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NATIONAL PREVENTIVE MECHANISM 2017 report

Belgrade, 2018.

Dear reader,

This is the sixth annual report of the Protector of Citizens on the activities implemented within the completion of tasks of the National Preventive Mechanism in the Republic of Serbia.

The prevention of torture emerges from the obligations of the Republic of Serbia towards its citizens and the international convention which it accessed.

During 2017, 61 visits were made to locations where persons deprived of liberty are accommodated or may be accommodated and on the basis of identified irregularities, 309 recommendations were sent to competent bodies.

Presenting the findings and general and individual recommendations for the improvement of the current situation, the Report offers a clear and accessible direction towards the society without torture as an ideal goal. Nevertheless, it is evident from the report that the steps towards the unattainable ideal are not vague themselves, or unattainable, not even too difficult or expensive.

What remains is to realize them as soon as possible, without any excuse or exception, for the sake of victims of torture and our own dignity. Where one human being is exposed to inhuman treatment, no one's dignity can be complete.

I would like to thank to all the bodies, citizen associations and individuals with whom we had cooperation during the reporting period by performing the activities of the National Preventive Mechanism. Belgrade, 9th May, 2018

*Miloš Janković
Deputy Protector of Citizens*

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1. Introduction

1.1. General assessment of the adherence to the prohibition of torture and other cruel, inhuman or degrading punishment and treatment in the Republic of Serbia

After many years of realization of the mandate of National Preventive Mechanism (NPM), the Protector of Citizens confirms that during the reporting period in the Republic of Serbia the trend of the improvement of the protection of rights of persons deprived of their liberty, the application of police authorizations as well as the prevention of torture and other forms of abuse was continued.

Based on many visits to places where persons deprived of their liberty are located or may be located, the NPM concludes that there is no torture as a phenomenon organized or encouraged by state authorities in the Republic of Serbia

What is encouraging is the fact that in a few recent years, the awareness of public officials who treat persons deprived of their liberty and their superiors that torture is prohibited activity became predominant. In this respect, there are numerous testimonies of randomly interviewed persons deprived of their liberty, especially in prisons that they were not victims of torture.

Nevertheless, this does not mean that there is no torture or other form of abuse in the Republic of Serbia. Individual cases of torture or abuse are always possible and expected to be occurring and they will. The torture, as any other form of abuse, is of a situation-related and the persons deprived of their liberty are therefore exposed to a higher risk for a continuing period.

Apart from that, material conditions and individual activities of competent bodies toward persons deprived of their liberty which are the result of the shortcomings in the system and represent a poor practice so far which is not in compliance with valid standards¹, taking into account their intensity and duration, may grow into, and in certain cases they do, into humiliating and inhuman treatment and even torture.

¹ E.g. inappropriate accommodation; lack of existence or implementation of prescribed procedures; shortcomings of the corresponding psycho-social treatment; inadequate health protection; lack of functionality of internal control mechanisms; as well as the lack of employees.

NPM indicates that the institutions where the persons deprived of their liberty and which were the subject of control procedures, realized very good cooperation with the Protector of Citizens, which enabled undisturbed realization of his mandate.

With the aim of further improvement it is necessary to adjust the provisions of the Criminal Code with the definition of torture from Article 1 of the UN Convention against Torture. Furthermore, it is necessary to improve significantly the activities of internal control mechanisms in state bodies, primarily the efficiency of the prosecutor's office and courts in the combat against torture.

The manner in which police treats persons deprived of their liberty

During the reporting period NPM continued with the realization of its mandate by implementation of control procedures of the police operation. It is encouraging that, pursuant to the practice so far, police implements majority of NPM recommendations.

In the following period, it is necessary to continue with the improvement of the existing normative framework which refers to the police operation in compliance with opinions, initiatives and recommendations of NPM. Also, what has not been done is, pursuant to the initiative of the Protector of Citizens², to prescribe mandatory sound and visual recording of the use of means of coercion³, application of the authorization for deprivation of citizens of their liberty, especially apprehension, police arrest as well as hearing of the suspect by police officials. Furthermore, the harmonization of the provisions which prescribe the application of the police power apprehension towards persons with mental disabilities with the provisions of the Law on the Protection of Persons with Mental Disabilities has not been done.

In the previous period many bylaws relevant for the police operation were passed⁴. NPM emphasizes the need to pass in recent future other regulations necessary for the implementation of the Law on Police taking into account that the legally prescribed deadline for passing bylaws expired.

NPM sent many recommendations which also indicated the need for amendments to the Instruction on the treatment of apprehended and detained persons, especially with regards to the presence of non-medical staff

² <http://www.ombudsman.rs/attachments/article/4831/Inicijativa%20za%20dopunu%20zakona%20-%20snimanje%20ovlašćenja.doc>.

³ The draft stipulates only the possibility, not the obligation

⁴ Primarily, the Regulation on Career Development of Police Officials, the Regulation on the Principles of Internal Organization of the Ministry of Interior, the Regulation on the Manner of Implementation of a Disciplinary Procedure, the Police Code of Ethics, the Rulebook on the Treatment during the Complaining Procedure, the Rulebook on the Treatment during the Provision of Psychological Assistance for Employees, the Rulebook on the Implementation and Measures of Specific Health Protection.

at medical examinations and interventions on detained persons as well as cuffing of persons during the transportation.

By issuing a dispatch, director of the police ordered, in case of detention of citizens based on the Law on Road Traffic Safety, when premises are occupied, the citizens are to be detained in other official premises with constant supervision by police officials. Apparently, this solution was forced, but it is unacceptable, so it should not become permanent⁵.

Internal control department improved its operation by delivering to the Protector of Citizens during the reporting period monthly reports on the cases in which it was determined that rights were violated by police abuse of power, as well as the data on filed criminal and the misdemeanor charges it submitted, the identified omissions in work and proposed measures.⁶

Execution of the measure of custody and prison sentence

During the reporting period NPM continued the visits to institutions for the enforcement of penal sanctions. The relation of good cooperation has been kept with the bodies, which enabled complete accomplishment of the NPM mandate in terms of the control of legality and regularity of the treatment of persons deprived of their liberty, improvement of the respect of their rights as well as the prevention of torture or any other form of abuse. Just like in the previous period, during 2017 the prison administration continued with activities upon recommendations received from NPM.

What encourages is the fact that in recent few years among prison officials and their superiors, the awareness that torture is not allowed act has prevailed. However, even though the persons deprived of their liberty mostly mention fair behaviour of the members of the Security Service towards them, it is noticeable that many of them express dissatisfaction with the doctor's treatment and provided health protection as well as the work of educator with regards to the failure to realize necessary activities.

Complaints of persons in custody, like in previous reporting periods, referred mostly to the duration of detention, violation of the right to trial within a reasonable deadline and violation of the right to fair trial⁷.

⁵ Working premises are not equipped and do not meet the conditions for the staying of detained persons, staying of persons in these premises is the burden for the work of police officials and has a negative effect to the performance of police tasks, and the staying in working premises of citizens in the condition of severe, very severe or complete intoxication and/or the influence of psychoactive substances creates an increased risk of incidents.

⁶ In that manner it has fulfilled the legal obligation prescribed by Article 227 Paragraph 4 of the Law on Police.

⁷ Taking into account that the Protector of Citizens is not authorized to control the legality and regularity of the court functioning, the complainants were advised to address competent bodies in these cases.

Female pre-trial detainees, since there are relatively few of them, in individual cases serve the measure of custody in isolation, so what is a disciplinary measure of male convicts, for female pre-trial detainees is a regular manner of implementation of custody measure.

NPM noticed shortcomings in the activities of doctors in the institution during the medical examination after the application of the measure of coercion, as well as in taking legally prescribed actions when the doctor confirms the existence of bodily injuries and existence of indications that the convict is the victim of violent actions. Furthermore, it was noticed that medical examinations of convicted persons are still performed in the presence of non-medical staff, in the manner which violates the right to privacy, health protection and protection from abuse.

Female convicts and minors are accommodated in special institutions, the only institutions for this purpose in the Republic of Serbia, so the rule that, like other convicts, they should serve their sentence as close to their place of residence as possible, does not apply to them.

With regards to the position of convicts serving prison sentence, who after sentencing suffered serious mental disorders, NPM believes that this group of persons represents particularly sensitive category of convicts who cannot be subjected to the regular program of treatment nor the purpose of execution a prison sentence can be achieved⁸.

A positive move with regards to the provision of health protection is a more frequent supervision of the work of health services of the institutes by the Ministry of Health⁹.

NPM expects that in all institutions for the enforcement of penal sanctions convicted persons will be able to serve their sentence together with other convicts, by the establishment of communal premises for daytime staying of convicts.

The treatment of persons with mental disabilities deprived of their liberty in psychiatric institutions and institutions of social welfare homes

After many years of work, NPM confirms that among persons deprived of their liberty the most endangered are the ones deprived of their liberty in psychiatric institutions and institutions of social protection of home type.

⁸ <http://www.ombudsman.rs/attachments/article/5287/Misljenje%20Ils.doc>.

⁹ Health inspection performed inspection supervision in various institutes and passed the decision on the fulfillment of conditions for the performance of certain activities of health protection in institution clinics.

Among other things, the stated is the consequence of the shortcomings in the legal framework which regulates this field.

The existing Law on the Protection of Persons with Mental Disabilities is important because, after many years of preparation, it finally regulates this field, which is a great step forward in terms of the protection of rights of persons with mental disabilities, among others, also those hospitalized at psychiatric hospitals. Even though the Law is greatly harmonized with valid international standards, its significant improvement is necessary¹⁰. It especially refers to the creation of conditions for shorter detention of patients with mental disabilities at psychiatric institutions, primarily in big psychiatric hospitals. With this aim, it is necessary to prepare amendments to the Law for the purpose of creation of an efficient and sustainable system of “de-institutionalizations”, which except health, among others, greatly comprises the social aspect, too. It is necessary to create appropriate conditions for accommodating and for the support of any kind for the persons with mental disabilities (including their families) for the life outside psychiatric institutions, in an environment which is as less as possible determined by their mental disabilities. NPM repeats the warning that the accommodation of patients in psychiatric institutions for many years, in numerous cases even for life, the distance of these institutions from inhabited places significantly makes difficult for patients to keep the contact with their families and other close persons, the limitation of available content and inability to establish individualized treatments in the conditions of collective accommodation, with the lack of conditions for keeping the necessary privacy of patients, give an asylum-like characteristics to these institutions, which itself, in certain cases may seem like inhuman and degrading treatment.

Even though NPM in its previous annual reports indicated that it was necessary to legally regulate forced accommodation and keeping of users in institutions of social homes, it still has not been done. NPM does not deny that it is in the best interest of individual users (e.g. demented, with intellectual disabilities, etc.) to limit their freedom of movement depending on specific circumstances. Without any doubt in the best intentions of those who take care about users, NPM warns that the rights of citizens may be limited only by law. Specifically, NPM points out the situation in which a person is deprived of their legal capacity does not mean that this person is automatically deprived of their liberty, in other words, that such person can, without special, legally-based decision of a competent body be limited in the freedom

¹⁰ See more: Miloš Janković „Freedoms and rights of persons with mental disabilities –shortcomings of the Law on the Protection of Persons with Mental Disabilities”, magazine Crimen (VI) 1/2015, p. 61–80, http://www.ius.bg.ac.rs/crimejournal/articles/crimen_001-2015/Crimen%202015-01-4.pdf

of movement. Apart from the stated, it is necessary to legally prescribe conditions and the procedure of physical restraining (tying) of users. The argument of justification of described efforts is best supported by the fact that the aforementioned is legally prescribed in case of treatment of patients in psychiatric hospitals. Furthermore, NPM indicates that the existing Law on Social Protection needs to be improved in terms of the regulation of the “de-institutionalization”. The reasons for the stated attitude are identical to those aforementioned, when it comes to de-institutionalization in the health sector, and with whose concept it needs to be completely harmonized, and the optimal solution would be to establish a unique system.

Treatment of refugees and migrants

During the reporting period NPM continued with the visits to institutions where the asylum-seekers and migrants were accommodated, as well as to informal places of gathering of migrants. With the Commissariat for Refugees and Migrations the relation of good cooperation was continued, there were actions upon the majority of recommendations sent by NPM for the purposes of the improvement of activities.

During 2017 significantly less migrants/ refugees came to Serbia¹¹, but the period of their staying was greatly extended. Namely, restrictive measures of neighbouring countries greatly prevented their further passing towards aimed destinations in the countries of the European Union¹².

NPM highlights that even during the reporting period migrants have not been deprived of their freedom during their staying in Serbia, but are provided with the accommodation in the open institutions with specific purposes.

Milos Jankovic
Deputy Protector of Citizens
and Head of NPM

¹¹ According to the data of the Ministry of Interior, during 2017 the number of issued certifications on expressed intentions for seeking asylum was 6199, out of that 2628 certifications for minors (156 of them unaccompanied) and 628 certifications for adult female persons.

¹² During this year the number of migrants who are received by Hungarian authorities on a daily basis was reduced to 10 and only on working days. However, almost twice as many of them are returned to Serbia, either after the refusal of their request for asylum or after they were caught during the illegal entrance into Hungary.

1.2. The most important data on the activities of the Protector of Citizens in the performance of NPM activities in 2017¹³

In 2016, NPM made 61 visits to institutions accommodating persons deprived of their liberty, with overall 309 recommendations addressed to the competent authorities and visited institutions.

Overall 51 institutions were visited as part of the regular visits, in particular: 33 police stations, 8 institutions for the enforcement of penal sanctions, 3 psychiatric hospitals and 7 social welfare institutions of a home type and 24 centers for the accommodation of migrants, bodies which provide their treatment and other locations where they reside. Following these visits, the visited institutions were presented with the Reports that included recommendations for eliminating the identified deficiencies in their work that may, or actually do, result in abuse.

During 2017, Serbian NPM presided over the NPM Network of the countries of Southeastern Europe and two meetings of the Network were organized in Belgrade. The first one was held in May with the topic "Treatment of persons with mental disabilities in detention" and the other one in December with the topic "Methodology of visits to the detention institutions".

The delegation of the European Committee for the Prevention of Torture, during an ad-hoc visit to Serbia held a meeting with the NPM representatives with the aim of collecting preliminary information about the treatment of persons deprived of their liberty in custody units in Serbia.

The NPM representatives participated at the meeting with the representatives of the European NPM in Strasbourg, with the aim of exchange of experiences and good practices in NPM operation, organized by the Council of Europe.

During 2017 NPM representatives took part at many conferences, round tables, seminars, trainings, both in the country and abroad.

¹³ See more under no. 5 of this report.

2. Prohibition of torture

2.1. National regulations

The Constitution of the Republic of Serbia¹⁴ guarantees human dignity, inviolability of human life, inviolability of physical and mental integrity, and it strictly prohibits torture.¹⁵

Constitution of the Republic of Serbia, Article 25, paragraph 2.

Nobody may be subjected to torture, inhuman or degrading treatment or punishment.¹⁶

Prohibition of torture is envisaged by other legislation, inter alia, by the Law on Criminal procedure,¹⁷ Law on Police¹⁸ and the Law on the Enforcement of Penal Sanctions.¹⁹ The Criminal Code²⁰ defines the torture and maltreatment as a separate criminal act.²¹

¹⁴ "Official Gazette" no. 98/2006.

¹⁵ RS Constitution, Articles 23, 24 and 25.

¹⁶ Taken from Article 5 of the General Declaration on Human Rights, Article 7 of the International Pact on Citizen and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

¹⁷ "Official Gazette" no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

¹⁸ "Official Gazette" no. 6/2016.

¹⁹ "Official Gazette" no. 55/2014.

²⁰ "Official Gazette" no. 85/2005, 88/2005-corrected, 107/2005-corrected, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016.

²¹ Convention against torture, Article 4: (1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Criminal Code of the Republic of Serbia, Article 137

(1) Whoever ill-treats another or treats such person in humiliating and degrading manner shall be punished with fine or imprisonment up to one year.

(2) Whoever causes anguish to another with the aim to obtain from him or a third party information or confession or to intimidate him or a third party or to exert pressure on such persons, or if done from motives based on any form of discrimination, shall be punished with imprisonment from six months to five years.

(3) If the offence specified in paragraphs 1 and 2 of this Article is committed by an official in discharge of duty, such person shall be punished for the offence in paragraph 1 by imprisonment from three months to three years, and for the offence specified in paragraph 2 of this Article by imprisonment of one to eight years.

2.2. *International instruments*

Serbia is a signatory country to all most important conventions concerning prohibition, i.e., prevention of torture. The International Covenant on Civil and Political Rights²², which in its Article 7, adopted the provision on prohibition of torture referred to under Article 5 of the Universal Declaration of Human Rights²³, was ratified in 1971.²⁴

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment²⁵ (Convention against torture) was ratified in 1991.²⁶ It constitutes one of the most important international instruments in the area of torture prohibition.

Convention against torture, Article 1, paragraph 1.

The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

In addition to providing the most comprehensive definition of torture, the Convention against torture contains a set of other most important provisions for eradication of torture.

Convention against torture, Article 2, paragraph 1.

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

The Convention against torture also contains provisions prohibiting expulsion or extradition of a person to the state in which that person was exposed to torture.

²² Signed on 19th December, 1966 in New York.

²³ Adopted by the United Nations General Assembly on 10th December, 1948 in Paris.

²⁴ "Official Gazette of SFRY", no. 7/1971.

²⁵ Adopted on 10th December, 1984 in New York.

²⁶ "Official Gazette of SFRY –International treaties", no. 9/1991.

Convention against torture, Article 3, paragraphs 1 and 2.

No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

The Convention against torture binds the State Parties to ensure that introduction and information about the prohibition of torture is integral part of training delivered to officials, medical workers, holders of public offices, as well as any other person who in any other way is in contact with persons deprived of their liberty.²⁷

Convention against torture, Article 12.

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

To this end, each state party shall ensure that any person believing to have been subjected to torture, is enabled to exercise their right to complain to the competent authority, that shall immediately and impartially undertake to investigate that case and provide protection to the person who filed such complaint and the witness, against any harmful treatment or other form of intimidation due to the filed complaint or the provided statement.²⁸

Convention against torture, Article 14, paragraph 1.

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as the evidence that the statement was made.²⁹

²⁷ Convention against Torture, Article 10, Paragraph 1.

²⁸ Convention against Torture, Article 13.

²⁹ Convention against Torture, Article 15.

The Convention against torture established the Committee against torture.³⁰ The State Parties submit to the Committee reports on the measures they have taken to give effect to their undertakings under this Convention. The Committee reviews each report, and when it deems necessary, it issues comments to the report and submit them to the interested State Party, and the State Party may answer to these comments.³¹ The Republic of Serbia submitted its reports to the Committee, and the Committee sent its comments to the reports.³²

The Republic of Serbia is a Member State to the Council of Europe. European Convention for the Protection of Human Rights and Fundamental Freedoms³³ and European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment³⁴ (European Convention for the Prevention of Torture) were ratified in 2003.³⁵

The European Convention for the Prevention of Torture established the European Committee for the Prevention of Torture.³⁶ The state is obliged to allow the Committee to visit all places where the persons deprived of their liberty are placed.³⁷ The State is obliged to enable Committee the access to its territory and traveling throughout the country with no restrictions, as well as access to complete information about the places where persons deprived of their liberty are held, including the right to free movement at those places and the right to communicate freely with persons deprived of liberty without witnesses present, as well as with any person believed to possess relevant information.³⁸ After each visit the Committee composes its report about the facts found during the visits.³⁹ By the end of 2017, the Committee made five visits to Serbia, in 2004, 2007, 2011, 2015 and 2017.⁴⁰

³⁰ Convention against Torture, Article 17.

³¹ Convention against Torture, Article 19, Paragraph 1.

³² Concluding considerations of the Committee against Torture on the Second Periodical Report of the Republic of Serbia were adopted at 1322nd and 1323rd sessions held on 12th May, 2015.

³³ Executed on 4th November, 1950 in Rome.

³⁴ Signed on 26th November, 1987 in Strasbourg.

³⁵ "Official Gazette of SCG –International contracts", no. 9/2003, 5/2005 и 7/2005 – correct-ed and "Official Gazette of RS –International contracts", no. 12/2010 and 10/2015; "Official Gazette of SCG –International contracts", no. 9/2003.

³⁶ European Convention on the Prevention of Torture, Article 1.

³⁷ European Convention on the Prevention of Torture, Article 2 and Article 7, Paragraph 1.

³⁸ European Convention on the Prevention of Torture, Article 8.

³⁹ European Convention on the Prevention of Torture, Article 10, Paragraph 1.

⁴⁰ See reports on the visits to the Republic of Serbia and responses of the Government of the Republic of Serbia at Internet page of the European Commission for the Prevention of Torture www.coe.int/en/web/cpt/serbia.

3. Optional Protocol to the Convention against Torture

By the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or degrading Treatments and Punishments⁴¹ (the Optional Protocol) all State parties acknowledged that mistreatment is prohibited and that it constitutes severe violation of human rights.⁴²

By the Optional Protocol all State Parties agreed to establish the system of regular visits to the places where persons deprived of their liberty are held by independent international and national bodies, in order to prevent torture or any other cruel, inhuman or degrading treatment or punishment.⁴³

The intention of the Optional Protocol to enable visits and/or permanent presence of the mechanism for the prevention of torture in the institutions where persons deprived of their liberty are placed, is the consequence of the understanding that the major problem of closed institutions is that anything occurring within these institutions is closed to the public.

All State Parties to the Optional Protocol are obliged to allow visits paid by the mechanisms established under the Optional Protocol to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or approval (places of detention).⁴⁴

⁴¹ Adopted on 18th December, 2002 in New York, at the 57th session of the United Nations General Assembly by the Resolution A/REC/57/199, came into force on 22nd June, 2006.

⁴² Optional Protocol, Preamble.

⁴³ Optional Protocol, Article 1.

⁴⁴ Optional Protocol, Article 4, Paragraph 1.

3.1. Subcommittee on Prevention of Torture⁴⁵

The Optional Protocol established Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Subcommittee on Prevention of Torture).⁴⁶

Subcommittee on Prevention of Torture is authorized to visit all detention places and issue its recommendations to the State Parties in relation with the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment.⁴⁷

The State Parties to the Optional Protocol undertake:

- to receive the Subcommittee on Prevention of Torture in their territory;
- to allow unrestricted access to all detention places, its installations and facilities, as selected
- to allow to conduct private interviews with the persons deprived of their liberty without witnesses, whether in person or with the assistance of interpreter, if this is found necessary, including with any other person the Subcommittee on Prevention of Torture believes is able to provide relevant information;
- to enable it unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention, including the number of places and their location, unrestricted access to all information referring to the treatment of those persons and their detention conditions, as well as to provide any relevant information the Subcommittee on Prevention of Torture may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- to review the recommendations of the Subcommittee on Prevention of Torture and enter into a dialogue with it about possible implementing measures.⁴⁸

The Subcommittee on Prevention of Torture hasn't visited Serbia yet.

⁴⁵ www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx.

⁴⁶ Optional Protocol, Article 2, Paragraph 1.

⁴⁷ Optional Protocol, Article 11, Item (a).

⁴⁸ Optional Protocol, Article 12 and 14.

3.2. National Preventive Mechanisms (NPM)

The Optional Protocol stipulated that Each State Party shall set up, designate or maintain at the domestic level one or several national visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment⁴⁹.

NPM shall be entitled to:

- the access to all data about the number and treatment of persons deprived of their liberty at the institutions where they are placed and the number of institutions and their location;
- access to all detention institutions, their installations and facilities, as randomly selected by it;
- unobstructed interviews with persons deprived of their liberty without the presence of witnesses, either personally or with the presence of an interpreter, where required and any other person NPM may believe could provide relevant information, at their free choice.⁵⁰

NPM is authorized to regularly check the treatment of persons deprived of their liberty in the places of detention, and to issue its recommendations to the competent authorities aimed at improving the treatment and status of persons deprived of their liberty and preventing torture or other cruel, inhuman or degrading treatment or punishment, taking into account all relevant UN norms, as well as to submit any proposals and deliver its opinions with respect to the current or proposed laws.⁵¹

The State shall undertake to warrant the functional independence of the NPM as well as the independence of its staff.⁵²

No authority or official shall be allowed to order, implement, allow or tolerate any sanction against any person or organization due to their sharing any information with NPM, whether true or not, and no such person or organization shall suffer any other consequences whatsoever.⁵³

The State shall make available any resources required for the functioning of NPM.⁵⁴

⁴⁹ Optional Protocol, Article 3.

⁵⁰ Optional Protocol, Article 20.

