

THE NATIONAL MECHANISM FOR
THE PREVENTION OF TORTURE
2013 Report
and
Conclusions
of the National Assembly
of the Republic of Serbia



Protector of Citizens
Ombudsman



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.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 1

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The National Mechanism for the Prevention of Torture

2013 Report

and Conclusions of the National Assembly of the Republic of Serbia

Dear Reader,

This is the second annual report of the Protector of Citizens on the activities carried out by the National Mechanism for the Prevention of Torture in the Republic of Serbia.

Prevention of torture arises from the obligations of the Republic of Serbia to its citizens and the international convention to which it has acceded.

During 2013, 77 visits were carried out in locations where persons deprived of their liberty are placed and based on identified irregularities in the performance of duties, competent authorities were sent 263 recommendations.

Presenting the findings and general and specific recommendations on improving conditions, the Report provides a clear and accessible route to the society without torture as an ideal aim. However, it is also apparent that steps toward the unattainable ideal are not shrouded in fog, unachievable, or even too challenging or expensive.

It remains to carry them out as rapidly as possible, with no excuses or exceptions for the victims of torture, but also for our own dignity. Where there is at least one human being exposed to inhuman treatment, no one's dignity may be unconditional.

I would like to express my gratitude to all authorities, civil associations and individuals I have collaborated with during the reporting period while performing duties of the National Mechanism for the Prevention of Torture.

Saša Janković
Protector of Citizens

Belgrade, 12 June 2014

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1. Introduction

1.1. General assessment of compliance with the prohibition of torture and other cruel, inhuman or degrading treatments or punishments in the Republic of Serbia¹

Human dignity, the right to inviolability of the physical and psychological integrity and the prohibition of torture, inhuman or degrading treatment or punishment are guaranteed by the Constitution of the Republic of Serbia, a number of laws, as well as major conventions ratified by Serbia. However, the general public lacks a clear awareness that every citizen is entitled to basic human rights, including the ones arrested, detained or convicted, asylum seekers or illegal migrants, as well as all persons with mental or developmental problems.

Commitment to respecting international standards in Serbia is commonly perceived as something imposed, as acceptance of extraneous rules which are inapplicable in these areas. Thesis on the uniqueness of the culture of human rights, thus on characteristics of traditions and particular customs in these areas, has led to the populist thesis regarding the need for unduly harsh sentencing policies, and sometimes to advocating the justification of abuse. Accordingly, ideas of reintroducing the death penalty, increasing the length of prison sentences, and among other things, possibility of introducing chemical castration as a penal sanction has been constantly suggested.

What is encouraging is the impression that awareness of the need to eradicate abuse prevails among authorities in charge of the treatment of persons deprived of their liberty.

However, individual cases of ill-treatment of persons deprived of their liberty, established by the Protector of the Citizens in recent years, clearly indicate that they are largely a consequence of the weaknesses of the system established in such manner so as not to prevent the emergence of cases of torture and other cruel, inhuman or degrading treatments or punishments, detection of such occurrences, conduct of their effective investigation and exposure of those responsible and liable for their materialization.

At the present time in the Republic of Serbia there are no instances where torture is being organized and encouraged, yet there are individual cases of ill-treatment still tolerated by the authorities.

Competent authorities should improve their conduct in combating impunity for torture.

One encouraging example is when the Constitutional Court in mid-2013 issued a judgment in which it found that a prisoner's right to inviolability of the physical and psychological integrity was infringed.² The decision, inter alia, was based on the factual findings and a recommendation proposed to the competent authorities by the Protector of Citizens himself a year earlier.³

Internal control mechanisms of the state authorities are not sufficiently effective as the methods used are generally not productive. Clearly defined commitment to the competency and independence of these mechanisms would provide a significant contribution to the combat against impunity and prevention of torture in the Republic of Serbia.

In many aspects the existing housing and other living conditions of persons deprived of their liberty are not in accordance with the applicable regulations and standards, which in its continuity assume the character of inhuman or degrading treatment.

¹ See more under section 6 of the Report.

² Decision by the Constitutional Court No. Už-4100/2011.

³ Matter n° 12-3630/12.

Detention facilities in the police stations are generally in poor conditions, in relation to which the NPM in recent years has sent recommendations to discontinue police custody in more than 10 police stations.

It is of great concern that upon verifying several cases of torture during police custody, as a part of the Ombudsman's reactive work on complaints, the Department of Internal Control did not recognise these cases, nor did conduct an investigation, or when implemented were unproductive.

Despite the recommendations of the NPM, the existing document Guidelines of the Ministry of Internal Affairs on the treatment of detained persons has not yet been improved, so that according to its terms, which are not compatible with current standards, police officers usually attend the medical examination of detained persons and generally handcuff detainees during their transport.

Judiciary reforms that have so far taken place in the Republic of Serbia did not lead to more efficient performance of duties within the courts in relation to the detention matters. In addition, it seems that the detention measures are often easily pronounced, with inappropriately prolonged period of time, and that courts rarely define measures such as guarantees, which are effective alternatives to detention. Circumstances around the execution of the measures of detention, violation of the presumption of innocence of detainees, as well as requirements for the execution of these measures, in many cases, represent a kind of punishment prior to conviction.⁴

Detention units are generally overcrowded, so that some detainees are not allowed space in the dormitories for at least eight cubic yards and four square meters. Some individuals were found sleeping on the triple bunk beds⁵, which undermines the idea of having a separate bed. Certain units for detention are in extremely poor condition, rundown and dirty. Inadequate supply of fresh air especially aggravates the position of non-smokers placed in the same areas with smokers. Some areas receive almost no natural light whereas artificial lighting is reduced to a minimum.

The efforts aimed at improving accommodation capacities for detainees are encouraging given that in the course of 2013 numerous adaptations and reconstructions of accommodation facilities did take place.

The problem of the system for enforcement of detention measures in Serbia is that detainees are mostly locked in a cell / dormitory the whole day. As a rule, the detainees are not given time during the day to spend outside the cell or in the common areas with other detainees to whom they are not prohibited to be in contact with by a court decision. In most cases, detainees are not allowed to be engaged in prison labor, or involved in social and cultural activities. Also, there are no conditions for physical activity, especially during inclement weather.

It is noted that when accommodating detainees who have not been previously convicted, they tend to be placed in the same dormitory with detainees convicted more than once and also not enough attention is paid to the deployment of detainees depending on the type of the offense with which they were charged.⁶

Women who have been ordered custody are placed in detention units in prisons throughout Serbia. A relatively small number of all women placed in a detention unit were practically in isolation during the execution of the detention measures, often and unacceptably for a prolonged period of time. While in the system for enforcement of criminal sanctions, segregation / solitary confinement represents a special or a disciplinary measure, which is strictly limited in the current practice, it is for certain female detainees a regular manner of execution of the detention measure, which speaks volumes about the negative aspect of the system for detention of women.

It is promising that after numerous complaints of detainees in the District Prison in Belgrade, special areas were set up for conjugal visits, children and other close relatives. In addition, by a decision of a competent court, a detainee, serving custodial sentence for more than five years, was granted conjugal visits, without the presence of staff or other prisoners.

4 See more in the publication Detention – Ultima ratio?, Belgrade Centre for Human Rights, Belgrade 2014.

5 NPM Report on the visit to District Prison Kragujevac, No. 71-3/13.

6 NPM report on the visit to District Prison Kragujevac, no. 71-3/13; NPM report on the follow-up visit to Penal-Correctional Facility Sremska Mitrovica, No. 71-48 / 13.

Status of convicted persons in the system for enforcement of criminal sanctions in Serbia has considerable weaknesses. Large penal-correctional institutions are still overcrowded.

In many prison facilities⁷ the principle of joint serving of sentence is not realized. Namely, convicted persons do not spend time provided with other prisoners in the common areas during the day, but isolated in cells at all times (either alone or in small groups).

Measure of increased supervision, instead of being realised through giving greater attention to the convicted persons, it is mainly confined to seclusion of these persons and their exclusion from regular prison activities.

Communication between correctional counsellors and convicted persons were sporadic. Engaging convicts in prison labour is insufficient. A lack of cultural content is also undeniable. The method of classification of prisoners is not sufficiently transparent. Convicted persons are not being familiarized with the criteria for their development whereas correctional counsellors are mostly engaged in administering the questionnaires.

Progress mechanism in the correctional treatment, following the existing criteria, involves difficult transition of the convicted persons to more developed treatment groups, resulting in many offenders being released from prison having remained in the same treatment group in which they had been sorted immediately after the admission to the prison.

Prison facilities intended for juveniles and women⁸ are central (and only) institutions receiving 200 persons each. Especially in those intended for juvenile offenders, there are strong informal systems established which intensifies the unfeasibility of adequate treatments. In such central facilities, the main issue arises from the fact that some prisoners are very far away from their residences, which makes it extremely difficult in terms of maintaining contact with their families.

Deficiencies in health care in prisons are numerous. Initial medical examinations are typically grouped together where prisoners may not be examined without clothing nor do exist protocols that specify the actual content of medical examinations. In practice, periodic health examinations of the prisoners are not carried out. Mainly non-medical staff attend medical examinations. There is a noticeable lack of medicines.

Doctors generally do not fulfil their role in protection from abuse. In some cases, they fail to identify and describe in detail all observed injuries, and generally do not provide an opinion on the cause-and-effect relationship between the applied measure of coercion or an explanation as in how the injury occurred – with injuries that were directly observed during the examination.

Prisoners with mental problems are deployed according to the regular prison regime, which does not suit their needs and creates a major security risk for them and their environment, and furthermore represents a major burden to the staff not specialized in the treatment of such persons.

The Law on Protection of Persons with Mental Problems⁹ contains a number of disadvantages. It stipulates that the mental health community is organised as a supplementary activity of the existing psychiatric hospitals and health centres with no specialized staff that apart have no interest in this regard. Along with such decision, activities in the field of de-institutionalisation are unnoticeable in Serbia. A measure of seclusion for psychiatric patients was stipulated in the law and not only that they are not in accordance with applicable standards, but it also has not been adhered to for many years in Serbia. In addition, the Law stipulates the field of competence of police officers in maintaining order within the psychiatric hospital which is not in accordance with the applicable standards bearing in mind that they are uniformed and armed persons.

Existing psychiatric hospitals are massive with a few hundred to a thousand patients. They largely assume asylum character since there are numerous patients excluded from the community mainly over

7 Special department of the Penal-Correctional Facility in Požarevac for execution of sentences for offenses related to organised crime, the newly built Penal-Correctional Facility Belgrade in Padinska Skela, VII pavilion in the Penal Correctional Facility in Požarevac, II Pavilion in the Penal-Correctional Facility in Niš and also in many district prisons.

8 Penal-Correctional Facility for women in Požarevac, Juvenile Correctional Facility in Valjevo and Juvenile Reformatory in Kruševac.

9 Official Gazette of the Republic of Serbia No 45/13.

a month, many up to ten years and some for life. A large number of persons are placed in hospitals primarily for social reasons and also for the reason that there is no any other form of support for their treatment in the community.

Court decisions on involuntary hospitalization of people with mental problems are mainly based on expert analysis of doctors who are employed by the actual hospital recommending the measure. Moreover, there are observed cases where consent to hospitalization is given by persons brought in by the police in agitated state even though the statements given under such circumstances may not be taken as legally relevant.

In the residential social institutions certain number of individuals, including children with disabilities have been isolated for a very prolonged period of time. To date, no significant progress has been made towards de-institutionalisation of these institutions. NPM has sent a recommendation to the competent authorities to carry out all necessary actions with the aim of reducing the current number of occupants in the Reformatory "Veternik" in the next two years, that is, to moderate the number of over 500 occupants of a different age to 100 adults and 50 children.

Intensive supervision of the occupants is not implemented as enhanced monitoring providing additional support/attention, but in fact represents isolation.

It is of great concern that deprivation of liberty of occupants in residential social care institutions, such as demented persons in gerontology centers and homes for the elderly, is exclusively based on the opinions of doctors and as a consequence of the lack of a proper legal framework that regulates the process of limiting the freedom of movement of these individuals.

Public authorities have not established a systematic approach that enables efficient compliance with applicable regulations and international standards in the field of asylum and migration. Disproportion between the number of foreigners who expressed their intention to seek asylum in Serbia in 2013 (5066 persons) and foreigners who have applied for asylum (154 persons) as well as insignificant number of those who actually participated in the process for their asylum claims, represents an indication that the real goal of these entities was not granting asylum in Serbia but a way to realize a possibility of temporary accommodation in the asylum centers thus legalize their temporary stay in Serbia until attaining access across borders to part to the western countries in Europe.

There are indications that Serbia has developed an informal system that plays an important role with regard to the position of migrants and their transfer across the border into neighboring countries.

Police generally fail to immediately implement a process of establishing the identity of irregular migrants once caught on the territory of Serbia. Such individuals are typically not being brought in to the police station, not being searched for identity documents, nor are their personal data registered in the prescribed records. They are mostly verbally instructed by the police officers to independently go to one of the asylum centers as soon as there is a slight indication of their intention to seek asylum in Serbia.

It is incomprehensible that the authorities are allowing thousands of migrants hiding personal documents or with no proof of identity, free movement within the whole territory of Serbia without conducting searches or any constraints or security, nor do they take all necessary actions to establish and make records on their identity.

1.2. The most important information about the activities of the Ombudsman while performing duties of the National Preventive Mechanism against Torture (NPM) in 2013¹⁰

In 2013, the NPM conducted 77 visits to establishments where persons deprived of their liberty are placed.

40 working days were spent in conducting visits in 44 police stations, 11 prisons, two psychiatric hospitals, 1 social welfare institution of a nursing home type, 13 private homes for the elderly, 2 visits in asylum centers and 4 admission monitoring of persons returned in the readmission process at the Belgrade Airport "Nikola Tesla".

Based on the conducted visits, the NPM has provided the reports on visits to the visited institutions providing recommendations for remedying identified deficiencies in their work, which may cause or lead to torture or ill-treatment.

In the course of 2013, the NPM composed 42 reports¹¹ on conducted visits to institutions where persons deprived of their liberty are placed with recommendations for remedying identified deficiencies.

In the course of 2013, the NPM conveyed 263 recommendations¹² for remedying identified deficiencies to the competent authorities.

With the aim of implementing the recommendations addressed in the reports on the visits, the NPM entered into dialogue with the visited institutions and relevant ministries. Five meetings were held in which the possibilities for implementation of given recommendations were discussed.

The NPM gave special attention to the protection from retaliation of persons deprived of their liberty, staff in institutions where persons deprived of their liberty are placed, as well as all other entities who were in contact with the NPM, provided information about the treatment of persons deprived of their liberty or indicated the emergence of abuse.

The NPM instructed the competent authorities on the views and opinions regarding the improvement of legislation in the field of protection of rights of persons deprived of their liberty and prevention of torture. Attention was drawn to the irregularities in the Guidelines of the Ministry of Internal Affairs on the treatment of detainees brought in and detained and the Law on Protection of Persons with Mental Problems¹³, as well as the need to pass a law that will regulate the field of probation matters¹⁴. The NPM has made a significant contribution as to start a dialogue at the national level in terms of improving regulations in the field of asylum and migration matters.

In order to promote and protect the rights of persons deprived of their liberty and to prevent torture, the NPM representatives participated in numerous conferences, round-tables and workshops during 2013. The media published a large number of interviews and press releases. A series of lectures to students were also given. On the International Day in support of victims of torture, on 26 June 2013, the National Assembly of the Republic of Serbia held a public hearing at which the Annual report of the NPM for 2012 was presented.

¹⁰ See more under section 5 of this Report.

¹¹ In the first quarter of 2014, the competent authorities have sent another 4 reports on visits that were conducted at the end of 2013. Given that they describe general position and conditions of persons deprived of their liberty in 2013, the main findings of those report are set out in this NPM Annual Report.

¹² In the first quarter of 2014 another 137 recommendations were sent in the reports on visits conducted at the end of 2013. These recommendations are listed at the end of the NPM Annual Report, in Annex I/III.

¹³ Official Gazette of the Republic of Serbia No 45/13.

¹⁴ 72-160/12, Report on the NPM performance of duties for 2012.

In December 2013, in cooperation with the OSCE Mission to Serbia, the NPM organised a round-table on "Prevention and punishment for torture", which was attended by representatives of the expert community. The round-table was focused on the challenges and issues that the Republic of Serbia faces in the prevention of torture and punishment for a criminal offense of ill-treatment.

The NPM webpage¹⁵ in Serbian and English language contains information all essential activities of NPM, especially reports on visits as well as authorities' responses to treatment according to the recommendations.

The NPM Serbia maintains intensive bilateral cooperation with a number of NPMs of other countries.

The NPM Serbia is the initiator and co-founder of the NPM Network of the countries of South Eastern Europe. In March 2013, with the support of the OSCE Mission to Serbia, the NPM Serbia organized a meeting in Belgrade, where the NPM Network of the countries of South Eastern Europe was established. The Network members are: NPM Albania, NPM Macedonia, NPM Slovenia, NPM Serbia, NPM Croatia and NPM Montenegro, as well as the Ombudsman of Bosnia and Herzegovina. In October 2013, NPM Austria also joined the Network, and NPM Bulgaria and NPM Hungary.

The Report on the NPM performance of duties for 2012 was submitted to the National Assembly, the President of the Republic, the Government of the Republic of Serbia and the Supreme Court of Cassation, and to the general public it was made available through the website of the Protector of Citizens¹⁶ or the NPM¹⁷.

The Report translated into English language was submitted to the UN Subcommittee on Prevention of Torture and other relevant international and regional bodies, and international organizations.

2. Prohibition of Torture

2.1. National legislation

The Constitution of the Republic of Serbia¹⁸ guarantees human dignity, sanctity of life and inviolability of physical and mental integrity, and explicitly prohibits ill-treatment¹⁹.

The Constitution of the Republic of Serbia, Article 25 Paragraph 2
Nobody may be subjected to torture, inhuman or degrading treatment or punishment²⁰.

Prohibition of torture is foreseen by other legal regulations, inter alia by the Criminal Procedure Code²¹, Law on Police²² and Law on Enforcement of Penal Sanctions²³. Criminal Code²⁴ defines torture and ill-treatment as an independent criminal offense²⁵.

¹⁵ <http://npm.rs>, access also possible through <http://zastitnik.rs>.

¹⁶ <http://zastitnik.rs>.

¹⁷ <http://npm.rs>.

¹⁸ "Official Gazette of the Republic of Serbia", No. 98/2006.

¹⁹ Constitution of the Republic of Serbia, Articles 23, 24 and 25.

²⁰ Taken from the Article 5 of the *Universal Declaration of Human Rights*, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

²¹ "Official Gazette of the Federal Republic of Yugoslavia", No. 70/2001 and 68/2002 and "Official Gazette of the Republic of Serbia", No. 58/2004, 85/2005, 115/2005, 85/2005 – State Law 49/2007, 20/2009 – State Law 72/2009 and 76/2010.

²² "Official Gazette of the Republic of Serbia", No. 101/2005, 63/2009 – Constitutional Court's decision and 92/2011.

²³ "Official Gazette of the Republic of Serbia", No. 85/2005, 72/2009 and 31/2011.

²⁴ "Official Gazette of the Republic of Serbia", No. 85/2005, 88/2005 – modification 107/2005 – modification, 72/2009, 111/2009 and 121/2012.

²⁵ 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 inflicts severe pain or suffering on a person by forcing, coercing or committing any other unpermitted action for such purposes as obtaining from him or a third person a confession, declaration or any other information, or intimidating or illegally punishing him or a third person, 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 offense 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 offense specified in paragraph 1 by imprisonment from three months to three years, and for the offense specified in paragraph 2 of this Article by imprisonment of one to eight years.

2.2 International instruments

Serbia is a State party to all the most important treaties concerning prohibition i.e. prevention of torture. International Covenant on Civil and Political Rights²⁶, which in its Article 7 adopts a provision regarding prohibition of torture from the Article 5 of the *Universal Declaration of Human Rights*²⁷, was ratified in 1971²⁸.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²⁹ (Convention against Torture) was ratified in 1991³⁰. It became one of the most important international instruments dedicated to the struggle against *torture*.

Convention against Torture, Article 1 Paragraph 1

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.

Besides giving the most complete definition of torture, the Convention against Torture contains various provisions, important to 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 obliges each State Party to 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 imprisonment³¹.

26 Signed on 19 December 1966 in New York.

27 Adopted by the *United Nations General Assembly* on 10th December 1948 in Paris.

28 "*Official Gazette of the Socialist Federal Republic of Yugoslavia*", No. 7/71.

29 Adopted on 10 December 1984 in New York.

30 "*Official Gazette of the Federal Republic of Yugoslavia* – International treaties, No. 9/91.

31 Convention against Torture, Article 10 Paragraph 1.

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.

In that sense, each State Party is obliged to ensure that any individual who alleges that he had been subjected to torture has the right to complain to the competent authorities and to have his/her case promptly and impartially investigated, ensuring the complainant and witnesses are protected against any ill-treatment or intimidation as a consequence of his/her complaint or any other given statement³².

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 possible³³.

Each State Party ensures that any statement, established as a result of torture may not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made³⁴.

The Convention against Torture established a Committee against Torture³⁵. The States Parties are obliged to submit reports to the Committee on the measures they have taken to fulfill their commitments under this Convention. Each report is reviewed by the Committee providing comments or suggestions on the report when considered appropriate, and sending them to the any State Party concerned to which the State Part may respond³⁶. The Republic of Serbia had submitted reports to the Committee, who responded including comments on them³⁷.

The Republic of Serbia is Member State of the Council of Europe. European Convention for Protection of Human Rights and Fundamental Freedoms³⁸ and *European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment*³⁹ (*European Convention for Prevention of Torture*) were ratified in 2003⁴⁰.

European Committee for Prevention of Torture *has been established by European Convention for Prevention of Torture*.⁴¹ Each State Party is obliged to permit visits to the Committee, to any place within its jurisdiction where persons are deprived of their liberty are placed.⁴² The State Party is obliged to permit to the Committee access to its territory and the right to travel without restriction, full information on the places where persons deprived of their liberty are being placed, unlimited access to any place where persons are deprived of their liberty, including the right to free movement inside such places without any restriction, and the right to interview privately persons deprived of their liberty, or any person whom it believes can supply relevant information.⁴³ After each visit, the Committee shall draw up a report on the facts found during the visits.⁴⁴ The Committee had visited Serbia three times, in 2004, 2007 and 2011.⁴⁵

32 Convention against Torture, Article 13.

33 Convention against Torture, Article 14.

34 Convention against Torture, Article 15.

35 Convention against Torture, Article 17.

36 Convention against Torture, Article 19 Paragraph 1.

37 Comment made by the Committee for the Prevention of Torture at its 41st session, from 3 November to 21 November 2008 on the Report of the Republic of Serbia.

