had toothpaste, the shelf life of which expired in 2008 and 2012.

The problem of hygiene of the premises needs to be addressed by regular maintenance of the Shelter (*see Recommendation 2*)

RECOMMENDATION

The Shelter for Foreigners is not to distribute to the foreigners personal hygiene items the shelf life of which had expired and is to ensure that the shelf life of any the items they are now using has not expired.

9.

2016 RECOMMENDATION

All foreigners in the Shelter are to be provided with access to TV and, depending on the available funding, the opportunity to watch foreign TV channels.

REPLY

A request has been filed with the Ministry of Internal Affairs to purchase a new TV set and provide the foreigners with the opportunity to watch foreign TV channels. Women have been provided with the chance to watch TV in the men's annex.

NPM'S 2017 FINDINGS

Recommendation has been complied with

A TV set has been installed in the women's annex and foreign channels can now be watched on both sets (one in the men's annex and the other in the women's annex) after the technical conditions were put in place, i.e. digital satellite TV service was introduced.

10.

2016 RECOMMENDATION

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

REPLY

They have the opportunity to do so if they want to, weather permitting.

NPM'S 2017 FINDINGS**Further monitoring needed**

There were no children in the Shelter at the time of the visit.

The women told the Team members they went for walks outside their annex two or three times a week. The Shelter staff explained that this could be ascribed to the lack of police officers in the shifts. The men interviewed by the NPM Team said they were allowed to go outdoors 45 minutes every day.

All persons deprived of liberty must have the opportunity to exercise outdoors every day. Under international standards, they are to spend at least one hour a day in the open air,¹⁹ while the Shelter House Rules lay down that the detainees are to be allowed to spend two hours a day outdoors.²⁰

The full exercise of this right clearly calls for engaging more police officers (*see Recommendation 13*). Until then, all foreigners in the Shelter should be provided with the opportunity to spend at least one hour a day in fresh air.

RECOMMENDATION

The Shelter for Foreigners in Padinska Skela is to provide all foreigners with the opportunity to spend at least one hour a day in fresh air.

11.**2016 RECOMMENDATION**

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

REPLY

The room has been furnished with beds and bed linen, consultations with psychologists and pedagogues on the procurement of toys and educational material are under way.

¹⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, II General Report CPT/Inf (92) 3 published in 1992, paragraph 48:

Specific mention should be made of outdoor exercise. The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard (preferably it should form part of a broader programme of activities). The CPT wishes to emphasise that all prisoners without exception (including those undergoing cellular confinement as a punishment) should be offered the possibility to take outdoor exercise daily. It is also axiomatic that outdoor exercise facilities should be reasonably spacious and whenever possible offer shelter from inclement weather.

²⁰ Article 18(1) Shelter for Foreigners House Rules, 01 Ref. No 12392/09 of 14 October 2009:

Foreigners shall be provided with the opportunity to spend up to two hours a day in fresh air in the outdoor and fenced part of the Shelter. The foreigners shall exercise their right to spend time in fresh air at the same time and may use it to stroll, sit, talk freely and smoke.

NPM'S 2017 FINDINGS

The recommendation has not been complied with

The children's room has not been furnished with child-friendly amenities and has been neither adapted nor tailored to children since the NPM'S last visit. The Shelter staff said that a fully adequate children's room would be ensured once the Shelter was renovated.

The NPM is of the view that both adults and children detained in the Shelter should not suffer the consequences of inadequate living conditions until it is renovated. This is particularly important when it comes to children given the consequences detention in closed institutions can have on their development. Not much funding is needed to furnish the Shelter with child-friendly amenities (toys and education materials, children's furniture, painting the room in bright colours, etc.) and all the purchased items can subsequently be used in the children's room after the renovation of the Shelter, if they are not decrepit by then.

RECOMMENDATION

The Ministry of Internal Affairs is to furnish the children's room with child-friendly amenities.

12.

2016 RECOMMENDATION

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

REPLY

The foreigners are extended psychological support by the psychologists of the Ministry of Internal Affairs, the Ministry's Health Care Institute, UNHCR and non-government organisations. Cooperation with them will intensify.

NPM'S 2017 FINDINGS

Recommendation partly complied with

The Shelter still has not provided regular presence and systemic psychological support to the foreigners; this kind of support is extended to them by psychologists engaged by non-government organisations occasionally visiting the institution. The Shelter staff said that psychologists had visited the Shelter seven times since the beginning of 2017

Some of the interviewed foreigners said they had not talked with a psychologist and were unaware of the possibility.

13.

2016 RECOMMENDATION

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

REPLY

There are plans to fill the vacancies, other police officers are occasionally designated to the Shelter.

NPM'S 2017 FINDINGS**The recommendation has not been complied with**

The Shelter is even more understaffed than it was the previous times the NPM visited it, since two police officers retired and no one else was hired in the meantime. Only 26 of the 36 jobs envisaged in the enactment on jobs are filled. The Shelter has problems ensuring a sufficient complement of staff to perform everyday duties given the usual absences from work, due to sick leave and vacation, as well as the need for officers to accompany foreigners outside the Shelter, additionally exacerbated by the necessity of transporting those in need of medical assistance to distant health centres.

Lack of staff and the workload of the existing staff impinge on the atmosphere in a place of detention and the detainees' exercise of their rights and safety, as well as the overall security of the institution.²¹

RECOMMENDATION

The Ministry of Internal Affairs is to engage a sufficient number of male and female police officers in the Shelter for Foreigners without delay in accordance with the realistic needs to ensure their unimpeded work and the valid enactment on jobs.

14.**2016 RECOMMENDATION**

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

REPLY

The Sector for the Admission and Accommodation of Foreigners keeps records in electronic format.

²¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Standards, XI General Report CPT/Inf (2001) 16, published in 2001, paragraph 26 (4 and 5):

Ensuring positive staff-inmate relations will also depend greatly on having an adequate number of staff present at any given time in detention areas and in facilities used by prisoners for activities. CPT delegations often find that this is not the case. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners, will certainly impede the development of positive relations; more generally, they will generate an insecure environment for both staff and prisoners.

It should also be noted that, where staff complements are inadequate, significant amounts of overtime can prove necessary in order to maintain a basic level of security and regime delivery in the establishment. This state of affairs can easily result in high levels of stress in staff and their premature burnout, a situation which is likely to exacerbate the tension inherent in any prison environment.

NPM'S 2017 FINDINGS

The recommendation has not been complied with

The Shelter is still keeping records of foreigners manually, by entering their personal data in a specially designated book.

15.

2016 RECOMMENDATION

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

REPLY

The Border Police Administration shall ask the Ministry of Internal Affairs to place an adequate number of official vehicles at its disposal.

NPM'S 2017 FINDINGS

Recommendation has been complied with

The Shelter for Foreigners has been provided with one new nine-seat vehicle (driver's seat plus eight passengers) since the previous visit, wherefore it now has that vehicle and a police car at its disposal. The third Shelter vehicle has broken down. The passenger vehicle and the police car have ventilation; the part of the police car in which the passengers are seated is separated from the part in which the police officers are seated and is not under video supervision. There is a protective grid between the two parts, through which the police officers monitor the persons they are transporting.