⁵¹ Optional Protocol, Article 19.

⁵² Optional Protocol, Article 18, Item 1.

⁵³ Optional Protocol, Article 21, Item 1.

⁵⁴ Optional Protocol, Article 18, Item 3.

The relationship between NPM and state authorities is based on the principle of trust and cooperation.

The competent authorities are obliged to examine the recommendations of the NPM and enter into a dialogue with it on possible implementation measures.⁵⁵

The competent authorities are obliged to publish and distribute the annual NPM Reports.

⁵⁵ Optional Protocol, Article 22.

3.3. *Establishment and designation of NPM in Serbia*

Serbia signed the Optional Protocol on 25th September, 2003 and ratified it on 1st December, 2005^{56, 57}

Serbia became the State Party to the Optional Protocol⁵⁷ on 26th September, 2006.

Serbia was four years late with the fulfillment of its obligation to have, designate or introduce an independent national mechanism for prevention of torture the national level within a year time following the entry into force of the Optional Protocol or after its ratification or accession by a state.⁵⁸

NPM was established in Serbia by the Law on Amendments to the Law on Ratification of Optional Protocol, adopted on 28th July, 2011.⁵⁹

In line with the consensus reached in the public debate, no new NPM body was established in Serbia, instead of which a complex model of the NPM was chosen, which implied that all NPM tasks would be performed by the existing independent state authority in cooperation with the authorities of the decentralized units and the civil sector.

The Protector of Citizens is performing the tasks of the NPM in cooperation with the Autonomous Province Ombudsmen and associations whose statute envisages improvement and protection of human rights and freedoms.⁶⁰

In the course of selection of the complex NPM model in Serbia, all principles related to the status and functioning of the national institutions for the improvement and protection of human rights were taken into account.⁶¹

By virtue of the Republic of Serbia Constitution, the Protector of Citizens has been established as an independent state authority protecting the rights of citizens and controlling the work of state administration bodies and other holders of public powers⁶². The Law on the Protector of Citizens⁶³ establish-

⁵⁶ "Official Gazette of Serbia and Montenegro –International Treaties", no. 16/2005, amendments 2/2006

⁵⁷ By passing the ratification act to the UN Secretary General

⁵⁸ Optional Protocol, Article 17.

⁵⁹ Law amending the Law on the Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment "Official Gazette of the Republic of Serbia– International Treaties" No. 7/11 .

⁶⁰ The Law on Amendments to the Law on Ratification of the Optional Protocol, Article 1.

⁶¹ Optional Protocol, Article 18 Item 4.

⁶² Constitution of the Republic of Serbia, Article 138, Paragraph 1.

⁶³ "Official Gazette of RS", no. 79/2005 and 54/2007

es the Protector of Citizens as an independent state authority, autonomous in performing duties, a state body which safeguards and oversees promotion of citizens' rights⁶⁴. In two turns, in 2010 and 2015, the Protector of Citizens was recognized as the authority whose actions are based on the Paris Principles.⁶⁵

The Protector of Citizens is an independent and autonomous state authority, the ombudsman having universal competences, accredited as a national institution for the human rights with the "A" status with the International Coordinating Committee (ICC).

The Protector of Citizens is authorized under the Law on the Protector of Citizens to visit any institution accommodating the persons deprived of their liberty, to talk in private with them and with any employee of the institution and also to have access to all data relevant for achieving the goal of the prevention, irrespective of the level of secrecy.⁶⁶

The competence of the Protector of Citizens in terms of the protection of rights of persons deprived of their liberty has been set forth by the Law on the Protector of Citizens and coincides with the term of office of NPM provided in the Optional Protocol.

The explanations to the proposed law establishing the NPM envisaged ensuring all material conditions necessary to fulfill the mandate of the NPM, specifically for the employment of necessary number of officers within the Technical Service of the Protector of Citizens, as well as securing necessary funds as earmarked line within the budget of the Protector of Citizens.⁶⁷

⁶⁴ Law on the Protector of Citizens, Article 1, Paragraph 1 and 2 and Article 2, Paragraph 1.

⁶⁵ www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf.

⁶⁶ Law on the Protector of Citizens, Article 21, Paragraph 1 and 2 and Article 22.

⁶⁷ The Bill on Amendments to the Law on Ratification of the Optional Protocol, explanation.

4. NPM methodology, resources and organization in 2017

4.1. NPM methodology

The NPM Serbia in their work uses purely preventive approach. NPM does not oversee legality or regularity of the work of the competent authorities in individual cases, but instead, it timely informs the organizational unit of the Protector of Citizens acting upon complaints filed by persons deprived of their liberty.

NPM of Serbia makes visits to institutions accommodating persons deprived of their liberty following the prearranged methodology.

Methodology of the work of the Serbian NPM is based on the provisions of the Optional Protocol that set the NPM mandate for frequent visits to the institutions where persons are or may be deprived of their liberty.

NPM methodology recognizes the following types of visits: regular follow-up visits verifying the compliance with the recommendations, thematic and extraordinary (*ad-hoc*) visits. Visits may be announced and unannounced.

The Serbian NPM Methodology pays special attention to conducting unannounced visits to the institutions where persons are or may be deprived of their liberty.

Following the initial period, in which the objective determined under the Methodology was to pay regular visits to all institutions, the plan for the subsequent period was to increase the number of the follow-up visits. This enables monitoring of the status determined during the previous regular visits, particularly acting by competent authorities upon the NPM recommendations.

The methodology of the NPM of Serbia is focused on follow-up visits to the institutions where persons deprived of their liberty are placed.

When making preparations for the visits to institutions, the existing information are taken into consideration. The tasks are shared so that by rule,

the visiting team is split into four thematic groups: the first one is to observe accommodation capacities (the group for observing accommodation conditions), the second one reviews the provision of legal protection in the institution (the legal group), the third reviews the issues related to the treatment persons deprived of their liberty (the treatment group) while the fourth group examines the health care provided to individuals placed in the institutions (the health care group). In order to increase efficiency of collecting the relevant information during the visits, the working material is distributed to all the team members in advance (such as questionnaires, structure and templates of the parts of reports) serving as a guiding tool.

NPM teams that are conducting visits to the institutions where persons deprived of their liberty are placed are multidisciplinary and as a rule, formed of experienced lawyers, psychiatrists, forensic medical examiners and psychologists.

As a rule, regular visits are scheduled in advance, in specific stages. The first stage is the interview with the management of institution and the second one is the joint tour of the institution. The third stage is planned to include interviews of the NPM thematic group representatives (the legal, treatment and health care group) with the managements of respective services and examination of documents. The fourth stage are the interviews with persons deprived of their liberty while the fifth stage includes a brief meeting of all the thematic groups and the closing discussion with the institution management, at which the preliminary impressions about the visit and the observed conditions are being shared. Acting upon the established stages is not obligatory; it depends on the nature of visit and other circumstances. The common practice is that certain stages are omitted in visits of different nature.

During each visit, in order to achieve a more efficient and systematic performance, the team members use questionnaires that they need to fill in, including the compendiums of excerpts from all relevant regulations and standards related to their specific field of work.

In line with the work methodology, as a rule, the reports are being composed following the prearranged structure. However, depending on the nature of visit and data collected in the course of specific visit, the scheduled structure of report may be changed and adjusted to the nature of the visit, at the proposal of the team members.

The reports on the conducted visits to the institutions where persons deprived of their liberty are placed, NPM stated the omissions and provided

its recommendations for eliminating the deficiencies as potential sources of torture or mistreatment. In the event of identifying deficiencies and/or any irregularities in the work, the relevant provisions and standards are referred in the recommendation issued with which it is necessary to bring into line the actual state or conduct.

The Reports are being sent to the visited institutions and the competent Ministry, providing, as a rule, the time limit for stating their opinion about their compliance with the issued recommendations, with an invitation for a dialogue to review the implementation of the recommendations.

The NPM methodology envisages initiating the dialogue with the visited institution and the competent Ministry with the aim to ensure the implementation of recommendations.

The purpose of the dialogue with the visited institutions and competent Ministries is to review the conditions found in the visited institution and the system as a whole, primarily to seek for the best method of acting upon the recommendations addressed by NPM after having completed the visits.

In order to concurrently satisfy both the requirement of confidentiality and transparency in work, the NPM Report made upon the visits to institutions, containing all the personal data that have been redacted, are published after the competent authorities express their opinion about the recommendations presented in the reports. All reports and answers of the competent authorities are published on the web page of the Protector of Citizens and subpage of the NPM.

The concept of the NPM Methodology is to dedicate special attention to the protection of persons deprived of their liberty, of detention center employees and any other persons who have had contacts with NPM, that notified NPM about the treatment of persons deprived of their liberty or reported the cases of mistreatment.

The NPM of Serbia is particularly focused on the prevention of retaliation in a way to protect all sources of information and/or details about individuals who provided the information. In case their identity is disclosed, as prevention, NPM makes subsequent visits to these persons and oversees their situation, specifically, the way they are being treated by the staff in the detention centers. In addition, the responsible persons are being cautioned that any retaliation against the persons who cooperated with NPM would represent the worst form of abuse.

The NPM Methodology envisages intensive activities aimed at fighting against impunity of torture, or any other form of mistreatment. Such activities or any other behavior representing torture are being signaled to all the competent authorities, with the expectation that in such cases, they will take any available measures and actions under their jurisdiction to investigate the accountability of their employees.

The NPM of Serbia takes note of activities of competent authorities in order to fight the impunity of torture and establish both the individual and objective accountability.

4.2. NPM material resources and financial independence

In order for NPM to be able to successfully perform its tasks in line with its term of office set forth by the Law on Ratification of Optional Protocol, it is necessary to ensure the required material resources for its work and achieve its financial independence.

The total amount of RSD 11,940,313.00 (around € 97,000.00) have been provided within the adopted budget of the Protector of Citizens, allocated for the provision of the NPM activities in 2017.

In 2017, two offices in the office building of the Protector of Citizens were used by the NPM staff, including the van used for the transportation of the team members to the locations where they made visits. The NPM staff was able to use all the required office and other equipment and material (PCs, printers, laptops, photocopiers, humidity and distance meters etc.).

4.3. Special NPM unit and its functional autonomy

By the end of 2015, the National Assembly of the RS adopted the Decision on the approval of the Rulebook on the Internal Organization and Job Classification within the Secretariat of the Protector of the Citizens no. 48-709/14 of 22 October 2014, which envisages forming a special unit that shall perform NPM activities - the NPM Secretariat. Subject to the provisions of this Rulebook, NPM Secretariat does not operate under the Secretariat of the Protector of the Citizens and it is directly responsible for its work to the Protector of the Citizens, i.e., Deputy Protector of the Citizens in charge of the NPM affairs.

The projected number of the staff is not sufficient for the improvement of the work of the NPM.

The envisaged number of officers working in the NPM Secretariat (one senior advisor, one independent advisor and two advisors) is not sufficient, taking into account its mandate and the requirement of being efficient with the entrusted tasks. It is therefore necessary to form a special department within the Protector of Citizens institution that would be managed by the NPM Secretary, whose position would be at the same level as that held by the Secretary General of the Protector of Citizens Secretariat. The NPM Secretary would be supported by two assistants (one for monitoring and the other for cooperation, reporting and legislation improvement). It is also necessary that, considering the nature of their work, the assistant and the employee tasked with monitoring, have all the powers of inspection employees, police officers and the employees of The Administration for the Enforcement of Penal Sanctions having direct contacts with prisoners. For the NPM mandate operations it is necessary to form a separate budget line within the budget of the Protector of Citizens. The efficient work of NPM requires the adoption of the Law on NPM without delay, or amendments to the Law on the Protector of Citizens, so as to regulate the organization and the NPM mandate implementation scheme.

4.4. Participation of the Provincial Protector of Citizens and civil sector in NPM activities

In the course of 2017, the Protector of Citizens continued his cooperation with the Provincial Protector of Citizens of AP Vojvodina (the Provincial Protector of Citizens) in accordance with the concluded Memorandum of Cooperation, on visiting the detention places located within the Autonomous Province of Vojvodina, as well as with the associations with which the Protector of Citizens has signed individual agreements on cooperation.⁶⁸

⁶⁸ A copy of the Agreement on cooperation in the part of the Report APPENDIX II.

4.5. Participation of external experts in NPM activities

The NPM teams for visits to institutions accommodating persons deprived of their liberty should have multidisciplinary character.

The representatives of the Protector of Citizens, Provincial ombudsman and associations in teams for visits to institutions where persons deprived of their liberty are located are mostly lawyers, so for efficient functioning of NPM the engagement of external associates from other fields is required.

The experts in the field of forensic medicine, psychiatry, psychology, special prevention and internal medicine are engaged in the operation of NPM.

During 2017 the persons who participated in the operation of NPM were: professor Djordje Alempijević, PhD, specialist for court medicine, the Faculty of Medicine, University of Belgrade; professor Dragan Ječmenica, PhD, specialist for court medicine, the Faculty of Medicine, University of Belgrade; associate professor Snežana Pavlekić, PhD, specialist for court medicine, the Faculty of Medicine, University of Belgrade; professor Vladimir Jović, psychiatrist specialist, the Faculty of Philosophy, University of Priština/Kosovska Mitrovica; Radomir Samardžić, PhD, psychiatrist specialist and Mira Petrović, PhD, psychiatrist specialist.

Professional contributions of engaged external experts resulted in the improvement and raising of the quality level of the NPM operation, primarily of the compiled reports and numerous sent recommendations for the removal of confirmed shortcomings.

4.6. Training of NPM members

With the purpose of the increase of the capacity for the application of Nelson Mandela rules (United Nations Revised Standard Minimum Rules for the Treatment of Prisoners)⁶⁹ the NPM representative attended the summer school at the Bristol University "The application of Nelson Mandela rules to the monitoring of the places of detention".

Also, the representative of NPM Serbia attended the training in Vienna related to the topic "Communication skills and techniques during NPM visits to the detention institutions", organized by the International Ombudsman Institute⁷⁰ and Austrian Ombudsman.

In future operation of NPM it is necessary to pay special attention to professional training of NPM members.

⁶⁹ Adopted on 17th December, 2015 by the Resolution of the General Assembly no. 70/175.

⁷⁰ The International Ombudsman Institute (IOI).

4.7. Other forms of cooperation

In 2017 intensive cooperation with UNHCR and the association Belgrade Center for Human Rights was continued, with the aim of the implementation of improvement activities and protection from abuse of refugees/ migrants in Serbia.

The NPM representative participated at the meeting in Paris organized by the Council of Europe, in which the representatives of countries with established NPMs participated, as well as representatives of other international and non-governmental organizations dealing with this field. The topic of the meeting was the introduction to the operation of the international non-governmental organization "NPM Observers"⁷¹. In June 2017 the Protector of Citizens received the representatives of this association with the aim of the assessment of efficiency of NPM operation. Apart from the meeting with representatives of the Protector of Citizens, they had separate meetings with external associates of NPM – civil society organizations, experts and representatives of the Provincial ombudsman and the representatives of ministries under whose competences are the institutions visited by NPM. Preliminary observations were delivered to NPM and in these observations, inter alia, the methodology of work was praised and the reports on visits were highlighted as examples of good practice while it was pointed out that there were not enough human resources.

⁷¹ Observatory of national preventive mechanisms against torture set up pursuant to the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment (NPM Obs.)

5. Accomplishment of the NPM mandate during 2017

5.1. Visits to institutions where the persons deprived of liberty are placed

In 2017, NPM made 61 visits to the institutions where the persons deprived of their liberty are placed.

In total 8 police stations were visited. With the aim of monitoring the treatment upon previously sent recommendations of NPM and recommendations from the Report on the Visit of the European Committee from the Prevention of Torture to the Republic of Serbia 2015 (*follow-up* of the visit) the visits were paid to police stations Stari grad and Savski venac within the PD for the city of Belgrade, as well as 3 police stations within PD Pančevo. Furthermore, 3 night visits were paid to PD Novi Pazar, PS Surdulica and PD Niš, with the aim of monitoring the treatment of detained persons. In the reports from these visits the competent bodies received in total 41 recommendations.

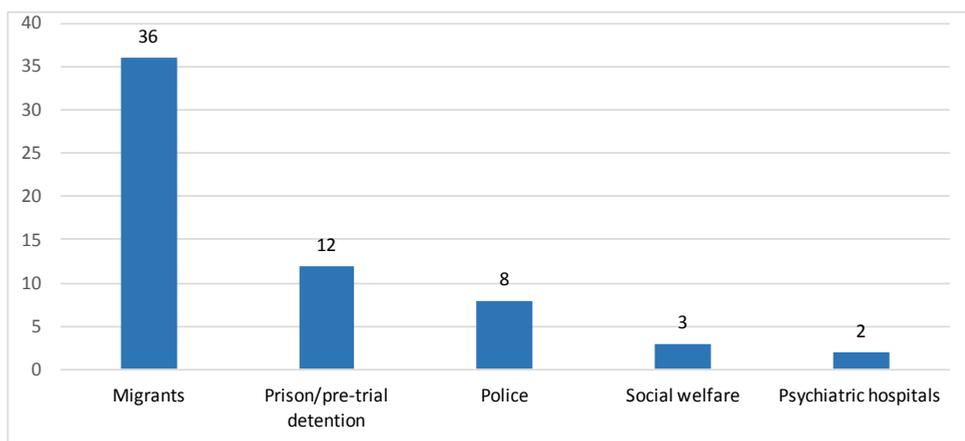
In total 12 institutions for the enforcement of penal sanctions were visited (DP Pančevo, DP Novi Pazar, ECI Kruševac, PCI Čuprija, PCI Sremska Mitrovica, DP Vranje, DP Niš, DP Novi Sad, DP Belgrade, Special prison hospital in Belgrade, PCI Belgrade and PCI Belgrade –Padinska Skela) and 168 recommendations for the removal of identified shortcomings were sent. Out of this total number of institutions, 8 were *follow-up* visits –to DP Pančevo, PCI Sremska Mitrovica, PCI Nis, DP Novi Sad, DP Belgrade, PCI Kruševac, PCI Belgrade and PCI Belgrade – Padinska Skela, 3 were regular systemic visits –PCI Čuprija, DP Vranje and DP Novi Pazar and 1 visit was thematic –visit to the Special prison hospital.

NPM visited 3 social welfare institutions of home type (Home for Persons with Mental Disabilities "Otthon" in Stara Moravica, Institution for Children and Youth "Veternik" and the Institute for the Accommodation of Adults "Male Pčelice") and sent 27 recommendations. Visits to homes "Otthon" and "Veternik" were *follow-up* visits. Also, 2 psychiatric hospitals were visited: Special hospital for psychiatric diseases "Gornja Toponica" and Hospital for

psychiatric diseases “Dr Laza Lazarević” and 21 recommendations were sent to competent bodies.

In cooperation with Belgrade Center for Human Rights and with the support of UNHCR, 36 thematic visits were conducted with the purpose of monitoring the treatment of competent bodies given to refugees and migrants passing through the Republic of Serbia and in the reports on visits 52 recommendations for the removal of confirmed shortcomings were sent.

Chart 1 – NPM visits in 2017



The review of the realization of the Plan of visits for 2017

VISITS	Planned number of visits in 2017	Realized number of visits in 2017
Police stations	7	8
Prisons (including custody units)	12	12
Psychiatric hospitals and departments	6	2
Home type institutions for social protection	4	3
Regional Centers of the Border Police of the Mol	1	1
Centers for placement of asylum seekers	5	3
Reception Centers For Migrants	8	23
Reception Centers Of MOI For Foreigners	1	2
Administration for Foreigners	0	1
Institutions for accommodating foreign minors	2	1
Social welfare centers – treatment of migrants	0	0
Informal places where migrants are gathering	0	2
Border Crossing Points	0	3
TOTAL	47	61

5.2. Cooperation between authorities with NPM during the visits paid to institutions

During 2017 it was provided for NPM to completely realize its mandate. All visits were enabled –whether announced or unannounced, day or night, the access to all premises and installations was allowed, as well as the insight into all data, photographing and conversations with all persons deprived of their liberty, employees and any other persons chosen by NPM.

During the visits of NPM to institutions where persons deprived of their liberty are placed made during 2017, the competent bodies and institutions acted in compliance with Article 20 of the Optional Protocol.

The stated activities of competent bodies represent the continuity of many years in enabling NPM to realize its mandate in an unobstructed manner.

5.3. Reports on visits to institutions

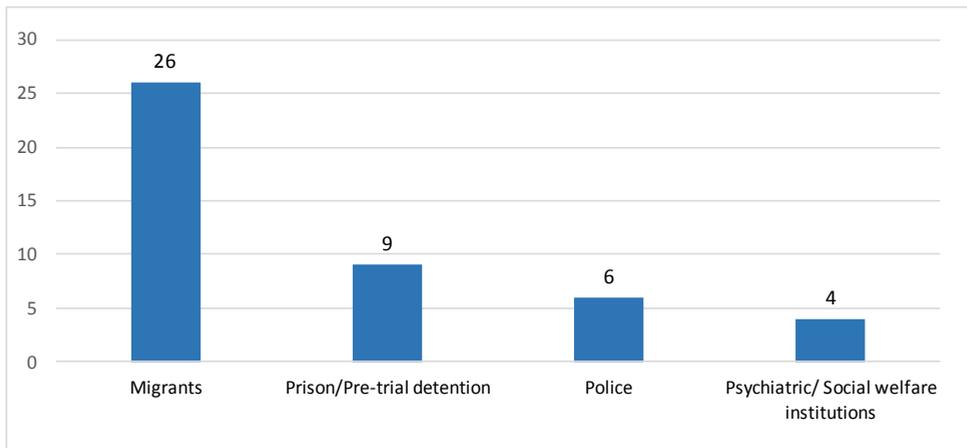
During 2017 NPM made 45 reports on visits to institutions where persons deprived of their liberty were placed.

After each visit, pursuant to the designated methodology and practice, NPM executes reports on visits with recommendations for the removal of identified shortcomings as well as valid regulations and standards used by NPM in the determination of existing shortcomings in the operation of the institution.

The difference in the number of visited institutions (61) and executed reports (45) is the consequence of the situation in which in individual cases the unique report for many visited institutions is compiled because of the need to systemically perceive certain problem.

The members of the visiting team and these are representatives of the Protector of Citizens, Provincial ombudsman and associations as well as engaged experts, participated in the compiling of the report on visits and identified condition.

Chart 2 – NPM reports in 2017



5.4. Recommendations for the elimination of identified shortcomings

In the reports on visits to institutions where persons deprived of their liberty are placed, NPM sent to competent bodies recommendations for the removal of shortcomings.

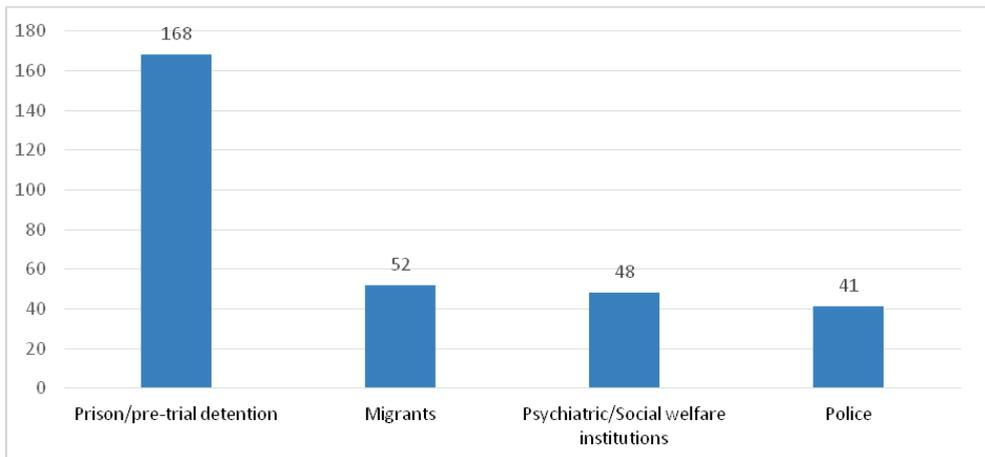
During 2017 NPM sent to competent bodies in total 309 recommendations for the removal of identified shortcomings.

Apart from sent recommendations, identified facts and shortcomings in operation, identified violations of the rights of persons deprived of their liberty, there are also relevant regulations and standards used by NPM in the identification of the existing shortcomings in the work of an institution and which should be used by the visited institution to harmonize the existing condition and treatment.

The compiled reports with recommendations for the removal of identified shortcomings are delivered to the visited institutions and competent ministries.