38 Composed on 4 November 1950 in Rome.

39 Signed on 26 November 1987 in Strasbourg.

40 "Official Gazette of Serbia and Montenegro – International treaties", No. 9/2003, 5/2005 and 7/2005 – modified and *Official Gazette of Serbia and Montenegro – International treaties*, No. 9/2003).

41 *European Convention for Prevention of Torture*, Article 1.

42 *European Convention for Prevention of Torture*, Article 2 and Article 7 Paragraph 1.

43 *European Convention for Prevention of Torture*, Article 8.

44 *European Convention for Prevention of Torture*, Article 10 Paragraph 1.

45 Reports on visits to the Republic of Serbia and responses made by the Government of the Republic of Serbia can be consulted on the webpage of the European Committee for Prevention of Torture www.cpt.coe.int/en/states/srb.htm.

3. Optional Protocol to the Convention against Torture

The State Parties, as the Optional Protocol institutes along with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁴⁶ (The Optional Protocol), have reaffirmed that torture is prohibited and constitutes serious violations of human rights⁴⁷.

Optional Protocol institutes that the State Parties have agreed to establish a system of regular visits undertaken by independent 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.⁴⁸

An intention of the Optional Protocol to facilitate visits or continuous presence of mechanisms on prevention of torture in the institutions where persons deprived of their liberty are placed is a result of understanding that the most serious problem of closed institutions is exactly the fact that they are closed and that whatever happens inside is out of the public eye.

The State Parties to the Optional Protocol are obliged to allow visits by the mechanisms established by the 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 acquiescence (places of detention).⁴⁹

3.1. Subcommittee on Prevention of Torture⁵⁰

The Optional Protocol establishes the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵¹.

Subcommittee on Prevention of Torture is authorized to visit any place of detention and make recommendations to State Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.⁵²

States forming part of the Optional Protocol undertake:

- to receive Subcommittee on Prevention of Torture on their territory;
- to grant unrestricted access to all places of detention, their installations and facilities, and liberty of free choice of such places;
- to grant opportunity to conduct a private interview 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 of Torture believes may supply relevant information;
- to provide unrestricted access to all information regarding the number of the persons deprived of their liberty, the number of places of detention and their location, the treatment of such persons and detention conditions, as well as 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;

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

47 Optional Protocol, preamble.

48 Optional Protocol, Article 1.

49 The Optional Protocol, Article 4 Paragraph 1.

50 www2.ohchr.org/english/bodies/cat/opcat/.

51 Optional Protocol, Article 2 Paragraph 1.

52 The Optional Protocol, Article 11 item (a).

- to examine the recommendations of the Subcommittee on Prevention of Torture and enter into dialogue with it on possible implementation measures.⁵³

Subcommittee on Prevention of Torture has not yet visited the Republic of Serbia.

3.2 National Mechanisms for the Prevention of Torture

The Optional Protocol obliges each of the State Parties to 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.⁵⁴

NPM is entitled to:

- access all information concerning the number of persons deprived of their liberty in places of detention, as well as the number of places and their location;
- access all places of detention, their installations and facilities, with the liberty to choose such places;
- conduct a private interview 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 NPM believes may supply relevant information, by their own choice⁵⁵.

The NPM has the authority to regularly examine the treatment of the persons deprived of their liberty in places of detention, 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, as well as to submit proposals and observations concerning existing or draft legislations⁵⁶.

The State Party is obliged to guarantee operational independence of the NPM, as well as the independence of their personnel⁵⁷.

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the NPM any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way⁵⁸.

The State Party is obliged to make available all necessary resources for the functioning of the NPM⁵⁹.

The relation between the NPM and state authorities is based on the principles of trust and cooperation.

The competent state authorities are obliged to examine the recommendations of the NPM and enter into a dialogue with the same with regard to the possible implementation measures⁶⁰.

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

53 The Optional Protocol, Article 12 and 14.

54 The Optional Protocol, Article 3.

55 The Optional Protocol, Article 20.

56 The Optional Protocol, Article 19.

57 The Optional Protocol, Article 18, item 1.

58 The Optional Protocol, Article 21, item 1.

59 The Optional Protocol, Article 18, item 3.

60 The Optional Protocol, Article 22.

3.3. Setting-up NPM in Serbia

The Optional Protocol had been signed on 25 September 2003, and ratified on 1 September 2005 by the Republic of Serbia⁶¹.

Republic of Serbia had become State Party to the Optional Protocol on 26 September 2006⁶².

It took four years before Serbia fulfilled its obligation to maintain, designate or establish independent national preventive mechanism for prevention of torture at the domestic level, one year at the latest after the entry into force of the present Protocol or of its ratification or accession.⁶³

NPM in Serbia has been designated by the Law amending the Law on the Ratification of the Optional Protocol, adopted on 28 July 2011.⁶⁴

In accordance with the agreement reached during the public debate, a new NPM organ in Serbia has not been initiated, but rather authentic and complex NPM model, which implies that all NPM duties are carried out by the existing independent state organ, in collaboration with the authorities of the decentralized units and civil sector.

Protector of Citizens shall carry out the duties of the NPM in collaboration with the Ombudsmen of the autonomous provinces and the associations whose statute intended goal is the promotion and protection of human rights and freedoms⁶⁵.

When deciding on a complex NPM model in Serbia, principles related to the status of national institutions for the promotion and protection of human rights were given due consideration.⁶⁶

Under the Constitution of the Republic of Serbia⁶⁷, Protector of Citizens is designated as the independent state organ which safeguards the rights of citizens and controls the activities of the bodies of government administration, as well as of any authority with the exercise of public powers⁶⁸. The Law on the Protector of Citizens⁶⁹ stipulates that the Protector of Citizens is independent, autonomous in performing duties, a state body which safeguards and oversees promotion of citizens' rights⁷⁰. In April 2010 the Protector of Citizens was recognized as state organ acting on the basis of the Paris principles⁷¹.

The Protector of Citizens is an independent and autonomous state body, a *general-type Parliamentary Ombudsman*, accredited as National Human Rights Institution, with "A" status forming part of the International Coordination Committee (ICC).

The Law on the Protector of Citizens stipulates that the Protector of Citizens is authorized to conduct visits at institutions in which persons deprived of their liberty are placed, to have private interview with the persons deprived of their liberty and any employee in the institution, access any information, which are of importance for the fulfillment of the goal of his preventive operation, regardless of the degree of confidentiality of such information⁷².

61 "Official Gazette of Serbia and Montenegro – International treaties", No. 16/2005, modifications 2/2006.

62 30 days after the deposit of the instrument of ratification to the Secretary-General of the United Nations.

63 The Optional Protocol, Article 17.

64 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.

65 Law amending the Law on the Ratification of the Optional Protocol, Article 2a.

66 The Optional Protocol, Article 18, item 4.

67 "Official Gazette of the Republic of Serbia", No. 98/2006.

68 The Constitution of the Republic of Serbia, Article 138 Paragraph 1.

69 "Official Gazette of the Republic of Serbia", No. 79/2005 and 54/2007.

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

71 http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf.

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

Protector of Citizens' competence in respect to the field of protection of rights of persons deprived of their liberty, under The Law on the Protector of Citizens, is equivalent to the NPM mandate as prescribed in the Optional Protocol.

In the explanatory note to the Draft Law on designation of the NPM⁷³, material conditions necessary to execute NPM mandate are envisaged as well as the engagement of required number of employees in the Expert Service of the Protector of Citizens assuring *earmarked funds as additional funds* in the Budget of the Protector of Citizens.⁷⁴

4. Methodology, resources and organisation of the NPM in 2013

4.1. Methodology of the NPM

The NPM Serbia in their work uses purely preventive approach. The NPM does not control the legality and regularity of the competent authorities on individual cases, but directly notifies the organizational unit of the Ombudsman to act on complaints of persons deprived of their liberty accordingly.

NPM in Serbia conducts visits to institutions in which the persons deprived of their liberty are placed, according to previously established methodology.

Working methodology of the NPM in Serbia is above all based on the provisions of the Optional Protocol to establish the NPM mandate conducting regular visits to the institutions in which the persons deprived of their liberty are or may be placed.

The plan of the NPM in Serbia is to conduct visits to all institutions in which people deprived of their liberty are placed, within the first four years of operation.

NPM Methodology defines the following types of visits: regular visits, follow-up (control) visits, thematic visits and extraordinary (ad hoc) visits.

Visits may be announced or unannounced. After the initial period of operation, in which the visits were mostly announced, the goal is to increase the number of unannounced visits in the future. This will create a more complete insight of the real situation, which will result in an increase of the preventive effect.

The NPM methodology of Serbia gives special attention to the preparation and implementation of unannounced visits to institutions where the persons deprived of their liberty are or may be placed.

After the initial period, in which the objective of the methodology was to conduct regular visits to all institutions, it is planned to increase the number of subsequent (follow-up) visits in the future. This allows monitoring of the situation established during the regular visits, especially the activities of the competent authorities upon the recommendations directed by the NPM.

The NPM methodology of Serbia gives special importance to the subsequent (follow-up) visits to the institutions where persons deprived of their liberty are placed.

⁷³ Law amending the Law on the Ratification of the Optional Protocol to the Convention against Torture.

⁷⁴ Draft Law on Amendments to the Law on the Ratification of the Optional Protocol, explanatory note.

When preparing for a visit to the institution the existing information about the institution is taken into consideration. Responsibilities are assigned by dividing the team for visits into four thematic groups – the first observes housing conditions (Housing conditions observation group), the second considers the exercise of legal protection in the institution (Legal group), the third deals with the issues related to the treatment of persons deprived of their liberty (Treatment group), while the fourth examines the health protection system in place for persons placed in the institution (Medical group). In order to increase efficiency in gathering relevant information during the visit, the team members provide the necessary paper-work in advance (questionnaires, structure and form of sections of the report) which serves as a guide.

The NPM teams conducting visits to the institutions where people deprived of their liberty are placed are multidisciplinary and usually made up of experienced lawyers, psychiatrists, physicians-forensic experts and psychologists.

Visits are carried out according to previously established phases. First phase foresees an interview with the management of the institution, second phase a joint visit of the institution. During the third phase, thematic team representatives of the NPM (legal affairs, treatment and group for health care) have dialogues with heads of relevant organizational units and review documentation. During the fourth phase, interviews with persons deprived of their liberty are conducted, and in the fifth phase, after the short meeting of all groups, the final interview with the management of institution is carried out, in which a preliminary impression concerning the current situation in the institution is identified. Acting upon established phases is not mandatory as it depends on the type of visit and other circumstances.

Questionnaires are used and filled-out by the team members during the visits for the purpose of more efficient and systematic work performance as well as collection of excerpts from relevant regulations and standards in certain areas of work.

In accordance with the work methodology, the reports are generally made up according to the predetermined structure. However, depending on the type of visit and the data collected during the specific visit, upon the proposal of the team members a predetermined structure of the report can be modified and adapted as needed.

In the reports on visits to the institutions where persons deprived of their liberty are placed, the NPM identifies deficiencies and issues recommendations in order to eliminate identified shortcomings which could lead or lead to torture or ill-treatment. Once the shortcoming is identified or certain irregularity in the work, relevant regulations and standards are referenced in the recommendation issued with which it is necessary to bring into line the actual state or conduct.

Reports are delivered to the visited institution and competent ministry, along with the invitation to a meeting during which the report is to be considered and reviewed.

The NPM methodology foresees continuous dialogue with the visited institution and competent ministry.

The aim of the dialogue with the visited institution and competent ministry is to mutually analyze and examine current situation in the particular institution and in the system as a whole, primarily for the purpose of finding the best approach to implement the recommendations the NPM issued after the visits.

In order to maintain a balance between confidentiality and transparency in the work, the NPM report on visit to the institution, in which all personal data is made anonymous, is published upon being responded to by the competent authorities. Statements and responses are then published on the website of the Protector of Citizens and the NPM webpage.

The NPM methodology stipulates that special attention is given to the protection of persons deprived of their liberty, employees within the detention institutions, as well as all other entities who had been in contact with the NPM, provided information on the treatment of persons deprived of their liberty or indicated the occurrence of abuse.

In the methodology of the NPM Serbia, a great importance is given to prevention of retaliation in a way that protects the source of information or data about persons who have provided information. If their identity is recognized, the NPM's preventive activity is achieved through subsequent visits to such persons monitoring their movements i.e. through the way they are treated by the employees in the detention institutions. Additionally, the responsible persons are pointed out that taking reprisals against persons who have cooperated with the NPM is considered the cruelest way of torture.

The NPM Methodology provides for more intensive activities with the aim of combating impunity for torture or any other form of abuse. The competent authorities are made aware of the occurrences or conducts that constitute torture or ill-treatment, with the expectation that in these cases they will specifically take all possible measures and actions within its jurisdiction to determine the liability of employees.

In the methodology of the NPM Serbia, a particular emphasis is put on the general support of the activities of the competent authorities with an aim to combat the emersion of impunity for torture, and also to be able to identify both individual, and strict liabilities.

4.2. Material resources and financial independence of the NPM

For the successful realization of the NPM in accordance with the mandate set forth by the Law on Ratification of the Optional Protocol, it is necessary to provide the required operations and maintenance funds, including the reaching its financial independence.

To facilitate performance of the tasks of the NPM, within the approved budget of the Protector of Citizens, the funds in the amount of 5,256,240 dinars (about € 45,700) were provided for 2013.

Employees of the NPM in 2013 used two offices in the building of the Protector of Citizens, as well as a van with a special purpose to transport team members when conducting visits to institutions.

The amount of funds provided for the operations of the NPM in the countries of the region varies. This amount can range from a few million for the operations of the NPM Austria, where the approximate number of inhabitants and the number of institutions where persons deprived of their liberty are placed are similar to the once in the Republic of Serbia, then up to few tens of thousands of euro for the work of the NPM Macedonia, having several times less inhabitants and institutions where persons are deprived of their liberty compared to the number of persons deprived of their liberty in the Republic of Serbia.

In order to ensure solid working conditions for efficient operations of the NPM in the coming period it is necessary to establish a separate line in the budget of the Ombudsman for the needs of the NPM.

Not having specific budget lines within the budget of the Protector of Citizens for the needs of the NPM, as well as a series of measures introduced in the Republic of Serbia which includes approval of budget spending, leads to an inefficient operation of the NPM in 2014.

It is expected that the lack of funds of the NPM as well as financial independence lead to a reduction in the scope of future activities of the NPM, which will reduce the levels of prevention of torture in the Republic of Serbia.

4.3. Pro-active NPM Organisational Unit and its operational independence

Towards the end of 2012, the Expert Services of the Ombudsman separated the existing reactive tasks on the processing of complaints of persons deprived of their liberty from pro-active tasks on the prevention of torture.

For efficient operation of the NPM it is necessary to engage a sufficient number of employees or contracted staff with the necessary knowledge in the field of prevention of torture.

Number of employees, or engaged in the business of the NPM in the countries of the region varies. Their number varies from several dozen of the NPM Austria, up to two employees in the NPM Macedonia in which the number of employees is to be increased.

Amendments in the systematization of the positions within the Professional Services of the Protector of Citizens must take into account formation of a separate organizational unit for NPM operations. This unit should represent a support to the NPM operations, with at least five employees. It is necessary that all employees in the unit take up employment for indefinite period.

In the operations of the NPM in the Republic of Serbia in 2013 three employees were hired, two of whom are employed on a full-time basis and one on a part-time.

Insufficient number of employees in the NPM prevents the exercise of the NPM operations in a full and sufficient quantity, which will further reduce the effectiveness of prevention of torture in the Republic of Serbia.

4.4 Participation of the Provincial Ombudsman in the activities of the NPM

In the course of 2013, the Protector of Citizens collaborated with the Provincial Ombudsman of the Autonomous Province of Vojvodina (Provincial Ombudsman), in accordance with the signed Memorandum of Cooperation, conducting visits to places of detention at the territory of the Autonomous Province of Vojvodina.

During 2013, the representatives of the Provincial Ombudsman participated in 21 visits to institutions where persons deprived of their liberty are placed.

The Provincial Ombudsman had systematically monitored the status of persons residing in private homes for the elderly and geriatric institutions. He visited 13 institutions, on which the written reports had been made⁷⁵.

⁷⁵ On final conclusions based on conducted visits see more under Section 6.5. of this NPM Annual Report.

4.5. Participation of the civil sector in activities of the NPM

In order to perform activities of the NPM, the Protector of Citizens concluded cooperation agreements with nine associations: Belgrade Centre for Human Rights, Victimology Society of Serbia, dialogue – Valjevo, International Aid Network (IAN), the Committee for Human Rights – Valjevo, the Initiative for the Rights of Persons with mental disabilities (MDRI-S), the Lawyers Committee for Human rights (YUCOM), the Helsinki Committee for Human rights in Serbia and the Centre for Human rights – Niš.

Concluded agreements foresee that each association had assumed the obligation to participate in monitoring the status of persons deprived of their liberty in particular areas of the NPM operations, some in certain types of institutions (police stations, detention institution, prison, psychiatric hospitals, residential social care institutions, centers for asylum and shelter for foreigners) and some in relation to particularly vulnerable groups (minors, women, persons with disabilities).

During the reporting period, representatives of nine organizations the agreements on cooperation in performing duties of the NPM were concluded with had actively participated, in accordance with the NPM methodology, in visits to detention institutions, in the preparation of reports and recommendations, as well as in the dialogue with the visited institutions and relevant ministries.

In addition to the associations with whom the agreements on cooperation were concluded, in the performing duties of the NPM other associations were also actively involved.

The associations of former convicts “Libertas” took a significant part in participation in the activities of the NPM and especially associations of users of psychiatric services “Duša” (“Soul”).

During 2013 the NPM began conducting thematic visits “Monitoring persons deprived of their liberty with motor, sensory and mental problems in the penitentiary system of Serbia”, with the participation of associations of the Center for Human Rights in Niš and Dialog-Valjevo.

During the reporting period, the NPM had participated in numerous projects of the civil society organizations with which it cooperates in the field of prevention of ill-treatment.

Through the project “Program for Prevention and Rehabilitation of Victims of Torture,” which was conducted by Association of International Aid Network (IAN), a seminar on “Institutions and freedom – the process of de-institutionalization and experiences from Italy” was organized as well as the conference “Prevention of torture and rehabilitation of victims,” while through the project “Together against torture” with the mentioned association, the NPM had participated in the consultations for the development of the Platform on cooperation and the role of civil society organizations in the performance of the NPM and the organization of the seminar “The role of the civil society organizations and experts in the performance of the NPM – Experiences and challenges.” Within the project “Together against torture”, the NPM had participated in debates about torture and the NPM, which were organized for students and residents of Roma neighborhood.

With the Association of the Helsinki Committee for Human Rights in Serbia, NPM was involved in the projects “Strengthening the NPM and advocating the rights of institutionalized persons” and “Penitentiary reform in Serbia 2012-2013”. Within these projects two study visits were organized to Netherlands for the employees of the NPM, training programs were provided for staff in closed institutions in Niš, Belgrade and Novi Sad on the topic “The role and importance of NPM in the prevention of torture”, as well as the conference “Cooperation between civil society and the state in the process of de-institutionalization”. In cooperation with the association Initiative of persons with mental disabilities (MDRI-S) held a seminar on “The role of various agents in the field of monitoring and protecting the rights of children with disabilities and adults with disabilities in closed institutions.”

4.6. Engagement of the external experts in performing duties of the NPM

The NPM teams for visits to institutions where persons deprived of their liberty are placed should have a multidisciplinary character.

Representatives of the Protector of Citizens, the Provincial Ombudsman and the associations of the teams for visits to institutions where persons deprived of their liberty are placed, are generally legal professionals so that for an efficient operation of the NPM outsourcing of other professionals is necessary.

The NPM had engaged top outside experts in the field of forensic medicine, psychiatry, psychology, special prevention, internal medicine and prevention of abuse.

In 2013, experts engaged in the NPM are: Đorđe Alempijević M.D.-Ph.D., forensic medicine specialist, professor at the Faculty of Medicine – University of Belgrade; Zoran Ilić M.D.-Ph.D., professor at the Prevention and Treatment of Behavioral Disorders study program at Faculty of Special Education and rehabilitation of the University of Belgrade; Dragan Ječmenica M.D.-Ph.D., forensic medicine specialist, professor at Faculty of Medicine – University of Belgrade; Vladimir Jović M.D.-Ph.D., psychiatrist, professor at the Faculty of Philosophy of the University of Pristina temporarily seated in Kosovska Mitrovica; Srđan Milovanović M.D.-Ph.D., psychiatrist, working as a professor at the Faculty of Medicine – University of Belgrade and at the Clinical Center of Serbia, Institute of Psychiatry; Mira Petrović, psychiatrist, working at the Clinic for psychiatric disorders “Dr Laza Lazarevic” in Belgrade. Srđan Milovanović M.D.-Ph.D., psychiatrist, Faculty of Medicine – University of Belgrade, Clinical Center of Serbia – Institute of Psychiatry; Dr Branislav Ničić, internal and emergency medicine specialist, Niš.

Contributions of the engaged external experts i.e. their expertise have raised the quality of the NPM performance, primarily when it comes to number of elaborated reports and recommendations aimed to eliminate identified irregularities.

4.7. Training of the NPM team members

The Association of the Helsinki Committee for Human Rights in Serbia, within the project “Strengthening the National Preventive Mechanism and advocacy of institutionalized persons” and “Prison reform in Serbia 2012 – 2013”, organized two study visits to Netherlands. In the first, they visited two prisons, and in the second they conducted visits to the Dutch NPM and to the institution for forensic psychiatry.

In the future work of the NPM, it is indispensable to pay more attention to the professional training of the NPM members.

4.8. Other forms of cooperation

The NPM had conducted a joint visit to the Psychiatric Hospital “Dr Laza Lazarevic” with the UN High Commissioner for Human Rights Ms. Pillay Nevi. Issues regarding the long-term retention of people with mental disabilities in large psychiatric hospitals were discussed during these visits.

A joint visit to the Asylum centre with Mr. Muižnieks, the Commissioner for Human Rights of the Council of Europe, was organized and on this occasion they discussed the problems related to the position of asylum seekers and illegal migrations carried via the territory of the Republic of Serbia.

The NPM, in cooperation with the UNHCR in Serbia, had taken a number of actions to protect the rights of asylum seekers in Serbia. In compliance with the commitment to improving the treatment of public author-

ities in that field, representatives of the NPM participated in several meetings with representatives of international organizations and civil society. The NPM has taken part in several meetings of the Project group (and subgroup) of the Government of the Republic of Serbia, formed to address the issue of asylum seekers.