The reports are delivered to competent ministries with the aim of identifying shortcomings in the work of the visited institution as well as monitoring of the implementation of recommendations.

Chart 3 –Sent recommendations of NPM in 2017



All recommendations sent to visited institutions/ competent ministries are in the part of the Report named APPENDIX I.

5.5. Dialogue with authorities

Pursuant to the mandate stipulated by the Optional Protocol, NPM continued with the dialogue with state bodies with the aim of the improvement of treatment of persons deprived of their liberty.

At “Nikola Tesla” airport NPM attended the meeting organized by *FRONT-EX* on the occasion of re-admission of the Serbian citizens from Germany. In September 2017, the NPM representative gave a lecture to the officials of the Ministry of Interior engaged in the activities of the return of Serbian citizens from the European union countries on the basis of the Agreement on re-admission. Also, a meeting was held with the representatives of “Nikola Tesla” airport, Station of the border police at the Airport, Directorate of Civil Aviation and their competent ministries to consider the options of acting upon the recommendations sent by NPM with regards to the staying of foreigners at the premises in the transit zone of the Airport.

During the year, NPM also held a meeting with the State Secretary of the Ministry of Labor, Employment, Veteran and Social Affairs where future steps for the improvement of the position of users placed at institutions of social protection were discussed, as well as the process of de-institutionalization and transformation of these institutions. One of the topics was also the assistance to unaccompanied minor migrants, who have temporary accommodation in the institutions of social protection.

5.6. Organization of events and promotion of NPM/ prevention of torture

At the Annual Conference on Human Rights, organized by the Organization for Security and Co-operation in Europe (OSCE), the NPM representative presented the manner in which Serbian NPM uses in its operation the Nelson Mandela rules. Numerous representatives of member states, international experts and representatives of non-governmental organizations and human rights activists took part at this conference.

NPM representatives had a meeting with representatives of Hungarian Helsinki Committee,⁷² and the topic of the meeting was the work of NPM and the situation with refugees and migrants in the Republic of Serbia.

In the organization of Belgrade Center for Human Rights, International Rescue Committee and Hungarian Helsinki Committee, the NPM representative attended the lecture to the topic "The assessment of credibility of the request for asylum". Also, the NPM representative attended the workshop to the topic "The possibilities and strategies for inclusion", organized by the International Rescue Committee and the United States Ministry of Foreign Affairs. The Center for Cultural Decontamination and the EU Info Center organized an exhibition "Unheard stories", dedicated to the integration of migrant and local communities along the Balkan route, attended also by the NPM representative.

⁷² A Magyar Helsinki Bizottság.

5.7. Cooperation with the UN subcommittee on prevention of torture, UN Special Rapporteur on Torture and the European Committee for the Prevention of Torture

During 2017 Serbian NPM continued the cooperation with the Subcommittee on prevention of torture.

Members of the Subcommittee attended the meetings of the NPM Network of Southeastern European countries held in May and December in Belgrade.

NPM also met Professor Nils Melzer, Special Rapporteur of the United Nations on torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur on torture) within the visit of Special Rapporteur to the Republic of Serbia, in November 2017. The topics of the meeting were accomplishments of the state in the prevention of torture, current situation at the locations where persons deprived of their liberty are placed and their treatment. The most important activities and results in the NPM operation were presented to Professor Melzer. NPM representatives attended the closing meeting, which was held after the end of the visit of Special Rapporteur on torture to Serbia, in which Professor Melzer informed the representatives of the state bodies on preliminary results of his visit and the process of report drafting. In his preliminary observations, Special Rapporteur for torture especially praised the NPM operation.⁷³

Also, NPM representative participated at expert consultations of Special Rapporteur on torture on the topic "Migration related Torture and other Cruel, Inhuman or Degrading Treatment or Punishment", held in Geneva, at The Office of the High Commissioner for Human Rights (OHCHR).

The delegation of the European Committee for the prevention of torture, during an *ad-hoc* visit to Serbia in May 2017 had a meeting with the NPM representatives with the purpose of the collection of preliminary information on the treatment of persons deprived of their liberty in custody units in Serbia. At the end of the visit to Serbia, the delegation of the Committee held a closing meeting with the representatives of the Ministry of Interior and the Ministry of Justice with the aim of presenting preliminary conclusions on the visit and the representatives of NPM attended this closing meeting.

⁷³ Preliminary observations of Special Rapporteur: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22453&LangID=E.

5.8. *Cooperation within NPM Network*

Serbian NPM in 2017 presided over the NPM Network of the countries of Southeastern Europe.

Serbian NPM, as presiding of the NPM Network of the countries of Southeastern Europe, organized two meetings of the Network in Belgrade. The first one was held in May with the topic "Treatment of persons with mental disabilities in detention" and the other one in December with the topic "Methodology of visits to the detention institutions". NPM representatives attended the third meeting of the Network, held in Podgorica with the topic "Health protection in prisons and psychiatric institutions".

At the last meeting in Belgrade the decision was made that in 2018 Montenegro would chair NPM Network, that NPM Austria would chair the Legal Group of the Network and that Serbia would chair the Medical Group of the Network.

5.9. Cooperation with other NPM

In cooperation with NPM of the Republic of Croatia (Pučki pravobranitelj) the NPM team visited informal locations where refugees gather in Belgrade –hangars behind Belgrade bus station and Mixer house. The purpose of the visit was to investigate forced return of migrants from the border of Croatia back to Serbia (so-called *push-backs*). During the visit to hangars, the interviews were conducted with several migrants.

In 2017 the Serbian NPM hosted also representatives of NPM Armenia (Ombudsman of Armenia), who came for a study visit to the Protector of Citizens and together with Serbian NPM visited Educational-Correctional Institute in Kruševac.

NPM representatives attended the meeting with representatives of European NPMs in Strasbourg, with the aim of the exchange of experiences and good practices in NPM operation, organized by the Council of Europe.

With the aim of presenting the special report of the Greek Ombudsman on the position of migrants and refugees as well as the meeting of ombudsmen of Southeastern Europe with regards to further steps in the protection of their rights, NPM representatives met in Athens representatives of Ombudsman and other relevant institutions of Greece, Turkish Ombudsman, Macedonian Ombudsman and *FRONTEX* representatives.

5.10. *Distribution of annual NPM report*

The Republic of Serbia provided that, as in previous years, the annual report of NPM for 2016 is published and distributed.⁷⁴ It was directly carried out by NPM.

The NPM Report for 2016 was delivered to the National Assembly, the President of the Republic and the Prime Minister, the Republic Public Prosecutor, presidents of Supreme Court of Cassation and Constitutional Court, Office for Human and Minority Rights, Commissariat for Refugees and Migrations as well as all competent ministries, associations and experts with whom NPM collaborated in various specialist fields. The Report was delivered also to all police departments, institutions for the enforcement of penal sanctions and psychiatric hospitals. Also, NPM distributed the report during the visits to institutions.

With the aim of informing a wider public, the Report was published at Internet pages of the Protector of Citizens and NPM.⁷⁵ Apart from that, the publication in the Serbian and English language is also available.

The Report was delivered in the English language to the Subcommittee on Prevention of Torture (SPT), Committee against Torture (CAT), European Committee for the Prevention of Torture (CPT), Association for the Prevention of Torture (APT) and other relevant international organizations.

⁷⁴ Optional Protocol, Article 23.

⁷⁵ www.npm.rs/attachments/article/711/GI%20NPM%202016%20final.pdf.

5.11. Review of annual NPM report for 2016

The National Assembly of the Republic of Serbia, as well as its competent committees, failed to consider recommendations from the NPM Report for 2016.

Even though in Serbia there is a practice established according to which the National Assembly of the Republic of Serbia and its competent committees consider annual reports of NPM, until the submission of this Report, the NPM Report for 2016 was not considered at all either by the National Assembly or by any of its committees.

NPM indicates that the obligation of competent bodies is to consider recommendations from the annual NPM report.⁷⁶

The consideration of recommendations from the NPM report for 2016 would simultaneously be the opportunity to also consider the activities of competent bodies upon the conclusions of the National Assembly dated 23rd October, 2014 regarding the activities upon the recommendations from the NPM report for 2013⁷⁷.

⁷⁶ Optional Protocol, Article 22.

⁷⁷ www.ombudsman.npm.rs/index.php?option=com_content&view=category&layout=blog&id=108&Itemid=71.

6. NPM states and activities per fields in 2017

6.1. Police/prosecutorial detention

With the purpose of monitoring the treatment of the police toward apprehended, arrested and detained persons, during 2017 NPM paid 8 visits to police stations.⁷⁸ The treatment of detained persons was monitored also during the visits to institutions for the enforcement of penal sanctions since it is the practice to accommodate persons detained pursuant to Criminal Procedure Code into these institutions. In total, 6 individual reports on the treatment of police were made and 41 recommendations were sent in them. Competent bodies acted upon 18 recommendations, failed to act upon 3 recommendations and for 20 recommendations further monitoring is required.

Many premises for detention are still not in compliance with standards and very few police stations have conditions for the staying of persons longer than 24 hours, primarily taking into consideration the impossibility of the staying in the open air. Furthermore, many police departments do not have sufficient number of premises. In PS Savski venac four premises for the detention are in the same condition as they used to be during the visit of NPM paid in 2013 and they do not meet even the basic criteria for staying. The premises of PS Stari grad are no longer in use due to their poor condition, but the citizens are taken to the headquarters of the City of Belgrade PD. Also, the condition at the premises at PD Niš is mostly unchanged in comparison to previous visits of NPM, there have not been any adaptations and the impression is that the premises are, as a result of their use, in even worse condition than they used to be. Detention room at PS Surdulica is still the only such premise at the PD Vranje, which includes 3 police outposts and 6 police stations, which increases the costs and safety risks and creates organizational problems. The similar situation exists at PD Pančevo, which includes 7 police stations and several police outposts and for the purpose of detention only premises at the police outpost in Pančevo are used, even though it was said that the premises at police stations Bela Crkva, Kovin and Vršac will be reconstructed.

⁷⁸ Police stations Stari grad and Savski venac within PD for the City of Belgrade, 3 police outposts within PD Pančevo, PS Surdulica, which is a part of the organization of PD Vranje, as well as the headquarters of PD Novi Pazar and PD Niš.

Citizens detained pursuant to the Criminal Procedure Code are mainly accommodated into institutions for the execution of penal sanctions and on other legal basis into the premises of police stations. Detained citizens are frequently accommodated and stay together with prisoners in custody and in certain institutions NPM confirmed that they are not provided with opportunity to stay in the open air or adequate conditions for personal hygiene.

NPM is familiar with the dispatch of the director of police that, in case of the detention of citizen pursuant to the Law on Road Traffic Safety, when the premises are occupied, citizens should be detained in other working premises with constant supervision by police officials. Apart from the circumstances that such activities are not completely in compliance with regulations, work premises (offices) are not equipped and do not meet the conditions for the staying of detained persons, staying of persons in these premises has a negative impact on the fulfilment of police duties and the staying at work premises of citizens who are in the condition of severe, very severe or complete intoxication and/or who are under the influence of psychoactive substances creates an increased risk from incidents. NPM believes that it represents a forced, but inadequate solution and it should not become permanent, but the Ministry of Interior should provide detained citizens with the staying in adequate and safe conditions and police officials with the performance of their tasks without any obstacles.

Even though the Instruction on the Treatment of apprehended and detained persons still has not been harmonized with valid regulations and standards (the mandatory use of means for restraint when a person is taken to police⁷⁹ and the obligation of police officials to attend medical examination of the detained person⁸⁰), it was noticed that police officials tie citizens during the transportation less frequently than they used to because they started assessing whether in a specific case it is necessary to apply this means of coercion. However, NPM is familiar with the dispatch of the Department of Police which repeats once again the obligation of police officials to adhere to the Instruction and always during the apprehension of citizens use the means of restraint. The presence of police officials to medical examinations and the availability of the data on the citizen medical condition are noticed in almost all visited stations. Police officials justified such activities by obligations stipulated by the Instruction.

The record on detained persons is not kept properly enough. The minutes on the detention issued to citizens for the purpose of reading and signing frequently does not state all the activities and treatment during the detention, so the detained citizen is handed an incomplete document, which also remains

⁷⁹ Item 13, Paragraph 2 of Instruction.

⁸⁰ Item 26, Paragraph 3 of the Instruction.

in the file as such. The problem of keeping the record is also the frequent situation in which the detainee is not at the police station where the minutes are kept but in another station within the police department, where there are premises for detention or at the Institution for the Enforcement of Penal Sanctions, if the detention is from a criminal procedure. In such situations the exchange of information is aggravated between police official who directly supervises the detained citizen and the one keeping the minutes, timely printing of the minutes and giving it to the detained person upon the cease of his detention and proper keeping of the detention file, since the documentation (notifications on rights, decisions on detentions, confirmations on taken items and other) is at least at two locations: at the police station whose officials ordered the detention and at the station/ institution where the citizen is.

Also, NPM found that technical characteristics and manner of use of means of coercion are not systemically prescribed. Because of that, during the year the Ministry of Interior received an initiative⁸¹ for passing of the regulations which would regulate in greater details: their technical characteristics, manner and subject of the control of the completion of technical characteristics, manner and limitation of the use, documenting of the use, the process of assessment of justifiability and regularity of use, manner and location of storing, time span of regular use, manner of destruction and expiration deadline for putting out of use the ones which do not meet the prescribed technical characteristics.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

1. The Ministry of Interior should improve material conditions of accommodation in the premises for police detention, which are not completely harmonized with valid standards;
2. The Ministry of Interior should implement activities from its competence in order to pass within the shortest period the remaining regulations necessary for the implementation of the Law on Police, to pass the regulations which would systemically regulate technical characteristics and the manner of use of means of coercion and to harmonize the existing Instruction on the treatment of the apprehended and detained persons with valid standards;
3. The Ministry of Interior should improve the keeping of the record on detained persons.

⁸¹ No. 286-98/17 dated 20th November, 2017, available at the NPM Internet page: www.npm.rs/index.php?option=com_content&view=article&id=741:иницијатива-за-уређење-примене-средстава-принуде&catid=108:2012-01-18-20-51-23&Itemid=71.

6.2. Execution of custody measures

During 2017, NPM visited 8 custody units of the Administration for the Enforcement of Penal Sanctions and these are the custody facilities in Punishment-Correctional Institutions in Čuprija, Niš and Sremska Mitrovica, as well as District Prisons in Belgrade, Novi Pazar, Novi Sad, Pančevo and Vranje.⁸²

The problem still lies in the activities of persons in custody because these persons spend time mostly in their dormitories. Certain progress is noticed in this respect, too. For instance, DP Novi Sad employs a smaller number of persons in custody and PCI Nis, by altering the Rulebook on systematization of job positions of convicts stipulated the work group in the Custody department. Furthermore, DP Belgrade designated common living rooms for persons in custody in all renovated blocks of the Custody department.

NPM noticed as shortcomings in some of the visited institutions irregular visits paid to persons in custody by judges for the enforcement of penal sanctions.

The pavilion for persons detained in custody was renovated in DP Belgrade and in 2015 during the visit of NPM these persons were accommodated here in very poor conditions. Also, at DP Belgrade it was noticed that good practice of the formation of a reception department for persons in custody was very prominent. The persons detained in custody stay here for a few days and during this time the medical examination and conversations with officials of the treatment and security are performed with the purpose of having as accurate as possible assessment of risk, condition, interests and needs of persons in custody, with the aim of their adequate allocation at dormitories with other detainees. For the assessment there is a special questionnaire.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

1. The Administration for the Enforcement of Penal Sanctions should continue with the activities of harmonization of accommodation conditions at custody units of the Institutions for the Enforcement of Penal Sanctions with valid standards;
2. The Administration for the Enforcement of Penal Sanctions should enable pre-trial detainees sufficient available activities as well as staying during the day at communal premises with other detainees with whom they are entitled to the contact since the court did not prohibit it because of the criminal procedure;
3. The Administration for the Enforcement of Penal Sanctions should assume measures so as to prevent female detainees serving their measure of custody in isolation due to their small number.

⁸² Findings from visits to custody departments and recommendations are an integral part of reports on visits to institutes for the enforcement of penal sanctions.

6.3. *Enforcement of penal sanctions*

NPM visited 12 institutions for the enforcement of penal sanctions: Punishment-Correctional Institutes in Belgrade, Niš, Sremska Mitrovica, Belgrade – Padinska Skela and Ćuprija, district prisons in Belgrade, Vranje, Novi Pazar, Novi Sad and Pančevo, Educational-Correctional Institute in Kruševac and Special prison hospital in Belgrade. In total 10 reports were made and 168 recommendations for the removal of noticed shortcomings and improvement of the activities of authorities were sent. The authorities followed upon 110 recommendations, failed to follow upon 5 and for 53 further monitoring is needed.

The Administration for the Enforcement of Penal Sanctions continued adaptations of existing accommodation capacities and the construction of new ones. NPM visited new reception department at PCI Nis, which at that moment was not used for accommodation, renovated pavilions and other facilities at DP Belgrade, PCI Sremska Mitrovica, ECI Kruševac and SPH Belgrade. In all these and other visited instituted further adaptations were announced.

The condition with overcrowded accommodation capacities at DP Pančevo has significantly been improved in comparison to the earlier period, which indicates that the new bylaw on placing persons deprived of their liberty attained the desired result,⁸³ and based on it one part of detainees was sent to DP Smederevo instead of DP Pančevo. During 2017 the works on the construction of new Punishment-Correctional Institute in Pančevo were continued and it should be used to relocate the tasks and employees from the existing DP Pančevo.⁸⁴ The Government passed the Regulation on the amendments to the Regulation on the Establishment of the Institutions for the Enforcement of Penal Sanctions in the Republic of Serbia,⁸⁵ based on which PCI Pančevo was established. According to the original plan new institution was supposed to start with the operation on 1st January, 2018 but this deadline was not met.

The chronic problem of overcrowding was noticed again at the reception department of PCI Sremska Mitrovica, where it occurs that due to increased reception a person sleeps on a mattress on the floor for certain period of time and those who are allocated into the closed department stay at the reception department while there is a free spot at this department they can occupy. The problem was solved only temporarily when a number of convicts from the prison department and members of the Security Service were relocated to PCI Belgrade – Padinska Skela.

⁸³ The Rulebook on sending convicted, punished for a misdemeanor and persons detained in custody into institutions for the enforcement of penal sanctions ("Official Gazette of RS", no. 31/15).

⁸⁴ According to the current plan, the Division in Vršac will not be relocated to a new building.

⁸⁵ "Official Gazette of RS", no. 11/17.

In most of institutions it is necessary to improve the system of video surveillance in order to have better coverage and longer keeping of recordings. Also, certain institutions, because of their location and architectural design cannot completely fulfill the requests set by contemporary standards of treatment of persons deprived of their liberty. For instance, DP Novi Pazar is located at the center of the town, surrounded by residential houses and shares the administration building with other institutions. The Institution uses the premises at the ground-floor part of the facility while at the first floor there are primary and secondary music school, at the second floor historical archives of the town, and in the attic the atelier used by a few painters. Also, at the Punishment-Correctional Institute in Belgrade, because of the construction of the Institution the communal space for daytime staying of convicts was not formed.

In most of the visited institutions NPM noticed a positive relationship between persons deprived of their liberty and members of the Security Service. The members of the Service no longer carry official bats and the atmosphere in the pavilions is more relaxed. Persons deprived of their liberty mostly did not have remarks to the treatment of this Service, but the remarks predominantly referred to the length of the court procedure (detainees in custody), inability to make progress by being transferred to more favorable treatment groups (convicts) and the realization of health protection.

In all visited institutions NPM detected the lack of officers, primarily at the Security Service, which leads to the overburdened current employees. A special problem with transport to court sessions in criminal procedures and irregular compensation of costs by courts is an additional burden for the operation of institutions. The officers of the treatment, who are also in shortage, are frequently additionally engaged at local probation offices at the tasks of the execution of community sanctions and measures, which may have a negative impact on the treatment work in institutions. Apart from the stated, employees at institutes do not have regular health controls and new uniforms were not procured in last several years.⁸⁶ Simultaneously, the prohibition of employment within the users of public funds and the designation of a maximum number of employees for indefinite period of time aggravates the engagement of additional employees at institution services where it is necessary.

It is a positive thing that the realization of the project "The improvement of the training program at the Center for training and professional education of the Administration" commenced and the funds for it were provided from the IPA Fund in 2013. Within this project the trainings for coaches at

⁸⁶ During 2017 the Rulebook regulating the uniform and other equipment at the Security Service was amended, which, according to the explanation of the Administration for the enforcement of penal sanctions, was necessary in order to start the public procurement of new uniforms.

services for the treatment for the implementation of specialized programs are implemented as well as for the managers at institutions, for the members of the Security Service and health care employees.

As a shortcoming in some of the visited institutes NPM detected irregular visits of judges for the enforcement of penal sanctions. Certain judges either rarely come to the institute or visit only certain departments.

In the treatment of convicted persons as a problem it was noticed that the questionnaire for the risk assessment indirectly prevents the progress of individual convicts to the departments with higher level of special rights. Namely, the responses to some of the questions are unchanged during the serving of the sentence, so they cannot have more points. Therefore, even if the convict from the closed department fulfills the requirements of the program of treatment and abides by the rules during the serving of the sentence, because of the number of points he got during the completion of the questionnaire, he has still received the high risk assessment so he cannot be relocated to a semi-opened department. Consequently, closed departments in institutions are mostly overcrowded,⁸⁷ and taking into consideration the difficulties which exist with regards to the work engagement of convicts from closed departments, for many of them there is not possibility of work engagement. Examples of good practice were noticed at DP Novi Sad and DP Novi Pazar, where the engagement of convicts from closed departments is increased.

Convicts are generally offered insufficient number of trainings and courses and other useful activities, so NPM recommended to the visited institutions to take measures and offer convicts with a higher number of activities and to include more convicts into various programs, pursuant to their needs and potentials.

NPM found that the documentation of injuries of persons deprived of their liberty could be improved. The noticed injuries should be recorded at special forms designed for this purpose, with the map of the body and drawn injuries, taken photo of and recorded in the book of injuries, which most frequently is not the case. More thorough medical examinations are especially needed upon the reception into the institution. Furthermore, it still occurs that medical reports do not contain the statements of the person about the manner in which the injury occurred or the doctor opinion on the connection between the statement of the convict and occurred injuries.

Even though the services for health protection are not relocated from the Ministry of Justice into the Ministry of Health, a positive progress with regards to providing health protection is a more frequent supervision of the

⁸⁷ According to the Annual report of the Administration for the enforcement of penal sanctions for 2016, out of 7,838 convicts who on 31st December, 2016 were allocated into departments, in total 5,299 (about 68 percent) of them was in closed departments.

work of health protection services of the institute by the Ministry of Health. Health care inspection made decisions on the completion of the conditions for the performance of certain tasks from the field of health protection at institute clinics for various institutes. However, even though in some institutes additional medical staff is engaged, there are still not enough of them for 24-hour presence at institutes.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

The Administration for the Enforcement of Penal Sanctions should continue with the improvement of material conditions of accommodation of persons deprived of their liberty;

The Administration for the Enforcement of Penal Sanctions should increase the number of employees in the services of institutions so as to enable the treatment of persons deprived of their liberty in compliance with regulations and standards;

The Administration for the Enforcement of Penal Sanctions should enable the convicts accommodated at closed prison departments enough available activities as well as the staying during the day in communal premises with other convicts;

The Administration for the Enforcement of Penal Sanctions should improve the implementation of medical examinations after the application of the measure of coercion;

The Administration for the Enforcement of Penal Sanctions should improve the possibility of the transfer of convicts into more favorable educational group;

The Administration for the Enforcement of Penal Sanctions should enable female convicts and minors to serve their sentence closer to their place of residence;

The Administration for the Enforcement of Penal Sanctions should provide that all persons with mental disabilities serving the prison sentence are relocated from the regular prison regime;

The Ministry of Justice should improve the activities of the internal control mechanism by relocating the Inspection Department from The Administration for the Enforcement of Penal Sanctions;

In cooperation with the Ministry of Health, the Ministry of Justice should implement activities with the aim of the organizational relocation of the Services for health protection from the institutions for the enforcement of criminal sanctions.