In cooperation with the OSCE Mission to Serbia, in December 2013, a round table on “The prevention and punishment for torture” was organized and attended by representatives of the expert community. The roundtable was devoted to the challenges and issues that the Republic of Serbia faces in the prevention of torture and punishment of abuse offenders. Also, the OSCE Mission to Serbia supported the establishment of the NPM Network of the countries in Southeast Europe as well as organizing of a dialogue with the Ministry of Interior and Police Directorate in Belgrade.

5. Execution of the NPM mandate in 2013

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

During 2013, the NPM conducted 77 visits to establishments where persons deprived of their liberty are placed.

Forty working days were spent in conducting visits to 44 police stations, 11 prisons, two psychiatric hospitals, 1 social welfare institution of a nursing home type, 13 private homes for the elderly, 2 visits in asylum centers and 4 monitoring of the reception of persons returned in the readmission process at the Belgrade Airport “Nikola Tesla”. Based on the conducted visits, the NPM has provided reports on visits to the institutions providing recommendations for remedying identified deficiencies in their work which may cause or lead to torture or ill-treatment.

Chart on realization of the planned visits for 2013:

	planned visits in 2013	carried out visits in 2013	plan realization in 2013
Police stations	47	44	94%
Prisons (Detention units)	7	11	157%
Psychiatric hospitals	5	2	40%
Stationary-type social welfare institutions	4	1	25%
Nursing homes for the elderly people / gerontology centers	7	13	185%
Asylum centers	2	2	100%
Returnees under the readmission agreements	2	4	200%
TOTAL	74	77	

5.2. Cooperation with the public authorities during visits to the institutions

All visited institutions at which persons deprived of their liberty are placed, including *Police Administration* of the *Ministry of Internal Affairs*, *Administration for Execution of Penitentiary Sanctions* of the *Ministry of Justice* and *Public Administration, Ministry of Health* and *Ministry of Labor, Employment and Social Policy*, as well as the *Commissariat for Refugees and Migration*, provided support and assistance related to executing the NPM mandate.

During the visits conducted in 2013 to the NPM institutions where persons deprived of their liberty are placed, the competent authorities and institutions had acted in accordance with Article 20 of the Optional Protocol.

An unrestricted access to all institutions in which persons deprived of their liberty are placed, interviewing all PDLs and employees of the institutions, as well as the access to all documentation regardless of the degree of confidentiality, had been granted to the NPM in the course of 2013.

5.3. Reports on visits to institutions

In 2013 the NPM made 42 reports⁷⁶ of completed visits to institutions where persons deprived of their liberty are placed, with recommendations for remedying the identified deficiencies.

Team members for visits i.e. representatives of the Protector of Citizens, the Provincial Ombudsman and responsible associations as well as engaged experts participated in reports drafting on completed visits, or perceived conditions. The Provincial Ombudsman independently compiled 13 reports on visits to homes for the elderly and geriatric institutions.

5.4. Recommendations for remedying identified deficiencies

The reports on visits to the institutions where persons deprived of their liberty are placed, sent by the NPM to the competent authorities contain recommendations made for the purpose of remedying identified deficiencies.

In 2013, the NPM sent 263 recommendations⁷⁷ to the competent authorities for remedying identified deficiencies.

With each recommendation addressed, except for the established facts or deficiencies in the work, the relevant regulations and standards are listed and referenced with which the existing conditions or treatment should be brought into line by the visited institution or competent authority.

Reports are delivered to the visited institution and competent ministries, along with an invitation for a meeting during which the report is to be reviewed.

5.5. Establishing a cooperative dialogue with public authorities

With the aim of a full implementation of the recommendations addressed in the reports on visit, during 2013 the NPM entered into dialogue with the Administration for Enforcement of Criminal Sanctions of the Ministry of Justice and Public Administration, Penal-Correctional Institution in Sremska Mitrovica, the Ministry of Health, Special Hospital for Psychiatric diseases "Sveti Vračevi" from Novi Kneževac, the Ministry of Interior, Police Directorate for the City of Belgrade and the Commissariat for refugees and migrations.

With the visited institutions and relevant ministries, the NPM holds periodic meetings, in which addressed recommendations and applicable standards in the field of torture are discussed, in order to find ways to implement the recommendations and promotion of compliance with the standards. Particular attention

⁷⁶ In the first quarter of 2014, the competent authorities had sent another 4 reports on the visits that were conducted at the end of 2013. As described general position and conditions of state inmates in 2013 and the main findings of this report are set out in this Annual Report NPM.

⁷⁷ In the first quarter of 2014 another 137 recommendations were sent in the reports on visits conducted at the end of 2013. These recommendations are listed at the end of the NPM Annual Report, in Annex I/III.

is given to the complex operational issues that cannot be achieved within the institution, or through individual activities, but it is necessary to attain the cooperation of multiple organs, in which case the NPM assumes the role of mediator in overcoming the same.

5.6. Prevention of reprisals against persons cooperating with NPM

The NPM concentrates a lot on the protection from retaliation of persons deprived of their liberty, employees in the institutions where persons deprived of their liberty are placed, as well as all other persons who have had contact with the NPM and provided information about the treatment of persons deprived of their liberty indicating the occurrence of abuse.

In the NPM Serbia, a great importance is given to prevention of retaliation in a way that protects the source of information or date about persons who have provided information. If their identity is recognized, the NPM's preventive activity is achieved through subsequent visits to such persons monitoring their movements i.e. through the way they are treated by the employees in the detention institutions.

Additionally, the responsible persons and employees of the institutions are pointed out that taking reprisals against persons who have cooperated with the NPM is considered the cruelest way of torture.

5.7. Improving legislation on prevention of torture

The NPM instructed the competent authorities on the views and opinions regarding the improvement of legislation in the field of protection of rights of persons deprived of their liberty and prevention of torture.

During the reporting period, the NPM noted that Guidelines of the Ministry of Interior on the treatment of detainees brought in contains a number of provisions that are not in compliance with applicable regulations and standards (competence of the control mechanisms, mandatory binding during transport of detained persons, the obligatory presence of police officers during medical examinations of detainees, no need for installing alarm for contacting police officers on duty when there is video surveillance room).⁷⁸ The failures in the above mentioned have created doubts of police officers on the correctness of the ways to exercise police powers, which resulted in urgently recommending the necessary alignment of the Guidelines with the applicable regulations and standards without further delay.

In accordance with the recommendation submitted to the Ministry of Health in the Report on the NPM performance of duties for 2012⁷⁹, to create a legal framework for mental health care in the Republic of Serbia in accordance with the rules of the international law, applicable standards and Strategy for Development of Mental Health Care⁸⁰, stating that treatment and care for people with mental problems should take place within the community and as closer to the family of ill person, during the reporting period, specific legislations were enacted to establish the legal framework for deinstitutionalization in the treatment of people with mental problems. In May 2013, Law on protection of persons with mental problems⁸¹, followed with the Ordinance on the type and specific conditions of structuring organizational units and performing duties in the mental health care in the community⁸².

In the Report on the NPM performance of duties for 2012⁸³ the emphasis was on the necessity of passing on the Probation law so as to protect the society from crime with the aim of re-socialization of offenders and their reintegration into the community, and to assist the victims, damaged parties and their families.

78 Matter No. 78-6/13 and the NPM Report on the visit to the Police Directorate in Belgrade, No. 71-71/13.

79 72/160/12 Report on the NPM performance of duties for 2012.

80 "Official Gazette of the Republic of Serbia", No. 08/2007.

81 Official Gazette of the Republic of Serbia, No. 45/13.

82 Official Gazette of the Republic of Serbia, No. 106/13.

83 72/160/12 Report on the NPM performance of duties for 2012.

The NPM had established an extensive cooperation with UNHCR offices and associations such as Belgrade Centre for Human Rights and Group 484, aiming to improve the treatment of asylum seekers. Their joint indication of a number of flaws in the conduct of the competent authorities and protection of the rights of asylum seekers resulted in formation of the Project Group of the Ministry of Interior for improving the treatment of asylum seekers, or drafting the new Law on Asylum.

5.8. Promotion of the NPM and prevention of torture

With the aim to promote and protect the rights of persons deprived of their liberty and to prevent torture, representatives of the NPM participated in numerous conferences, round tables and workshops in the course of 2013.

Representatives of the NPM also gave a number of interviews and statements through media pertaining to the occurrence of abuse in the Republic of Serbia and to the actual necessity of prevention on this subject.

A public hearing was held on the UN International Day in support of victims of torture, on 26 June at the National Assembly of the Republic of Serbia at which the Annual report on the NPM performance of duties for 2012 was presented.

In December 2013 and in cooperation with the OSCE Mission to Serbia, the NPM organized a round-table on "Prevention and punishment for torture", which was attended by representatives of the expert community. The round-table was focused on the challenges and issues that the Republic of Serbia faces in the prevention of torture and punishment for a criminal offense of ill-treatment.

The report on visit to the Penal-correctional Institution in Sremska Mitrovica⁸⁴ was published and the same was sent to the institutions for execution of criminal sanctions and other relevant institutions.

The NPM website (<http://npm.rs>) in Serbian and English are regularly updated with news, reports on visits and responses from authorities on the treatment recommendations, as well as other activities of the NPM in Serbia.

In order to promote the prevention of torture, representatives of the NPM had held several lectures to students of the Law Faculty, the Faculty of Medicine and Faculty of Special Education and Rehabilitation, as well as lecturing at the Doctors Chamber Kragujevac.

5.9. Cooperation with the Subcommittee on Prevention of Torture

During 2013, the NPM Serbia realized cooperation with the Subcommittee on Prevention of Torture⁸⁵.

Member of the Subcommittee on Prevention of Torture, Mari Amos, as a guest of the NPM Serbia, participated in a meeting in Belgrade in which the NPM network of the South Eastern Europe countries was established. In September 2013, the NPM provided the Subcommittee on Prevention of Torture with the Report on the NPM performance of duties for 2012 in the English language.

The NPM also provided detailed answers to the questions the Subcommittee on Prevention of Torture referred to in the letter sent in December 2013.

⁸⁴ The NPM report on the visit to Penal Correctional Institution Sremska Mitrovica, No. 71-161/12.

⁸⁵ The Subcommittee for Prevention of Torture Guidelines, items 39 and 40, on the Subcommittee website http://www2.ohchr.org/english/bodies/cat/opcat/docs/SPT_Guidelines_NPM_en.doc.

5.10. Cooperation with other NPMs and establishment of the NPM regional network

NPM Serbia held intensive bilateral cooperation with a number of NPMs.

With the support of the association of the Helsinki Committee for Human Rights in Serbia, the representatives of the NPM visited the NPM Netherlands.

In September 2013, the NPM Austria came on a two-day official visit to the NPM Serbia and on this occasion when they exchanged experiences in the activities of NPM.

The established cooperation with the NPM Spain was maintained and actions in the field of coordination of deportations and reception of people in the process of readmission were agreed on.

The NPM Serbia is the initiator and co-founder of the NPM Network of the South Eastern Europe countries.

In March 2013, with the support of the OSCE Mission to Serbia, the NPM Serbia organized a meeting in Belgrade, where the NPM Network of the countries of South Eastern Europe was established. The Network members are: NPM Albania, NPM Macedonia, NPM Slovenia, NPM Serbia, NPM Croatia and NPM Montenegro, as well as the Ombudsman of Bosnia and Herzegovina. In October 2013, NPM Austria also joined the Network, and NPM Bulgaria and NPM Hungary.

At the meeting held in October 2013, also in Belgrade, the Network Medical Group was established gathering medical professionals, who are members of the monitoring teams for visits to institutions where persons deprived of their liberty are placed.

The NPM Serbia continued cooperation with NPM within the European NPM Network.

5.11. Distribution / review of the NPM annual report

The States Parties to the Optional Protocol are obliged to publish and disseminate the NPM annual reports.⁸⁶

The report on the NPM performance of duties for 2012 was submitted to the National Assembly, the President of the Republic, the Government of the Republic of Serbia and the Supreme Court of Cassation.

With the support of the OSCE Mission to Serbia the Report was translated into English language and published in both Serbian and English. The Report, in the form of a publication, in the Serbian language, was submitted to the committees and commissions of the National Assembly, an independent government bodies, ministries, all institutions for execution of criminal sanctions, all police departments, social services, special hospitals for psychiatric illness, universities, as well as associations and experts with which the NPM cooperated in various specialized fields.

With regard to the review of the Report a public hearing was organized in the National Assembly of Serbia on the International Day against Torture on 26 June 2013.

The Report in the English language was submitted to the UN Subcommittee on Prevention of Torture, the UN Committee against Torture and the European Union Delegation in Serbia, the Council of Europe with offices in Belgrade, the European Committee for Prevention of Torture, the Association for

⁸⁶ Optional Protocol, Article 23.

Prevention of Torture and other relevant international organizations. The report was submitted to the NPM of Albania, Montenegro, Macedonia, Croatia and Slovenia, as well as the Ombudsman of Bosnia and Herzegovina.

On the NPM website⁸⁷ as well as on the website of the Ombudsman⁸⁸, the NPM posts annual reports on its performance of duties in both the Serbian and English language.

The Report on the NPM performance of duties for 2013, the NPM shall submit to the National Assembly, the President of the Republic and the Government of the Republic of Serbia, to the Constitutional Court, Supreme Court of Cassation and the State Public Prosecutor's Office.

The Report on the performance of duties for 2013, the NPM shall be submitted in the form of publications to the relevant committees and commissions of the National Assembly, an independent government bodies, ministries, all police departments, all institutions for execution of criminal sanctions, special hospitals for psychiatric illness, social institutions, Asylum centers, detention centers for foreigners, associations, colleges and institutes, as well as experts in the field of protection of rights of persons deprived of their liberty.

The competent state authorities are required to consider the recommendations of the NPM and enter into a dialogue with him regarding the possible implementation measures.⁸⁹

The Annual report on the performance of duties for 2013, the NPM shall submit to the UN Subcommittee on Prevention of Torture, as well as other relevant international subjects, upon its translation into the English language.

6. State of progress and activities of the NPM in different areas in 2013

6.1. Police detention

In 2013 the NPM Serbia visited a total of 38 police stations⁹⁰, 12 reports on visits to police stations conducted in 2012 were made, and other five reports to police directorates on visits to police stations conducted during 2013 and at the start of 2014, the NPM submitted a report to the Police Administration on the visits to the police stations in its jurisdiction conducted at the end of 2013.⁹¹ These reports included a total of 160 recommendations. From the total number of the recommendations, competent authorities acted on 114 recommendations, only partially in 40, and failed to act on 6 recommendations.

As in the last period, a large number of recommendations submitted by the NPM Serbia refer to the improvement of housing conditions in the detention facilities. Recommendations not requiring financial investments i.e. change in the angle on video cameras or shading of the part of the screen that reveals the area around the toilets so it does not invade privacy of detainees while using the toilet, video archiving, hygiene levels improvement, visible notices in the areas with video surveillance etc., are mainly acted upon. On the other hand, even if accepted, the recommendations requiring tangible assets (reconstruction of the rooms, installation of heaters, etc.) are generally not implemented however the competent services of the Ministry of Interior were advised on the necessary adaptation of premises and its expenses. The reason for failing to implement the recommendations is mainly the lack of financial resources.

87 <http://ombudsman.npm.rs/index.php?limitstart=28&lang=sr>.

88 http://www.zastitnik.rs/attachments/2902_izvestaj_%20NPM_%202012.pdf.

89 Optional Protocol, Article 22.

90 Within 6 Police Directorates.

91 In 2013, the working methodology had been amended in the reports on visits to Police Directorates and individual police stations in terms of compiled summary reports for the Police Directorates and their respectful police stations. The reports stated everything that is in common, but also the differences in the treatment of certain police stations within the Police Directorate are emphasized in the text of the joint report. The joint recommendations on omissions related to the performance of duties of more police stations were addressed.

The NPM suggests that the lack of financial resources cannot be accepted as an excuse for bad housing conditions of detained persons since the placement of persons deprived of their liberty in such inadequate condition areas⁹² may constitute abuse.

Ten recommendations are related to the closure of existing facilities for police detention for being unusable not meeting the minimum applicable standards regarding the necessary housing conditions and 39 recommendations related to adaptation and adjustment to the current standards.

Detention facilities in most police stations are located mainly on the ground floor or basement of the police building or in the special facilities in the yards which mostly do not fulfil the requirements for placement of brought in and detained persons.

A large number of observed irregularities related to the material living conditions are associated to the lack of natural and artificial illumination and insufficient ventilation of rooms. The windows in most of the rooms are small, mostly covered with perforated metal plates so that the flow of natural light is almost impossible whereas the windows are not usually open resulting in inadequate supply of fresh air.

In most cases detention facilities are provided with one bulb, protected with perforated metal panels which do not allow sufficient flow of light, while some premises are illuminated with light coming from the hallway. Hygiene of the majority of the rooms, as well the hygiene of bedding and blankets is not at a satisfactory level. In most cases detention facilities are either not provided with heating, or such heating is insufficient, so that certain detention facilities are not used in the winter period precisely because of the inadequate heating. Hygiene of the sanitary facilities is not at a satisfactory level either, most of them being in very poor conditions. A certain number of the detention facilities, situated far away from the duty service, are not provided with the system of calling police officers on duty (alarm button). Due to the lack of appropriate facilities, detained persons are sometimes placed in the offices or transported to other police stations within the same Police Directorate, which represents a violation of the rights of detainees and hinders the work of police officers.

Detention facilities should be large enough, to have a minimum of 7 square meters⁹³; they must be clean, dry, and ventilated, they must be provided with both natural and artificial light, heated according to climatic conditions, equipped with a bed, a mattress and a sufficient number of blankets; there should be an alarm button to enable contact with guards and video /audio surveillance control⁹⁴; there should be no elements that may be used for self-harm in the normal course of events; detainees should be granted unlimited access of drinking water as well as running water necessary for maintenance of hygiene at all times, toiletries and sanitary ware; it is also necessary to provide space for spending time in the fresh air within police stations.

None of the visited police stations which enforce detention measures that exceed 24 hours possesses a space for spending time in the fresh air, so that arrested or detained persons usually spend all the time during the detention indoors.

92 Inadequate premises are considered areas that are not in compliance with applicable standards.

93 According to the existing standards, police detention premises should have 7 square meters if intended to accommodate one person only or at least 4 square meters per person if ment to accommodate more persons; distance between the walls of the room should be at least 2 meters, height from the floor to the ceiling at least 2.5 meters, and if they are smaller size they may be used only for stays no longer than a few hours.

94 Being *mindful not to violate* the privacy of the detainees.

Due to poor conditions of the detention facilities within certain police stations, recommendations to suspend their further use were sent, and most of the police directorates and police stations acted in accordance with the recommendations made by the NPM.⁹⁵

As examples of detention facilities complying with all necessary requirements, the NPM emphasizes detention facilities at the headquarters of the Police Directorate for the City of Novi Sad, detention facilities at the headquarters of the Police Directorate for the City of Pančevo, detention facilities at the headquarters of the Police Directorate for the City of Belgrade, detention facilities at the Zemun Police Station and detention facilities at the Čukarica Police Station. These facilities have been renovated and adapted in accordance with the current standards, providing full respect for the rights of persons deprived of liberty regarding accommodation conditions. Detention facilities at those police directorates and police stations are large enough, clean, dry and ventilated, with an adequate flow of fresh air, well illuminated both by natural and artificial light and appropriately heated.

With regard to the recommendations for the improvement of the material conditions of detention, all visited police directorates addressed to the Ministry of Internal Affairs, filing the requests to obtain necessary funds for the renovation of detention facilities, as well as the requests for the procurement of the necessary means and equipment for detention facilities. Acting in accordance with the NPM recommendations, the Department for Joint Affairs of the Ministry of Interior sent a memo to all police directorates in December 2013, calling upon them to submit a list of the necessary means and equipment for detention facilities (blankets, bedding, mattresses, first aid kits, etc.), in order to include them in the procurement plan for 2014.

In accordance with the recommendations of the NPM, during 2013, persons detained in police stations were provided with a food, from the budget funds earmarked for such purposes. Furthermore, special electronic records (detention records) are introduced, containing information about all important events and actions that affect detainees, such as visits of the detainees, nutrition, health checks, etc..

During visits performed by the NPM, police officers and all encountered detainees stated that, at the time of admission to the detention facility, the information about the detainees' rights was provided verbally. However, on the basis of detention files review, it has been observed that in some police stations, information in writing regarding the detainees' rights has not been given to persons who have been detained on the basis of the *Law on Misdemeanors* and *Law on Road Traffic Safety*. Furthermore, in some police stations⁹⁶, it has been observed that detainees "due to *safety reasons*" were not allowed to carry decision on detention, i.e. detention order as well as other relevant documentation, inside the detention premises; aforementioned documentation is seized and returned upon the release from detention. In order to eliminate the aforementioned irregularities, the recommendations were proposed to public authorities, which affirmed that appropriate actions were taken in this regard.

It was observed that the use of *means of coercion increased* during 2013. This fact is primarily a consequence of newly adopted *Instructions on the Treatment of Arrestees and Detainees*⁹⁷, which prescribes a mandatory use of restraints every time when arrestees are being transported to the police premises.

In respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.⁹⁸

95 NPM report on the visit to the Police Station in Bač, No. 71-151/12; NPM report on the visit to the Police Station in Bečej, No. 71-154/12; NPM report on the visit to the Police Station in Beočin, No. 71-156/12; NPM report on the visit to the Police Station in Temerin, No. 71-157/12; NPM report on the visit to the Police Station in Lazarevac, No. 71-25/13; NPM report on the visit to the Police Directorate in Šabac, No. 71-52/13.

96 Traffic Police Unit Smederevo and Police Station Zvezdara.

97 *Instructions on the Treatment of Arrestees and Detainees*, 01 No. 7989/12-10 from 10.12.2012., item 13, par. 2.

98 European Court of Human Rights judgment, *case of Berlinski v. Poland* (Appl. nos. 27715/95, 30209/96).

The use of *means of coercion* must be reasonable, necessary and proportionate to the risk posed. Obviously, it is not necessary to bind each person apprehended by the police, therefore, binding persons without necessity to do so, constitutes a violation of their rights.