6.4. Detention of persons with mental disorders in psychiatric hospitals

In the reporting period NPM paid 2 visits to psychiatric hospitals, and these are Special hospital for psychiatric diseases "Gornja Toponica" and Hospital for psychiatric diseases "Dr Laza Lazarević". During 2017, 2 reports were made on the visits to Special hospital for psychiatric diseases "Dr Slavoljub Bakalović" in Vršac and Special hospital for psychiatric diseases "Kovin", which were paid by the end of 2016. In these reports to competent bodies 21 recommendations were sent, out of that, actions were taken upon 13 of them and for 8 further monitoring is needed. Psychiatric hospitals accommodate many patients for a long period of time, exclusively because there are no conditions for their residence in the community. Special hospital for psychiatric diseases "Kovin" accommodated during the last NPM visit in December 2016 in total 662 patients, out of that 300 patients were at the hospital longer than a year. The reason for this is the lack of centers for mental health at local communities which would assume the care of patients after the completion of hospital treatment. Centers for mental health exist at some cities, primarily owing to personal enthusiasm and efforts of management of certain hospitals, such as the Center for mental health in Vršac established by the Special hospital for psychiatric diseases "Dr Slavoljub Bakalović". Apart from Vršac, the Center for mental health was opened in Kikinda with the assistance of a project. However, the issue of sustainability of this center is questionable, since its functioning and operation were not solved systematically, but within a project activity which is of limited duration. With regards to the strengthening of efforts to de-institutionalization, NPM sent the recommendation to Special hospital for psychiatric diseases "Dr Slavoljub Bakalović" and the Ministry of Health.

Psychiatric hospitals face also insufficient number of employees, which may have a negative impact on the quality of providing health services and exercise of the rights of patients.

In certain special hospitals for psychiatric diseases accommodation conditions are still bad, some departments are not renovated and the dormitories of large capacity were not turned into smaller premises, or humanized or embellished by personal objects of patients. In such poor and dissatisfactory conditions the exercise of the right to privacy of patients is aggravated. NPM is informed that in the following period financial funds will be provided for the purposes of adaptation.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

1. The Ministry of Health should improve material conditions of accommodation in psychiatric institutions, which are not completely in compliance with valid standards;
2. The Ministry of Health should increase the number of employees at psychiatric institutions so as to enable treatment of patients in compliance with regulations and standards.
3. The Ministry of Health should take measures from its competence with the aim of the improvement of the application of the measure of physical restraint by tying the patient in psychiatric hospitals;
4. The Ministry of Health and the Ministry of Labor, Employment, Veteran and Social Affairs should, in the process of the realization of mutual cooperation, improve regulations with the aim of the establishment of an efficient de-institutionalization –the decrease of the number of persons with mental disabilities with long-term accommodation at psychiatric hospitals and institutions of social protection of home type, by establishing the corresponding normative framework for the care and support of any kind and type to persons with mental disabilities (including their families) for the life outside psychiatric institutions and institutions of social protection, in an environment which is as little as possible determined by their mental disabilities.

6.5. Detention of persons in social protection institutions

In 2017 NPM visited 3 institutions of social protection: the Home for Persons with Mental Disabilities "Otthon" Stara Moravica, Institution for Children and Youth "Veternik" and the Institution for the Accommodation of Adults "Male Pčelice". The reports were made on these visits and in them, together with the Report on the visit to the Center of Gerontology in Vršac,⁸⁸ in total 27 recommendations were sent. Out of this number, competent bodies acted upon 5 recommendations, failed to act upon 2 recommendations and for 8 recommendations further monitoring is needed.

A similar situation is found at big institutions of social protection as in psychiatric hospitals which still accommodate many users for a long period of time, just because the community failed to provide conditions for their staying. It is supported by the fact that in some institutions of social protection the number of users accommodated is not decreased for years and exceeds accommodation capacities of institutions. Pursuant to the Regulation on the Network of Social Protection Institutions⁸⁹ at the Institute for the Accommodation of Adults "Male Pčelice" the accommodation capacity is 850, and the number of users accommodated on the day of NPM visit in 2017 was 895. At the Veternik Home, pursuant to the previously stated Regulation, accommodation capacity was 500, while the number of accommodated users in 2013 was 565 and in 2017 it was 520 users. Apart from a great number of accommodated users, in certain institutions of social protection, such as the Institute for the Accommodation of Adults "Male Pčelice", there is still a waiting list for the reception of users, and on the other hand, out of total number of users (850), 421 of them are over 15 years at the institution, while the oldest user is at the institution since 1981.

This all supports the fact that the process of deinstitutionalization did not make a significant progress in the Republic of Serbia in recent years. Problems which aggravate the process of deinstitutionalization are also distant locations of certain institutions of social protection from the families of users, which additionally aggravates their participation and the inclusion in social community.

One of the problems which the institutions of social protection of home type in recent years face is also the lack of employees, especially of medical staff, their bad position and earnings below average, which may have negative impact on the satisfaction of needs of users and the quality of providing health and psychosocial services. With the aim of providing necessary

⁸⁸ The visit to CG Vršac was paid by the end of 2016 and the Report on the visit was made in January, 2017.

⁸⁹ "Official Gazette of RS", no. 16/2012 and 12/2013.

number of employees, NPM sent recommendations to competent bodies on several occasions.

In the reporting period, during the control visit to the Veternik Home NPM noticed that the accommodation conditions were improved, that constant presence of psychiatrists at the Home was provided and that the reception of new users was stopped. However, in certain institutions of social protection the accommodation conditions are still poor, certain departments were not renovated and dormitories of large capacity were not turned into smaller premises, or humanized or embellished by personal object of users. In these poor and dissatisfactory conditions the exercise of the right to the privacy of users is aggravated. NPM sent the recommendations to competent bodies and visited institutions with the aim of provide adequate accommodation conditions as well the conditions for the respect of user privacy. Furthermore, it was confirmed that the institutions of social protection lack also orthopedic aids so with the aim of facilitated movement of users NPM sent the recommendation to the Ministry of Labor, Employment, Veteran and Social Affairs so as to provide the required number of these aids.

It was established also that the cooperation of certain centers for social work with the institutions of social protection of home type was not at the satisfactory level, because the employees of centers for social work who were appointed as temporary guardians of some users at institutions visited these rarely or not at all, even though it was their legal obligation.

During the visit to the Home for Persons with Mental Disabilities "Otthon" at Stara Moravica, NPM confirmed that certain persons with mental and intellectual obstructions were accommodated in isolation all the time, and some of them in the rooms in poor conditions which resemble cages, without running water and access to restroom. With regards to the stated treatment, NPM sent the recommendation to the Ministry of Labor, Employment, Veteran and Social Affairs and Provincial Secretariat for Social Policy, Demography and Gender Equality in order to take the corresponding measures so as to terminate the practice of keeping individual users in isolation, since such activities represent abuse and if it lasts longer, torture. The Ministry of Labor, Employment, Veteran and Social Affairs informed NPM that the Provincial Secretariat for Social Policy, Demography and Equality as a competent body will issue the order to the director of the Home so as to cease with the isolation of some users, which was confirmed by the Provincial Secretariat in the letter to the Protector of Citizens. However, NPM in the repeated visit paid 6 months later confirmed that the same users were still in isolation, just like during the first visit.

Apart from the isolation at the institutions of social protection of home type, the application of the measures of mechanical restraint by tying certain

same users is frequent, even though, unlike psychiatric institutions, there is no adequate legal basis for both such activities in them. Furthermore, the irregularities in the application of this measure are noticed, as well as that the measure is most frequently applied by the medical staff that did not go through a special training. Taking into account the lack of medical staff, it happens that users during the application of the measures are left in rooms alone without continued supervision while it is ongoing, so apart from the character of the mechanical restraint, the measure has the isolation character. In the reports of visits, NPM sent the recommendation how the measure of physical restraint should be applied.

Also, in certain institutions of social protection most of users still have limited freedom of movement outside the home by being locked for a long period of time, even though there is no valid legal basis. With regards to the limitation of the freedom of movement of users at the institution of social protection, NPM sent the recommendation to the Ministry of Labor, Employment, Veteran and Social Affairs so as to take measures from its competence in order to regulate this measure, too. The Ministry delivered the statement in which it was stated that the issue of physical limitation of users would be solved by passing internal rulebooks by institutions of social protection.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

1. The Ministry of Labor, Employment, Veteran and Social Affairs should improve material conditions of accommodation in the institutions of social protection of home type;
2. The Ministry of Labor, Employment, Veteran and Social Affairs should increase the number of employees at institutions so as to enable treatment of the users in compliance with regulations and standards;
3. The Ministry of Health and the Ministry of Labor, Employment, Veteran and Social Affairs should, in the process of the realization of mutual cooperation, improve regulations with the aim of establishment of efficient de-institutionalization –the decrease of the number of persons with mental disabilities who have long-term accommodation at psychiatric hospitals and institutions of social protection of home type, by establishing the appropriate normative framework for care and support of any kind and type to persons with mental disabilities (including their families) for the life outside psychiatric institutions and institutions of social protection in an environment which is as little as possible determined by their mental disabilities;
4. The Ministry of Labor, Employment, Veteran and Social Affairs should conduct the activities from its competence with the aim of the amendment to the Law on Social Protection so as to prescribe conditions, competence and procedures for forced accommodation and guarding of users at the institutions of social protection of home type;
5. The Ministry of Labor, Employment, Veteran and Social Affairs should take measures from its competence with the aim of passing regulations which would regulate the conditions and the process of limitation of the freedom of movement and physical restraint for users accommodated at the institutions of social protection of home type;
6. The Ministry of Labor, Employment, Veteran and Social Affairs should improve the activities of the centers for social work with regards to providing efficient guardian protection to the users at institutions.

6.6. *Treatment of refugees/ migrants*

NPM paid 36 thematic visits, with the purpose of monitoring the treatment of refugees and migrants by competent bodies and through 26 reports on these visits, 52 recommendations were sent for the removal of confirmed shortcomings and improvement of treatment. The actions were taken upon 29 recommendations, actions were not taken upon 3 recommendations and actions will be further monitored upon 19 recommendations.

Also during 2017, the so-called “Balkan route” remained closed, so migrants in Serbia waited for their turn for the reception by Hungarian authorities for several months. The procedure established during 2016 remained in force. The lists of migrants who want to enter Hungary are compiled at centers and these lists are delivered to Hungarian authorities via representatives of migrant community, which are located at border crossings Horgoš and Kelebija. After confirming the schedule, the Hungarian authorities return the lists to representatives of migrants, and they hand them over to the Commissariat for Refugees and Migrations in order to send them to centers. Immediately before the reception date, migrants are relocated to some of the centers at the north of the country (Kikinda, Sombor, Subotica) and from there they go to the border crossing. During the year the number of migrants who were received by Hungarian authorities on a daily basis was reduced to 10, and only on working days. However, almost twice as many of them are returned to Serbia, either after the rejection of their requests for asylum or after they are caught during the illegal entrance into Hungary.

Simultaneously, according to the data of the Ministry of Interior,⁹⁰ during the year in the process of readmission Serbia accepted in total 4,111 persons (out of that 3,928 our citizens), and at the same period only 9 persons were returned, third-world country citizens, to Bulgaria.

According to the data of the Ministry of Interior,⁹¹ during 2017 in total 6,199 certifications on expressed intentions for seeking asylum were issued, out of those 2,628 certifications for minors (156 of them unaccompanied) and 628 certifications for adult female. The Office for Asylum registered only 244 persons and in the asylum procedures brought totally 246 decisions for 385 persons: 3 persons received asylum, 11 persons received subsidiary protection, the requests of 53 persons were rejected, the requests of 11 of

⁹⁰ The Ministry of Interior – Sector for analytics, telecommunications and information technologies – the Department for analytics: Statistical review in the field of migration, asylum and readmission (for the needs of the Protector of Citizens).

⁹¹ The Ministry of Interior – Sector for analytics, telecommunications and information technologies – the Department for analytics: Statistical review in the field of migration, asylum and readmission (for the needs of the Protector of Citizens).

them were declined and for 171 persons the procedures were stopped. Furthermore, for 6 persons the Office for Asylum made decisions on the limitation to the movement and accommodation at the Reception Center for Foreigners, and for 42 of them on the approval of the residence at private addresses.

The data of the Commissariat⁹² indicate that in December 2017 at centers there were 85 migrants interested in seeking the asylum in Serbia. These data show the possibility that despite more than 6 thousand issued certifications on the intentions of seeking the asylum, the number of actual seekers is much smaller and the certifications are used more for recording migrants and their allocation to corresponding centers for the reception with free capacity. However, the Office for the asylum would have to enable everyone who expresses the intention to file the request for asylum. By visiting centers for the reception and care of migrants, NPM established that the officials of the Office do not visit the centers regularly.

The Commissariat for Refugees and Migrants continued to undertake measures with the aim of accommodating migrants into official centers for reception and care. During the year 3 more reception centers were opened (in Kikinda, Obrenovac and Vranje), and 1 was closed (in Šid), and the number of centers for the reception and care of migrants (centers for asylum and reception centers) reached 18, with total capacity of 6,000 places. Also, in many centers there were ongoing works on the expansion of capacities and provision of accommodation in solid facilities, so tents at the yards of centers were removed. In spite of that, certain number of migrants, primarily adult males who travel without other family members, are denied from being accommodated at official centers, but stay at informal places of gathering, in the woods near the borders with Croatia and Hungary, from where, it is assumed, they try to enter surrounding countries illegally. According to the data of the Commissariat for Refugees and Migrations,⁹³ 4000 migrants stayed at official centers in December 2017, out of 4,500 to 5,000, which is number of migrants found in Serbia according to various estimations. NPM monitored the relocation of migrants from barracks near Belgrade bus station.⁹⁴ Also, during the visit to border crossings of Horgoš and Kelebija, it was

⁹² The Commissariat for Refugees and Migrations: Profiles of centers of the Republic of Serbia (general overview) www.kirs.gov.rs/docs/site-profiles/PC-SR-2017-12.pdf.

⁹³ The Commissariat for Refugees and Migrations: Profiles of centers of the Republic of Serbia (general overview): www.kirs.gov.rs/docs/site-profiles/PC-SR-2017-12.pdf.

⁹⁴ „National mechanism for the prevention of torture supports the relocation of migrants from hangars near Belgrade bus station“:

www.npm.rs/index.php?option=com_content&view=article&id=667:национални-механизам-за-превенцију-тортуре-поздравља-измештање-миграната-из-хангара-у-близини-београдске-аутобуске-станице&catid=110:2012-12-26-15-08-24&Itemid=113.

confirmed that there were no more improvised camps which had been set up along the very border line.⁹⁵

NPM noticed that migrants, because of the duration of staying in Serbia and in various reception centers were better familiar with the situation where they were and procedures, as well that the officials who work with them were better organized and prepared to complete their tasks. Also, it was noticed that actions were taken upon the majority of recommendations of NPM sent to the Commissariat for Refugees and Migrations.

Migrants are provided with a larger number of contents and activities at centers, and especially children. In September it was published that more than 500 children migrants were enrolled at 27 primary schools in Serbia.⁹⁶ This process was monitored by NPM during the visits to centers and NPM confirmed that children at local elementary schools attend 2 – 3 school lessons per day. At the north teachers come to centers, while in other parts of the country officials of the Commissariat or representatives of some of non-governmental organizations working with them at centers take them to schools. Apart from that, various organizations of civil society organize activities for children and adults. NPM saw sewing workshops, language schools, libraries, computer courses, cultural-artistic programs, hairdresser's, make-up services, shops, sports courts, etc. Special attention is paid to the care of newborns, so in most of centers the support to mothers is organized through advising and other types of assistance.

The establishment of psychological support for migrants in the majority of reception centers is of special importance. NPM noticed that due to the uncertainty of the continuation of the travel, the lack of relevant information and extended staying in the conditions of collective accommodation many migrants show the signs of tension and nervousness. It should be added to these circumstances that migrants spend a longer period of time on the road and during this time many of them witnessed violence, many lost members of their families or got apart. Taking into account the stated, the Commissariat received the recommendation to engage professional persons, to provide corresponding premises for the performance of confidential conversations with migrants and to take other necessary measures in all centers for the reception and care of migrants with the aim of the organization of the provision of psychological support to migrants.⁹⁷

⁹⁵ The report on the visit to the Reception Center in Subotica no. 281-96/17 dated 4th December, 2017.

⁹⁶ „More than 500 children migrants at schools“:
www.kirs.gov.rs/articles/navigate.php?type1=3&lang=SER&id=3074&date=0.

⁹⁷ The report on the visit to the Reception Center in Vranje no. 281-67/17 dated 21st September, 2017.

In most of centers better monitoring of incidents and other extraordinary events was established. Acting upon the recommendation of NPM,⁹⁸ centers keep the record of extraordinary events and report to the Commissariat about them. Also, pursuant to the recommendation of NPM from 2016,⁹⁹ the procedure of complaining about the work of engaged persons in centers is established by sending the complaint via electronic mail to the e-mail address designated for that and the allegations from the complaints are examined at the headquarters of the Commissariat. The notification about this, NPM found posted and translated to various languages in most of visited centers.

On the other hand, despite the fact that there are the coordination and cooperation of various bodies with regards to the care of migrants at state level and that they are mostly good, in practice officials of the Commissariat who work at centers for migrants often do not have enough support of other services at certain aspects of the treatment of migrants, so NPM sent recommendations, primarily at local centers for social work, to increase their presence at centers and dedication to the work with vulnerable categories of migrants. The problem in many centers is domestic violence.

Apart from centers governed by the Commissariat for refugees and migrations, NPM visited also other locations where migrants are. At the Institution for the Education of Children and Youth in Niš the capacities for the treatment of unaccompanied minor foreigners have been strengthened: the premises of the Center for the Accommodation of Unaccompanied Minor Foreign Persons were renovated and thus the accommodation capacity was increased, employees had training for work with migrants, in the treatment of minor migrants local non-governmental organizations are included and the Institution was provided with new official vehicles. However, minor migrants who state the intention to seek asylum are relocated to centers for asylum or reception centers, even though NPM sent the recommendation to the Ministry of Labor, Employment, Veteran and Social Affairs to take measures so that unaccompanied minors for whom the accommodation at the Institution is more adequate than the accommodation at the Center for Asylum or Reception Center were accommodated here and after issuing the certification on the expressed intention.¹⁰⁰

⁹⁸ The report on the visit to the Center for asylum in Krnjača, no. 281-49/17 dated 3rd July, 2017.

⁹⁹ The report on visits to the reception centers in Principovac, Šid, Adaševci, no. 281-98/16 dated 12th December, 2016.

¹⁰⁰ The report on the visit to the Institute for education of children and youth in Nis –Center for accommodation of unaccompanied minor foreigner persons, no. 281-26/17 dated 20th April, 2017.

On the other hand, the premises for the accommodation of foreigners who do not meet the conditions for the entrance to the country at the “Nikola Tesla” airport are still not adequate for the staying for a more days despite the fact that NPM sent the recommendation in 2015 to provide premises which would be in compliance with valid standards. Earlier projects of renovation of premises and the construction of a separate facility, failed to obtain approval.

The renovation of the complete facility Reception Center for Foreigners at Padinska Skela and the construction of another facility of the capacity for the accommodation of 100 persons are planned. However, at the Reception Center, the problem is to provide health protection to foreigners, because not only there is not continual presence of medical staff, but the medical treatment of foreigners at the Punishment-Correctional Institute in Belgrade – Padinska Skela ceased, so foreigners are taken to local health care institution. Consequently, the health care documentation of foreigners is in records kept about them by the Reception Center and the police officials share the prescribed therapy.

The new Law on Foreigners announced for so long, still has not been adopted. The Bill was passed by the Government to the National Assembly on 4th December, 2017. In the process of the drafting of the bill, NPM issued an opinion on the Draft of the law in which it was stated the apart from the improvement and précising of existing solutions, the Draft failed to bring expected novelties in the sphere of the prevention of torture and that, despite the fact that, due to large-scale migrations, in Serbia there are many foreigners from countries affected by war, without regulated staying, the opportunity to regulate their status by law was missed. These remarks were not entered into the Bill.

GENERAL RECOMMENDATIONS FOR THE REMOVAL OF SHORTCOMINGS

1. “Nikola Tesla” airport should improve the conditions at the premises in the transit zone, where foreigners banned from entering the country are accommodated;
2. The Ministry of Interior should improve the conditions of accommodation in the Reception Center for Foreigners in Padinska Skela;
3. The Ministry of Interior should implement the activities from its competence so that, taking into account the factual state, the status of all foreigners –migrants found at the territory of the Republic of Serbia is regulated.

APPENDIX I

– NPM recommendations issued to public authorities of the Republic of Serbia

I-1 – Recommendations issued to police departments and stations

Police department in Jagodina¹⁰¹

Police Department in Jagodina will ensure that during medical examinations of detained persons, police officers shall respect the following principles:

- police officers will not attend medical examinations of detained persons, unless requested by the doctor performing the medical examinations;
- police officers are obliged to alert the doctors to all security aspects that are relevant for the decision of the doctor on the presence of non-medical personnel during a medical examination;
- in cases when a doctor requests that police officers attend a medical examination of a detained person, the examination will be attended by police officers of the same sex as the person who is the object of examination and will be present in such a way that doesn't allow them to hear the conversation between the doctor and the detained person;
- the police officers will state in writing whether the police officer was present at the medical examination of the detained person;
- in files created for the purpose of detaining a person, medical documentation for that person will not be attached and information on the health condition of the detained person will be available only to healthcare professionals, in order to exercise their legally established competencies, and to the detained person;

¹⁰¹ Visitation report of the PCI in Čuprija, no. 281-33/17, dated June 7th, 2017.

- exceptionally, information on the health condition of the detained person will be available to police officers only if it is relevant to the manner in which he/she is to be treated during his/her detention and to the extent necessary for the performance of their work: the doctor's opinion as to whether the person is in a state of health that allows him to be detained and whether special attention or care is required during the stay (e.g., therapy, special dietary requirements, etc.);
- the detained persons will be allowed to retain copies of the reports on the performed medical examinations.

Police Department in Jagodina and the police station within its authority will provide all detained persons with a written notice on the rights of apprehended and detained persons as per Article 4 of the Instruction on the treatment of apprehended and detained persons.

In addition to the aforementioned, the Police Department in Jagodina, based on the Criminal Procedure Code, will also deliver a written notice on the rights of the apprehended and detained persons as per Article 69, Paragraph 1 of the Criminal Procedure Code.

Notices on rights will be delivered to detained persons as special forms made in a language that the person can understand, in two copies, one of which will be placed within the case with the signature of the detained person as a confirmation that he/she has received the rights form or with the statement that the person refused to sign the admission of the form, while the detained person will be allowed to keep the other copy.

The Police Department in Jagodina and the police stations within its authority will, within the decisions on detaining the suspect, specify the time when the suspect has received the decision.

Police Department in the city of Belgrade¹⁰²

The Police Department of the City of Belgrade will ensure that all detained persons are informed about their rights by handing out a written notice on the rights of the apprehended and detained persons referred to in Article 4 of the Instruction on the treatment of apprehended and detained persons.

¹⁰² Monitoring the implementation of the recommendations from the NPM report on the visit to the PD of the City of Belgrade in 2013 and recommendations from the Report on the visit of the European Committee for the Prevention of Torture (CPT) in Serbia, in 2015, 281-59 / 17 dated September 21st, 2017.

In addition, pursuant to the Criminal Procedure Code, the apprehended and detained persons will also receive a written notice on the rights of the apprehended under Article 69, Paragraph 1 of the Criminal Procedure Code.

Notices on rights will be delivered to detained persons as special forms made in a language that the person can understand, in two copies, one of which will be placed within the case with the signature of the detained person as a confirmation that he/she has received the rights form or with the statement that the person refused to sign the admission of the form, while the detained person will be allowed to keep the other copy.

Police stations of Stari grad and Savski venac will ensure that police officers who attend medical examinations of persons under police authority shall state this fact in writing, further stating the reasons for their presence at the specific examination.

When present at medical examinations, police officers will do so in a manner that doesn't allow them to hear the conversation between the person and the healthcare professional.

The Ministry of Interior will amend the existing Instruction on the treatment of apprehended and detained persons and align it with the relevant Council of Europe standards by requiring police officers not to attend medical examinations of persons deprived of their liberty, unless the medical examiner requests so.

Police stations of Stari grad and Savski venac will undertake measures to ensure that information on the health status of citizens will not be available to police officers, unless the doctor or other healthcare professional decides to, in the interest of protecting the health of the detained citizen, inform the police officer of certain information and / or instructions and police officer will make an official note regarding such information that will form an integral part of the detention case.

Police stations of Stari grad and Savski venac will hand over detention records to the detained persons, for the purposes of reading and signing, that have been duly filled in and have all information on the treatment of the person during its detention entered.

The detention records will, in particular, record the precise start and end of the detention, the information on the exercise of the rights to notify a close person of the detained person about its detention, with the exact time of contacting a close person and information on exercising the rights to a defense counsel, with the exact time of access to such defense counsel.

Police officers of the police stations of Stari grad and Savski venac will not always restraint persons during their transport, but will only do so after a careful inspection of specific circumstances that point to the necessity of restraining a certain person, and only in the cases foreseen by Law.

The Ministry of Interior shall amend the provisions of the Instruction on the treatment of apprehended and detained persons in relation to the mandatory application of restraining devices to each person whose apprehension is being carried out by prescribing that the restraining devices will only be used when it is really necessary, and not during the transportation of any person whose apprehension is being carried out, as currently specified.

Police officers of the PS Stari grad and Savski venac will, in their future work, obtain written statements from the persons where the means of coercion were applied in relation to police conduct.

The Ministry of Interior will undertake measures as to adapt the premises of the PS Savski venac in accordance with the applicable standards.

The Ministry of Interior will undertake the necessary measures and activities in order to provide adequate premises for detention in the PS of Stari grad.

The PS Stari Grad will provide a specifically secured place for the storage of temporarily seized items that have a certain value, such as money and jewelry.

The PS Savski venac will provide special areas for the detained persons to get fresh air.

The PS Stari grad will, immediately after the provision of detention rooms, provide special areas for the detained persons to get fresh air.

The PS Stari grad and Savski venac will set up evacuation plans and instructions in case of fire in appropriate and visible places within the police station building, especially in the areas reserved for police detention.

The PS Savski venac will ensure that police officers who guard the detained person are trained to provide first aid, as well as provide the appropriate first aid kits.

The PS Stari grad, immediately after the provision of detention rooms, will ensure that police officers who guard the detained persons are trained to provide first aid, as well as provide the appropriate first aid kits.

The PS Savski Venac will place the notices that the detention rooms are under video surveillance within the premises, so that these notices will be visible to the detained persons.

The PS Savski Venac and Stari grad will, in their future work, record the detention duration from the moment when the person was deprived of liberty, i.e. from the moment he/she came to the premises of the police Department, and not from the moment of passing a detention decision.

The PS Savski Venac and Stari Grad and the Traffic Police Department will undertake measures in order to achieve proper management of documentation on the detention of a person. All files of detention will need properly filled documents attached, with correct information entered and signed by the detained person, when requested.

Police Department in Surdulica ¹⁰³

The PD Vranje will deliver the written information on the rights of detained persons without delay.

The PD Vranje will keep a copy of the notice of rights, with the signature of the detained person, confirming that he has received the notice or with the statement of the police officer that the person refused to sign, stored within the recorded cases of detention.

The PD Vranje will, in all cases of detention of citizens, record the time when a close person of the detained person was informed about his/her deprivation of freedom.

The PD Vranje will ensure that when dealing with medical examinations of detained persons, police officers shall respect the following principles:

- police officers will not attend medical examinations of the detained persons;
- police officers are obliged to warn doctors of possible security risks when the detained person's examination is conducted without the presence of police officers;
- police officers will attend medical examinations of the detained persons if requested by the doctor for safety reasons;
- in cases where police officers attend a medical examination of the detained person, the examination will be attended by police officers of the same sex as the person being examined and will be present in such a manner that doesn't allow them to hear the conversation between the doctor and the detained person;

¹⁰³ Report on the visit to the Police Station of Surdulica, no. 281-66/17 dated September 21st, 2017.

- police officers will state in writing whether they were present at the medical examination of the detained person, the contents of any potential warnings on the security risks given to the doctor, and the facts that were essential in the decision making process;
- in files created for the purpose of detaining a person, medical documentation for that person will not be attached and information on the health condition of the detained person will be available only to the healthcare professionals, in order to exercise their legally established competencies, and to the detained person;
- exceptionally, information on the health condition of the detained person will be available to police officers only if it is relevant to the manner in which he/she is to be treated during his/her detention and to the extent necessary for the performance of their work: the doctor's opinion as to whether the person is in a state of health that allows him to be detained and whether special attention or care is required during the stay (e.g., therapy, special dietary requirements, etc.);
- the detained persons will be allowed to retain copies of the reports on the performed medical examinations.

The PD Vranje will record the beginning of the detention of citizens from the moment of arrest or call response, on the basis of the Criminal Procedure Code and the Law on Misdemeanors, and based on the Law on Traffic Safety on Roads from the moment of exclusion from traffic.

The PD Vranje will deliver the detention decisions to the citizens within two hours from the moment of deprivation of freedom.

The PD Vranje will deliver the written information on the rights of detained persons without delay.

The PD Vranje will keep a copy of the notice of rights, with the signature of the detained person, confirming that he has received the notice or with the statement of the police officer that the person refused to sign, stored within the recorded cases of detention.

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- police officers will attend medical examinations of the detained persons if requested by the doctor for safety reasons;
- in cases where police officers attend a medical examination of the detained person, the examination will be attended by police officers of the same sex as the person being examined and will be present in such a manner that doesn't allow them to hear the conversation between the doctor and the detained person;
- police officers will state in writing whether they were present at the medical examination of the detained person, the contents of any potential warnings on the security risks given to the doctor, and the facts that were essential in the decision making process;
- in cases created for the purpose of detaining a person, medical documentation for that person will not be attached and information on the health condition of the detained person will be available only to the healthcare professionals, in order to exercise the legally established competencies, and to the detained person;
- exceptionally, information on the health condition of the detained person will be available to police officers only if it is relevant to the manner in which he/she is to be treated during his/her stay and to the extent necessary for the performance of their work: the doctor's opinion as to whether the person is in a state of health that allows him to be detained and whether special attention or care is required during the stay (e.g., therapy, special dietary requirements, etc.);
- the detained persons will be allowed to retain copies of the reports on the performed medical examinations.

The PD Vranje will record the beginning of the detention of citizens from the moment of arrest or call response, on the basis of the Criminal Procedure Code and the Law on Misdemeanors, and based on the Law on Traffic Safety on Roads from the moment of exclusion from traffic.

The PD Vranje will deliver the detention decisions to the citizens within two hours from the moment of deprivation of freedom.

The Ministry of Interior will provide a sufficient number of adequate rooms for detention in the organizational units of the PD Vranje, in accordance with the applicable standards and operational needs.

The Ministry of Interior will ensure that the necessary adaptations of the detention rooms in the PD Surdulica are performed, in order to keep the conditions in them in accordance with the applicable standards.

The Ministry of Interior will undertake the necessary measures in order to keep the detention rooms video surveillance materials in the PD Surdulica for the duration of at least 30 days.

The Ministry of Interior will amend the provisions of the Instruction on the treatment of apprehended and detained persons in relation to the mandatory use of restraining devices, by prescribing that the restraining devices will be used only when it is really necessary, and not during the transportation of each and every person, as currently specified.

The Ministry of Interior will inform all police administrations to stop with the obligatory use of restraining devices during the transportation of the person whose apprehension is being carried out.

Police Department in Niš¹⁰⁴

The Ministry of Interior will undertake measures to adapt the premises for the detention in the headquarters of the PD of Niš, in accordance with the applicable standards.

The PD Niš will provide fresh air (walking) for at least 1 hour a day for those citizens who are being detained and are located in the PCI of Niš for 24 hours or longer.

The PD Niš will provide basic necessities for the maintenance of personal hygiene to those citizens who are detained and who are located in the PCI of Niš.

The PCI Niš will put video surveillance in the sleeping rooms intended for police detention, in order to enable constant monitoring over the persons in them, taking into account the protection of privacy of said persons.

¹⁰⁴ Report on the visit to the Police Administration of Niš, no. 281-82/17 dated November 3rd, 2017.

Police Department in Novi Pazar¹⁰⁵

The Ministry of Interior will provide an adequate restroom for police officers at the Novi Pazar Police Department's headquarters.

Police Department in Pančevo¹⁰⁶

The Ministry of Interior will provide a sufficient number of adequate detention rooms in the organizational units of the PD in Pančevo, in accordance with the applicable standards and operational needs.

The PD Pančevo will immediately upon the receipt of this recommendation, submit an estimate of the needs for the number and equipment of the detention rooms in the organizational units of this PA, to the Ministry of Interior.

The PD Pančevo will keep the video surveillance materials from the cameras placed in the detention rooms for a period of at least 30 days.

The PD Pančevo will ensure that when dealing with medical examinations of detained persons, police officers shall respect the following principles:

- police officers will not attend medical examinations of the detained persons;
- police officers are obliged to warn doctors of possible security risks when the detained person's examination is conducted without the presence of police officers;
- police officers will attend medical examinations of the detained persons if requested by the doctor for safety reasons;
- in cases where police officers attend a medical examination of the detained person, the examination will be attended by police officers of the same sex as the person being examined and will be present in such a manner that doesn't allow them to hear the conversation between the doctor and the detained person;
- police officers will state in writing whether they were present at the medical examination of the detained person, the contents of any potential warnings on the security risks given to the doctor, and the facts that were essential in the decision making process;

¹⁰⁵ Report on the visit to the Police Administration of Novi Pazar, no. 281-18/17 dated March 29th, 2017.

¹⁰⁶ Monitoring the implementation of the recommendations from the NPM report on the visit to PA Pančevo in 2013, and the CPT Reports on visiting Serbia in 2015, no. 281-64/17 dated September 21st, 2017.

- in cases created for the purpose of detaining a person, medical documentation for that person will not be attached and information on the health condition of the detained person will be available only to the healthcare professionals, in order to exercise the legally established competencies, and to the detained person;
- exceptionally, information on the health condition of the detained person will be available to police officers only if it is relevant to the manner in which he/she is to be treated during his/her stay and to the extent necessary for the performance of their work: the doctor's opinion as to whether the person is in a state of health that allows him to be detained and whether special attention or care is required during the stay (e.g., therapy, special dietary requirements, etc.);
- the detained persons will be allowed to retain copies of the reports on the performed medical examinations.

The PD Pančevo will provide a dedicated space for the storage of temporarily seized items and keep a record of each entry and removal of these items from the storage space.

The Ministry of Interior shall issue a by-law on the manner of selling, using or destroying temporarily seized objects.

The PD Pančevo will in all cases of the detention of citizens record the time when a close person of the detained person was informed about his/her deprivation of freedom.

The PD Pančevo will record the beginning of the detention of citizens from the moment of arrest or call response, on the basis of the Criminal Procedure Code and the Law on Misdemeanors.

The PD Pančevo will inform all detained persons about their rights by handing out a written notice on the rights of apprehended and detained persons, as per Article 4 of the Instructions on treatment of apprehended and detained persons.

In addition, pursuant to the Criminal Procedure Code, the apprehended and detained persons will also receive a written notice on the rights of the apprehended under Article 69, Paragraph 1 of the Criminal Procedure Code.

Information from the notice on the rights, delivered to persons detained pursuant to the Law on Misdemeanors and the Law on Road Traffic Safety, will be aligned with the applicable legal provisions.

Notices on rights will be delivered to detained persons as special forms made

in a language that the person can understand, in two copies, one of which will be placed within the case with the signature of the detained person as a confirmation that he/she has received the rights form or with the statement that the person refused to sign the admission of the form, while the detained person will be allowed to keep the other copy.

Police officers of the PD Pančevo will not always have to carry out the transport of persons detained by means of restraining devices, but will only do so after a careful inspection of specific circumstances that point to the necessity of restraining a certain person, and only in the cases foreseen by Law.

The Ministry of Interior will amend the provisions of the Instruction on the treatment of apprehended and detained persons in relation to the mandatory use of restraining devices, by prescribing that the restraining devices will be used only when it is really necessary, and not during the transportation of each and every person, as currently specified.

The Ministry of Interior will inform all police administrations to stop with the obligatory use of restraining devices during the transportation of the person whose apprehension is being carried out.

The PD Pančevo will consider the necessity of a comparative keeping of records on the detention of persons in both electronic form and in the form of an official note.

The PD Pančevo will hand over to the detained persons, for the purposes of reading and signing, written copies of the electronic records on detention, which are duly filled in and have all of the information on the treatment of the person during their stay entered, with the correct times of undertaking certain actions in relation to the detained person, i.e., times when their rights were exercised.

The Ministry of Interior will conduct training of police officers on keeping records on detention of citizens in electronic form.

The Ministry of Interior will add to the electronically standardized form of detention records a category in which data will be entered for instances where the detained person had objections to the way they were treated by the police officers, whose verification will be further done by the detained person signing off on a written record.

I-2 – Recommendations issued to institutions and district prisons

The Punishment-correctional institution in Niš¹⁰⁷

The Administration for the Enforcement of Penal Sanctions shall undertake measures in order to provide the necessary number of employees in the PCI Niš in accordance with the needs of the Institute.

The Administration for the Enforcement of Penal Sanctions will provide new uniforms for members of the Security Service of the PCI Niš.

The PCI Niš will provide the conditions for the employment of detained persons and will inform the detained persons and the court of this opportunity.

The PCI Niš will provide partitions in a shared bathroom designed for detained persons, in order to ensure their privacy while showering.

The PCI Niš will replace the worn out mattresses with new ones.

The Punishment-Correctional Institution in Sremska Mitrovica¹⁰⁸

The PCI Sremska Mitrovica will provide appropriate bedding, and especially appropriate mattresses, for persons deprived of liberty.

The PCI Sremska Mitrovica will provide an adequate quantity of sanitary towels in sanitary packages for female detained persons.

The PCI Sremska Mitrovica will implement the available measures and activities in order to influence sentenced foreigners to maintain personal hygiene, as well as the hygiene of the premises in which they reside. The Institute will create conditions for the maintenance of said premises by providing the necessary chemicals and equipment.

The PCI Sremska Mitrovica will remove the moisture from all of the walls in the Pavilion on Zelengora, and then carry out hygienic painting of the rooms.

The Administration for the Enforcement of Penal Sanctions in cooperation with the PCI Sremska Mitrovica will undertake measures to prevent the detention of convicted persons for period longer than 30 days.

The Administration for the Enforcement of Penal Sanctions will submit a declaration in response to the letter sent by the PCI Sremska Mitrovica for

¹⁰⁷ Report on the visit to PCI of Niš 281-88/17 dated November 10th, 2017.

¹⁰⁸ Report on the visit to PCI Sremska Mitrovica 281-34/17 dated June 22nd, 2017.

the purpose of amending the existing of the Guidelines on the redirecting of convicted, sentenced and detained persons to institutions for enforcement of penal sanctions, in order to relieve the accommodation capacities within the Institute.

The Administration for the Enforcement of Penal Sanctions shall undertake the necessary measures and provide the appropriate number of employees in the treatment sector of the PCI Sremska Mitrovica.

The Administration for the Enforcement of Penal Sanctions shall take the necessary measures in order to increase the number of members of the Security Service and align it with actual needs of the PCI Sremska Mitrovica.

The Administration for the Enforcement of Penal Sanctions, in cooperation with correctional institutions, will amend the current "Risk Assessment Questionnaire" of the convicted persons or will develop additional risk and need assessment tools when reviewing the treatment programs, in which they will primarily take into account the behavior and engagement of convicted persons execution of the sentence and achieved results in the implementation of the adopted program of treatment.

The PCI Sremska Mitrovica will undertake the necessary measures and will include a large number of convicted persons in education and vocational training according to their needs and potentials.

The PCI Sremska Mitrovica will increase the number of employed convicted persons, i.e. will hire all those convicted who have been assigned through the program of treatment.

The PCI Sremska Mitrovica will provide a protection of privacy for all persons deprived of liberty while showering in private bathing rooms.

The PCI Sremska Mitrovica will also issue certificates to the detained persons on the delivery of written consignments to the official persons of the Institute.

The PCI Sremska Mitrovica will display noticeable notices of video surveillance in all premises under such video surveillance.

The Administration for the Enforcement of Penal Sanctions and the PCI Sremska Mitrovica will undertake the necessary measures in order to improve the video surveillance system in the Institute, that is, to provide more coverage and enable the storage of recorded material for at least 30 days.

The PCI Sremska Mitrovica will without delay install alarms for the alerting of guards in special rooms where close persons can visit.

The PCI Sremska Mitrovica will continue to improve the alarm system, by setting an alarm for alerting the guards, repairing faulty buttons and removing physical barriers when accessing buttons in all accommodation units.

At the Punishment-Correctional Institution in Sremska Mitrovica, the examination of the convicted person after applying the coercive measures will be carried out in accordance with the Istanbul Protocol.

Medical reports on examinations carried out after applying the coercive measures will include a detailed description of the incurred injuries, allegations on the manner of the injuries of the person under whom the coercive measures were applied, the opinion of the doctor on the connection between the applied measures and the resulting injuries.

Injuries of the persons deprived of their freedom shall be recorded using a special form intended for that purpose, with a map of the body and the injuries pointed out, which shall then be stored in a medical records storage.

Injuries of the persons deprived of their freedom will be photographed and such photographs kept in a medical records storage.

All injuries of the person deprived of their freedom shall be recorded in a book of injuries.

In the PCI Sremska Mitrovica, persons who are deprived of liberty will have their legs restrained during the apprehension exceptionally, if the authorized person decides so in a specific case, taking into account the tendencies of the person whose apprehension is being carried out, his/her physical constitution and other information.

At the Punishment-Correctional Institution in Sremska Mitrovica, orders for the apprehension of persons deprived of liberty will contain the tendencies of the person whose apprehension is being carried out and which are of importance for such apprehension.

The Administration for the Enforcement of Penal Sanctions will provide the members of the Security Service of the PCI Sremska Mitrovica with uniforms and replacement of uniforms in accordance with the prescribed expiry dates.

The PCI Sremska Mitrovica, in addition to the notice on the rights to legal assistance for convicted persons in the disciplinary procedure, will submit a list of law graduates from the Institute who can provide them with assistance if they do not have their own proxy.

The Treatment Services will, within the amends for the treatment program of persons who have been assigned a special measure of accommodation under enhanced supervision, establish new individual goals and accordingly

include them in the planned activities and take the necessary measures in order to increase the attention of the competent services to these persons. They will also be allowed access to the television program.

The explanation for the decision on the application of special measures shall state the established factual state of the matter, the relevant legal regulations and the reasons which, in view of the established factual state of the matter, indicate the decision to, in this specific case, order an extension or abolishment of the accommodation under enhanced supervision, or to determine or abolish solitary confinement.

The Punishment-Correctional Institution in Čuprija¹⁰⁹

In all the bedrooms of the main building, the PCI Čuprija will form restrooms that are completely separated, by walls and doors, from the rest of the room, also providing ventilation and replacing worn out sanitary facilities throughout the Institute.

The PCI Čuprija will undertake the necessary measures and activities to ensure that any person deprived of their freedom will, under the law, be provided with at least 4 square meters of space, not counting the square footage of the sanitary node when in the room - dormitory, or 14 square meters for three prisoners, 18 square meters for four prisoners, etc.

In the PCI Čuprija, persons who were assigned a police detention will be accommodated in separate rooms - dormitories, separated from imprisoned persons and persons serving prison sentences.

The PCI Čuprija will provide the necessary conditions for the respecting of privacy when showering in common bathrooms within the Institute and will solve without delay any leakage of water in the bathrooms in Pavilion B.

The PCI Čuprija will undertake the necessary measures and activities in order to provide an adequate supply of fresh air in the dormitory room in the main building, in which the sentenced persons are located.

The PCI Čuprija will provide persons deprived of freedom with food needed to maintain their good health and strength, and among other things, at least twice a week they will be provided with fresh fruit.

It is necessary to consider whether the assortment of products in the canteen is in line with the needs and financial capabilities of persons deprived of liberty.

¹⁰⁹ Report on the visit to the PCI Čuprija 281-33/17 dated June 7th, 2017.

In the Punishment-Correctional Institution in Čuprija, persons deprived of liberty will receive written and detailed responses in the event of refusal of requests addressed to the warden of the Institute, which will simultaneously inform them of the possibility to submit a complaint with the Director of the Administration for Enforcement of Penal Sanctions.

The warden of the Punishment-Correctional Institution in Čuprija will establish regular periodic tours of persons deprived of liberty in order to get acquainted with the way they are treated, which will be further recorded in an appropriate book.

In the Punishment-Correctional Institution in Čuprija, persons deprived of liberty will be allowed to submit written requests for confidential interviews with the warden of the Institute through a special mailbox.

Mailboxes for requests from persons deprived of liberty for confidential interviews with the warden of the Institute will be available to all persons deprived of liberty, with their purpose clearly indicated, locked and with their keys kept exclusively with the warden himself.

During the tours of the Institute, the warden will check the contents of the special mailboxes and take into consideration the written documents submitted in this manner.

The Punishment-Correctional Institution in Čuprija will obtain from the authority of the procedure (the public prosecutor or the court that has determined the evaluation) the written findings and opinions of the expert who conducted the inspection and autopsy of the body of the person who was deprived of liberty at the time of death.

The Punishment-Correctional Institution in Čuprija will cease the practice of obligatory restraining of convicted persons who are classified into closed departments during the apprehension from and to the special room and they will apply restraining measures on the convicted persons only if the previously prescribed conditions have been fulfilled for the application of this measure.

The Punishment-Correctional Institution in Čuprija will take the necessary measures to keep all video surveillance footage for a period longer than 30 days and to eliminate the technical shortcomings in the video surveillance system that prevent the usage of recorded material.

The Administration for the Enforcement of Penal Sanctions will take necessary measures to provide funds for the improvement of the video surveillance system at the Correctional Institution in Čuprija.

The Administration for the Enforcement of Penal Sanctions will provide the members of the Security Service of the Punishment-Correctional Institution in Ćuprija with uniforms and the replacement of uniforms in accordance with prescribed expiry dates.

In the Punishment-Correctional Institution in Ćuprija, employees whose insurance periods are calculated with an increased duration so that for every 12 months, effectively carried out through the performance of their jobs, no more than 16 months is accounted in terms of insurance, will in the future be redirected to health control and will be referred to health control at least once in every 3 years.

The Administration for the Enforcement of Penal Sanctions will organize and implement new forms of training for the members of the Security Service of the Punishment-Correctional Institution in Ćuprija on the treatment of violent persons deprived of liberty.

The Punishment-Correctional Institution in Ćuprija will improve the documentation of the violation of the persons deprived of liberty by: having another medical examination after the application of coercive measures carried out between the twelfth and twenty-fourth hour after the application of such measures; having medical reports on the examinations carried out after the application of the measure of coercion contain the allegations of the person, to whom the measures of coercion were applied, on the manner of occurrence of the violation and the opinion of the doctor on the connection between the applied measures and the resulting injuries; have the injuries recorded in a special form intended for this purpose, with a map of the body and the injuries pointed out, which will then be stored in a medical records storage; photograph the injuries and keep the photographs in a health records storage; have the injuries of a person deprived of their freedom recorded in a book of injuries.

In the Punishment-Correctional Institution in Ćuprija, restraining coercive measures will be applied in the medical environment and under the supervision of a psychiatrist or a neuropsychiatrist.

The physical and mental state of the person undergoing these measures will be continuously and directly monitored by the medical staff and the application of the measures will be suspended as soon as the reasons behind its application cease to exist.

The Punishment-Correctional Institution in Ćuprija will immediately report to the trial judge on the implementation of measures used to maintain order and security against the detained person.

In the Punishment-Correctional Institution in Čuprija, any use of coercive measures will be recorded within the appropriate records, and for any use of these measures, prescribed reports will be compiled.

In the Punishment-Correctional Institution in Čuprija, detained persons and convicted persons will be restrained with their hands behind their backs during the apprehension only when so decided in specific cases and by an authorized person, taking into account the tendencies of the person who is being apprehended, his / her physical constitution and other information.

In the Punishment-Correctional Institution in Čuprija, tendencies of persons deprived of liberty will be entered for the orders for apprehension and for those who are being apprehended, and are also of importance during said apprehension.

In the Punishment-Correctional Institution in Čuprija, in case of escape during the apprehension of a person deprived of liberty, firearms shall be used only when the prescribed conditions for this have been fulfilled and the use of firearms will be notified to the competent judge for the enforcement of penal sanctions.

The Administration for the Enforcement of Penal Sanctions will investigate the existence of the responsibility of the officers who, during the apprehension of the convicted person in front of the Basic Court in Paraćin, ordered the use of firearms in the event of the escape of the convicted person, used firearms and controlled the legality and regularity of the use of firearms.

The Administration for the Enforcement of Penal Sanctions will employ a sufficient number of law graduates in the Punishment-Correctional Institution in Čuprija so that persons deprived of liberty, against whom disciplinary proceedings are conducted before the disciplinary commission, and who do not have their own proxies, will have the opportunity to use professional legal assistance through lawyers from the Institute.

In all disciplinary cases conducted against the convicted persons in the CPI Čuprija, the facts and findings of the defense supporting the convicted person will be checked.