NPM considers that it is necessary to modify without further delay provisions of the Instructions on the *Treatment of Arrestees and Detainees*, which prescribe mandatory use of means of physical restraint when transporting arrestees to the police premises.⁹⁹

During the reporting period, NPM has constantly pointed out numerous shortcomings of the *Instructions on the Treatment of Arrestees and Detainees*, i.e. the provisions that are not in compliance with applicable regulations and standards, as aforementioned mandatory binding during transport /bringing in of persons, and also erroneously determined jurisdiction of the control mechanisms and their competences, the mandatory presence of police officers during medical examinations of detainees, non-compulsory installation of alarm button for calling a police officer on duty when there is video surveillance in the room, etc.¹⁰⁰ Aforementioned facts led to police officers doubting about the correctness of the way of police power exercise and non-uniform procedure practice in certain police directorates, thus it is necessary without further delay to harmonize the *Instructions on the Treatment of Arrested and Detained Persons* with the applicable regulations and standards.

NPM considers that police officers should be entitled to estimate whether it is necessary to apply coercive means and to what extent in each specific situation, taking into account all the objective circumstances.

In addition, police officers should be provided with guidelines regarding what facts should be taken into account when making a decision on whether the use of coercive means is necessary, i.e. they should be trained to assess all important circumstances that are relevant to the decision, such as the age, sex, height, physical strength, physical and especially mental state of the person that needs to be brought in, as well as the type of committed offence and other relevant aspects.

Police officers make reports and maintain special records on the use of coercive means. However, report on the use of coercive means is frequently not accompanied with a signed statement of a person on whom a coercive mean is used, or a statement of a witness to an event, in the case of persons who are not police officers. The exception is the practice of the Belgrade Police Directorate¹⁰¹, where there is an established standard procedure to deliver the report on the use of coercive means made by a police officer, together with a note made by a chief police officer on duty at the time when an arrestee is brought to the police station, to the officer in charge of control of the justifiability and regularity of the use of coercive means. This note contains the statement of the person deprived of liberty related to the conduct of police officers toward him/her, and possibly his/her remarks regarding the use of coercive means. However, a person deprived of liberty does not confirm by signing that he/she saw and read the note, or that his/her statement is accurately transmitted. In relation to the aforementioned it is recommended that it is necessary to establish the practice so that a person deprived of liberty on whom coercive mean is used, can have access to the note made by the chief police officer on duty related to his/her allegations regarding the conduct of police officers, and confirm by signing the note that he/she read the note and that his/her statement is accurately transmitted.

What may arouse suspicion of the presence of inappropriate and unlawful use of coercive means, or indicate cases of ill-treatment in police stations, is the presence of prohibited items (rods, sticks, shovels, etc.) in premises used for interrogation of citizens.¹⁰²

99 See, for example, the *judgment* of the European Court of Human Rights in the case of *Berlinski v. Poland* (Appl. nos. 27715/95 and 30209/96), paragraph 59.

100 Matter No. 78-6/13, NPM Report on the visit to the City of Belgrade Police Directorate, No. 71-71/13.

101 NPM Report on the visit to the City of Belgrade Police Directorate, No. 71-71/13.

102 Prohibited items were found during the NPM visits to the Pančevo Police Directorate, Police Station Kovin and Police Station Savski venac.

Most polemics in the area of providing health care services to detainees raises the question whether a police officer should attend a medical examination. Although the standard implies that medical interventions, and thus a medical examination, should not be attended by non-medical staff, except when for justified reasons explicitly required so by the health worker, *Instructions on the Treatment of Arrestees and Detainees*, in item 26, paragraph 3, stipulates the obligation of police officers to attend a medical examination of detained persons.

NPM considers that it is necessary to modify without further delay the provisions of the *Instructions on the Treatment of Arrestees and Detainees* which stipulates mandatory presence of police officers to medical examination of detainees.

Apart from the aforementioned, non-medical staff attending medical examinations can have access to confidential medical information that is not relevant for the treatment of persons deprived of their liberty.

NPM considers that the routine presence of non-medical staff to medical examinations makes impossible the realization of the important role of physicians in preventing ill-treatment.

In addition, during visits, an issue concerning the access to medical documentation within police records raised, because such documentation represents a particularly sensitive personal data. On the other hand, if a doctor provides access to medical records to another person it can only be with the consent of the patient, because otherwise it represents the breach of medical confidentiality.

NPM considers that medical records made during the medical examination of detained persons in the regular procedure should not be available to police officers.

However, if it is necessary that the competent police officers have information which is relevant to their conduct (e.g. a detainee has to take medication at regular intervals, special dietary needs / restrictions, etc.) doctor should disclose such information to a police officer, without specifying the diagnosis and other confidential information; the police officer should make an official note regarding this information.

NPM considers that the physician who performed the medical examination of a detainee should provide all the relevant information to the competent police officer in writing, *accompanied* by a clear and comprehensible *verbal explanation*, about the treatment of the detained person in order to ensure effective provision of health care services during the detention, that is to prevent deterioration of his health.

In the event that a physician fails or refuses to act in accordance with the above mentioned, a competent police officer should ask the physician to verbally instruct him, in *understandable way*, on the necessary measures and actions to be taken in order to protect the health of a detainee; police officer should make a note on this in writing and file it in the detention record.

Apart from the aforementioned, physicians should carry out thorough examination of all body regions of detainees during medical examinations, and in the case of establishing bodily injuries, describe them *as detailed as possible*, note down statement of a patient (detainee) regarding *the manner* in which the *injuries were inflicted*, and provide a conclusion on the basis of the facts.

NPM considers that physician should in detail check for bodily injuries during the medical examination of detained persons, and if there are any, to describe them precisely in accordance with the rules of the medical profession, and *subsequently*, in the conclusion of the medical report, to establish causality between the statement of a detainee regarding the resulting injuries (and possibly official data on applied measure of coercion) and specific bodily injuries noticed during the examination.

In many cases, NPM noticed that the report made by a doctor upon the use of coercive means does not contain information about the allegations of a person who is examined in relation to the possible injuries, nor a medical opinion concerning *the manner* in which the *injuries* were *inflicted*. In addition, this report generally does not contain any information about whether the medical examination was performed in the presence of police officers. This information is important and necessary so that the procedure regarding the control of the justifiability and regularity of the use of coercive means could be carried out in a proper manner and therefore it must be noted down.

During the reporting period NPM paid attention to the activities of the police in the field of the fight against impunity, as one of the factors in the prevention of torture. That is to say, the Protector of Citizens within its reactive work on complaints found in several cases that the arrestees were victims of torture during the police custody, as a consequence of which he sent recommendations to the police in order to prevent such conduct in the future. The NPM took upon itself the monitoring of police conduct in this regard.

NPM has noticed that the police, despite the fact that the detainees in a timely manner present arguable claims that bodily injuries were inflicted on them during an illegal and improper exercise of police powers, in general does not carry out timely and thorough procedures (in a fast, meticulous, impartial and effective way) in order to investigate such cases; individual responsibility of perpetrators is not being established, nor the responsibility of those who are objectively responsible for omissions in their work and work organization, neither the culprits are being punished.

Internal control mechanisms of the police proved ineffective in the area of protection against torture. Therefore, the obligation of the police to fight against impunity of those responsible for *acts of torture* is not fulfilled, while a special problem represents a conduct of the public prosecutor's office, which upon receiving the notification from the Protector of Citizens informing about a found case of committed torture, did not find grounds to initiate criminal proceedings against police officers¹⁰³.

103 Protector of Citizens, cases No. 12-1782/10; 12-1782/10; and 12-1782/10. *Protector of Citizens' Annual Report for 2013*, 2.5./5. paragraph 2.

GENERAL RECOMMENDATIONS FOR ELIMINATION OF DEFICIENCIES

The Ministry of Interior should exercise to the fullest extent its mandate in the fight against impunity for any form of abuse that occurs in relation to the exercise of police powers.

Detention facilities in police stations should comply with the applicable standards, to which end necessary funds should be provided without further delay.

Instructions on the Treatment of Arrestees and Detainees should be harmonized with the applicable regulations and standards.

Police officers are not to attend medical examinations of detainees, except when, explicitly required so by a physician. A police officer is to provide a physician in a timely manner all available information relevant to the physician's decision regarding the presence of a police officer during the medical examination of a detainee.

Police officers are not to have access to medical records with information regarding medical examination and provided health care services to the detainees. A police officer is to ask the physician to instruct him in understandable way, on the necessary measures and actions to be taken in order to protect the health of a detainee; police officer is to make a note on this in writing.

6.2. Execution of detention measures

So far, judicial reform in the Republic Serbia has not resulted with more efficient work of the courts in so-called detention cases. Besides, general impression is that the detention measures are imposed lightly, for inappropriately long period of time, and that courts rarely impose measures such as bail, which is an effective alternative to detention. Circumstances that accompany the execution of the measures of detention, violation of the presumption of innocence of detainees, and the conditions related to the execution of detention measures, in a large number of cases represent punishment prior to conviction.¹⁰⁴

In the Republic of Serbia, the detention measure perceived and carried out as punishment.¹⁰⁵

During the reporting period, NPM visited 5 detention units and sent 23 recommendations.

On the basis of conducted visits to detention units in the institutions for execution of criminal sanctions, it was observed that housing and other living conditions of detainees in certain detention units are still not in compliance with pertinent standards.

Accommodation capacities are generally overcrowded, thus some detainees do not avail of space in the dormitories of at least eight cubic meters and four square meters. Some of them sleep on mattresses on the floor or triple bunk beds¹⁰⁶, which undermines the idea of a separate bed. A certain number of detention facilities are in extremely poor condition, dilapidated and dirty; Poor ventilation in the rooms makes it especially difficult for non-smokers who are placed in the same room with smokers. Some areas receive insufficient amount of natural light whereas artificial lighting does not have *satisfactory light intensity*.

¹⁰⁴ See more in the publication "Pritvor – Ultima Ratio?", *The Belgrade Centre for Human Rights*, Belgrade, 2014.

¹⁰⁵ *Ibid*, Introduction, page 4: Detention, defined as an exceptional measure which should ensure the presence of the defendant and the unhindered conduct of the criminal proceedings, in our society is perceived and enforced as a punishment. This can be concluded on the basis of numerous indicators, including the media, predominant public opinion, statements of leading political figures, but also the practice of judicial authorities, work of defense attorneys, and most importantly, on the basis of treatment of persons on whom a detention measure has been imposed.

¹⁰⁶ NPM report on the visit to District Prison in Kragujevac, No. 71-3/13.

Efforts aimed at improving capacities for accommodation of detainees are encouraging. During 2013, numerous adaptations and reconstructions of accommodation capacities were carried out.

During 2013, works on reconstruction of one part of the detention unit of District Prison in Belgrade were carried out, in compliance with applicable regulations and standards. After conducted visits and sent recommendations by the NPM, a reconstruction of one part of the detention unit of the Juvenile Penal Correctional Facility in Valjevo¹⁰⁷, as well as the reconstruction of detention units of the District Prison in Negotin¹⁰⁸ were carried out, in which way the material conditions of accommodation met the pertinent standards. However, despite the recommendations¹⁰⁹ made, detention units of some institutions for execution of criminal sanctions, material conditions of accommodation still fail to comply with applicable standards.

The problem of the system of the execution of detention measures in Serbia, is that detainees are closed all day, i.e. locked in a cell / dormitory.

As a general rule, detainees are not permitted to spend their free time during the day outside the cell, in the common areas with other detainees with whom they are not prohibited to contact on the basis of a court decision. In most cases, they are not allowed to work, nor involved in social and cultural activities. Notwithstanding according to the existing regulations detainees have the right to spending at least 2 hours outdoors every day, some detention units do not provide conditions for the realization of this right to the full extent. Existing walking areas generally do not have adequate eaves, suitable for protection from precipitation. Moreover, facilities intended for physical activity are inadequate, especially under adverse weather conditions.

Not enough attention is paid to the placement of detainees in the detention premises.

It was noted that detainees who have not been previously convicted are placed in the same dormitory with detainees with *prior convictions*, and at the same time not enough attention is paid to the placement of detainees depending on the type of criminal offence they are accused of¹¹⁰. The abovementioned is not in accordance with the existing standards and can have far-reaching negative consequences for the detainees. A particular problem represents the placement of juvenile detainees in the same room with adult ones.

Due to the current system of enforcement of detention measures, it often happens that the female detainees spend detention measures mainly in isolation. because of their relatively small number

Women on whom the detention *measure* have been *imposed*, are placed in detention units in prisons throughout Serbia. Due to their relatively small number in one detention unit, it often happens that some of them spend detention measures practically in isolation, for inappropriately long period of time. Although in the system of execution of criminal sanctions it represents a disciplinary or special measure which is strictly limited, in the current practice, for certain detainees it is a regular manner of execution of the detention measure, which speaks volumes about the existing negative aspect regarding the detention of women.

¹⁰⁷ Recommendation No. 12-1949/13 from 11 July 2013.

¹⁰⁸ NPM report on the visit to District Prison in Negotin, No. 71-98/12.

¹⁰⁹ NPM report on the visit to District Prison in Kraljevo, No. 71-164/12; NPM report on the visit to District Prison in Kragujevac, No. 71-3/13, NPM report on the visit to District Prison in Pančevo, No. 71-28/13.

¹¹⁰ NPM report on the visit to District Prison in Kragujevac, No. 71-3/13; NPM report on the follow-up visit to Penal Correctional Institution in Sremska Mitrovica, No. 71-48/13.

In 2013, a new practice has been introduced into the system of execution of detention measures, – following the creation of a separate room for the visit of the spouse, children and other close relatives, a detainee is allowed conjugal visits, without the presence of the prison staff or other inmates.

It is encouraging that after numerous complaints of detainees, the District Prison in Belgrade set up a special room for visits of a spouse, children and other close relatives, and that in the previous period, on the basis of a decision of the competent court, a detainee who spent more than five years in detention, was granted conjugal visits, without the presence of the prison staff or other inmates.

GENERAL RECOMMENDATION FOR ELIMINATION OF IDENTIFIED DEFICIENCIES

It is necessary to improve the existing dilapidated accommodation capacities of detention units, i.e. to align them with current regulations and standards.

Detainees should be permitted to spend their free time during the day outside the cell, in the common areas with other detainees with whom they are not prohibited to contact on the basis of a court decision.

Detainees should be allowed to work, and to be involved in social and cultural activities.

More attention should be paid to ensure that the detainees who have not been previously convicted are not placed in the same dormitory with detainees with prior convictions, and to place detainees depending on the type of criminal offence they are accused of. Particular attention should be paid to avoid placement of juvenile detainees in the same room with adult ones. Smokers should not be placed in the same room with the non-smokers.

6.3. Execution of criminal sanctions

During 2013 NPM visited 11 institutions for execution of criminal sanctions (Institutions)¹¹¹.

In 2013 three reports on the visits carried out in 2012 and five reports on the visits conducted in 2013 were made, while at the beginning of 2014 one report on the visit carried out at the end of 2013 was made. In these reports a total number of 178 recommendations were sent. From that number, the authorities have acted upon 90 recommendations, partially upon 46, and did not act upon 42 recommendations.

During visits conducted in 2013, as well as during the previous period, numerous deficiencies related to the accommodation and other living conditions of the prisoners were observed.

Accommodation and other living conditions of sentenced criminal and misdemeanor offenders in certain detention facilities are still not in compliance with the applicable standards.

In spite of the decrease of the total number of persons who are serving prison sentences on the basis of granted amnesties, performed adaptations of certain accommodation facilities, and visible efforts of the Institution for Execution of Criminal Sanctions and the prison wardens to improve the work organization, major penal-correctional institutions¹¹² are still overcrowded, a large number of premises is still dilapidated, so we can only confirm that they do not meet the material and other living conditions prescribed by the applicable standards.

Efforts aimed at improving capacities intended for the accommodation of sentenced criminal and misdemeanor offenders are encouraging. In 2013 several adaptations and reconstructions of accommodation facilities were made.

¹¹¹ There are 29 prisons in the Republic of Serbia.

¹¹² Penal Correctional Institution in Sremska Mitrovica, Penal Correctional Institution Požarevac-Zabela and Penal Correctional Institution in Niš.

During 2013, in accordance with the recommendations¹¹³ made by the NPM, certain activities have been carried out in order to improve the accommodation conditions in institutions for the execution of criminal sanctions, and accommodation facilities in some of them have been adapted (Penal Correctional Institution in Sremska Mitrovica, District Prison in Čačak and District Prison in Negotin). In addition, the Penal Correctional Institution for women and the Administration for the Execution of Criminal Sanctions have taken some measures to improve the living conditions of female convicts – there is an ongoing implementation of the project of renovation and construction and of the mentioned Penal Correctional Institution, and the funds required for the elaboration of the project documentation are foreseen in the financial plan for 2014. Because of the complete inadequacy of the accommodation capacities of District Prison in Pančevo, due to which the relocation of the prison from the existing building was recommended, conditions for commencement of works on construction of a new prison in Pančevo were provided. In 2014, several accommodation facilities of Juvenile Penal Correctional Institution in Valjevo shall be adapted. In the coming period, NPM shall monitor through control visits, what planned activities aimed at improving accommodation conditions are implemented.

The biggest problem of the existing system of execution of criminal sanctions in Serbia, represent over-dimensioned and overcrowded penal correctional institutions in Sremska Mitrovica, Požarevac and Niš.

In the coming period, special attention has to be paid to improvement of the accommodation capacities in major prisons and *reduction of overcrowding by transferring inmates to other institutions for the execution of criminal sanctions*, especially to the recently built Penal Correctional Institution in Belgrade, which was half-full for a long period of time.

A large number of persons serving prison sentences, who are placed in closed wards, are not permitted to spend free time during the day outside of dormitory, in the common areas with other convicts.¹¹⁴

Abovementioned practice is neither discontinued in the recently built Penal Correctional Institution in Belgrade, whose blocks do not have common areas, so that the convicted persons are locked in their cells all the time (except for about an hour in the open air).

A significant deficiency represents a fact that a practice of the measure of increased oversight is carried out as a form of exclusion, and in many cases of isolation, i.e. it is reduced solely to the removal of persons on whom the measure of exclusion from the ordinary regime was imposed – implying closing / locking into the rooms – dormitories. In this way oversight of those persons is reduced.

It is necessary to revise the methods of enforcement of the increased oversight measure so that during the execution of this measure the immediate attention of the prison services with regard to the persons on whom the measure is being imposed is enhanced, and especially to intensify both group and individual treatment activities of the correctional counselors.

A significant number of convicted persons who were divided into educational groups V1 and V2 and placed in a closed ward, usually spend less than 2 hours a day in the open air as foreseen and prescribed by the relevant regulations. In most penal correctional institutions there are no separate, indoor premises for physical or other free-time activities, nor special rooms for visits of close persons.

113 Recommendation No. 12-1949/13 from 11 July 2013; NPM report on the visit to District Prison in Negotin, No. 71-98/12; NPM report on the visit to District Prison in Čačak, No. 71-163/12; NPM report on the visit to District Prison in Zaječar, No. 71-48/12; NPM report on the visit to District Prison in Pančevo, No. 71-28/13; NPM report on the visit to District Prison in NPM report on the visit to Penal Correctional Institution for women in Požarevac, No. 71-66/13.

114 e.g. in the Seventh Pavilion of the Penal Correctional Institution Požarevac-Zabela and the Second Pavilion of the Penal Correctional Institution in Niš.

Of the total number of the recommendations regarding the enforcement of criminal sanctions, 47 were related to the treatment activities and the conduct toward persons deprived of their liberty. Of the total number of recommendations relating to the treatment activities, it was acted upon 18 recommendations, the same number of recommendations was not acted upon, and partially acted upon 11. Recommendations not acted upon were mainly related to the lack of financial resources and facilities for carrying out certain activities.

Majority of irregularities noted by the NPM and identified in its reports and through the recommendations made, were related to deficiencies in the implementation of intensive and active educational-corrective work, more detailed and *timely information* provided to convicted persons on the rights, obligations, rules, and other issues regulating the execution of the prison sanctions, as well as information on the methods and conditions for the exercise and protection of their rights.

Also, a certain number of the recommendations referred to the active and systematic cooperation with competent organs for social protection, which is usually inconsistent or missing, but also to the need for the development and implementation of the release preparation and aftercare programs for the convicted persons. It is necessary to further intensify active, individual and collective treatment work of the correctional counselors with convicted persons.

It is necessary to improve the system of subsequent reassignment of convicts, in terms of creating opportunities so that convicted persons, on account of good behavior, pass into more favorable treatment group that will help reduce the large number of convicts who are released from the institution for the execution of criminal sanctions directly from a closed ward. Programs that are designed to provide social support and help convicts after release from the institution for the execution of criminal sanctions are still a lump, thus upon release convicted person is left on his/her own, which increases the risk that, as a person not properly adjusted to life outside of prison conditions, he/she will repeat a criminal offense in a short time.

During the visits, NPM also noted that insufficient attention is paid to the education of the convicts, that there are not enough opportunities to work, and that the monetary compensation for work engagement is not paid regularly. Despite significant progress in increasing the work engagement of the convicts¹¹⁵, there is still a large number of persons serving prison sentences are not engaged in prison work.

NPM observed and *draw* that issue to the *attention* of the *competent authorities* through the report on the visit to the Juvenile Penal Correctional Institution in Valjevo¹¹⁶, that, in the only juvenile penal correctional institution in Valjevo, where juveniles among others convicted persons are serving prison sentences, treatment activities intended for this group do not differ from the treatment activities designed for other prisoners. In addition, according to a number of convicted persons, who are, for security reasons, isolated in the ward under intensified surveillance (OPN), the treatment activities are either not implemented at all, or implemented to a lesser extent than foreseen in their treatment programs, although this group of convicted persons requires *more* therapeutic *effort*. In addition, juvenile penal correctional institution, convicted persons who are placed in a semi-open ward are at a considerable disadvantage compared to those who are placed in the closed ward, which is primarily reflected in the availability of various sport, cultural and other free-time activities.

Penal Correctional Institution for women in Požarevac classified as a semi-open institution according to the existing regulations, is in fact, an institution of closed type, because all female convicts, regardless of treatment group, practically serve their sentence in the institution, which is surrounded by high walls. In its report NPM pointed out that the conditions in which female prisoners serve their sentences must comply with the relevant regulations and adjust to specific circumstances, also with regard to individual treatment programs for women who are serving sentences in this penal correctional institution. It was also observed that due to the remoteness of the penal correctional institution from the place of

115 e.g. around 700 convicted persons have work engagement in Penal Correctional Institution Sremska Mitrovica, NPM report on the control visit of the Penal Correctional Institution in Sremska Mitrovica, No. 71-48/13.

116 NPM report on the visit of the Juvenile Penal Correctional Facility in Valjevo, No. 71-40/13.

residence of some of female prisoners, they often have difficulties in maintaining contact with their families, which was noted by the NPM in its report¹¹⁷.

With respect to the year 2012 certain improvements were made regarding treatment activities. In February 2013, Directive¹¹⁸ on the methods of operation of the Treatment Service within penitentiary institutions was adopted, with the aim of simplifying and harmonizing work practices of civil servants working in treatment programs in all penitentiary institutions. In May 2013, a new Strategy for the Improvement of the System of Execution of Criminal Sanctions for the period 2013 – 2020¹¹⁹ was created, which among other things foresees the adoption of the Law on Probation, which will establish the procedures for execution of alternative measures and sanctions, and regulate in a systematic manner, the assistance and support to the convicted persons upon their release, in order to ensure their efficient reintegration into the community. This Strategy also provides for certain changes and improvements in the area of the execution of criminal sanctions against juvenile offenders, which are related to the improvement of treatment programs and programs of preparation for release. Same changes have been also announced in the area of execution of criminal sanctions against women, which are primarily related to the construction of new accommodation facilities and the construction of open ward in the Penal Correctional Institution for women in Požarevac, improvement of treatment programs, and implementation of vocational education and training programs designed to *meet labor market needs* and improve *employment* opportunities of female prisoners after the execution of the criminal sentence.

Most of the recommendations in the field of health care refer to the irregularities that were also present during the previous year, 2012¹²⁰. Numerous deficiencies related to providing health care services to persons serving prison sentences, as well as necessary medication and therapy, are still observed. Medical examinations upon admission to prison are arbitrary, there are no uniform protocols, regular medical examinations of the convicted persons are generally not performed at intervals of less than three months, a physician does not examine detained persons who are ill every day. It is common that the therapy is administered by non-medical personnel.

On the basis of conducted visits, NPM has observed that non-medical staff continues to attend medical examinations, even when not required so by a health worker, thereby violating the privacy of convicted persons and their right to confidentiality of medical information.

Generally, prison doctors do not submit periodic reports to prison wardens as stipulated by the Law on the Execution of Criminal Sanctions (regarding the health of the convicts, findings and recommendations on the amount and quality of food, sanitary and hygiene conditions in the penitentiary institution, the physical activities of the convicted ...)

Despite numerous recommendations sent by the NPM, health care services in the institutions for the execution of criminal sanctions remain under the jurisdiction of those institutions, i.e. under the jurisdiction of the Administration for the Execution of Criminal Sanctions, instead of being under the jurisdiction of the Ministry of Health.

A particular problem represents the fact that, despite numerous recommendations made by the NPM, convicted persons with severe mental disorders are accommodated within regular prison regime. This is not in accordance with the valid standards, represent an omission in terms of protecting the rights of those persons, and if continued, can constitute inhuman and degrading treatment. Apart from the inability to provide an adequate health care, it opens up a series of questions, such as security of these persons, security of other inmates, as well as the question of training of the prison officers, including the existing medical staff in order to adequately act around such persons. It is necessary to make additional efforts in order to provide accommodation and assistance to the persons with mental disorders, ap-

117 NPM report on the visit of the Penal Correctional Institution for women in Požarevac, No. 71-66/13

118 Directive on the methods of operation of the employees of the institutions for the execution of criminal sanctions, work procedures and layout and content of documents during the identification, implementation and modification of treatment programs for the sentenced criminal and misdemeanour offenders, and the method of application of the By-law on treatment, assignment and reassignment of convicted persons, No.110-00-1/13-03 from 24 February 2013.

119 No. 021-10982/13 from 18 December 2013.

120 Annual report of the NPM for 2012.

proriate to their needs. NPM sent a recommendation, proposing that such persons should be placed in a special medical institution, the Special Prison Hospital, and possibly in stationary health care unit within the prison, provided with the conditions for their treatment and care.

Compared to previous reporting period, a certain improvement was observed with regard to the provision of health care services and proper keeping of medical records in the Penal Correctional Institution for women in Požarevac¹²¹. In the mentioned penitentiary institution doctor regularly examines all the female convicts at intervals not exceeding three months, with the elements of the first medical examination, and if coercive measures were applied, a report on medical examination includes a statement of a female convict regarding *the manner* in which the *injury* was *inflicted*, as well as a medical opinion on causal link between the injuries and coercive measures. When there are indications that the injury was caused by acts of violence, the medical report is submitted to the warden. A doctor submits to a warden, in writing, findings and recommendations on the amount and quality of food, sanitary and hygiene conditions in the penitentiary institution, as well as on the physical activities of female prisoners.

In the previous reporting period, it was found that during the prison sentence the right to physical and mental integrity was violated to one person, i.e. he was subjected to torture. A recommendation was sent to the competent authority in order to establish the liability of the officers, which was not acted upon.¹²² An official notification about the case together with the relevant documentation was delivered to Public Prosecutor's Office, but during the reporting period the prosecution *discontinued the proceedings*. In the lack of an adequate response of the competent authorities, the convicted person in question, submitted a constitutional complaint, regarding which, in mid-2013, the Constitutional Court, issued a judgment confirming that the prisoner's right to physical and mental integrity¹²³ at the time of serving a prison sentence was violated. The above decision is an important step in the fight against impunity of those responsible for acts of *torture* in the Republic of Serbia.

Administration for the Execution Criminal Sanctions, i.e. institutions for the execution of criminal sanctions, need to fulfill their role to the full extent in the future, regarding the fight against impunity and ill-treatment, by taking all necessary measures and actions to prevent ill-treatment, conducting timely and thorough procedures to examine all the arguable claims concerning ill-treatment, and establishing individual (subjective and objective) responsibility of the personnel.

Control visit to the Penal Correctional Institution in Sremska Mitrovica

In order to monitor whether it was acted according to the recommendations made in the report on the visit to the Penal Correctional Institution in Sremska Mitrovica in 2012¹²⁴, the NPM conducted a follow-up visit on 21 June 2013, to the Penal Correctional Institution in Sremska Mitrovica as one of the largest prisons in Serbia, and on this occasion found that the mentioned Penal Correctional Institution, out of 65 recommendations made, acted upon 21 to the full extent, and partially upon 15 recommendations. It was not acted upon 29 recommendations.

The greatest number of recommendations not acted upon refers to the material or accommodation conditions. The reason for not acting in accordance with these recommendations is, according to officials, the lack of financial resources. However, a significant number of recommendations not acted upon, is related to the provision of health care services in the institutions for the execution of criminal sanctions. Recommendations not acted upon are related to the following: proper keeping of the protocol, proper keeping of information about the health care services provided; ban on the presence of non-medical staff to medical examinations of detainees; daily examinations of persons deprived of liberty who are ill; administration of injections and infusions in the sick room, and not through the bars; physician's recommendations to the prison warden regarding the necessary physical activities of persons deprived of liberty, etc..

121 NPM report on the visit of the Penal Correctional Institution for women in Požarevac, No.71-66/13.

122 Matter No. 12-3630/12.

123 *Decision of the Constitutional Court of the Republic of Serbia* No. Уж- 4100/2011.

124 NPM report on the visit to the Penal Correctional Institution for women in Sremska Mitrovica, No. 71-161/12.

Recommendations that were acted upon concerning the treatment programs in the Penal Correctional Institution in Sremska Mitrovica are a sign that the certain improvements have been made. NPM has observed that after the first visit and the recommendations made, convicted persons are now rarely kept for more than permitted 30 days in the admission department. Treatment programs are being implemented, but still with lot of difficulties, due to the overload of work and lack of personnel who is engaged in activities inside and outside of the Penal Correctional Institution. Convicted persons are being informed about all the conditions, methods and procedures concerning their rights and obligations during the execution of a prison sentence. When it comes to social support and preparation for release, there is some progress, but there is still a lack of the involvement and cooperation of certain external institutions that should provide active help and support for the convicted persons during, and especially after the execution of the sentence. As far as education and employment, during follow-up visits, there is also some improvement, indicated by a bigger involvement of convicted persons in various forms of training, as well as involvement in elementary and secondary vocational education.

GENERAL RECOMMENDATION FOR ELIMINATION OF IDENTIFIED DEFICIENCIES

It is necessary to continue activities on improving accommodation capacities in institutions for execution of criminal sanctions in accordance with the applicable standards.

It is necessary to enable all persons serving prison sentences, to spend their free time during the day outside the dormitories, in the common areas with other inmates.

It is necessary to further intensify active, individual and collective treatment work of the correctional counselors with convicted persons. It is necessary to improve the system of subsequent reassignment of convicts.

Work of the institutions for the execution of criminal sanctions should be improved in the area of the health care, in terms of providing medical treatments, conducting medical examinations, as well as providing therapy and medicines.

Persons with serious mental disorders who serve prison sentences should be dislocated from the regular prison accommodation and provided with appropriate health care services to treat their mental health condition.

Health care services in institutions for the execution of criminal sanctions should be within the system of health care, i.e. under the jurisdiction of the Ministry of Health.

It is necessary to perform regular, periodic supervision over the professional work of healthcare services in institutions for the execution of criminal sanctions.

Work engagement of the persons serving prison sentences should be further enhanced in institutions for execution of criminal sanctions.

It is necessary to increase the number of employees in the Treatment Service of the institutions for the execution of criminal sanctions, where their number is insufficient; it is necessary to intensify activities within the individual and group treatment work with the convicted persons; work of the correctional counselors should not be primarily reduced to administrative duties, nor should it be additionally burdened by non-custodial tasks (eg. execution of the sentence of "house arrest").

It is necessary to implement preparation programs for release from prison and establish a special release unit in which the prisoners should be prepared for life outside of prison.

It is necessary to detach the Department for Oversight from the Administration for Execution of Criminal Sanctions, so that supervision over the work of the Administration for Execution of Criminal Sanctions as a whole, performs a separate organizational unit of the Ministry of Justice and Public Administration.

6.4. Detention of people with mental problems in psychiatric hospitals

In the previous NPM Annual Report¹²⁵ it was concluded that large psychiatric hospitals are mostly of asylum nature where a great number of persons are having mental problems and are inappropriately placed in for a prolonged period of time of which many for social reasons.

The NPM suggests that long-term retention of patients in dislocated psychiatric hospitals, especially when the housing conditions in itself do not meet current standards – as a system it can be a source of individual cases of torture however in any case, it represents inhuman and degrading treatment.

In accordance with the recommendation submitted to the Ministry of Health in the Report on the NPM performance of duties for 2012¹²⁶, to create a legal framework for mental health care in the Republic of Serbia in accordance with the rules of the international law, applicable standards and Strategy for Development of Mental Health Care¹²⁷, stating that treatment and care for people with mental problems should take place within the community and as close to the family of ill person, during the reporting period, specific legislations were enacted to establish the legal framework for deinstitutionalization in the treatment of people with mental problems. In May 2013, Law on protection of persons with mental problems¹²⁸, followed with the Ordinance on the type and specific conditions of structuring organizational units and performing duties in the mental health care in the community¹²⁹.

The NPM expressed its satisfaction that during the public hearing on the Draft Law on Protection of Persons with Mental Problems¹³⁰, its commitment to introduce mandatory rather than non-compulsory nature of structuring special units responsible for mental health care in the community. However, the NPM has been pointing out¹³¹, and once again on this occasion, to deficiencies in the provisions of the Law on protection of persons with mental problems, which stipulates that the units for mental health care are organized as a supplementary activity of the existing psychiatric hospitals and health centers. A disadvantage is the fact that every kind of care and support for people with mental problems cannot be performed as a side activity of the existing entities whose scope of work is of a completely different character. It is necessary to foresee the establishment of centers for mental health as autonomous multidisciplinary services, next to regulate their organization, jurisdiction and scope of work, all in order to create conditions for effective treatment, care and support for all kinds of people with mental problems in the community.

In addition to other numerous concerns as regards the Act on Protection of Persons with Mental Problems¹³², the NPM indicates that the provisions governing the seclusion measure are not in accordance with current standards. The isolation of persons with severe or acute mental problems is not allowed¹³³, seclusion of such persons, for any period, represents a cruel, inhuman or degrading treatment.¹³⁴ In particular, the use of seclusion measures is not practiced in psychiatric institutions in Serbia. Accordingly, the Act should be amended so as to remove the provisions related to isolation of persons with mental problems.

In the previous annual report, the NPM pointed to the deficiencies noted in the performance of psychiatric hospitals in terms of binding of disturbed / violent patients, as well as in the records maintained on this matter. In order to eliminate the aforementioned irregularities and the absence of clear procedures, during the reporting period the NPM adopted Ordinance on the detailed conditions for applying physical restraint and seclusion on persons with mental problems who are being treated in psychiatric institutions¹³⁵. The NPM is of the view that the adoption of this Ordinance was a necessity, and that a part that regulates the physical restraint, except that the measure should be reduced to a minimum, bearing

125 NPM Annual Report for 2012.

126 72-160/12, NPM Annual Report for 2012.

127 Official Gazette of the Republic of Serbia, No. 08/2007.

128 Official Gazette of the Republic of Serbia No. 45/13.

129 Official Gazette of the Republic of Serbia No. 106/13.

130 Official Gazette of the Republic of Serbia No. 45/13.

131 Opinion addressed to the Ministry of Health on the draft Law on Protection of Persons with Mental Problems.

132 Official Gazette of the Republic of Serbia No. 45/13.

133 The report of the UN Committee against Torture, sessions 47 and 48, UN Doc A / 67/44 (2012), Canada (62).

134 Report of the Special UN Rapporteur on Torture for 2012, UN Doc A / 22/53 (2013).

135 Official Gazette of the Republic of Serbia, No. 94/2013.

in mind that any form of restraint of persons with mental problems, even for a short period of time, may constitute torture and ill-treatment¹³⁶. Reminiscent of the Law, the current Ordinance should be amended so as to remove the provisions related to the seclusion of persons with mental problems who are being treated in psychiatric institutions.

Among other things, it is imperative to eliminate the weaknesses of the existing Law apropos the role of the police in the process of forced hospitalization of persons with mental problems, and especially the role of the police in maintaining order within psychiatric hospitals.

During the reporting period, the NPM visited the Special Hospital for Psychiatric Illnesses in Kovin submitting 19 recommendations in the Report on the visit¹³⁷ to remedy identified deficiencies. The housing facilities at the hospital are in very poor condition i.e. not being sufficiently humanized – a large number of patients are not provided minimum privacy. Patients are practically not informed about their rights, superficially familiarized with diagnostic procedures, their illness or treatment whereas individual treatment plans do not contain all of the required elements. Due to the lack of cooperation between other external institutions and hospitals, many issues arise in establishing and protecting the rights of patients. Specifically, competent centers for social work and general hospital departments do not provide required health care services to all patients, while the competent court is far from efficient when deciding on involuntary hospitalization. Also, there are no appropriate mental health services which provide for continuity of care and adequate psycho-social rehabilitation of patients after being released from the Hospital.

In comparison with the previous reporting period when 25 recommendations were submitted to the Special Hospital for Psychiatric Illnesses “Sveti vračevi”¹³⁸, in 2013 this Hospital has acted upon almost all recommendations (all were accepted and 18 implemented). Material conditions, humanization of premises and respecting patients’ privacy have greatly improved. Also, admission procedures to hospitalization and consent to proposed medical measures are largely respected. However, in this Hospital, there are still number of patients having been hospitalized for several years solely for social reasons or more specifically because they have not been provided with an adequate care and support in the community. With an aim of implementing the process of de-institutionalization, a plan for setting up and opening of a new Centre for Mental Health Care in the Community in Kikinda was made, and in which the Hospital doctors themselves will be engaged.

GENERAL RECOMMENDATIONS FOR ERADICATION OF DEFICIENCIES

With no further delay, take all necessary actions aimed at the rationalization of services in secondary and tertiary psychiatric institutions, focusing on day time hospitals and outpatient treatments and commence activities on the establishment of mental health care services in the community.

It is imperative to remove provisions related to seclusion measures from the Law on Protection of Persons with Mental Problems and from the Ordinance on detailed conditions for application of physical restraint and seclusion of persons with mental problems who are being treated in psychiatric institutions.

Hospitalization to a psychiatric institution of individuals where there is a reasonable doubt to the relevance of the statement of will or his/her ability to reason is not to be accepted on the basis of the statement or consent to admission to hospital.

¹³⁶ Report of the Special UN Rapporteur on Torture for 2012, UN Doc A / 22/53 (2013).

¹³⁷ The NPM Report on visit to the Special Hospital for Psychiatric Illnesses Kovin, No. 71-73/13.

¹³⁸ The NPM Report on visit to the Special Hospital for Psychiatric Illnesses “Sveti Vračevi”, No. 71-30/12.

6.5. Detention of people in social care institutions

A substantial number of occupants in large residential institutions of social care are still being sheltered solely for that there are no conditions for their care in the community. Occupants who for a prolonged period of time stay in those asylum institutions they become excluded from ordinary social environment, and eventually lose their social and other skills and become less capable of independent life. The aforesaid, taking into account the living conditions not meeting current standards, per se – as a system can be a source of individual cases of torture, and in any case, represents inhuman and degrading treatment.

Not only are existing residential social care institutions not eligible for placement of occupants, but there is also a shortage of staff, especially doctors, pedagogues and caregivers. Additionally, there are no visible actions taken that would, by legally prescribed deadlines, lead to a decrease of the number of occupants placed in these institutions with legally established limits. Therefore, it is necessary and without further delay, to intensify activities on deinstitutionalization, or reduction of the capacity and closure of existing residential social care institutions, as well as providing for care of their occupants within the community.

In some residential social care institutions a certain number of occupants are constantly being put in isolation. Isolation of persons with severe or acute mental problems is not allowed¹³⁹, nor is it seclusion of such persons for any period, as it represents a cruel, inhuman or degrading treatment.¹⁴⁰ Therefore, it is necessary to immediately bring to an end the practice of isolation.

A large number of persons placed in a variety of residential social care institutions have limited freedom of movement (they are locked in), many of them are occasionally physically impeded (bonded), for which there is no valid legal grounds, nor did they include appropriate procedures. The aforementioned is justified by the fact that those persons are deprived of their legal capacity, or that it is in their interest.

During the reporting period, the NPM visited one of the social care institutions for children and juveniles “Reformatory for children and juveniles with disabilities in Veternik”¹⁴¹, to which the Report on visit was sent. The report included 12 recommendations to remedy identified deficiencies.

In the performance duties of the NPM, Provincial Ombudsman independently conducted 13 visits to private homes for the elderly. Upon completion of visits to these institutions, it was noted that there are large differences in the services which are not of uniform quality. The Report of the Provincial Ombudsman¹⁴² presented the following conclusions:

- Centers for social welfare are not aware of homes for the elderly outside the network of social welfare institutions which were established by individuals registered with the competent provincial authority;
- There is no common practice of the social work centers to direct persons to nursing homes that were established by decision of the competent Secretariat;
- There is no uniform quality of services provided which is justified by the nursing homes founders in a sense that there are no clearly defined working conditions to be met at the time of their registration, that there is no obligation to attend training for future employees and that possession of a license for the performance of these activities is not required by the law;
- The founders are not required to undergo appropriate training or have adequate education as a condition for registering a home for the elderly; they often lack the basic knowledge necessary for successful performance of activities of nursery homes and they are not familiar with the Regulation on detailed conditions and standards for the provision of social protection (“Official Gazette of RS”, No. 42/2013), or other regulations in this field governing all conditions and standards in relation to social services;

139 The report of the UN Committee against Torture, sessions 47 and 48, UN Doc A / 67/44 (2012), Canada (62).

140 Report of the Special UN Rapporteur on Torture for 2012, UN Doc A / 22/53 (2013).

141 The NPM Report on visit to Veternik Reformatory, No. 71-26/13.

142 Extract from the Report of the Provincial Ombudsman for 2013, p. 47.

- In many nursing homes, whose founders are natural persons, the statutory mandatory requirements and standards for the performance of activities are not being met (in terms of space, access to the rooms and parts of buildings in which occupants are located, freedom of movement, basic equipment);
- There is a lack of an effective control inspection monitoring of the competent authorities as well as control of the situation on the field;
- The process of admission to nursing homes is generally not uniform, not subject to control, admission contracts are frequently signed by relatives and not with the occupant even in cases when reasons for such occurrences cannot be justified.

GENERAL RECOMMENDATIONS FOR ELIMINATION OF DEFICIENCIES

It is necessary to adopt regulations that will standardize the arrest conditions and procedures and binding of occupants in residential social care institutions.

It is necessary with no further delay to intensify activities for a comprehensive de-institutionalization, reduction of capacities and closure of existing residential social care institutions, as well as providing care for their occupants in the community.

It is imperative to immediately discontinue the practice of isolation of occupants in the residential social care institutions.

It is indispensable to foresee conditions and prescribe procedures on movement restrictions and physical restraint in residential social care institutions.

6.6. Treatment of asylum seekers

During 2013, NPM dedicated special attention to the status of asylum seekers in Serbia. On that occasion, was generated intense coordinated cooperation with the UNHCR Belgrade Office and civil society *organizations* Belgrade Centre for Human Rights and Group 484.

Examining the legality and regularity with regard to the treatment of asylum seekers, as well as the application of valid standards concerning asylum seekers, i.e. irregular migrants in the territory of Serbia, NPM has observed that public authorities have not established a systematic approach that would enable efficient treatment of asylum seekers in compliance with regulations in force and international standards in the field of asylum and migration.

According to official data, 5066 foreigners who have expressed their intention to seek asylum in Serbia¹⁴³ were registered in 2013. It is estimated that the total number of migrants who passed through the territory of Serbia in 2013, is twice the number of registered asylum seekers. Of these, only 154 applied for asylum, while asylum was given to two of them, and subsidiary protection to three persons. The fact that in January 2014, nearly a thousand strangers were registered who expressed their intention to seek asylum in Serbia clearly indicates the increasing problems of migration through the territory of Serbia.

The disproportion between the number of persons who expressed their intention to seek asylum and of those who have applied for asylum, and particularly of those who took part in the asylum application process, is an indication that their aim was not to obtain asylum, but a way to have access to the temporary accommodation in the centers for asylum seekers and to legalize their temporary stay in Serbia until they manage to go across the border to Western European countries.

There are significant indications that there is a developed informal system that plays an important role with regard to the position of migrants and their transfer across the border to neighboring countries.

It is quite *disturbing that the police* in most cases fail to initiate the process of establishing identity of migrants, as soon as they are discovered. As a rule, they are not brought to the police station, nor

¹⁴³ Mostly from Afghanistan, Mali, Somalia, Syria, Algeria.

searched in order to find identity documents, nor their personal data entered in the official registers. In general, they are verbally instructed by a police officer to go independently to one of the centers for asylum seekers.

It is incomprehensible that competent authorities permit to thousands of migrants who do not possess or hide personal documents, to travel freely and without any limitations, *through* the territory of Republic of Serbia, without establishing their identity, searching and registering them properly. These people are in the majority of cases registered by the police after they arrive to one of the centers for asylum seekers and apply for accommodation.