In the Punishment-Correctional Institution in Čuprija, in all decisions on the pronouncement of a disciplinary measure, the convicted person will be instructed on his / her right to appeal against a decision to the judge for enforcement of penal sanctions of the Higher Court in Jagodina.

The Judge for Enforcement of Penal Sanctions of the Higher Court in Jagodina will visit convicted persons at least once every 4 months, and detained persons at least once every 15 days, at the Punishment-Correctional

Institution in Čuprija to stay informed on the conditions in which they reside and the exercise of their rights.

The Administration for the Enforcement of Penal Sanctions will ensure that the employees of the PCI Čuprija treatment sector will be primarily engaged in the treatment activities at the Institute.

In their future work on the lists of individual activities in the treatment area, the treatment sector of the PCI Čuprija will list the procedures and activities that were carried out in order to realize set individual goals.

In the future work on the lists of individual activities in the treatment area, the treatment sector of the PCI Čuprija will give precise explanations on the unfulfilled / partially fulfilled individual goals based on the implemented procedures and activities.

The treatment sector at the PCI Čuprija will determine the criteria on the basis of which it will be possible to assess whether the set individual goals were fulfilled or not.

Treatment employees will precisely fill out the sections "Opinion of the Treatment Employee", citing all the activities envisaged by the Directive on the manner of work of treatment employees.

Treatment employees will, during the formation of the "Opinion on the program of treatment", indicate all high-risk areas of functioning established on the basis of test results.

Treatment employees will set individual goals in accordance with the high-risk areas assessed and the needs of the convicted persons.

The Administration for the Enforcement of Penal Sanctions shall undertake the necessary measures and organize training for treatment employees for the application of specialized treatment programs and group work.

The Administration for the Enforcement of Penal Sanctions and the PCI Čuprija will undertake the necessary measures in order to introduce specialized treatment programs and group work in the correctional work of the convicted persons.

The PCI Čuprija shall undertake the necessary measures to enable convicts with unfinished elementary education to be included in the vocational training program in accordance with the interests, potentials and needs of the convicted persons.

The treatment service will engage and convicted persons from group "B" in accordance with the established degree of risk and needs.

In the walking areas within the administrative building of the PCI Ćuprija, canopies will be installed in dimensions needed to protect all the persons walking from rain / snow.

The PCI Ćuprija will undertake the necessary measures and engage a single doctor for an indefinite period, and ensure the continuous presence of a health care worker at the Institute 24 hours a day and seven days a week.

In the PCI Ćuprija, the doctor will, in addition to expert meetings when submitting oral reports, provide the manager with appropriate reports in written form as well, with findings and recommendations - periodic reports on the health condition of the convicted persons; a report whenever he / she finds that the physical or mental condition of the convicted person has been violated or jeopardized due to an extension or the manner of serving a sentence, as well as recommendations for dealing with that person; findings and recommendations on the quantity and quality of food for convicted persons; findings and recommendations on improvement of hygiene in the institution and in prisoners, sanitary conditions and devices, heating, lighting and ventilation in the premises where the convicted persons are located; findings and recommendations regarding the necessary physical activities of the convicted persons.

The District Prison in Belgrade¹¹⁰

DP Belgrade shall provide persons detained in custody with written notifications on their rights and obligations, in languages understood by detained persons.

DP Belgrade shall make the analysis of needs for employees at the Security Service and submit it to The Administration for the Enforcement of Penal Sanctions.

The Administration for the Enforcement of Penal Sanctions shall alter the systematization of job positions at DP Belgrade by stipulating additional employees at the Security Service of the Institute.

The Administration for the Enforcement of Penal Sanctions shall employ additional employees at the Security Service of DP Belgrade.

DP Belgrade shall obtain from the bodies of the procedure (public prosecutor or court which ordered expert testimony) the written result and the opinion of the expert who performed the inspection and autopsy of the corpse of the person who was at the time of death deprived of liberty.

¹¹⁰ The report on the visit of DP Belgrade 281-108/17 dated 25th December, 2017.

The Ministry of Health shall supervise the professional work of the Service for health protection of the DP Belgrade.

The District Prison in Vranje¹¹¹

At DP Vranje the persons to whom the detention is determined by police or prosecutor's office shall be accommodated in special premises –dormitories, separately from the persons detained in custody or persons serving the prison sentence.

DP Vranje shall provide that each dormitory accommodates as many persons as it is stipulated by valid standards.

DP Vranje shall provide proper sanitary equipment for each communal bathroom and bathrooms in the custody dormitories.

At the custody units the persons with difficulties in movement shall be provided with a more appropriate access to the restroom.

DP Vranje shall adjust the toilet to the needs of persons with disabilities at the dormitory designated for the accommodation of these persons.

DP Vranje shall provide persons deprived of their liberty with suitable mattresses.

DP Vranje shall enable persons in custody to spend their available time outside dormitories at communal space for daytime staying during the day together with other persons in custody with whom their contact is not forbidden.

In case of absence of an employed professional chef, another professional chef should be engaged to prepare meals for persons deprived of their liberty.

Administration for the Enforcement of Penal Sanctions will take necessary measures so that DP Vranje could employ/ engage as needed another professional chef.

DP Vranje shall enable all persons deprived of their liberty to have nutrition suitable for keeping their good health and strength, among other things, they will be provided with fruit at least twice per week.

DP Vranje shall take measures so as to complete the overall renovation of the kitchen.

DP Vranje shall hand in to persons deprived of their liberty the written notification executed in the language understood by this person stating as a

¹¹¹ The report on the visit of DP Vranje 281-65/17 dated 25th September, 2017.

minimum: (a) relevant regulations, (b) their rights including the stipulated manner for obtaining information and access to legal advice and assistance, as well as the procedures for filing requests and complaints, (c) their obligations, including potential disciplinary sanctions and (d) all other issues necessary for the adaptation of the person to the Institute. The persons deprived of their liberty will be allowed to keep this notification.

DP Vranje shall state in the notification on the right to legal assistance to convicted persons in the disciplinary procedure the names of graduate lawyers from the Institute who are obliged to provide them with such assistance, if they do not have their own attorney.

DP Vranje shall provide convicted persons with the right to exercise their right to legal assistance at the disciplinary procedure even before the dispute (by enabling the provider of legal assistance to have consultations with the convict against whom the procedure was initiated, to be introduced to the records of subjects and other activities related to the legal assistance).

DP Vranje shall establish and keep unique record of filings of persons deprived of their liberty.

DP Vranje shall keep in the corresponding registration units internal filings of persons deprived of their liberty together with answers of official persons and other documentation which is related to actions upon filings.

In DP Vranje persons deprived of their liberty shall be enabled to send their written requests for confidential conversations with the Institute manager via a special mail box.

The mail box for the requests of persons deprived of their liberty for confidential conversations with the Institute manager shall be available to all persons deprived of their liberty, labeled for this purpose, locked and the key to it will be held exclusively by the manager.

The manager shall check the content of this special mail box during the de-tour of the Institute and take for processing the letters sent in this manner.

The manager shall have conversations with all persons deprived of their liberty who requested to talk to him.

DP Vranje shall issue to the persons in custody the confirmations on the hand-over of a written shipment sent outside the Institute.

D P in Vranje shall deliver to the Administration for the Enforcement of Penal Sanctions the elaborated plan and proposal for the procurement of scanners for the inspection.

The Administration for the Enforcement of Penal Sanctions shall provide for DP Vranje scanner for the inspection.

DP Vranje shall take required measures to keep all the recordings of the video surveillance for the period not less than 30 days.

The Administration for the Enforcement of Penal Sanctions shall take all necessary measures so as to provide the funds for the improvement of the video surveillance system in DP Vranje.

DP Vranje shall execute analysis of the needs for employees at the Security Service and submit it to The Administration for the Enforcement of Penal Sanctions.

The Administration for the Enforcement of Penal Sanctions shall alter the systematization of job positions at DP Vranje, by stipulating additional employees at the Institute Security Service.

The Administration for the Enforcement of Penal Sanctions shall employ additional workforce at the Security Service of DP Vranje and simultaneously take care about the necessity of gender-diversified employment.

At DP Vranje employees whose years of service covered by insurance are calculated with increased duration so that each 12 months effectively spent in the job performance are calculated up to not more than 16 months of the years of service covered by insurance will be sent for medical examination without any further delay.

At DP Vranje employees whose years of service covered by insurance are calculated with increased duration so that each 12 months effectively spent in the job performance are calculated up to not more than 16 months of the years of service covered by insurance in future will be sent for medical examination at least once in three years.

The Administration for the Enforcement of Penal Sanctions shall provide the members of the Security Service of DP Vranje with uniforms and replacement of parts of uniforms in compliance with prescribed expiration deadlines.

Members of the Security Service of DP Vranje shall describe in greater details in written reports on the application of measures of coercion the manner how the measures are applied.

DP Vranje shall cease the practice in which the officials take tied persons deprived of their liberty to nearby institutions on foot.

The body of the disciplinary procedure against convicted persons at DP Vranje shall enter into the minutes from disputes all prescribed data.

The body of the disciplinary procedure shall, upon the conclusion of the dispute, enable the convicted person against whom the procedure is conducted, after he is introduced to the content of the minutes, to sign the minutes. If the convict does not want to sign the minutes, it shall be entered into the minutes as well as the reason why the signature is missing.

DP Vranje shall establish and keep the record of the disciplinary punishments of persons detained in custody.

The judge for the enforcement of penal sanctions of the High Court in Vranje should at least once in 4 months visit convicts and at least once in 15 days visit detained persons in custody in District Prison in Vranje, with the purpose of obtaining the information about the conditions in which they stay and the exercise of their rights.

The Administration for the Enforcement of Penal Sanctions shall employ persons to vacant job positions at the Probation's Office in Vranje, so that in future the officials for the operations at the Probation's Office would not be engaged via DP Vranje.

DP Vranje shall take measures and introduce into educational-corrective operation other forms of educational work, primarily group-educational work.

DP Vranje shall create conditions for the realization of set up individual goals.

Officials of the treatment in future activities shall accurately state the activities in the field "activities and treatment of the convict" with the aim of reducing the high level of risk for the field which was estimated as such.

DP Vranje shall take measures and offer persons deprived of their liberty a greater number of various trainings and courses.

DP Vranje shall include into trainings and courses all interested persons deprived of their liberty pursuant to interests and affinities and security risks.

DP Vranje shall take measures in order to complete systematized job positions for persons deprived of their liberty.

DP Vranje shall take measures in order to employ both convicts from "V" group and detainees from custody.

DP Vranje shall inform persons deprived of their liberty on the possibilities of using the gym and organize its usage.

DP Vranje shall take measures so as to enable all convicts to participate in cultural-artistic activities in their spare time.

DP Vranje shall provide and adequately equip special premises for visits of close persons.

DP Vranje shall engage enough nurses (medical technicians) so as to provide their constant (twenty-four hour) presence in the Institution.

DP Vranje shall provide services of at least one doctor psychiatrist who will be present in the Institution at least twice during the week, each time at least for four hours.

DP Vranje shall provide that all legally prescribed records referring to the provision of health protection are kept properly, especially the individual record on injuries of convicts (Injury Protocol), so the data obtained during the examination are entered into the Protocol.

The doctor at the Institution shall exclusively in writing submit to the manager: periodical reports on health condition of convicts, report every time when it is conferment that the physical or mental state of the convict is deteriorated or endangered due to extended or the manner of serving the sentence with the recommendation for the treatment of this person, including the possibility of the termination of penal enforcement, findings and recommendations with regards to necessary physical activities of convicts. Copies of written recommendations shall be kept in the archives of the Institution clinic.

DP Vranje shall provide that the clinic (a special room for the performance of medical examinations) apart from the existing equipment is equipped with neurological hammer and lamp; floor lamp for examination; device for giving oxygen with bottle; negatoscope for the examination of x-ray films, as well as other necessary equipment for medical examination and performance of outpatient interventions.

The Administration for the Enforcement of Penal Sanctions shall take measures from its competence so that DP Vranje would provide the necessary equipment for the clinic.

In DP Vranje the therapy of persons deprived of their liberty shall be exclusively provided by the medical staff.

DP Vranje shall, at a easily visible location in front of the doctor's office and/ or on the external side of the doctor's office, as well as in the very office, place clear prohibition for non-medical staff from being present at the medical examination of persons deprived of their liberty and the members of the Security Service will be informed about this.

During the performance of medical activities doors of the doctor's office must be closed.

Members of the Security Service are obliged to warn the doctor about all safety aspects which are relevant for passing the decision by the doctor about the presence of non-medical staff at the medical examination.

If the doctor requires the presence of non-medical staff at the examination and/or other medical activities, it is necessary that the fact about such request, reasons for that and the data on the present non-medical staff are recorded in medical documentation for the specific person deprived of their liberty.

DP Vranje shall provide that non-medical staff is not present at the medical examination of the person deprived of his liberty which is performed outside the Institution, that is, these medical examinations are performed out of the earshot and –unless the doctor requires otherwise –out of sight of prison officials.

Members of the Security Service are obliged to warn doctors to all security aspects which are relevant for doctor's decision-making on the presence of non-medical staff at the medical examination.

If the doctor requires the presence of non-medical staff to the examination and/or other medical activities, it is necessary that the fact on such request, reasons for that and data on the present medical staff are recorded (in the form of an official note of the members of the Security Service who performed the escort or in the report on the escort or in another adequate manner).

The Institution shall destroy all the tests (test kits) for the analysis –identification of the use of narcotics with expired expiration date, and provide the required amount of tests which are still good for usage.

The record on deaths at DP Vranje shall be kept for each death so that the data on the performed autopsy are available as following: cause of death, circumstances which led to death and contributing factors.

Doctors at DP Vranje shall provide the Institution manager in writing with the results and recommendations on the improvement of the hygiene in the Institution and the state of sanitary conditions and devices, heating, lighting and ventilation at premises where persons deprived of their liberty reside.

The Ministry of Health shall perform external examination of the quality of the professional operation of health care employees at DP Vranje.

The Ministry of Health shall submit a copy of the report on the verification of quality to the National Preventive Mechanism.

District Prison in Novi Pazar¹¹²

The Administration for the Enforcement of Penal Sanctions shall take necessary measures and activities from its competence with the aim of the provision of the corresponding facility for the needs of District Prison in Novi Pazar which fulfills the conditions stipulated by valid laws and standards.

At DP Novi Pazar the persons with designated police detention shall be accommodated in special premises-dormitories, separately from persons in custody and persons who serve the prison sentence.

DP Novi Pazar shall provide persons deprived of their liberty with appropriate sheets, especially appropriate mattresses and blankets.

DP Novi Pazar shall provide premises with the special purpose for the daytime staying of persons in custody, equipped with sufficient number of chairs and corresponding number of tables, as well as technical conditions for the use of radio and television program.

DP Novi Pazar shall state in the notification on the right to legal assistance to convicted persons in the disciplinary procedure graduated lawyers from the Institution who may provide this assistance, if they do not have their attorney.

In DP Novi Pazar persons deprived of their liberty shall be enabled to send their written requests for confidential conversations with the Institution manager via a special mail box.

The mail box for the requests of persons deprived of their liberty for confidential conversations with the Institution manager shall be available to all persons deprived of their liberty, labeled for this purpose, locked and the key to it will be held exclusively by the manager.

The manager shall check the content of this special mail box during the de-tour of the Institution and take for processing the letters sent in this manner.

DP Novi Pazar shall obtain from the bodies of the procedure (public prosecutor or court which ordered expert testimony) the written result and the opinion of the expert who performed the inspection and autopsy of the corpse of the person who was at the time of death deprived of liberty.

DP Novi Pazar shall set the video surveillance at lateral hallway near the office on duty and a written notification on it on a visible place.

At DP Novi Pazar employees whose years of service covered by insurance are calculated with increased duration so that each 12 months effectively spent

¹¹² Report on visit to DP Novi Pazar 281-17/17 dated April 13th, 2017.

in the job performance are calculated up to not more than 16 months of the years of service covered by insurance will be sent for medical examination at least once in 3 years.

The Administration for the Enforcement of Penal Sanctions shall provide the members of the Security Service of DP Novi Pazar with the uniform and the replacement of parts of uniforms in compliance with prescribed expiration deadlines.

DP Novi Pazar shall make the push-buttons for calling members of Security Service in dormitories easily accessible.

At DP Novi Pazar persons who are subjected to the disciplinary measure of sending to solitary confinement will be controlled by doctor on a daily basis, and the manager and educator shall visit them once in seven days. Detours of doctor, manager and educator and their findings and observations shall be recorded in the book of the enforcement of disciplinary measure.

DP Novi Pazar shall properly record visits of the judge for the enforcement of penal sanctions.

The Administration for the enforcement and penal sanctions shall take required measures so as to fulfill the job position at treatment stipulated by the current systematization at DP Novi Pazar.

DP Novi Pazar shall take measures and introduce into the educational-corrective operation other forms of educational work, primarily group-educational work.

DP Novi Pazar shall take measures so as to create conditions for the implementation and realization of individual programs of treatment.

The Administration for the Enforcement of Penal Sanctions shall take the measures in order to introduce specialized treatment programs in the correctional work of the convicted persons.

The Administration for the Enforcement of Penal Sanctions shall take measures and organize trainings for officials of the treatment for the application of specialized programs of treatment.

DP Novi Pazar shall accommodate convicts in dormitories pursuant to the group where they are categorized and assessed risk level.

DP Novi Pazar shall not accommodate in dormitories together convicts and persons punished for misdemeanor.

DP Novi Pazar shall take measures so that persons deprived of their liberty are included into cultural-artistic activities in their free time.

At DP Novi Pazar the right to the reception of visits without supervision at the premises for visits shall be granted and taken from the convicted persons in compliance with the prescribed procedure for granting and depriving of the extended rights.

DP Novi Pazar shall provide and adequately equip special premises for visits of close persons.

The Administration for the Enforcement of Penal Sanctions shall take measures from its competence so as to provide at DP Novi Pazar special premises for visits of close persons.

The Administration for the Enforcement of Penal Sanctions shall employ one doctor psychiatrist at the District Prison Novi Pazar so that the doctor specialist of psychiatry (or neuropsychiatry) is present at the Institution at least twice during the week, every time at least for four hours.

The Administration for the Enforcement of Penal Sanctions shall in District Prison in Novi Pazar employ sufficient number of medical technicians, so that at the Institution it would be provided that the continual (working and non-working days) -24 hours –presence of at least one official with medical qualification.

DP Novi Pazar shall provide that only medical staff has the access to medical documentation –personal medical files and other records which contain medical data and personal information of patients, which are kept at the ambulance.

DP Novi Pazar shall provide that legally prescribed records which refer to the provision of health protection, especially the special record on the injuries of convicts are kept properly and that the data obtained during the examination are entered into the Protocol.

Doctors at DP Novi Pazar shall implement all their competences stipulated by Article 115 and submit to the manager in writing all recommendations related to provisions from Article 116 of the Law on the Enforcement of Penal Sanctions.

Especially, the Institution doctor shall submit in writing: periodical reports on the health of convicts, the report whenever it is confirmed that physical or mental state of the convict is compromised or endangered due to extension or the manner of serving the sentence with the recommendation for the treatment of this person, including the possibility of the termination of the enforcement of the penal, findings and recommendations with regards to the necessary physical activities of convicts, findings and recommendations

on the improvement of hygiene at the institution and with convicts, the state of sanitary conditions and devices, heating, lighting and ventilation at premises where convicts reside.

Copies of given written recommendations shall be kept at the archive of the Department for health protection.

DP Novi Pazar shall provide that the ambulance, apart from the existing equipment is equipped with neurological hammer and lamp; floor lamp for examination; device for giving oxygen with bottle; AMBU set for reanimation; negatoscope for the examination of x-ray films, and surgery set of instruments for small surgical interventions at cassette and other necessary equipment for medical examination and performance of clinical interventions.

DP Novi Pazar shall provide and equip special premises for isolation of ill convicts.

The Administration for the Enforcement of Penal Sanctions shall assume measures from its competence so that DP Novi Pazar provides necessary equipment for the ambulance.

DP Novi Pazar shall, at a easily visible location in front of the doctor's office and/or on the external side of the doctor's office, as well as in the very office, place clear prohibition for non-medical staff from being present at the medical examination of persons deprived of their liberty and the members of the Security Service will be informed about this.

During the performance of medical activities doors of the doctor's office must be closed.

Members of the Security Service are obliged to warn the doctor about all safety aspects which are relevant for passing the decision by the doctor about the presence of non-medical staff at the medical examination.

If the doctor requires the presence of non-medical staff at the examination and/or other medical activities, it is necessary that the fact about such request, reasons for that and the data on the present non-medical staff are recorded in medical documentation for the specific person deprived of their liberty.

The Ministry of Health shall perform the external verification of the quality of professional work of health care employees at DP Novi Pazar.

The Ministry of Health shall submit a copy of the report on the verification of the quality to the National Preventive Mechanism.

District Prison in Novi Sad¹¹³

The room no. 6, which is used for the enforcement of the disciplinary measure of sending to solitary confinement, does not meet the standards with regards to the size, so in future it will not be used for the accommodation of persons deprived of their liberty.

DP in Novi Sad shall take measures and provide the accommodation for persons who are under the measure of increased supervision in compliance to valid standards.

District Prison in Pančevo¹¹⁴

DP in Pančevo shall issue to the persons in custody the confirmations on the handover of a written shipment to official persons of the Institution.

At DP in Pančevo the doctor shall examine convicts upon the return from the temporary absence from the Institution.

At DP Pančevo doctor shall describe in great details in the documentation the injuries if persons deprived of their liberty emerged as the consequence of the application of the measure of coercion.

At DP Pančevo the doctor shall submit periodical reports on the health condition of convicts to the Institution manager.

At DP in Pančevo, in case of traumatic injuries of persons deprived of their liberty: with the report on medical examination a special form will be adjusted with the scheme (map) of the body where traumatic injuries will be drawn in and which will be kept in the medical file of the person; injuries will be photographed and the photos shall be kept at the medical file; a special record on injuries of persons deprived of their liberty (trauma register) will be kept and in it all injuries noticed will be entered.

At DP in Pančevo programs of aggressive behavior conduct shall be entered into the programs of treatment of convicts.

The Administration for the Enforcement of Penal Sanctions shall provide the members of the Security Service of D P in Pančevo with uniforms and replacement of parts of uniforms in compliance with prescribed expiration deadlines.

The Administration for the Enforcement of Penal Sanctions and DP Pančevo shall take measures so as to organize the training of the member of the Security Service of D P Pančevo for the provision of first aid and reanimation measures.

¹¹³ Report on the visit to DP Novi Sad 281-84/17 dated 16th November, 2017.

¹¹⁴ Report on the visit to DP Pančevo 281-9/17 dated 8th March, 2017.

District Prison in Pančevo – Department in Vršac¹¹⁵

DP Pančevo – Department in Vršac shall provide appropriate sanitary devices in all communal bathrooms as well as restrooms at premises-dormitories of the custody. At the premises –dormitories, where it is necessary, the outdated linoleum used to cover floors shall be replaced.

DP Pančevo – Department in Vršac shall provide appropriate beds for persons in custody.

The Administration for the Enforcement of Penal Sanctions shall implement measures and activities so as to provide for the needs of DP Pančevo – Department in Vršac the appropriate facility for the accommodation of persons deprived of their liberty where material conditions will be in compliance with valid standards.

DP Pančevo – Department in Vršac in case of absence of the employed professional chef shall engage another professional chef for the preparation of meals to persons deprived of their liberty.

The Administration for the Enforcement of Penal Sanctions shall assume measures so that DP Pančevo – Department in Vršac could, if needed, engage another professional chef.

DP Pančevo – Department in Vršac shall put on a visible place at the dining room menus not later than the last day of the week for the following week.

The person deprived of liberty shall be given by official persons at the moment of handing the documents the confirmation on the reception of them, and this confirmation shall contain name and surname of the person to whom the document was handed, title (name and surname) of the recipient, date of the handover, record number, signature of the official person and stamp of DP Pančevo – Department in Vršac.

DP Pančevo – Department in Vršac shall without any delay take measures so as to improve the system for video surveillance by keeping the recorded video footages in the duration not shorter than 30 days.

The premises designed for police detention shall be covered by the system for video surveillance.

DP Pančevo – Department in Vršac shall without any delay take measures so as to install the system (alarm) for connecting the guard at the premises for the accommodation of persons deprived of their liberty.