In that way, police officers fail to exercise in a timely manner the police powers, as well as the measures and activities foreseen by the Law on Protection of State Border and the Law on Foreigners, in order to remove such persons from Serbia, or to place them in a *Shelter for foreign* persons under close police surveillance. From the assumed large number of irregular migrants only dozen of them are accommodated in the Shelter, as a consequence of the above mentioned.

NPM draws attention to cases when family of migrants who illegally cross the border is found in the territory of Serbia, and a Misdemeanor Court imposes a sentence of imprisonment for a period of several days to the father of the family, during which time the mother with the children is forced to cope with the situation, until her husband is out of imprisonment. It is extremely discouraging that some of the mothers with their children find shelter at the city dump, and even in the tombs of the local cemetery in Subotica.

NPM has made reports¹⁴⁴ on the visits of the asylum centers, identifying irregularities in work, especially in terms of the necessity to provide accommodation and care for all persons who arrive at the center, especially the families with children. During the visits, in nearby woods next to the Asylum Center in Bogovađa, averagely over 200 unattended migrants were found.

NPM discovered that the problem is not only related to persons present in the country who expressed their intention to seek asylum in Serbia, i.e. providing them accommodation in the asylum centers, yet the essential *problem lies in the* existence of numerous shortcomings in the work of the Ministry of Internal Affairs in relation to the existing migrants. Police officers, in general, fail to search, identify immediately, photograph and take biometric data (fingerprints, etc.) from the migrants, as well as to escort them to the Shelter for foreign persons, or, upon their expressed intention to seek asylum in Serbia, to some of the asylum centers. Besides, the Asylum Office as a unit with technical and qualified personnel resources which is able to accomplish a *purpose intended* by the law, has not been formed yet.

The result of indicating the numerous shortcomings regarding the conduct of the competent authorities and the protection of the rights of asylum seekers by the NPM, UNHCR and civil society organizations Belgrade Centre for Human Rights and Group 484, a Project Group of the Ministry of Interior was formed in order to improve the treatment of asylum seekers, i.e. draft the new Law on Asylum.

Confident that the results of the Project Group of the Ministry of Interior will not occur in the near future, on the basis of numerous illegalities and irregularities detected during the reporting period, the NPM submitted a systematic act, to the Ministry of Internal Affairs and the Commissariat for *Refugees and Migration* (the Commissariat) containing the 29 reasoned recommendations for eliminating deficiencies and improving the treatment of the asylum seekers, as well as all persons who are considered irregular migrants¹⁴⁵.

Ministry of Internal Affairs and the Commissariat informed the NPM and gave with this regard a series of public statements, in which they stated that they accept the recommendations of the NPM.

144 NPM report on the visit to the Asylum Center in Bogovadja, No. 71-59/13 and case No. 12-2255/13.

145 Case No. 75-6/14, list of 29 recommendations see under ANNEX I/III-5.

6.7. Reception of returnees in the process of readmission

During 2013 NPM conducted four visits to the airport “Nikola Tesla” in order to establish facts concerning the treatment of persons who are returning to the Republic of Serbia, according to the decision of the competent authorities of the countries with which Serbia concluded readmission agreements.

During the visits, it was observed that police officers, upon landing of a plane, meet the group of returnees, and immediately, in a language they understand, inform them orally of their rights and the procedure for exercising the same. If deemed necessary, an immediate emergency medical care is provided. Subsequently interviews are being held in the Office for readmission of the Commissariat for Refugees and Migration. On this occasion, basic personal and medical information of the returnees is collected with their consent for providing the same, they are given information regarding the readmission process, their rights and responsibilities, they fill out the questionnaire concerning the state of their needs in order to provide them with the necessary assistance in the coming period thus to promote reintegration. They are allowed to telephone their family and friends and it is explained that they can turn the Trusteeship for Migration and other services at the local level, for further assistance. In case they do not have money for transport to the place of residence, they are provided with transportation.

Returnees who do not have family or any other form of support and accommodation in Serbia are referred to the Centers for emergency reception, which were established in Šabac, Bela Palanka and Zaječar. The centers provide accommodation and meals for up to 14 days.

All officers at the airport “Nikola Tesla” in Belgrade (representatives of the Border Police Station and the Office for Readmission of the Commissariat for Refugees and Migration) achieved a full cooperation with NPM as required by the law and provided all requested information. On the basis of identified situation, any form of ill/treatment of returnees in the process of readmission was not observed.

7. Follow-up steps – Future of the NPM

In the previous period a working methodology has been developed and numerous activities have been carried out within NPM performance of duties. Aiming to *prevent acts of torture*, NPM visited so far over 140 institutions, made reports on those visits and sent around 600 recommendations to competent public authorities for the purpose of elimination of identified deficiencies, majority of which were accepted. NPM maintains a constant dialogue with the visited institutions in order to implement the recommendations.

Protector of Citizens, performing duties of the NPM, established cooperation with the provincial Ombudsman of the Autonomous Province of Vojvodina and 14 *non-governmental organizations*. Serbian NPM maintains close cooperation with numerous NPMs from other countries, and is also the initiator and co-founder of the *South East Europe NPM Network*, joined by NPMs outside the region. A large number of publications on the prevention of torture was published. Numerous workshops and conferences were organized, as well as a public hearing in the National Assembly on the occasion of the previous annual report of the NPM. NPM maintains ongoing contact with the *UN Subcommittee on Prevention of Torture*.

For the purpose of efficient functioning of the NPM it is necessary to engage a sufficient number of employees or hired officers with the adequate knowledge in the field of prevention of torture.

In 2013, three employees were engaged on the tasks of the NPM in the Republic of Serbia, of which two are employed for an *indefinite period* of time and one on a *fixed-term* contract.

It is expected that the lack of the required number of employees working on NPM's tasks shall lead to a reduction of future activities of Serbian NPM, which can decrease effectiveness of the prevention of torture in the Republic of Serbia.

Past results of the work of the NPM are the consequence of the fact that the Protector of Citizens, in this initial phase, redirected the existing resources envisaged for to the performance of its general competence, to the performance of NPM's tasks. Due to performance of duties of the NPM, capacities for carrying out other tasks in competence of the Protector of Citizens were reduced.

Modification of the staffing scheme in the Expert Service of the Protector of Citizens should foresee the creation of the special organizational unit for performing tasks of the NPM – NPM Secretariat, outside of the Expert Service of the Protector of Citizens.

Not having specific budget lines within the budget of the Protector of Citizens for the needs of the NPM, as well as a series of measures introduced in the Republic of Serbia which includes approval of budget spending, leads to an inefficient operation of the NPM in 2014.

In order to provide the conditions for the efficient operation of the NPM, it is necessary in the coming period to establish a separate budget line within the budget of the Protector of Citizens for the needs of the NPM work.

Until providing the abovementioned conditions for the work of the NPM in terms of organization, number of employees and the necessary financial resources, including its functional and financial independence, NPM is forced to reduce activities related to the performance of duties of the NPM in the next period. Such reduction of NPM activities in the coming period will have *negative repercussions* to the prevention of torture in the Republic of Serbia.

It is expected that the shortage of necessary means for the work of NPM and the absence of its financial independence shall lead to a reduction of future NPM activities, which will weaken the prevention of torture in the Republic of Serbia.

ANEX I

Recommendations of the NPM proposed to public authorities of the Republic of Serbia

I/I First part

– **Recommendations proposed during 2013 in reports on visits conducted at the end of 2012**

1. Police Directorate in Novi Sad
2. Police Station Bač
3. Police Station Bačka Palanka
4. Police Station Bački Petrovac
5. Police Station Bečej
6. Police Station Beočin
7. Police Station Srbobran
8. Police Station Sremski Karlovci
9. Police Station Temerin
10. Police Station Titel
11. Police Station Vrbas
12. Police Station Žabalj
13. District Prison Zaječar
14. District Prison Negotin
15. District Prison Kraljevo

I/II Second part

– **Recommendations proposed during 2013 in reports on visits conducted in 2013**

1. Police Station Lazarevac
2. Pančevo Police Directorate and Its Police Stations
3. Sremska Mitrovica Police Directorate and Its Police Stations
4. Šabac Police Directorate and Its Police Stations

5. Smederevo Police Directorate and Its Police Stations
6. District Prison in Čačak
7. District Prison in Kragujevac
8. Penal Correctional Institution for women in Požarevac
9. District Prison in Pančevo

I/III Third part

– Recommendations proposed at the beginning of 2014 in reports on visits conducted during 2013

1. The City of Belgrade Police Directorate and its Police Stations
2. Juvenile Penal Correctional Institution in Valjevo
3. Home for Children and Young People with Developmental Disabilities Veternik
4. Special hospital for psychiatric illnesses Kovin
5. Ministry of Interior and the Commissariat for Refugees and Migration / asylum seekers

I / I Part one

– Recommendations addressed during the 2013 reports on the visits that were made at the end of 2012

I/I – 1 – Police Directorate for the City of Novi Sad and its Police Stations¹⁴⁶:

The Police Directorate for the City of Novi Sad shall ensure that a leaflet containing information about the rights of the detainees, besides in Serbian and English, is also available in languages of the national minorities living in the territory of Novi Sad. Translated rights leaflet shall be sent to all police stations belonging to this Police Directorate.

The office for admission, questioning and interrogation of the detainees (so called "admission room") in the headquarters of the Police Directorate shall not be used as a police detention facility.

Police detention shall be carried out in premises intended for such purpose; therefore it is necessary to finish adaptation of detention premises as soon as possible.

The Police Directorate for the City of Novi Sad shall provide to detained persons one meal no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

The Police Directorate for the City of Novi Sad shall install electric buzzer button for calling police officers on duty in the police detention premises.

¹⁴⁶ Report on the visit to Novi Sad Police Directorate, November 2012, 71-148/12.

At the Police Directorate for the City of Novi Sad, special records of visits of detained persons by police officers shall be maintained, especially the information on water or food brought.

The Police Directorate for the City of Novi Sad shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the building of the Police Headquarters in Novi Sad, for the purpose of protecting physical integrity of the detainees.

The Police Directorate for the City of Novi Sad shall organize and carry out an appropriate first aid training for police officers, and provide first aid box for police officers.

I/I – 2 – Police Station in Bač¹⁴⁷:

Current detention facility in the Bač Police Station shall remain unused for the purpose of police detention, whereas a special detention premises in compliance with the applicable standards shall be formed at the new police station.

I/I – 3 – Police Station in Bačka Palanka¹⁴⁸:

Police Station in Bačka Palanka shall provide adequate supply of natural light and fresh air by removing the existing metal bars across the windows and replacing them with window grillage allowing sufficient light and fresh air; clean linens and pillows shall also be provided.

Police Station in Bačka Palanka shall provide a special area allowing access to fresh air to the persons detained up to 48 hours.

Police Station in Bačka Palanka shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Bačka Palanka shall install electric buzzer button for calling police officers on duty within the police detention premises.

At the Police Station in Bačka Palanka, special records of visits of detained persons by police officers shall be maintained, especially the information on water or food brought.

Police Station in Bačka Palanka shall improve the fire protection system by installing fire extinguishers in appropriate places and posting evacuation plan together with the fire instructions in visible locations within the building where detention premises are located, for the purpose of protecting physical integrity of the detainees.

Police Station in Bačka Palanka shall organize and carry out an appropriate First Aid training for police officers, and shall provide first aid kit.

Police Station in Bačka Palanka shall post a sign in a detention facility, notifying that a room is under video surveillance.

I/I – 4 – Police Station in Bački Petrovac¹⁴⁹:

Police Station in Bački Petrovac shall improve artificial lighting system in below described detention facility.

Police Station in Bački Petrovac shall provide clean linen and bed covers to the detainees.

¹⁴⁷ Report on the visit to the Police Station in Bač, November 2013, 71-151/12.

¹⁴⁸ Report on the visit to the Police Station in Bačka Palanka, November 2013, 71-149/12.

¹⁴⁹ Report on the visit to the Police Station in Bački Petrovac, November 2013, 71-150/12

Detention premises shall be painted and maintained in proper hygienic conditions, in order to provide clean and decent environment for the detainees.

To maintain toilet hygiene on a regular basis, assuring that detainees can fulfill their physiological needs in clean and decent conditions.

At the police detention premises at the Police Station in Bački Petrovac, taps with running water shall be installed (ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks), or the detained persons shall be provided with sufficient quantities of drinking water in original plastic containers.

Police Station in Bački Petrovac shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Bački Petrovac shall install electric buzzer button for calling police officers on duty, and shall maintain a special record containing the information on the visits of detained persons by police officers, and especially the information on water or food brought.

Police Station in Bački Petrovac shall improve the fire protection system by installing fire extinguishers in appropriate places and posting evacuation plan together with the fire instructions in visible locations, for the purpose of protecting physical integrity of the detainees.

Police Station in Bački Petrovac shall organize and carry out an appropriate First Aid training for police officers.

Police Station in Bački Petrovac shall, by improving video surveillance system at the detention premises, provide for privacy of detained persons, in such manner that the area around the squat toilet shall not be clearly visible, but blurred, while maintaining current level of video surveillance and security.

I/I – 5 – Police Station in Bečej¹⁵⁰:

Until providing detention facilities in compliance with the applicable standards, current detention facility at the Police Station in Bečej shall remain unused for the purpose of police detention.

I/I – 6 – Police Station in Beočin¹⁵¹:

Police Station in Beočin shall provide detention premises in compliance with the applicable standards.

I/I – 7 – Police Station in Srbobran¹⁵²:

At the police detention premises at the Police Station in Srbobran, taps with running water shall be installed (ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks), or the detained persons shall be provided with sufficient quantities of drinking water in original plastic containers.

Police Station in Srbobran shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

¹⁵⁰ Report on the visit to the Police Station in Bečej, November 2013, 71-154/12

¹⁵¹ Report on the visit to the Police Station in Beočin, November 2013, 71-156/12.

¹⁵² Report on the visit to the Police Station in Srbobran, November 2013, 71-153/12

Police Station in Srbobran shall install electric buzzer button for calling police officers on duty, and shall maintain a special record containing the information on the visits of detained persons by police officers, and especially the information on water or food brought.

Police Station in Srbobran shall improve the fire protection system by installing fire extinguishers in appropriate places and posting evacuation plan together with the fire instructions in visible locations, for the purpose of protecting physical integrity of the detainees.

Police Station in Srbobran shall organize and carry out an appropriate First Aid training for police officers, and shall provide first aid kit.

I/I – 8 – Police Station in Sremski Karlovci¹⁵³:

Police Station in Sremski Karlovci shall improve the system of lighting and ventilation in detention premises.

Police Station in Sremski Karlovci shall maintain toilet hygiene on a regular basis, assuring that detainees can fulfill their physiological needs in clean and decent conditions.

At the police detention premises at Police Station in Sremski Karlovci, taps with running water shall be installed (ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks), or else the detained persons shall be provided with sufficient quantities of drinking water in some other appropriate way.

Police Station in Sremski Karlovci shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Sremski Karlovci shall install electric buzzer button for calling police officers on duty within the police detention premises.

Police Station in Sremski Karlovci shall improve the fire protection system by installing fire extinguishers in appropriate places within the Police Station building, and posting evacuation plan together with the fire instructions in visible locations, for the purpose of protecting physical integrity of the detainees.

Police Station in Sremski Karlovci shall organize and conduct appropriate training of police officers in first aid and provide the box with first aid kit.

Police Station in Sremski Karlovci shall install video surveillance system in detention facilities, providing at the same time storing and archiving of the recorded material, in order to ensure protection and security of the detainees, as well as to reduce the risk of violence and other incidents that may jeopardize their safety.

I/I – 9 – Police Station in Temerin¹⁵⁴:

Police detention shall not be conducted in the building of Police Station in Temerin until detention premises which meet relevant standards are provided.

I/I – 10 – Police Station in Titel¹⁵⁵:

It is necessary to paint the detention facilities and maintain hygiene inside of them on regular basis.

At the police detention premises at Police Station in Titel, taps with running water shall be installed (*ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks*),

¹⁵³ Report on the visit to the Police Station in Sremski Karlovci, November 2013, 71-155/12

¹⁵⁴ Report on the visit to the Police Station in Temerin, November 2013, 71-157/12

¹⁵⁵ Report on the visit to the Police Station in Titel, November 2013, 71-159/12

or else the detained persons shall be provided with sufficient quantities of drinking water in original plastic containers.

Police Station in Titel shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Titel shall provide proper heating of detention premises in the winter period by installing a heating source therein.

Police Station in Titel shall install electric buzzer button for calling police officers on duty within the police detention premises, and maintain special records of visits of detained persons by police officers, which will contain information on their physical condition, as well as information on water or food brought.

Police Station in Titel shall improve the fire protection system by installing fire extinguishers in appropriate places within the building of Titel Police Station and by posting evacuation plan together with the fire instructions in visible locations, for the purpose of protecting physical integrity of the detainees.

Police Station in Titel shall organize and conduct appropriate training of police officers in first aid.

Police Station in Titel shall install video surveillance system in detention facilities, providing at the same time storing and archiving of the recorded material, in order to ensure protection and security of the detainees, as well as to reduce the risk of violence and other incidents that may jeopardize their safety.

I/I – 11 – Police Station in Vrbas¹⁵⁶:

Police Station in Vrbas shall install video surveillance system in detention premises, providing at the same time storing and archiving of the recorded material.

Detention premises shall be painted and maintained in proper hygienic conditions on a regular basis, in order to provide clean and decent environment for the detainees.

Sanitary ware hygiene will be maintained on a regular basis, assuring that detainees can fulfill their physiological needs in clean and decent conditions.

At the police detention premises at the Police Station in Vrbas, taps with running water shall be installed (ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks), or else the detained persons shall be provided with sufficient quantities of drinking water in original plastic containers.

Police Station in Vrbas shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Vrbas shall provide proper heating of detention premises in the winter period by installing a heating source therein.

Police Station in Vrbas shall install electric buzzer button for calling police officers on duty within the police detention premises.

Police Station in Vrbas shall maintain special records of visits of detained persons by police officers, which will contain information on their physical condition, as well as information on water or food brought.

Police Station in Vrbas shall improve the fire protection system by installing fire extinguishers in appropriate places within the building of Police Station in Vrbas and posting evacuation plan together with the fire instructions in visible locations, for the purpose of protecting physical integrity of the detainees.

¹⁵⁶ Report on the visit to the Police Station in Vrbas, November 2013, 71-152/12

Police Station in Vrbas will organize and conduct appropriate training of police officers in first aid and provide the box with first aid kit.

The Police Station in Vrbas shall post a sign in detention facilities, notifying that a room is under video surveillance.

I/I – 12 – Police Station in Žabalj¹⁵⁷:

In the police detention premises at the Police Station in Žabalj, taps with running water shall be installed (ensuring that such taps do not pose risk of injury or damage – to be modelled on existing toilet flush tanks), or else the detained persons shall be provided with sufficient quantities of drinking water in original plastic containers.

Police Station in Žabalj shall provide to detained persons one meal of food no later than 6 hours from the time of their deprivation of liberty, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station in Žabalj shall provide proper heating of detention premises in the winter period by installing a heating source therein.

Police Station in Žabalj shall install electric buzzer button for calling police officers on duty within the police detention premises.

Police Station in Žabalj shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the building of Police Station in Žabalj, for the purpose of protecting physical integrity of the detainees.

Police Station in Žabalj shall organize and conduct appropriate training of police officers in first aid and provide the box with first aid kit.

I/I – 13 – District Prison in Zaječar¹⁵⁸:

Moisture problems in the walls of all rooms/dormitories shall be overcome and the walls shall be painted.

The reason for water leakage from radiator pipes shall be established and the causes that lead to it shall be removed.

Better ventilation system in the rooms/dormitories will be provided as well as possibility of letting fresh air in.

District Prison in Zaječar shall implement available measures and actions to encourage the prisoners to maintain personal hygiene and hygiene in the area in which they reside, and the Prison shall create the conditions to maintain hygiene by providing necessary means and equipment.

A shelter will be constructed in the space for spending time in the open air (walking) within the detention unit of District Prison in Zaječar and its dimensions will be such as to allow all persons taken out for a walk to have shelter from precipitation.

At the District Prison in Zaječar, minors shall be accommodated in the same room-dormitory with adult persons, solely based on the decision of the competent juvenile judge.

A shelter shall be constructed in the space for spending time in the open air (walking) within the closed ward of District Prison in Zaječar and its dimensions will be such as to allow all persons taken out for a walk to have shelter from precipitation.

Moisture problems in the walls in all the rooms/dormitories shall be overcome and the walls shall be painted. Better ventilation system in rooms-dormitories shall be provided. Worn sanitary ware shall be replaced.

¹⁵⁷ Report on the visit to the Police Station in Žabalj, November 2013, 71-158/12.

¹⁵⁸ Report on the visit to the District Prison in Zaječar, May 2012, 71-48/12.

District Prison in Zaječar shall implement the measures and actions to encourage prisoners to maintain hygiene in the premises in which they live, and the Institute shall create the conditions for maintaining hygiene by providing the necessary means and equipment.

District Prison in Zaječar shall allow the prisoners in the admission ward to stay outdoors at least two hours a day.

District Prison in Zaječar shall solve the moisture problems in all the rooms/dormitories, paint the walls and repair sanitary ware.

In the admission ward at the District Prison in Zaječar, smokers and nonsmokers shall not be accommodated together in the same dormitory.

In the rooms/dormitories of the admission ward, District Prison in Zaječar shall install electric buzzer button for calling officer on duty.

Special attention shall be paid to the quality, variety and quantity of food.

Authorized services, in particular health care service or a doctor, will regularly monitor the nutrition. The findings and recommendations will be periodically, and whenever necessary, delivered in writing to the prison warden and employees in the kitchen.

Sanitary inspection of the kitchen premises and the equipment shall be conducted without delay by relevant authority/organization at the District Prison in Zaječar.

District Prison in Zaječar shall make available the Serbian Constitution, Criminal Code, Criminal Procedure Code, the Law on Execution of Criminal Sanctions, the Law on Amnesty, the Law on the Protector of Citizens, bylaws which were adopted on the basis of Law on Execution of Criminal Sanctions, as well as texts of ratified international laws related to the enforcement of criminal sanctions and human rights and freedoms. District Prison in Zaječar shall separately in each room-dormitory clearly display a House Rules of penitentiary-correctional institutions and district prisons.

In District Prison in Zaječar the person deprived of liberty against whom a coercive measure has been used will be subjected to medical examination immediately after the use of coercive measure and again between the 12th and 24th hour after the used measure.

In the case of the use of coercive measures, doctor's reports on the medical examination of the prisoners shall include the information required by law, as follows: (1) allegations of a person against whom a coercive measure has been used with regard to circumstances of injuries, i.e. anamnestic injury data, and (2) a doctor's opinion about the correlation between the measures applied and the resulting injuries.

Within the treatment program District Prison in Zaječar shall carry out the procedures of the Institute for preparation for the release of the prisoners in cooperation with centers for social work.

In its future work, the District Prison in Zaječar will regularly pay remuneration to the prisoners with work engagement in the Institute, no later than the end of the month for the previous month.

District Prison in Zaječar shall provide separate premises adequately equipped in order to permit prisoners to have private visits with their spouses, children or close friends.

District Prison in Zaječar shall provide accommodation facilities adjusted to the prisoners with disabilities, i. e. the accommodation that is adequate for the type and degree of their special needs.

Immediately upon their admission to the Institute, District Prison in Zaječar shall allow the prisoners – members of national minorities to receive information about their rights in their own language.

In District Prison in Zaječar, doctor's reports on the medical examination of the prisoners against whom a coercive measure has been used will include: allegations of the person against whom a coercive measure has been used about the circumstances of injuries, and doctor's opinion about the correlation between the measures applied and the resulting injuries.

I/I – 14 – District Prison in Negotin¹⁵⁹:

District Prison in Negotin, persons in police custody shall be placed in the rooms/dormitories separately from the persons in per trial/trial detention and the persons serving a prison sentence.

District Prison in Negotin shall construct a shelter in the space for spending time in the open air (walking) within the detention unit of District Prison in Negotin and its dimensions will be such as to allow all persons taken out for a walk to have shelter from precipitation.

A separate space will be created in the detention unit of District Prison in Negotin, equipped for physical exercise and designated for physical activities of detainees both in the open air and indoors (for exercising when the weather is inclement).

The moisture problems in the walls of the rooms/dormitories shall be overcome, the walls shall be painted and sanitary ware shall be repaired, and where necessary, new sanitary ware shall be installed.

District Prison in Negotin shall install electric buzzer button for calling police officers on duty within the dormitories.

A separate space equipped for physical exercise and designated for physical activities of prisoners both in the open air and indoors (for exercising when the weather is inclement) will be created.

The moisture problems in the walls of the room/dormitory of semi-open department in District Prison in Negotin shall be overcome and the rooms shall be painted.

Special attention shall be paid to the quality, variety and quantity of food.

Competent services, in particular health care service or a doctor, shall regularly monitor the nutrition. The findings and recommendations will be periodically, and whenever it is necessary, delivered in writing to the prison warden and employees in the kitchen premises.

District Prison in Negotin shall carry out the complete renovation of the kitchen premises and equip them in accordance with the applicable standards.

In the case of the use of coercive measures, doctor's reports on the medical examination of the prisoners shall include the information required by law, as follows: (1) allegations of a person against whom a coercive measure has been used with regard to circumstances of injuries, i.e. anamnestic injury data, and (2) a doctor's opinion about the correlation between the measures applied and the resulting injuries.

Within the treatment program District Prison in Negotin shall take into account the procedures of the services of the Institute for preparation for the release of the prisoners.

In its future work District Prison in Negotin shall regularly pay remuneration to the prisoners with work engagement in the Prison, no later than the end of the month for the previous month.

District Prison in Negotin shall allow the prisoners to stay outdoors at least one hour a day.

District Prison in Negotin shall allow the prisoners the right to physical activity, enabling them to use the available capacity intended for physical activity and sport equipment.

Immediately upon their admission to the Institute, District Prison in Negotin shall allow the prisoners – members of national minorities to receive information about their rights in their own language.

District Prison in Negotin shall equip the ambulance in compliance with applicable regulations and standards.

District Prison in Negotin shall enable the distribution of information on infectious diseases, both to the persons deprived of liberty and to the prison staff.

¹⁵⁹ Report on the visit to the District Prison in Negotin, May 2012, 71-47/12.

I/I – 15 – District Prison in Kraljevo¹⁶⁰:

It will be ensured that the detention unit of District Prison in Kraljevo has necessary space for the placement of detainees, so that minimum eight cubic metres and four square metres of space in the rooms/dormitories are allowed for each detainee.

In District Prison in Kraljevo the prisoners shall be provided with direct access to sanitary facilities within the living room premises.

In District Prison in Kraljevo the prisoners in the admission ward shall be provided accommodation in accordance with law and standards, paying particular attention to providing privacy.

In the premises used for the execution of specific measures of isolation and solitary confinement, the problem of lack of natural light will be solved so as to enable reading without causing visual disturbance, at the same time providing adequate supply of fresh air.

Within the treatment program the District Prison in Kraljevo shall carry out the procedures for preparation for the release of the prisoners in cooperation with centers for social work..

District Prison in Kraljevo shall provide separate premises adequately equipped in order to permit prisoners to have private visits with their spouses, children or close friends.

District Prison in Kraljevo will provide such accommodation facilities adjusted to the prisoners with disabilities, i. e. the accommodation that is adequate for the type and degree of their special needs.

I/II Second part

– Recommendations proposed during 2013 in reports on visits conducted during 2013

I/II – 1 Police Station Lazarevac¹⁶¹:

In the Police Station Lazarevac detainees shall be provided with one meal no later than 6 hours from their admission, and if the duration of detention is in excess of 12 hours, detained person shall be provided three meals a day (breakfast, lunch and supper).

Police Station Lazarevac shall either make necessary adaptation of the detention premises, or provide other premises for police detention, in accordance with the applicable standards; the existing detention premises shall not be used until renovated or adapted in compliance with the applicable standards.

Police Station Lazarevac shall provide a special area allowing access to fresh air to the persons detained up to 48 hours.

In the Police Station Lazarevac, the period of detention shall be counted from the moment of deprivation of liberty, and not from the moment of issuance and delivery of the decision on detention. In its future operation, the Police Station Lazarevac shall include in the decisions on detention, as a time of a commencement of detention, the time of deprivation of liberty.

In its future operation, Police Station Lazarevac shall issue a decision on detention no later than two hours from the moment of deprivation of liberty of a detainee.

¹⁶⁰ Report on the visit to District Prison in Kraljevo, November 2012, 71-164/12.

¹⁶¹ Report on the visit to the Police Station Lazarevac, March 2013, 71-25/13.

I/II – 2 – Police Directorate for the City of Pančevo and its Police Stations¹⁶²:

Taking into account that detention facilities at the headquarters of the Police Directorate for the City of Pančevo meet applicable standards, persons detained under the provisions of the Criminal Procedure Code shall not be exclusively detained in the already overcrowded District Prison in Pančevo. Persons detained under the Criminal Procedure Code shall be placed in the District Prison in Pančevo only if detention facilities of the Pančevo Police Directorate are occupied.

The Police Directorate for the City of Pančevo shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in its police stations in accordance with the applicable standards, while the existing detention premises shall not be used until adequately adapted for the purpose of police detention.

In the police stations within the Pančevo Police Directorate offices shall not be used for detention lasting hours. Detention shall take place in specialized detention premises; therefore it is necessary to provide for an adequate adaptation of the premises as soon as possible.

The Police Directorate for the City of Pančevo shall take the necessary measures to ensure that the recordings from video cameras are stored for a period of not less than 30 days.

Medical examination of persons detained by the police shall be carried out so that police officers are not able to hear the conversation, and, unless required otherwise by the physician performing medical examination, see the medical examination. The doctor's official note containing the results of medical examination, statement of a person deprived of liberty, objective findings and conclusions on the consistency between statement made and the objective findings should be available to the detainee and his lawyer.

Police stations within the Pančevo Police Directorate shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the buildings of the police stations, for the purpose of protecting physical integrity of the detainees.

The Police Directorate for the City of Pančevo and its police stations shall organize and carry out an appropriate first aid training for police officers, and provide first aid box for their premises.

All objects that are not a part of a standard equipment shall be removed from the premises intended for interrogation or confinement of the detainees (it is also necessary to remove non-standard items from the cassettes and cabinets, where they can be easily accessed). All objects confiscated as material evidence during the course of criminal investigation will be inventoried in a separate record, properly marked (labeling the police case number) and stored in separate storage places.

I/II – 3 – Police Directorate for the City of Sremska Mitrovica and its Police Stations¹⁶³:

The Police Directorate for the City of Sremska Mitrovica and its police stations shall ensure that all persons detained under the provisions of the Law on Police, the Criminal Procedure Code, the Law on Misdemeanours and the Law on Road Traffic Safety, are delivered written notice of their rights.

Written notice containing information about the rights of the detainees, besides both in Cyrillic and Latin alphabets, shall be also available in English and in the languages of the national minorities.

Police officers shall attend a medical examination only at the explicit request of the physician, on which an official note shall be made.

Police officers shall not have access to medical documentation of detainees, nor the documentation shall be kept, either as originals or photocopies, within the detention record.

¹⁶² Report on the visit to Police Directorate in Pančevo, March 2013, 71-7/13.

¹⁶³ Report on the visit to the Police Directorate in Sremska Mitrovica, September 2013, 71-61/13.

A police officer on duty shall request information from physician who performed the medical examination or conducted other medical measure, regarding a possible need for specific treatment of a detainee due to his/her health condition, or for the purpose of exercising his/her right to health care (e.g. special diet, medicaments, therapy, need for specialist examination, etc.) A police officer shall make an official note on the information provided, which shall be an integral part of the detention record of a detainee.

In the Police Directorate for the City of Sremska Mitrovica and its police stations police officers shall not handcuff every detainee when transported to the police station, and shall only do so after careful consideration of the specific circumstances that indicate the necessity for handcuffing a person, in cases prescribed by law.

The Police Directorate for the City of Sremska Mitrovica and its police stations shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the buildings of the police stations, for the purpose of protecting physical integrity of the detainees.

The Police Directorate for the City of Sremska Mitrovica and its police stations shall organize and carry out an appropriate first aid training for police officers, and provide first aid box for their premises.

Police officers responsible for the oversight of persons who have been detained in the premises of the Penal Correctional Institution Sremska Mitrovica, shall perform regular visits of the detained persons at intervals of less than one hour, in order to ensure their better protection during detention.

The Police Directorate for the City of Sremska Mitrovica shall ensure that premises used for detention purposes are ventilated and provided with the sufficient amount of natural light, and equipped with clean mattresses and blankets.

The Police Directorate for the City of Sremska Mitrovica shall post a sign in a visible place, notifying that a room is under video surveillance.

Current detention premises at the Police Station Šid shall not be used for police detention. Police Station Šid shall provide separate detention premises in compliance with the applicable standards.

Police Station Ruma shall ensure that premises used for detention purposes are ventilated and provided with the sufficient amount of natural light, and equipped with clean mattresses and blankets. Police Station Ruma shall install alarm button in detention premises for calling police officers.

Police Station Pećinci shall take the necessary measures and activities to ensure that the premises used for detention purposes are ventilated and provided with the sufficient amount of light. Police Station Pećinci shall also provide proper heating of detention premises.

Police Station Pećinci shall take the necessary measures to ensure that the video recordings are stored and archived for a period of not less than 30 days.

Police Station Irig shall take adequate and efficient measures in order to provide the renovation and suitable adaptation of the detention facilities in accordance with the applicable standards.

Police Station Irig shall take the necessary measures to ensure that the video recordings are stored and archived for a period of not less than 30 days.

Current detention premises at the Police Station Inđija shall not be used for police detention. Police Station Inđija shall provide separate detention premises in compliance with the applicable standards.

In the Police Station Stara Pazova, *offices* shall not be used for *detention lasting* hours. Police Station Stara Pazova shall provide detention premises in compliance with the applicable standards.

Police Station Stara Pazova shall take the necessary measures to ensure that the video recordings are stored and archived for a period of not less than 30 days, and shall post a sign in visible places, notifying that the premises are under video surveillance.

I/II – 4 – Police Directorate for the City of Šabac and police stations within its jurisdiction¹⁶⁴:

The Police Directorate for the City of Šabac and police stations within its jurisdiction, besides verbally informing the *detainees* of their *rights* and providing them with the “Rights of detainees” and “Rights of persons deprived of liberty” form, shall also ensure that they are handed out a copy of the form “Rights of the arrested and detained persons”. Persons who are detained or deprived of their liberty by virtue of the provisions of the Criminal Procedure Code, the Law on Police, the Law on Misdemeanours and the Law on Road Traffic Safety, in addition to the verbal communication regarding their rights shall be delivered a form “Rights of the arrested and detained persons.”

At the headquarters of the Police Directorate for the City of Šabac and police stations within its jurisdiction, detention records shall be made in accordance with the standard forms for the detained persons by virtue of the provisions of the Criminal Procedure Code.

At the headquarters of the Police Directorate for the City of Šabac and police stations within its jurisdiction, according to the Criminal Procedure Code, the period of detention shall be counted from the moment of deprivation of liberty, and not from the moment of issuance and delivery of the decision on detention. In its future operation, Police Directorate for the City of Šabac and police stations within its jurisdiction shall include in the decisions on detention, as a time of a commencement of detention, the time of deprivation of liberty.

Police Station Mali Zvornik shall, in its future work, immediately inform the investigative judge and the public prosecutor of the detention of a person.

Medical examination of detained persons (strip search) must be done immediately upon arrival in the police station if coercive means – physical force or police baton, have been used on a detainee. If a detainee refuses to submit to medical examination, an official note on this, signed by a physician as well, and if a physician refuses to do so, this fact should be noted down.

Police officers should not have access to the medical reports – findings and opinions of doctors about the health condition of detained persons containing the diagnoses of health conditions and other medical data, which are not relevant to police detention, nor such data should be included in detention records of the police. Regarding the treatment of detained persons with respect to their health, police officers should consult with the doctor who performed the physical examination of detained persons. It is necessary to obtain information from a physician, whether a detainee is capable of enduring enforcement of detention measure from the aspect of his/her health condition; whether a special diet is required and which one; whether an administration of a specific therapy is needed, and which one, what is recommended dosage regimen, who should administer the therapy. An official note shall be made, regarding the obtained information from a physician, which should be signed by the physician, and if a physician refuses to do so, this fact should be noted down.

Police officers shall attend a medical examination only at the explicit request of a physician, on which an official note shall be made, which should be signed by the physician, and if a physician refuses to do so, this fact should be noted down. If upon physician’s request, a police officer attends a medical examination, it is necessary to conduct a medical examination out of the sight of a police officer (e.g. separate the room with a paravan) and set out a written statement on this.

It is necessary to obtain a written statement or statements with regard to the official record, of the persons on whom coercive measures have been applied, in relation to the circumstances in which injuries occurred, as well as the statements of any possible witnesses to the event.

Šabac Police Directorate shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the buildings of the police stations, for the purpose of protecting physical integrity of the detainees.

¹⁶⁴ Report on the visit to the Police Directorate in Šabac, July 2013, 71-52/13.

The Police Directorate for the City of Šabac and police stations within its jurisdiction, shall organize and carry out an appropriate First Aid training for police officers, and provide first aid box for their premises.

The Police Directorate for the City of Šabac shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

The Police Station Bogatić shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

Police Station Bogatić shall by improving video surveillance system at the detention premises provide for privacy of detained persons in such manner that the area around the toilet bowl is not clearly visible, while maintaining current level of video surveillance and security.

Current detention premises at the Police Station Vladimirci shall not be used for police detention. Police Station Vladimirci shall provide separate detention premises in compliance with the applicable standards.

Police Station Koceljeva shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

Police Station Ljubovija shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

Police Station Krupanj shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

Current detention premises at the Police Station Loznica shall not be used for police detention. Police Station Loznica shall provide separate detention premises in compliance with the applicable standards.

In the Police Office within the jurisdiction of Police Station Loznica, offices shall not be used for *detention lasting hours*. Detention shall take place in specialized detention premises therefore it is necessary to provide for an adequate adaptation of the premises as soon as possible.

Police Station Mali Zvornik shall take adequate and efficient measures in order to provide the renovation and adaptation of the detention facilities in accordance with the applicable standards.

Police Directorate for the City of Šabac shall take the necessary measures to ensure that the video recordings are stored and archived for a period of not less than 30 days.

The Police Directorate for the City of Šabac and police stations within its jurisdiction, in accordance with their possibilities, shall provide a special area allowing access to *fresh air* to the detainees.

I/II – 5 – Police Directorate for the City of Smederevo and its Police Stations¹⁶⁵:

Complete records on persons detained under the provisions of the Criminal Procedure Code and the Law on police shall be kept at the headquarters of the Smederevo Police Directorate, which shall contain all the necessary documentation. Smederevo Traffic Police Unit within the jurisdiction of the Smederevo Police Directorate shall forward copies of the documentation concerning the detention of persons for the purpose of the completion of the detention records.

The documentation – records made with regard to the arrest and detention of a certain person shall not include any medical documentation regarding this person, related to medical examinations carried out upon issuing decision on detention, or in the period immediately preceding the issue of such decision.

If a doctor or other health professional who examines a detainee, or in any other way provides health care services, estimates that it is in the interest of the health of the patient – a detained person – that a police officer obtain specific information and / or instructions or any sort of medical data (e.g. need to administrate medications within specific intervals, special treatment, etc.), a doctor or other health

¹⁶⁵ Report on the visit to the Police Directorate in Smederevo, August 2013, 71-60/13.

professional shall verbally communicate this information and / or instructions to the police officers. The police officer shall, without delay, make an official note on the information provided, which will be an integral part of the detention record of this person.

Police officers shall attend a medical examination only at the explicit request of the physician, on which an official note shall be made.

In the Police Directorate for the City of Smederevo police officers shall not handcuff every detainee when transported to the police station, and shall only do so after careful consideration of the specific circumstances that indicate the necessity for handcuffing a person, in cases prescribed by law.

The Police Directorate for the City of Smederevo shall improve the fire protection system by posting evacuation plan together with the fire instructions in visible locations within the buildings of the police stations, for the purpose of protecting physical integrity of the detainees.

The Police Directorate for the City of Smederevo shall organize and carry out an appropriate first aid training for police officers, and provide first aid box for their premises.

The Police Directorate for the City of Smederevo shall ensure all relevant documents are handed out to the detainees at the time of arrival to detention facility; detained persons, while in detention, shall be allowed to keep, the form about the rights, receipt of the confiscated items, the decision on detention or detention order, medical report, etc.

The Police Directorate for the City of Smederevo shall ensure the detention facilities in the building of the Traffic Police in Smederevo are provided with sufficient amount of light in order to be able to read without causing eyestrain, with ventilation, a clean mattress and a blanket, and that the hygiene of sanitary ware is appropriately maintained.

The Police Directorate for the City of Smederevo shall ensure the detention facilities at the police station Velika Plana are ventilated and provided with sufficient amount of light to read during the day. The premises shall also be provided with the heating, as well as mattresses and clean blankets.

The Police Directorate for the City of Smederevo, in accordance with their possibilities, shall provide a special area allowing access to *fresh air* to the persons detained longer than 12 or 24 hours.

I/II – 6 – District Prison in Čačak¹⁶⁶:

District Prison in Čačak shall take necessary actions to repair dump in rooms-dormitories within the detention unit and closed ward, and paint the walls.

An eave shall be constructed in the space for spending time in the open air (walking) within the detention unit of District Prison in Čačak and its dimensions shall be such as to allow all persons taken out for a walk to have shelter from precipitation.

District Prison in Čačak shall provide adequate premises for common living area within the closed ward.

District Prison in Čačak shall immediately adapt the shared bathroom/shower room areas used by the prisoners, as well as sanitary installations, inside the closed ward, so that they completely fulfil the existing hygienic and sanitary requirements and ensure privacy of persons taking a shower.

An eave shall be constructed in the space for spending time in the open air (walking) within the closed ward of District Prison in Čačak and its dimensions shall be such as to allow all persons taken out for a walk to have shelter from precipitation.

District Prison in Čačak shall immediately adapt the shared bathroom/shower room used by the prisoners, as well as sanitary installations, inside the semi-closed ward, so that they completely fulfil the existing hygienic and sanitary requirements and ensure privacy of persons taking a shower.

¹⁶⁶ Report on the visit to the District Prison in Čačak, 71-163/12.

District Prison in Čačak shall restore the floors and perform the necessary painting works in both rooms, i.e. dormitories of the Admission Department.

District Prison in Čačak shall ensure so that a convicted person against whom a disciplinary proceedings are initiated is granted legal assistance provided by law graduates.

District Prison in Čačak shall post signs in visible places, notifying which premises are under video surveillance. District Prison in Čačak shall take the necessary measures to ensure that the recordings from video cameras stored and archived for a period of not less than 30 days.

District Prison in Čačak shall install electric alarm button for calling police officers in all premises-dormitories in which detainees are kept.

In District Prison in Čačak, a person deprived of liberty against whom a coercive measure has been used will be subjected to medical examination immediately after the use of coercive measure and again between the 12th and 24th hour after the used measure. Medical examination must be registered, stating the exact time when it was performed.

Regarding the disciplinary proceedings, District Prison in Čačak shall establish, in addition to types of disciplinary measures, the duration i.e. the period of imposition of a disciplinary measure. The type and duration of a disciplinary measure shall be included in a decision imposing a disciplinary measure.

In disciplinary proceedings the opinion of the competent correctional counsellor shall be obtained and taken into consideration, regarding the behavior of a prisoner during serving his prison sentence, his attitude towards work and work obligations and other relevant circumstances related to his personality.

A separate space will be created in the District Prison in Čačak, equipped for physical exercise and designated for physical activities of detainees both in the open air and indoors (for exercising when the weather is inclement).

District Prison in Čačak shall provide and adequately equip a special room for visits of a spouse, children and other close relatives.

District Prison in Čačak shall provide such accommodation facilities that are adjusted to prisoners with disabilities, i.e. the accommodation that is adequate in terms of the type and degree of their special needs.

I/II – 7 – District Prison in Kragujevac¹⁶⁷:

The detention unit of the District Prison in Kragujevac shall be provided with the necessary space for the placement of detainees, so that minimum eight cubic metres and four square metres of space in the dormitories are allowed for each detainee.

Bunk beds with three bed frames shall not be used in District Prison in Kragujevac, i. e. the third bed frame will be removed.

In the detention unit of the District Prison in Kragujevac, the existing worn out mattresses shall be removed and provided with the adequate ones.

District Prison in Kragujevac shall conduct a disinsectization of the detention unit.

District Prison in Kragujevac shall ensure that all premises used for detention purposes are provided with the sufficient amount of both natural and artificial light, and an adequate flow of fresh air.

District Prison in Kragujevac shall ensure that non-smokers are not placed in the same rooms/dormitories with smokers.