¹¹⁵ The report on the visit to DP Pančevo – Department in Vršac, no. 281-106/16 dated 12th January, 2017

The doctor at DP Pančevo – Department in Vršac shall immediately upon the application of the measure of coercion examine the person deprived of liberty who was subjected to the application of the measure of coercion and it will be repeated once again between 12 and 24 hours since the application of the measure. At the report the exact time of medical examinations shall be stated.

If during the examination the doctor confirms that the person deprived of liberty is injured, the report shall contain also the statements of persons subjected to the application of the measure of coercion on the manner how the injuries occurred and the opinion of doctors on the connection between applied measure and occurred injuries.

At DP Pančevo – Department in Vršac educational staff in their future work, after every conversation with the convict make a note on the content of the performed conversation and attach it to the file of the convict and properly keep the list of implemented individual, group or other treatment activities designated by the individual program of treatment.

DP Pančevo – Department in Vršac shall take measures so that the persons deprived of their liberty are enabled to attend educational programs and programs for professional training.

DP Pančevo – Department in Vršac shall take measures so as to provide work engagement for as many persons deprived of their liberty as possible.

At the facilities for the residence of persons deprived of their liberty in the fresh air (the walkway) DP Pančevo – Department in Vršac shall set up eaves of dimensions suitable for all persons taken out for a walk to find the shelter from atmospheric precipitations.

DP Pančevo – Department in Vršac shall enable persons deprived of their liberty to do physical activities in the closed space.

DP Pančevo – Department in Vršac shall enable persons in custody with the staying in the fresh air in the duration of at least two hours per day.

DP Pančevo – Department in Vršac shall take measures so as to include persons deprived of their liberty into purposeful activities during their spare time.

DP Pančevo – Department in Vršac shall provide and adequately equip a special room for visits of close persons so as to enable persons deprived of their liberty the exercise of the right to staying at a special room.

DP Pančevo – Department in Vršac shall provide conditions to have visits to persons in custody which last one hour and inform the competent court on the existence of the possibility of the Institution to organize visits of persons in custody pursuant to regulations.

DP Pančevo – Department in Vršac shall provide that only medical staff has the access to medical documentation –personal medical files and other records which contain medical data and personal information of patients.

DP Pančevo – Department in Vršac shall adequately equip the room for the performance of medical examinations, in compliance with valid law and standards and shall provide a separate patient room for the isolation of sick persons deprived of their liberty.

DP Pančevo – Department in Vršac shall take measures so as to engage at the Institution two medical technicians, so as to provide the presence of persons with medical qualification, who shall, apart from other professional activities, perform the classification of medicines so that it does not occur that this task is performed by non-medical staff.

Medical examinations of persons deprived of their liberty shall be performed only in the presence of health care employees except in cases when the health care employee does not require it otherwise.

Members of the Security Service are obliged to warn the doctor about all safety aspects which are relevant for passing the decision by the doctor about the presence of non-medical staff at the medical examination.

If the doctor requires the presence of non-medical staff at the examination and/or other medical activities, it is necessary that the fact about such request, reasons for that and the data on the present non-medical staff are recorded in medical documentation for the specific person deprived of their liberty.

DP Pančevo – Department in Vršac shall, at a easily visible location in front of the doctor's office and/or on the external side of the doctor's office, as well as in the very office, place clear prohibition for non-medical staff from being present at the medical examination of persons deprived of their liberty and the members of the Security Service will be informed about this.

During the performance of medical activities doors of the doctor's office must be closed.

The doctor at DP Pančevo – Department in Vršac shall examine every detainee in custody and persons serving the prison sentence immediately after their reception into the Institution, persons serving the prison sentence after the return from the temporary absence and before the discharge from the Institution.

The doctor at DP Pančevo – Department in Vršac shall without any delay deliver the written report to the Institution Manager when during the

examination the existence of bodily injuries of the persons deprived of their liberties is confirmed.

At DP Pančevo – Department in Vršac the doctor shall submit to the manager in writing corresponding reports, findings and recommendations –periodical reports on health condition of convicts; the report always when it is confirmed that the physical or mental state of the convict is compromised or endangered due to extension or the manner of serving the sentence with the recommendation for the treatment of this person, findings and recommendations on the quantity and quality of food for convicts; findings and recommendations on the improvement of hygiene in the Institute and with conflicts, state of sanitary conditions and devices, heating, lightning and ventilation in the premises where convicts reside; findings and recommendations with regards to necessary physical activities of convicts.

The manager of DP Pančevo – Department in Vršac shall without any delay take measures which are recommended to him by the doctor

The Ministry of Health shall without any delay perform the professional supervision of the work of the doctor at DP Pančevo – Department in Vršac.

The Ministry shall submit to the National Preventive Mechanism the copy of the report from the supervision.

I-3 – Recommendations issued to social institutions of home type

The Home for Persons with Mental Disabilities “Otthon” Stara Moravica¹¹⁶

The Ministry of Labor, Employment, Veteran and Social Affairs shall take all available measures and activities and realize the cooperation with the Provincial Secretariat for Social Policy, Demography and Gender Equality so as to transform the Home “Otthon” and which will have as the consequences relocation of beneficiaries from the Home, taking into consideration that due to its unsuitable location, beneficiaries are not provided with adequate participation at social community or contact with external environment.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures with the aim of relocating users who are from very distant areas from the Home and the beneficiaries accommodated at the Home shall be provided with the possibility of using the Serbian language in the communication with the Home staff.

The Home shall make the analysis of the necessary number of employees of different profiles so that the users can be provided with adequate treatment in compliance with valid regulations and standards.

The executed analysis shall be delivered by the Home to the Ministry of Labor, Employment, Veteran and Social Affairs, Provincial Secretariat for Social Policy, Demography and Gender Equality as well as the Protector of Citizens.

The Ministry of Labor, Employment, Veteran and Social Affairs, in cooperation with the Provincial Secretariat for Social Policy, Demography and Gender Equality, shall take necessary measures so as to provide the required number of medical, caretaking and other staff in compliance with the estimated needs for adequate treatment of beneficiaries and functioning of the Home.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures from its competence with the aim of passing the regulations which will regulate the conditions and the process of limitation of the freedom of movement and physical obstruction of beneficiaries accommodated at the institutions of social protection of home type.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures so as to provide that to all beneficiaries of the Home, who pursuant

¹¹⁶ The report in the visit to Home for Persons with Mental Disabilities “Otthon” Stara Moravica, no. 281–87/16 dated 18th April, 2017.

to valid regulations exercise their right to pocket money, it is acknowledged and enabled.

The Ministry of Labor, Employment, Veteran and Social Affairs and Provincial Secretariat for Social Policy, Demography and Gender Equality shall perform the supervision over the work of competent centers for social work who failed to deliver to the Home required documentation on the legal status and guardians of beneficiaries. Based on the determined, the measures will be taken so that all required information and corresponding documentation with regards to the legal status and other important facts for each user accommodated at the Home are delivered.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures so that in all rooms of the Home not more than for users are accommodated and that they are equipped with furniture pursuant to the Rulebook on More Detailed Conditions and Standards for the Provision of the Social Protection Service.

The Home "Otthon" shall not accommodate male and female users together in rooms, unless they are partners out of wedlock or spouses.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures so that sanitary units are adapted at the Home "Otthon" and that there are separated for female and male users.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures so as to provide conditions for the respect of privacy of beneficiaries at the facilities for showering and at restrooms.

The staff of the Home "Otthon" in future shall not engage the beneficiaries in the assistance during the performance of caretaking tasks at the Home.

The Ministry of Labor, Employment, Veteran and Social Affairs and Provincial Secretariat for Social Policy, Demography and Gender Equality shall immediately take all required measures and activities so that at the Home "Otthon" without any delay to stop the prohibited practice of keeping beneficiaries in isolation and to provide these beneficiaries with furniture and care at less restrictive environment and the treatment which suits their needs and development of their capacities in compliance with valid regulations and standards.

The Ministry of Health in cooperation with the Ministry of Labor, Employment, Veteran and Social Affairs shall take measures with the aim of the protection of persons with mental and intellectual disabilities and review the provisions of the regulations which in a general manner regulate the

acceptance of the medical measure. Pursuant to valid regulations, if these persons are deprived of their legal capacity, acceptance of the medical measure is given by their guardian, who is rarely present at the moment when it should be applied to them. Furthermore, it is extremely important to prescribe the role of the person with mental and intellectual disabilities in the making of the decision on the application of medical measure and providing consent to it. In that sense, regulations should be provided so that the increased protection of these persons in the application of medical or scientific experiments is provided.

The Ministry of Labor, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality shall take measures so as to obtain sufficient number of orthopedic aids for persons completely or partially unable to move (wheelchair, walkers, etc.) with the purpose of providing easier walking of beneficiaries within the Home or out of it, as well as the EKG machine and oxygen bottle.

The Ministry of Labor, Employment, Veteran and Social Affairs in cooperation with Provincial Secretariat for Social Policy, Demography and Gender Equality shall take measures so as to provide at the Home "Otthon" adequately equipped room for the performance of dental interventions.

The Home "Otthon" shall ask local self-government bodies at whose territory it is located to provide the availability of authorized doctors with the aim of professional determination of the cause and time of death, which shall perform the examinations and issue Confirmations on death for beneficiaries who passed away at the institution.

The Ministry of Labor, Employment, Veteran and Social Affairs shall, in cooperation with relevant authorities, shall make the protocol on the activities in cases of unexpected (sudden) death of beneficiaries at the institutions of social protection of home type.

Gerontology center in Vršac¹¹⁷

The Home shall make the analysis of the required number of employees of various profiles so that the adequate treatment is provided for beneficiaries in compliance with valid regulations and standards.

The executed analysis shall be delivered by the Home to the Ministry of Labor, Employment, Veteran and Social Affairs and the Protector of Citizens.

¹¹⁷The report on the visit to Gerontology Center in Vršac, no. 281–108/16 dated 20th January, 2017,

The Ministry of Labor, Employment, Veteran and Social Affairs shall take required measures so as to provide the required number of medical, caretaking and other staff in compliance with the assessment of the needs for adequate treatment of users and functioning of the Home.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures so as to, without further delay, pass the rulebook for detailed regulation of the issue of the provision of funds for personal needs of beneficiaries of home and family accommodation.

It is necessary that Ministry of Health and Ministry of Labor, Employment, Veteran and Social Affairs, by accomplishing the cooperation, take necessary measures from its competence so as to improve the regulations which regulate the consent of beneficiaries, that is, patients to medical measure, especially in situations when the beneficiaries that is, the patient is not deprived of legal capacity and his health condition indicates that the stated will does not correspond to internal will, that is, that he is not capable of forming their own will in that respect.

Furthermore, it is necessary that the Ministry of Health and the Ministry of Labor, Employment, Veteran and Social Affairs, by realizing the cooperation, take necessary measures from their competence so as to improve the regulations and in that respect the consent to taking medical measure with regards to persons deprived of their legal capacity and to their opinion about it being taken into consideration, pursuant to valid international regulations and standards.

The Home shall keep the record of deceased users in the form of the Protocol of died, i.e. it shall be kept in such a manner that at least the following data are entered in the record (ordinal number for the current year, name, surname and name of the parent of the deceased, date of birth of the deceased, day and hour of death, place of death, cause of death based on the data entered in the form the Confirmation of death, the information whether the autopsy is required, name and surname of the doctor who examined the deceased and issued the confirmation of death, information whether the autopsy was performed and if it did, in which institution it was done, as well as the conclusion on the cause of death based on the autopsy and note).

The management of the Home shall request from the local self-government authorities at whose territory it is located to provide the availability of authorized doctors for the purposes of professional identification of the cause and time of death who shall perform the examinations and issue Confirmations of death for users who died at the institution.

The Home shall establish the Injury Protocol and provide that the data on the circumstances of the occurrence of the injury are entered in it (with stating the sources of data –anamnestic/ hetero-anamnestic), as well as the detailed description of the confirmed injuries and the conclusion of the doctor on the connectedness of circumstances of the occurrence of the injury and confirmation of the injury.

The Institution for the Accommodation of Adults “Male Pčelice”¹¹⁸

The Institution (the doctor who treated the deceased or the doctor designated for the identification of the cause of death) shall require the autopsy of the corpse in all cases of the death of beneficiaries, whether it occurred in the Institution or outside of it, except when the doctor who treated the deceased set clear diagnosis of the fatal disease and there are no other circumstances which would indicate that it is necessary to do the autopsy.

The Institution shall obtain from the institution which performed the autopsy the report with the conclusions on the cause of death.

Rooms and other premises where beneficiaries stay (living rooms, hallways, dining rooms...) shall be decorated in such a manner so that they create the impression of more humane environment and depict the uniqueness of users. The Institution shall encourage the beneficiaries to bring their personal things.

The Institution shall put the ramps to the beds of beneficiaries for whom there is a risk of falling, with the aim of the protection of users and avoidance of the application of physical obstruction. The Institution shall avoid frequent tying of these beneficiaries.

The Institution shall consider whether there is possibility to provide the service to beneficiaries who are frequently tied and if, it is assessed that it is not, the competent Center for Social Work shall be informed about it.

The Institution shall apply the measure of physical obstruction by mechanical limitation, so-called fixation completely in compliance with the regulations and established standards of the treatment of persons with mental disabilities, especially:

1. the measure of the mechanical limitation of beneficiaries shall be applied exceptionally, when it is the only means to prevent the beneficiaries from seriously endangering their own life and safety or the life and safety of other persons by their behavior;

¹¹⁸ The report on the visit to the Institute for the Accommodation of Adults “Male Pčelice”, number 281–100/17.

2. before the application of the measure of mechanical limitation the application of less restrictive measures shall be considered and their application shall be attempted;
3. the measure of mechanical limitation of users shall be implemented with the application of medical measures which shall provide that the period of the application of measures is as short as possible;
4. the measure of the mechanical limitation of users shall be implemented at a safe place and in the manner which endangers the life and health of beneficiaries least;
5. the measure of mechanical limitation of users shall be implemented using designed means (belts, etc.) suitable for the obstruction accomplishment in the manner which seems at least threatening for the life and health of beneficiaries;
6. on the application of the measure of mechanical limitation and length of its duration it is decided by the psychiatrist, taking into account that the period of the application of the measure is as short as possible, pursuant to valid standards and rules of medicine;
7. if in the absence of the psychiatrist other health care employee performs mechanical limitation of beneficiaries for whom it is estimated at the given moment that it is necessary and cannot be delayed, he is obliged to immediately inform about it the closest psychiatrist, who is then obliged to see the beneficiaries without any delay and estimate the justifiability of the applied mechanical limitation as well as whether it was still necessary and make the suitable decision pursuant to that;
8. the psychiatrist who made the decision on the application of the measure of mechanical limitation, is obliged, while the application of this measure is ongoing, as well as in the appropriate period of time after the measure was stopped, to visit periodically the beneficiaries who was subjected to the application of the measure and with due attention to monitor his health condition;
9. when during the enforcement of the measure of mechanical limitation the psychiatrist confirms that the user who was subjected to the application of the measure no longer represents the danger to himself or another person, the beneficiaries shall be freed from the application of this measure without any delay;
10. immediately before the expiration of the deadline for the application of the measure of mechanical limitation, the psychiatrist shall review the necessity of the application of the measure in the following period and make

- decision about it and will also order that the mechanically limited user is immediately freed if the further application of the measure is not necessary;
11. during the application of the measure of mechanical limitation the medical staff shall provide the increased attention and as much as possible be directly present with the beneficiaries who is mechanically limited so that this measure is not simultaneously his isolation;
 12. the measure of mechanical limitation shall not be applied in the room where users who are not subjected to the application of the measure of mechanical limitation are accommodated and other beneficiaries will not have the access to this room;
 13. the psychiatrist who made the decision on the application of the measure of mechanical limitation is obliged, without any delay, to inform the manager of the Institution or another person authorized for it by the manager, who informs about this immediately the legal representative of the user who is subjected to the application of the measure or a member of the core family of the user who is subjected to the application of the measure;
 14. a special book will be kept on the application of the measure of mechanical limitation and in it will be mandatory to enter all important data on the application of the measure as following:
 - reasons for the application of the measure of mechanical limitation;
 - description of measures applied before mechanical limitation;
 - type of means used for mechanical limitation;
 - information on the location (room) where the measure of mechanical limitation was applied;
 - exact time (day/hour/minute) of the beginning of the application of the measure of mechanical limitation;
 - name of the psychiatrist who made the decision on the application of the measure of mechanical limitation;
 - name of the health care employee who, in the absence of the psychiatrist, for the reason of necessity for urgent activities, performed mechanical limitation of the disturbed user before making of the decision by the psychiatrist; when the psychiatrist was informed about mechanical limitation; the opinion of the psychiatrist on the justifiability of the performed mechanical limitation;
 - description of medical measures applied during the mechanical limitation;

- description of all potential injuries of the user who was subjected to the application of the measure of mechanical limitation (caused before and during the application of the measure), as well as potential injuries of other beneficiaries or health care employees (occurred in the event which preceded mechanical limitation);
- data on periodical visits paid to the user subjected to the application of the measure of mechanical limitation and monitoring of his health condition by the psychiatrist (number of visits, exact time and duration of tours, implemented activities);
- information on the time of notification of the manager of the Institution or another person authorized by the manager for it on the applied measure of mechanical limitation, as well as the information about whether and when the legal representative or the member of the core family of the user subjected to the application of the measure were informed;
- statements and comments of beneficiaries during and immediately after he was subjected to the application of the measure of mechanical limitation;
- exact time (day/hour/minute) of the termination of the measure of mechanical limitation.

I-4 – Recommendations issued to psychiatric institutions

Special hospital for psychiatric diseases “Kovin”¹¹⁹

The Hospital shall take required measures so as to do the renovation of ruined facilities and split existing rooms into smaller ones.

The Hospital shall embellish and humanize rooms and premises where patients stay and provide necessary elements per rooms for the storage of personal items with the aim of the humanization of the space where they stay.

The Hospital shall provide the appropriate clothes for all patients so that in colder and winter months they could go out. Also, the Hospital will encourage patients to wear their daytime clothes when they do not go outside, with the aim of strengthening the identity of the person and self-respect.

The Hospital shall put on visible locations within all departments written notifications on rights and duties of patients and execute brochures in which, in an adjusted manner, the patients will obtain the information on their rights and obligations.

It is necessary that the Ministry of Health take measures from its competence so as to improve the regulations which regulate the consent of patients to medical measure and especially in the situations when the patient is not deprived of legal capacity and his medical condition indicates that the expressed will does not match internal will, i.e. that he is not capable of forming his own will in that respect.

Furthermore, it is necessary that the Ministry of Health take necessary measures from its competence so as to improve regulations and in that respect the consents to taking of medical measures with regards to persons deprived of legal capacity in the sense that, pursuant to valid international regulations and standards, their attitude about it is taken into consideration.

The Hospital shall apply the measure of physical obstruction by mechanical limitation, so-called fixation completely in compliance with the regulations and established standards of the treatment of persons with mental disabilities, especially:

¹¹⁹ The report on the visit to Special hospital for psychiatric diseases “Kovin” –monitoring of actions upon recommendations from the Report for 2014, no. 281–109/16 dated 27th January, 2017.

1. the measure of the mechanical limitation of users shall be applied exceptionally, when it is the only means to prevent the user from seriously endangering their own life and safety or the life and safety of other persons by their behavior;
2. before the application of the measure of mechanical limitation the application of less restrictive measures shall be considered and their application shall be attempted;
3. the measure of mechanical limitation of users shall be implemented with the application of medical measures which shall provide that the period of the application of measures is as short as possible;
4. the measure of the mechanical limitation of users shall be implemented at a safe place and in the manner which endangers the life and health of users least;
5. the measure of mechanical limitation of users shall be implemented using designed means (belts, etc.) suitable for the obstruction accomplishment in the manner which seems at least threatening for the life and health of users;
6. on the application of the measure of mechanical limitation and length of its duration it is decided by the psychiatrist, taking into account that the period of the application of the measure is as short as possible, pursuant to valid standards and rules of medicine;
7. if in the absence of the psychiatrist other health care employee performs mechanical limitation of users for whom it is estimated at the given moment that it is necessary and cannot be delayed, he is obliged to immediately inform about it the closest psychiatrist, who is then obliged to see the user without any delay and estimate the justifiability of the applied mechanical limitation as well as whether it was still necessary and make the suitable decision pursuant to that;
8. the psychiatrist who made the decision on the application of the measure of mechanical limitation, is obliged, while the application of this measure is ongoing, as well as in the appropriate period of time after the measure was stopped, to visit periodically the user who was subjected to the application of the measure and with due attention to monitor his health condition;
9. when during the enforcement of the measure of mechanical limitation the psychiatrist confirms that the user who was subjected to the application of the measure no longer represents the danger to himself or another person, the user shall be freed from the application of this measure without any delay;

10. immediately before the expiration of the deadline for the application of the measure of mechanical limitation, the psychiatrist shall review the necessity of the application of the measure in the following period and make decision about it and will also order that the mechanically limited user is immediately freed if the further application of the measure is not necessary;
11. during the application of the measure of mechanical limitation the medical staff shall provide the increased attention and as much as possible be directly present with the user who is mechanically limited so that this measure is not simultaneously his isolation;
12. the measure of mechanical limitation shall not be applied in the room where users who are not subjected to the application of the measure of mechanical limitation are accommodated and other users will not have the access to this room;
13. the psychiatrist who made the decision on the application of the measure of mechanical limitation is obliged, without any delay, to inform the director of the Hospital or another person authorized for it by the manager, who informs about this immediately the legal representative of the user who is subjected to the application of the measure or a member of the core family of the user who is subjected to the application of the measure;
14. a special book will be kept on the application of the measure of mechanical limitation and in it will be mandatory to enter all important data on the application of the measure as following:
 - reasons for the application of the measure of mechanical limitation;
 - description of measures applied before mechanical limitation;
 - type of means used for mechanical limitation;
 - information on the location (room) where the measure of mechanical limitation was applied;
 - exact time (day/hour/minute) of the beginning of the application of the measure of mechanical limitation;
 - name of the psychiatrist who made the decision on the application of the measure of mechanical limitation;
 - name of the health care employee who, in the absence of the psychiatrist, for the reason of necessity for urgent activities, performed mechanical limitation of the disturbed user before making of the decision by the psychiatrist; when the psychiatrist was informed about mechanical limitation; the opinion of the psychiatrist on the justifiability of the performed mechanical limitation;

- description of medical measures applied during the mechanical limitation;
- description of all potential injuries of the user who was subjected to the application of the measure of mechanical limitation (caused before and during the application of the measure), as well as potential injuries of other users or health care employees (occurred in the event which preceded mechanical limitation);
- data on periodical visits paid to the user subjected to the application of the measure of mechanical limitation and monitoring of his health condition by the psychiatrist (number of visits, exact time and duration of tours, implemented activities);
- information on the time of notification of the director of the Hospital or another person authorized by the manager for it on the applied measure of mechanical limitation, as well as the information about whether and when the legal representative or the member of the core family of the user subjected to the application of the measure were informed;
- statements and comments of user during and immediately after he was subjected to the application of the measure of mechanical limitation;
- exact time (day/hour/minute) of the termination of the measure of mechanical limitation.

The Hospital shall take measures so as to provide a sufficient number of employees with the aim of providing an adequate treatment of patients and realization of rehabilitation and therapy activities during the entire day.

The Ministry of Health shall consider the existing system of financing of psychiatric hospitals which is based primarily on accommodation capacities of hospital and improve the regulations related to financing of psychiatric hospitals, pursuant to actually performed services which include both planned treatment costs and the rehabilitation of patients.

The Ministry of Health shall consider the existing practice that psychiatric hospitals are financed on the basis of the contract between the Ministry of Health and Ministry of Labor, Employment, Veteran and Social Affairs and by providing extraordinary services designated by categories of persons who do not need stationary psychiatric treatment.

The Hospital shall execute the written analysis of the required number and professional profile of employees, especially specialists of psychiatry and

occupational/work therapists, capable of providing all patients of the Hospital with health protection in compliance with valid regulations and standards. The Hospital shall submit the aforementioned executed analysis to the Ministry of Health and the Protector of Citizens.

The Ministry of Health shall take measures and in compliance with aforementioned executed analysis engage the missing number of specialists of psychiatry and occupational/ working therapists.

All persons with mental disabilities for whom it is confirmed that they seriously and directly endanger their own life or health or safety or the life or health or safety of another person, so it is necessary to be detained at the Hospital, are required to be subjected to the application of the provisions of the law which refer to the forced hospitalization and detention without consent and accommodation without the consent of the person with mental disabilities in the psychiatric institution, as prescribed by the Law on the Protection of Persons with Mental Disabilities.

Special hospital for psychiatric diseases

“Dr Slavoljub Bakalović” -Vršac¹²⁰

The Hospital shall apply the measure of physical obstruction by mechanical limitation, so-called fixation completely in compliance with the regulations and established standards of the treatment of persons with mental disabilities, especially:

1. the measure of the mechanical limitation of patients shall be applied exceptionally, when it is the only means to prevent the user from seriously endangering their own life and safety or the life and safety of other persons by their behavior;
2. before the application of the measure of mechanical limitation the application of less restrictive measures shall be considered and their application shall be attempted;
3. the measure of mechanical limitation of patients shall be implemented with the application of medical measures which shall provide that the period of the application of measures is as short as possible;
4. the measure of the mechanical limitation of patients shall be implemented at a safe place and in the manner which endangers the life and health of users least;

¹²⁰ The report on the visit to Special hospital for psychiatric diseases “Dr Slavoljub Bakalović” –Vršac –monitoring of the implementation of recommendations from the Report in the visit to CPT Republic of Serbia in 2015 no. 281 – 102/16 dated 1st March, 2017.

5. the measure of mechanical limitation of patients shall be implemented using designed means (belts, etc.) suitable for the obstruction accomplishment in the manner which seems at least threatening for the life and health of patients;
6. on the application of the measure of mechanical limitation and length of its duration it is decided by the psychiatrist, taking into account that the period of the application of the measure is as short as possible, pursuant to valid standards and rules of medicine;
7. if in the absence of the psychiatrist other health care employee performs mechanical limitation of patients for whom it is estimated at the given moment that it is necessary and cannot be delayed, he is obliged to immediately inform about it the closest psychiatrist, who is then obliged to see the user without any delay and estimate the justifiability of the applied mechanical limitation as well as whether it was still necessary and make the suitable decision pursuant to that;
8. the psychiatrist who made the decision on the application of the measure of mechanical limitation, is obliged, while the application of this measure is ongoing, as well as in the appropriate period of time after the measure was stopped, to visit periodically the patient who was subjected to the application of the measure and with due attention to monitor his health condition;
9. when during the enforcement of the measure of mechanical limitation the psychiatrist confirms that the patient who was subjected to the application of the measure no longer represents the danger to himself or another person, the patient shall be freed from the application of this measure without any delay;
10. immediately before the expiration of the deadline for the application of the measure of mechanical limitation, the psychiatrist shall review the necessity of the application of the measure in the following period and make decision about it and will also order that the mechanically limited user is immediately freed if the further application of the measure is not necessary;
11. during the application of the measure of mechanical limitation the medical staff shall provide the increased attention and as much as possible be directly present with the patient who is mechanically limited so that this measure is not simultaneously his isolation;
12. the measure of mechanical limitation shall not be applied in the room where patients who are not subjected to the application of the measure

of mechanical limitation are accommodated and other users will not have the access to this room;

13. the psychiatrist who made the decision on the application of the measure of mechanical limitation is obliged, without any delay, to inform the director of the Hospital or another person authorized for it by the manager, who informs about this immediately the legal representative of the patient who is subjected to the application of the measure or a member of the core family of the patient who is subjected to the application of the measure;
14. a special book will be kept on the application of the measure of mechanical limitation and in it will be mandatory to enter all important data on the application of the measure as following:
 - reasons for the application of the measure of mechanical limitation;
 - description of measures applied before mechanical limitation;
 - type of means used for mechanical limitation;
 - information on the location (room) where the measure of mechanical limitation was applied;
 - exact time (day/hour/minute) of the beginning of the application of the measure of mechanical limitation;
 - name of the psychiatrist who made the decision on the application of the measure of mechanical limitation;
 - name of the health care employee who, in the absence of the psychiatrist, for the reason of necessity for urgent activities, performed mechanical limitation of the disturbed user before making of the decision by the psychiatrist; when the psychiatrist was informed about mechanical limitation; the opinion of the psychiatrist on the justifiability of the performed mechanical limitation;
 - description of medical measures applied during the mechanical limitation;
 - description of all potential injuries of the user who was subjected to the application of the measure of mechanical limitation (caused before and during the application of the measure), as well as potential injuries of other patients or health care employees (occurred in the event which preceded mechanical limitation);
 - data on periodical visits paid to the patient subjected to the application of the measure of mechanical limitation and monitoring of his

health condition by the psychiatrist (number of visits, exact time and duration of tours, implemented activities);

- information on the time of notification of the director of the Hospital or another person authorized by the manager for it on the applied measure of mechanical limitation, as well as the information about whether and when the legal representative or the member of the core family of the user subjected to the application of the measure were informed;
- statements and comments of patient during and immediately after he was subjected to the application of the measure of mechanical limitation;
- exact time (day/hour/minute) of the termination of the measure of mechanical limitation.

The Hospital shall make the written analysis of the required number and professional profile of employees, especially specialists of psychiatry and occupational/ working therapists, capable of providing all patients of the Hospital with health protection in compliance with valid regulations and standards.

The Hospital shall deliver the aforementioned executed analysis to the Ministry of Health and Protector of Citizens.

The Ministry of Health shall take measures and in compliance with aforementioned executed analysis engage the missing number of employees, especially specialists of psychiatry and occupational/ working therapists.

It is necessary to apply the same principles and practice of the decoration of communal premises and rooms both at the department for the treatment of the substance dependence and at other departments and enable patients to participate more in the decoration of the premises at departments.

It is necessary to remove the detected shortcomings of the life conditions at departments, such as overpopulation at dormitories with the creation of conditions for more personal environment, decoration and more pleasant atmosphere.

The Hospital shall provide the conditions and enable patients to spend certain amount of time in the open air regardless of weather conditions.

The Hospital shall, in future, offer the activities of psychosocial rehabilitation to all patients in compliance with their individual needs and potentials and enable patients to choose themselves the activities of psychosocial rehabilitation.

The Hospital shall put a special emphasis on the introduction of psychosocial rehabilitation for the patients with aggravated access to activities of psychosocial rehabilitation, mainly due to inexistence of individual support for the participation in these activities.

The Hospital shall take appropriate activities so as to educate the staff of the Hospital on the benefits of psychosocial rehabilitation and its various forms, as well as about the importance which the acquisition of the skill of an independent life has for the prevention and improvement of the socialization of patients after they leave hospital.

Psychiatric treatment must be based on an individualized approach, which means the execution of a specific treatment plan for each patient. This treatment should comprise a wide range of rehabilitation and therapeutically activities, including the access to occupational therapy, group therapy, individual psychotherapy, art, music and sport.

It is necessary to adhere to the principles of Good clinical practice and to implement pharmacotherapy in compliance with the adopted Guide to therapy for individual psychiatric disorders.

It is necessary to avoid polypragmasia as a standard for treatment of psychotic disorders, because it can reduce the capacities for psychosocial rehabilitation due to sedating effects as a side effect of antipsychotics.

It is necessary to maintain the regular practice of prevention of suicide through the analysis of potential risk factors with every patient, especially with those who had their request for discharge rejected for some reason.

NPM recommends that, apart from autopsy, an independent investigation is conducted each time when a psychiatric patient dies.

It is necessary in future work for the Hospital to pay special attention to fixated patients.

It is required to adequately inform all the patients about all medical measures to which they are exposed and to make clear distinction between the consent to hospitalization and consent to treatment.

Special hospital for psychiatric diseases "Dr. Slavoljub Bakalović" in cooperation with the Ministry of Health shall take measures so as to expand employment capacities of the established Center for Mental Health, all with the aim of strengthening the efforts for deinstitutionalization.

I-5 – Recommendations issued with the purpose of the improvement of the treatment of refugees/ migrants

Center for Asylum in Banja Koviljača¹²¹

Taking into account the increased number of migrants at the Center for Asylum in Banja Koviljača and consequently increased volume of work and constant need for the transportation of these persons, the Commissariat for Refugees and Migrations will consider the possibility of granting an official vehicle to the Center and take corresponding measure so as to provide it.

The Ministry of Labor, Employment, Veteran and Social Affairs shall take measures and engage a person at Center for Social Work Loznica who will perform the activities of a guardian of unaccompanied foreign minors accommodated at the Center for Asylum in Banja Koviljača.

Center for Asylum in Krnjača¹²²

The Commissariat for Refugees and Migrations shall take measures so that all centers for reception and care of migrants (center for asylum and reception-transitional centers) would record extraordinary events. This record should, as a minimum, contain a detailed description of the extraordinary event, migrants who were involved in it and measures which were taken (call to the police or other services, performed medical examinations, potential measures taken toward migrants, etc.).

The Commissariat for Refugees and Migrations shall take measures so that the data on extraordinary events are entered into periodical reports by all centers for reception and care of migrants.

The Commissariat for Refugees and Migrations shall engage additional security at the Center for Asylum in Krnjača.

The Ministry of Interior and Police Department for the City of Belgrade shall, without any delay, with the aim of the protection of the security of migrants and other persons and their property provide continual presence of uniformed police officers at the Center for Asylum in Krnjača.

¹²¹ The report on the visit to CA Banja Koviljača no. 281-22/17 dated 27th March, 2017.

¹²² The reports on the visits to CA Krnjaca no. 281-49/17 dated 3rd July, 2017 and no. 281-105/17 dated 28th December, 2017.

Reception Center in Bosilegrad¹²³

The Office for Asylum shall take actions prescribed by the Law on Asylum toward migrants who received issued confirmations on expressed intentions to seek asylum in the Republic of Serbia and who are accommodated at the Reception Center in Bosilegrad.

The Commissariat for Refugees and Migrations shall take required measures so as to provide sufficient quantity of spare clothes and footwear for migrants who stay at the Reception Center in Bosilegrad.

At the Reception Center in Bosilegrad, the Commissariat for Refugees and Migrations shall place the house rules and information important for the staying at the Center at a visible location in languages understood by migrants.

At the Reception Center in Bosilegrad the data from the medical documentation of migrants shall be available exclusively to health care employees who need these data with the aim of the accomplishment of legally determined competences and to migrants to whom this documentation refers.

The Center for Social Work in Bosilegrad shall, with the aim of the protection of minors and other vulnerable groups of migrants, provide the regular presence of their professional employees at the Reception Center in Bosilegrad.

Reception Center in Bujanovac¹²⁴

At the Reception Center in Bujanovac the Commissariat for Refugees and Migrations shall place on a visible location the notification on the possibility and procedure of complaining about the work of the persons engaged at the Center.

Reception Center in Vranje¹²⁵

The Commissariat for Refugees and Migrations shall, in all centers for the reception and care of migrants organize the provision of psychological support to migrants (by engaging professional persons, providing adequate premises for the performance of confidential conversations with migrants and taking other necessary measures).

¹²³ The report on the visit to RC Bosilegrad no. 281-37/17 dated 13th April, 2017.

¹²⁴ The report on the visit to RC Bujanovac no. 281-69/17 dated 21st September, 2017.

¹²⁵ The report on the visit to RC Vranje no. 281-67/17 dated 21st September, 2017.

The Commissariat for Refugees and Migrations shall provide sufficient quantities of spare clothes and footwear for the needs of providing care for migrants at the Reception Center in Vranje.

The Commissariat for Refugees and Migrations at the Reception Center in Vranje shall place on a visible location the notification on the possibility and procedure of complaining about the work of persons engaged at the Center.

The Center for Social Work in Vranje shall, with the aim of the protection of minors and other vulnerable groups of migrants, provide the regular presence of their professional employees at the Reception Center in Vranje.

The Ministry of Labor, Employment, Veteran and Social Affairs shall provide the Center for Social Work in Vranje with required conditions for taking actions toward migrants accommodated at the Reception Center in Vranje.

Reception Center at Divljani¹²⁶

The Commissariat for Refugees and Migrations shall take measures so as to provide continual (24-hour) duty of employees at the Reception Center in Divljani.

The Office for Asylum shall take actions prescribed by the Law on Asylum toward migrants who received issued confirmations on expressed intentions to seek asylum in the Republic of Serbia and who are accommodated at the Reception Center in Divljani.

The Commissariat for Refugees and Migrations shall take necessary measures so as to provide at the Reception Center in Divljani a sufficient quantity of hot water for the needs of persons who stay at the Center.

The Commissariat for Refugees and Migrations shall organize at all centers for accommodation and care of migrants frequent periodical meetings of officials and migrant representatives during which migrants would obtain the information important for them on the events at the Center and during which they could indicate to officials to potential problems with regards to the operation of the Center and present their suggestions how these problems could be solved.

The Ministry of Labor, Employment, Veteran and Social Affairs shall, in cooperation with the competent Center for Social Work, provide the presence of professional employees at the Reception Center in Divljani with the aim of the protection of minors and other vulnerable groups of migrants.

¹²⁶ The report on the visit to RC Divljana no. 281-36/17 dated 12th April, 2017.

Reception Center in Dimitrovgrad¹²⁷

The Office for Asylum shall take actions prescribed by the Law on Asylum toward migrants who received issued confirmations on expressed intentions to seek asylum in the Republic of Serbia and who are accommodated at the Reception Center in Dimitrovgrad.

The Center for Social Work in Dimitrovgrad shall, with the aim of the protection of minors and other vulnerable groups of migrants, provide the regular presence of their professional employees at the Reception Center in Dimitrovgrad.

Reception Center in Kikinda¹²⁸

The Office for Asylum shall take actions prescribed by the Law on Asylum toward migrants who received issued confirmations on expressed intentions to seek asylum in the Republic of Serbia and who are accommodated at the Reception Center in Kikinda.

The Commissariat for Refugees and Migrations shall take necessary measures so as to provide adequate restrooms and conditions for the hygiene maintaining for migrants who are accommodated at tents at the yard of the Reception Center in Kikinda.

The Commissariat for Refugees and Migrations shall, without further delay, take necessary measures for solving the problem of waste water at the Reception Center in Kikinda.

The Center for Social Work in Kikinda shall take actions prescribed by the Family Law towards unaccompanied minor migrants who are accommodated at the Reception Center in Kikinda.

The Center for Social Work in Kikinda shall, with the aim of the protection of minors and other vulnerable groups of migrants, provide the regular presence of their professional employees at the Reception Center in Kikinda.

The Ministry of Labor, Employment, Veteran and Social Affairs shall provide the Center for Social Work in Kikinda with required conditions for taking actions toward migrants accommodated at the Reception Center in Kikinda.

The Center for Social Work Kikinda shall take measures so that field worker for the work with migrants would spend more time on professional work with vulnerable groups of migrants at the Reception Center in Kikinda.

¹²⁷ The report on the visit to RC Dimitrovgrad no. 281-7/17 dated 24th February, 2017.

¹²⁸ The reports on the visits to RC Kikinda no. 281-44/17 dated 6th June, 2017 and no. 281-95/17 dated 1st December, 2017.

The Commissariat for Refugees and Migrations shall within the premises of the Reception Center in Kikinda which are under video surveillance place on a visible location the notification about this, in languages which are understood by migrants who are accommodated in the Center.

The Commissariat for Refugees and Migrations shall consider the option of an increased engagement of the medical staff at the Reception Center in Kikinda.

At the Reception Center in Kikinda, the data from the medical documentation of migrants shall be available exclusively to health care employees who need these data for the realization of legally designated competences and migrants to whom this documentation refers to.

Reception Center in Obrenovac¹²⁹

The Commissariat for Refugees and Migrations shall provide the conditions for the accommodation of persons with disabilities at the Reception Center in Obrenovac.

The Commissariat for Refugees and Migrations shall, during the allocation of migrants in dormitories of the Reception Center in Obrenovac pay attention to the protection of minors, as well as the countries of origin of migrants and without any delay separate migrants for whom it is known that there are strained relations and conflicts may emerge.

The Commissariat for Refugees and Migrations shall check if all migrants located at the Reception Center in Obrenovac are recorded and if they have their ID cards issued.

Reception Center in Pirot¹³⁰

The Office for Asylum shall take actions prescribed by the Law on Asylum toward migrants who received issued confirmations on expressed intentions to seek asylum in the Republic of Serbia and who are accommodated at the Reception Center in Pirot.

Reception Center in Preševo¹³¹

At the Reception Center in Preševo the Commissariat for Refugees and Migrations shall place on a visible location the notification on the possibility and procedure of complaining about the work of the persons engaged at the Center.

¹²⁹ The reports on the visits to RC Obrenovac no. 281-5/17 dated 8th February, 2017 and no. 281-48/17 dated 3rd July, 2017.

¹³⁰ The report on the visit to RC Pirot no. 281-7/17 dated 24th February, 2017.

¹³¹ The report on the visit to RC Presevo no. 281-68/17 dated 21st September, 2017.

Reception Center in Subotica¹³²

The Ministry of Labor, Employment, Veteran and Social Affairs and the Center for Social Work of the City of Subotica shall, with the aim of the protection of vulnerable groups of migrants (elderly women, minors, violence victims and others) provide the continual presence of the officials of the Center for Social Work at the Reception Center in Subotica.

The Commissariat for Refugees and Migrations shall establish the record of extraordinary events at the Reception Center in Subotica.

The Commissariat for Refugees and Migrations shall take necessary measures so as to provide at the Reception Center in Subotica the nutrition for migrants which is sufficiently varied and of good quality to keep their good health and strength.

The Commissariat for Refugees and Migrations shall provide an adequate dining room at the Reception Center in Subotica.

Reception Center in Šid¹³³

The Commissariat for Refugees and Migrations shall take necessary measures so as to provide at the Reception Center in Sid a sufficient quantity of hot water for the needs of persons who stay at the Center.

The Commissariat for Refugees and Migrations shall provide at the Reception Center in Sid a special office for the purpose of confidential talks of migrants with professionals who provide them with psychological assistance.

The Commissariat for Refugees and Migrations shall take measures so that the data on extraordinary events, including incidents, are entered into weekly reports of the Reception Center in Šid.

Reception Center for Foreigners in Padinska Skela¹³⁴

The Ministry of Interior shall provide for foreigners who are to be received into the Reception Center for Foreigners the form on the rights which will be given to them immediately upon the reception and in which they will be notified about the legal situation in which they are and rights which are given to them.

¹³² The report on the visit to RC Subotica no. 281-96/17 dated 4th December, 2017.

¹³³ The report on the visit to RC Sid no. 281-25/17 dated 21st March, 2017.

¹³⁴ The report on the visit to the Reception Center for Foreigners no. 281-50/17 dated 20th June, 2017.

The Reception Center for Foreigners shall paint dormitories and keep material conditions in it until the complete renovation of the facility.

The Reception Center for Foreigners shall wash the sheets regularly (mattresses, bed sheets and blankets) and replace worn out parts of the sheets with new ones.

The Reception Center for Foreigners shall provide foreigners with visits in the duration of at least one hour per week.

The Ministry of Interior shall provide the foreigners accommodated in the Reception Center unrestricted use of the phone.

The Ministry of Interior shall provide that the forms of documents issued to foreigners during their stay at the Reception Center for Foreigners (the minutes on the discharge, confirmation on temporary taken items from foreigners, the form on rights, etc.) are translated and available in languages understood by the majority of foreigners who stay at the Reception Center (English, French, Arabic, Farsi, Urdu, etc.).

The Ministry of Interior shall, in cases of necessity of clear and precise communication of officials of the Reception Center with foreigners who do not understand either Serbian or English provide an interpreter in the language they understand.

The Ministry of Interior shall, without any delay, provide at the Reception Center for Foreigners the constant presence of a qualified health care employee with at least the title of a medical technician and who will perform the medical screening of all newly arrived foreigners, receive requests for medical examination, provide the procurement and distribution of the therapy, keep medical documentation and supervise general hygienic conditions.

The Reception Center for Foreigners shall not distribute to foreigners hygienic products with past expiration date and shall provide that none of the product currently used by foreigners has past expiration date.

The Reception Center for Foreigners in Padinska Skela shall provide all foreigners with staying outside in the fresh air at least one hour per day.

The Ministry of Interior shall equip children's room with adequate content for children.

The Ministry of Interior shall, without any delay, engage at the Reception Center for Foreigners sufficient number of male and female police officers, in compliance with realistic needs for unobstructed operation and stipulated systematization.

Regional Center of Border Police towards Bulgaria¹³⁵

RCBP towards Bulgaria shall not accommodate migrants into unconditional premises.

The Ministry of Interior shall provide adequate accommodation and other condition for the residence of migrants during the process of their identification and assuming of other actions in RCBP towards Bulgaria.

The Institute for the Education of Children and Youth in Niš¹³⁶

The Ministry of Labor, Employment, Veteran and Social Affairs shall assume required measures so as to accommodate unaccompanied minor foreign citizens, for whom the accommodation in the Institute is more adequate than another type of accommodation (e.g. reception centers for migrants, centers for asylum, etc.), in the Institute for the Education of Children and Youth in Niš and after the certification on the expressed intention to seek asylum in the Republic of Serbia is issued.

The Institute for the Education of Children and Youth in Niš shall provide minor foreign citizens with medical examination immediately upon their reception in the Institute.

¹³⁵ The report on the visit to RCBP Bulgaria no. 281-15/17 dated 24th February, 2017.

¹³⁶ The report on the visit to the Institute for the Accommodation of Children and Youth in Niš –Center for the Accommodation of Unaccompanied Minor Foreign Persons no. 281-26/17 dated 20th April, 2017.

APPENDIX II

II-1 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
 - (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 - (b) When the alleged offender is a national of that State;
 - (c) When the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition procedure to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody,

it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal procedure brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph I of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the

remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

11 The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(a) Six members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

1. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

2. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall

forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party

is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;

- (a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- (c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
- (d) The Committee shall hold closed meetings when examining communications under this article;
- (e) Subject to the provisions of subparagraph (e), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;
- (f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
 - (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - (b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favor a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication

at least one third of the States Parties favors such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1 Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective,

nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions under articles 25 and 26;
- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

THE LAW ON THE RATIFICATION OF THE CONVENTION¹³⁷

Article 3

The Assembly of the Socialist Federal Republic of Yugoslavia shall issue the following statement:

- „- Yugoslavia acknowledges, pursuant to Article 21 Paragraph 2 of the Convention, that the competence of the Committee against Torture is to receive and review statements in which one State Party claims that another State Party fails to fulfill its obligations on the basis of this Convention;
- Yugoslavia acknowledges, pursuant to Article 22 Paragraph 1 of the Convention, that the competence of the Committee against Torture is to receive and review the statements which have been delivered to them by individuals or which have been delivered on behalf of individuals who are under its jurisdiction and who claim to be victims of the violation of the Convention provisions by a State Party.”

Article 4

The Federal Secretariat for judiciary and administration shall be in charge of the implementation of the provisions of the Law hereby.

¹³⁷ „Official Gazette of SFRY –International contracts”, no. 9/1991

II-2 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment

PREAMBLE

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

Part I GENERAL PRINCIPLES

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

Part II SUBCOMMITTEE ON PREVENTION

Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.
2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.
4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Subcommittee on Prevention may be nationals of the same State.
6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. (a) The nominees shall have the nationality of a State Party to the present Protocol;
(b) At least one of the two candidates shall have the nationality of the nominating State Party;

- (c) No more than two nationals of a State Party shall be nominated;
 - (d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.
3. At least five months before the date of the meeting of the States Parties, during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:
- (a) Primary consideration shall be given to the fulfillment of the requirements and criteria of article 5 of the present Protocol;
 - (b) The initial election shall be held no later than six months after the entry into force of the present Protocol;
 - (c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;
 - (d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.
2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:
- (a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;
 - (b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;
 - (c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1(d).

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
 - (a) Half the members plus one shall constitute a quorum;
 - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
 - (c) The Subcommittee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

Part III

MANDATE OF THE SUBCOMMITTEE ON PREVENTION

Article 11

The Subcommittee on Prevention shall:

- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) In regard to the national preventive mechanisms:
 - (I) Advise and assist States Parties, when necessary, in their establishment;
 - (II) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
 - (III) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
 - (IV) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a program of regular visits to the States Parties in order to fulfill its mandate as established in Article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its program in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfill its mandate, the States Parties to the present Protocol undertake to grant it:
 - (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
 - (b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;
 - (c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;
 - (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if

deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defense, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the subcommittee on prevention, the committee against torture may, at the request of the subcommittee on prevention, decide, by a majority of its members, after the state party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the subcommittee on prevention.

Part IV NATIONAL PREVENTIVE MECHANISMS

Article 17

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfill their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.
2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

Part V DECLARATION

Article 24

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

Part VI FINANCIAL PROVISIONS

Article 25

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programs of the national preventive mechanisms.
2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

Part VII FINAL PROVISIONS

Article 27

- 1, The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention.

Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favor a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

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