¹⁶⁷ Report on the visit to the District Prison in Kragujevac, 71-3/13.

In the District Prison in Kragujevac detainees never convicted before are not be placed in the rooms/dormitories with previously convicted persons, while special attention is to be paid to the allocation of detainees to rooms/dormitories according to the type of criminal offence they have been charged with.

An eave shall is to be constructed in the area for spending time in the open air (walking) in District Prison in Kragujevac, and its dimensions shall be such as to allow all persons taken out for a walk to have shelter from precipitation.

District Prison in Kargujevac shall immediately adapt the shared bathroom/shower room used by the prisoners, so that it completely fulfils the existing hygienic and sanitary requirements and ensures privacy of persons taking a shower.

District Prison in Kragujevac shall immediately adapt the shared bathroom/shower room used by the prisoners, as well as sanitary installations, so that they completely fulfil the existing hygienic and sanitary requirements.

District Prison in Kragujevac shall ensure that sentenced misdemeanour offenders are placed in a special detention unit (ward), separately from sentenced criminal offenders.

District Prison in Kragujevac shall conduct complete renovation of the kitchen, in compliance with all sanitary and technical requirements necessary for the preparation of food necessary to satisfy prison capacities.

Service for General Affairs of District Prison in Kragujevac shall ensure that *detainees are acquainted* with their right to receive legal assistance, and shall maintain a book of records on provided services of legal assistance. District Prison in Kragujevac shall ensure that in the case of disciplinary proceedings conducted for minor disciplinary offenses, legal assistance is provided within the Institution for the execution of criminal sanctions.

District Prison in Kragujevac shall take immediate actions in order to provide more extensive video surveillance coverage of the Institution and to ensure the ongoing monitoring and storing of recorded material for the minimum period of 30 days. District Prison in Kragujevac shall post a sign in visible places, notifying which premises are under video surveillance.

District Prison in Kragujevac shall immediately take measures to install alarm buttons for calling the guards in case of incidents in the premises used for accommodation of persons deprived of liberty.

Authorized officials of District Prison in Kragujevac shall perform the separation of the convicted persons in a separate room or in another room where convicted persons with an appropriate treatment program are placed.

District Prison in Kragujevac shall immediately adapt the existing premises intended for the execution of the special measure of isolation, in accordance with the applicable regulations and standards.

District Prison in Kragujevac shall immediately, in accordance with the applicable regulations and standards, adapt the existing premises intended for the execution of the disciplinary measure of solitary confinement, and install cameras and alarm buttons for calling guards.

District Prison in Kragujevac shall provide adequate number of employees working on treatment programmes, i.e. employ additional number of correctional counselors (3), as foreseen by the act on systematization of job positions, and ensure the setting-up of the Treatment Service as a separate organizational unit within the District Prison in Kragujevac.

It is necessary to introduce other forms of educational-correctional activities, primarily by introducing group work with prisoners, and establishing educational- correctional groups according to the appropriate criteria.

District Prison in Kragujevac shall, in accordance with its obligations and possibilities, pay more attention to the activities related to social support and assistance to convicted persons during their stay in prison. District Prison in Kragujevac shall, in accordance with the needs of convicted persons,

develop programs of assistance and support upon release. This primarily refers to the obligation to inform external institutions and call for cooperation.

In the future, District Prison in Kragujevac shall provide remuneration to the convicted persons for the prison work in the Institution, no later than the *last* day of the current *month* for the previous one.

A separate area is to be provided in the District Prison in Kragujevac, intended for physical exercise and designated for indoor physical activities of detainees (for exercising when the weather is inclement).

District Prison in Kragujevac shall provide and adequately equip a special room for visits of a spouse, children and other close relatives.

District Prison in Kragujevac shall provide such accommodation facilities that are adjusted to the prisoners with disabilities, i. e. the accommodation that is adequate for the type and degree of their special needs.

It is necessary to ensure that the personnel providing health care services has legally prescribed work licenses issued by the competent chamber of medical workers.

Systematization of job positions in Health Care Service within the Institution for the execution of criminal sanctions shall be submitted to the competent authority, together with a proposal for the employment of a sufficient number of nurses (technicians) to ensure their presence at the Institute on 24/7 basis; alternatively, it is necessary to make a plan, with clear deadlines, for periodic training and evaluation of knowledge and skills of first aid among the members of the security service.

In District Prison in Kragujevac, Institution Director shall immediately take measures recommended by the doctor.

District Prison in Kragujevac shall provide adequate premises for isolation and accommodation of the ill inmates, in compliance with applicable laws and standards.

District Prison in Kragujevac shall employ a sufficient number of nurses (technicians) to ensure their presence at the Institution throughout the day and night.

District Prison in Kragujevac shall promptly provide for full respect for medical confidentiality, by preventing attendance of non-medical staff to medical examinations and other medical treatments provided to inmates. Non-medical staff may attend medical examinations and other medical treatment only at the request of the medical practitioner, in which case, a medical practitioner must make an official note thereof in the medical record.

In the District Prison in Kragujevac, first examination of the persons deprived of liberty shall include examination of all body parts, i.e. the patients will be examined without their clothes on, for the purpose of detecting possible physical injuries that may be related to the violent treatment of persons deprived of liberty. It will be registered in the medical records that the full physical examination has been conducted, showing no physical injuries; in the case that such injuries are detected, they must be described.

The Health Care Service of District Prison in Kragujevac shall establish a plan and ensure a regular (periodic) medical examination of persons deprived of liberty, at least every three months.

Such examinations must contain all the elements of the first medical examination, and if necessary, other measures shall also be taken in accordance with the state of health of the examined person.

A written report on the findings observed during the regular (periodic) examination shall be submitted to the Institution Director at least once a year, and, if there is an improvement or deterioration in the health status of the convicted person, more often, i.e. whenever this change is noted.

It is necessary to create a centralized database of scheduled specialist examinations and other medical interventions arranged outside the Institution for the execution of criminal sanctions, in order to ensure that persons deprived of liberty are timely transported to scheduled specialist examinations and other medical interventions in medical institutions outside the Institution. Such transportation of persons

deprived of liberty to scheduled specialist examinations and other medical interventions in medical institutions outside the Institution will have priority over all other transportations.

The District Prison in Kragujevac shall provide the mandatory realization of medical examinations at least once a day for all persons during the execution of the disciplinary measure of solitary confinement.

In the District Prison in Kragujevac, doctor's reports on the medical examination regarding applied coercive measures must include: 1) allegations of the person against whom a coercive measure has been used about the circumstances of injuries, and 2) doctor's opinion about the correlation between the measures applied and the resulting injuries.

District Prison in Kragujevac shall, without delay, establish Register of testing for infectious diseases or use of psychoactive substances.

The doctor shall submit findings and recommendations to the Institution Director for improving hygiene in the Institution and personal hygiene of prisoners, state of sanitary installations and equipment, heating, lighting and ventilation of the rooms in which convicted persons live.

I/II – 8 – Penal Correctional Institution for Women in Požarevac¹⁶⁸:

The Penal Correctional Institution for women is to make adaptations in the closed ward, so-called Division I. The Penal Correctional Institution for women is to renovate and refurbish toilets and bathrooms within the semi-open section so-called Division III, in the admission department and the areas provided for placement of women guilty to misdemeanor assaults.

The Penal Correctional Institution for women is to regulate the problem with dampness on the walls in all dormitories (closed and semi-open type, admission department and department of misdemeanor) and perform hygienic painting, where necessary.

The Penal Correctional Institution for women is to immediately initiate the process of adaptation / renovation of the building which serves as an open ward.

The Ministry of Justice, Headquarters for Enforcement of Criminal Sanctions and Penal Correctional Institution for women in Požarevac are to consider and take all necessary measures to ensure the Institution is equipped with a kitchen.

The Penal Correctional Institution for women in Požarevac is to take the necessary measures to increase the number of employees in the security services thus improve the safety of female prisoners the Institution.

The Penal Correctional Institution for women in Požarevac is to immediately take measures for better coverage of the video surveillance system ensuring an ongoing monitoring and archiving of the recorded material for a period of not less than 30 days. The areas covered by video cameras are to include visible notices that they are under video surveillance.

The Penal Correctional Institution for women in Požarevac is to enable all women allocated to the correctional groups A1, A2, B1 and B2 not to serve their sentences in the closed part of the institution i.e. a single unit of a prison surrounded by high walls.

The Penal Correctional Institution for women is to take measures to install a set of heating and cooling equipment in the tailor workshop and also to replace all worn-out machinery and other necessary equipment with the new ones, with the aim to create conditions necessary for its efficient operation throughout the year.

The Penal Correctional Institution for women in Požarevac is to adapt room intended for physical activities, in order to create better conditions for prisoners to meet their physical needs.

The Penal Correctional Institution for women in Požarevac is to adapt areas intended for art and cultural activities to meet the prisoners' artistic and cultural needs.

¹⁶⁸ Report on Visit to the Penal Correctional Institution for women, 71-66/13.

The Penal Correctional Institution for women in Požarevac is to take measures to ensure the TV lounge in the closed ward – Division I is adequately warmed up especially at times when considered indispensable provided specific weather conditions.

The Penal Correctional Institution for women in Požarevac is to adapt the area intended for the library use and start using it again.

The Penal Correctional Institution for women is to take adequate measures to enable the female prisoners to realize their right to unlimited phone access via payphones that meet common technical standards and which cards are of a value that is to be levelled with its market price.

Doctors must submit to the Prison Warden all findings and recommendations regarding the necessary physical activities of the convicted persons, if any, only in writing. It is necessary to repair the concrete surface on the sports field, in order to reduce the amount of injuries during the sports activities of the persons deprived of their liberty.

The doctor of the Health Care Service of Penal Correctional Institution for women in Požarevac shall examine prisoners regularly, at least every three months. Regular periodic examinations of persons deprived of liberty shall have all the elements of the first medical examination upon their admission to the Institution, and if necessary, other medical measures shall also be taken in accordance with the state of health of the examined person and other special needs.

In the case of the use of coercive measures, doctor's reports on the medical examination of the prisoners shall include the information required by law, as follows: (1) allegations of a person against whom a coercive measure has been used with regard to circumstances of injuries, i.e. *anamnestic injury* data, and (2) a doctor's opinion about the correlation between the measures applied and the resulting injuries.

When admitted to prison for serving their sentences, prisoners are to be offered, especially if they are sentenced for more than one year, a dental examination so as to make teeth protection plan. All possibilities are to be considered so as to ensure all aspects of routine dental care i.e. all kinds of conservative dental treatments for prisoners sentenced for longer than a year, especially in the case of long-term imprisonment. This is because the oral / dental health care is inextricably linked to their health.

Medical records shall include the doctor's opinion on the connection between the injured person's allegations on the circumstances of injury and the occurred injuries.

In case of indications that a prisoner has been treated violently, the doctor will promptly inform the Institution Director thereof in writing.

The Health Care Service of Penal Correctional Institution for women in Požarevac, i.e. the doctor, shall control nutrition in the Institution and submit to the Institution Director in writing the findings and recommendations regarding the quantity and quality of food for persons deprived of liberty.

I/II – 9 – District Prison in Pančevo¹⁶⁹:

It is necessary to immediately take appropriate measures to ensure closing of the prison building in Pančevo as soon as possible in order to complete the work on the construction of a new prison and thereby provide adequate housing for persons deprived of their liberty.

A sanitary inspection of the kitchen premises and equipment in the Institution will be carried out immediately by the competent authority/organisation.

At the time of handing over a letter to the Institution's official in order to be sent by registered mail, the person deprived of liberty will be given a receipt on handing over the letter, containing the full name of the person who handed over the letter, name (first and last name) of the addressee, date of handing over the letter, registration number, official's signature and stamp of District Prison in Pančevo.

¹⁶⁹ Report on visit to the District Prison in Pančevo, 71/28-13.

The doctor is to monitor the prisoner's health who is serving a sentence of the solitary confinement disciplinary measure at least once during the day, whereas their findings and observations are to be recorded in the Solitary confinement disciplinary measure journal.

In the District Prison in Pančevo, it is necessary to intensify individual forms of the educational – correctional work in accordance with the identified needs and specific individual goals. After each interview, it is essential to make a note on the interview content as well as on the implementation of other activities of the treatment program determined by the individual treatment program which are to be filed in the personal medical record of the prisoner. District Prison in Pančevo is also to introduce group correctional activities in the treatment program activities of the convicted persons.

In the District Prison in Pančevo correctional counselors are to promptly and fully inform prisoners from the closed department of the manner and conditions for granting special rights.

In the District Prison in Pančevo correctional counselors are to promptly and duly notify the prisoners on the manner and conditions for review of the treatment program. In the District Prison in Pančevo correctional counselors are to inform convicted persons in timely manner on the course of proceedings regarding the review of their treatment program, as well as on the reasons for the lack of modifications in this regard.

In the District Prison in Pančevo is to duly notify:

- the competent custodial authorities of the placement of convicted persons placed in the Institution who have minor children, so as to co-operate with such authorities and in accordance with its competence, work towards establishing best interests of a child whose father is serving a prison sentence in the Institution.
- the competent custodial authorities of the placement of the convicted persons who have been awarded custody of a third party.
- the convicted persons of all information obtained when in contact with the authorities regarding the guardianship of their minor children, or concerning the persons they are in custody of.

District Prison in Pančevo, in accordance with its obligations and opportunities, is to pay more attention to activities related to the social support and assistance to prisoners during their stay in prison.

District Prison in Pančevo is to prepare programs for assistance and support for prisoners after their discharge in accordance with their needs. This primarily refers to the obligation to inform outside institutions calling for cooperation.

District Prison in Pančevo is to allow visits to detainees for at least an hour, as prescribed by the applicable regulations.

District Prison in Pančevo is to take all appropriate measures to eliminate technical deficiencies of fixed telephony in the Institution and improve the quality of the establishment and maintenance of telephone lines of the convicted persons during the interview.

District Prison in Pančevo is to have at least one paramedic until the conditions for hiring a required medical staff stipulated in the systematization (one doctor and two nurse technicians). District Prison in Pančevo is to provide an area for performing medical examinations equipped in accordance with applicable laws and standards. District Prison in Pančevo is also to provide a special hospital area for isolation of infected persons deprived of their liberty.

The doctor in District Prison in Pančevo is to review each detainee and the person serving a prison sentence immediately after the admission to the Institution, a person serving the sentence of imprisonment on return from temporary leave as well as before the release from the Institute.

In the District Prison in Pančevo, the doctor is to immediately examine a detainee or a person serving a sentence of imprisonment that complains about or there are signs of illness. Implementation of these measures with the increased accuracy of the current doctor (occasionally engaged) would be realistically achievable by recruiting medical personnel according to the above-mentioned systematization.

In the District Prison in Pančevo, medical records of detainees and persons serving a sentence of imprisonment are to be maintained adequately in terms of recording all data obtained on the basis of the medical examinations.

In the District Prison in Pančevo, the medical examination results are to be personally signed by the doctor with a facsimile seal included.

In the District Prison in Pančevo, detainees and persons serving a sentence of imprisonment are to be familiarized with the findings on their health matters as well as the content of their health records.

District Prison in Pančevo is to provide the mandatory implementation of medical examinations at least once a day to all persons on whom solitary confinement disciplinary measure are being imposed.

In the District Prison in Pančevo, all persons deprived of their liberty are to be enabled medical examinations and any necessary dental services as soon as possible.

In the District Prison in Pančevo, in the written report on the medical examination, the doctor is to ensure to include, in relation with the implementation of coercive measures the following statements:

1. Statement regarding the injuries of the person against whom coercive measures are applied
2. Opinion on the connection between the measures applied and the resulting injuries.

Identified injuries in the use of coercive measures should be described in a very detailed manner.

In the District Prison in Pančevo, the doctor is to submit to the Prison Warden relevant reports, findings and recommendations in writing – periodic reports on the health of the prisoners; a report whenever it is determined that physical or mental condition of a convicted person is impaired or threatened to by the extension or ways of serving the sentence, as well as recommendations for the treatment of that person; findings and recommendations on the amount and quality of food for prisoners; findings and recommendations for improving the hygiene of the institution as a whole, the state of the sanitary conditions and appliances, heating, lighting and ventilation in areas occupied by the convicted persons; findings and recommendations regarding the necessary physical activities of the prisoners.

The Prison Warden of the District Prison in Pančevo is to promptly and efficiently act upon doctor's recommendations.

I/III Part three

– Recommendations made in early 2014 in reports on visits made in late 2013

I/III – 1 – Police Directorate for the City of Belgrade its Police Stations¹⁷⁰:

Written notifications on the rights of detained persons should be provided in case of detention of persons on any basis (Law on Criminal Proceedings, Law on Police, Law on Misdemeanour and Law on Road Traffic Safety).

The Ministry of Internal Affairs should amend the currently applicable Instructions on Treatment of Arrested and Detained Persons and harmonize it with the relevant standards of the Council of Europe by stipulating that police officers should not be present during medical examination of persons deprived of liberty, except in case a physician who performs examination requires so. Police officers can be present during medical examinations only on express request of a physician and official note should be made about this.

¹⁷⁰ Report on Visit to the Police Directorate for the city of Belgrade, 71-71/13.

Documentation – cases made in connection with deprivation of liberty and detention of a person should not include medical documentation of that person made about examinations performed after passing of a decision on police detention or immediately before passing of such decision. If a medical doctor or other health professional who performs medical examination of a person detained by a decision, or otherwise provides health care services, concludes it is in the best interest of a patient's health, i.e. detained person's health that a police officer knows certain information and/or instructions, i.e. medical data (e.g. the need to administer medication at specific time, special treatment etc.), the medical doctor or other health professional will provide such information and/or instructions to the competent police officer. The police officer should make an official record on information received without delay, which will constitute an integral part of a case on detention of the person.

In police station Zvezdara, a decision or an order on detention should be provided to a detained person without delay, as well as any other relevant documentation (form on rights, certificate on seized possessions, physician's report etc.) and a detained person will have an option to keep the above documentation during detention.

Police station Stari grad should also make a report on detention on the standard form for persons detained on the basis of provisions of the Law on Criminal Proceedings and the Law on Road Traffic Safety and detained persons should have access to all reports on detention and will sign them or it will be noted that a person refused to sign a report.

The Ministry of Internal Affairs should amend the Instructions on Treatment of Arrested and Detained Persons by stipulating that physical restraint will be used only when it is really necessary and not during transport of every arrested person, as is the case at the moment.

In the Police Directorate for the city of Belgrade, police officers should not physically restrain every arrested person transported in an official vehicle; instead they can physically restrain persons only if there are justified reasons and in cases specified by the law.

In police station Stari grad, certificates on temporarily seized and returned possessions should be signed by detained persons from whom possessions are temporarily seized.

The Police Directorate for the City of Belgrade will take appropriate measures to ensure adequate airing of detention rooms.

Police station Savski venac should take adequate measures to ensure detention rooms are aired and have sufficient light. In addition, a heating system should be installed in the rooms. Police station Savski venac should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future.

Police station Stari grad will take adequate measures to ensure detention rooms are sufficiently aired and have sufficient light. Police station Stari grad white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future.

Police station Stari grad should install buttons of the alarm system for alerting the police officer on duty in rooms for police detention.

Police station Zvezdara should take adequate measures to ensure the detention room have sufficient light. In addition, this police station should install a heating system in this room.

Police station Zvezdara should install buttons of the alarm system for alerting the police officer on duty in the police detention room.

Police station Palilula should take adequate measures to ensure detention rooms have sufficient light and will install a heating system in the rooms.

Police station Palilula should install buttons of the alarm system for alerting the police officer on duty in police detention rooms.

Police station Mladenovac should take adequate measures to ensure detention rooms have sufficient light. Police station Mladenovac should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future.

Police station Sopot should not detain persons in the existing police detention room. Police station Sopot should provide a separate room for police detention which complies with the applicable standards.

Police station Novi Beograd should take adequate measures to ensure detention rooms have sufficient light and that they are heated. Police station Novi Beograd should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future. In police station Novi Beograd, dry and clean rooms with appropriate sanitary appliances should be provided, by necessary adaptations of the existing toilet.

Police station Grocka should take adequate measures to ensure detention rooms are aired and have sufficient light. Police station Grocka should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future and in the sanitation facilities.

Police station Grocka should install in police detention rooms buttons of the alarm system for alerting the police officer on duty.

Police station Rakovica should take adequate measures to ensure detention rooms have sufficient light, to ensure that detained persons can read in them without difficulties, to ensure the rooms are aired and should install a heating system. Police station Rakovica should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future.

In police station Rakovica, it is necessary to adapt the toilet used by detained persons and to regularly maintain hygiene in it.

In police station Vracar, the natural and artificial lighting system should be improved in detention rooms, so that the rooms have sufficient light and that detained persons can read in them without difficulties and also adequate inflow of fresh air should be ensured.

Police station Vracar should install buttons of the alarm system for alerting the police officer on duty in police detention rooms.

Police station Vozdovac should take adequate measures to ensure detention rooms have sufficient light and that they are aired. The police station Vozdovac should install a heating system in detention rooms.

Police station Vozdovac should install buttons of the alarm system for alerting the police officer on duty in police detention rooms.

Police station Barajevo should not detain persons in the existing police detention room. Police station Barajevo should provide a separate room for police detention which complies with the applicable standards.

Police station Obrenovac should take adequate measures to ensure detention rooms have sufficient natural and artificial light, that rooms are aired and heated.

Police station Obrenovac should white wash the walls for sanitation purposes in the rooms and should regularly maintain hygiene in the rooms in the future.

Police station Obrenovac should install buttons of the alarm system for alerting the police officer on duty in police detention rooms.

All objects that are not included in the standard office equipment should be removed from interrogation rooms.

The Police Directorate for the city of Belgrade should take adequate measures and designate special area for outdoor activities for detained persons.

The Police Directorate for the city of Belgrade and police stations within its framework should, improve the fire protection system by placing the fire escape plan and the fire action notice on visible places in police station buildings with the aim to protect physical integrity of detained persons

The Police Directorate for the city of Belgrade and police stations within its framework should organize and hold relevant first aid training for police officer and should equip the rooms with first aid kits.

I/III – 2 – Valjevo Juvenile Correctional Institution¹⁷¹:

In the Valjevo Juvenile Correctional Institution, detainees who have not been convicted before should not be placed in the same dormitories with detainees who have been convicted before and special attention should be dedicated to placement of detainees in specific dormitories, depending on the criminal offence of which they are indicted.

All members of the Security Service of the Juvenile Correctional Institution in Valjevo responsible for supervision of detainees should carry out their tasks with minimum interference with detainees' eight-hour night rest.

The Juvenile Correctional Institution in Valjevo should regularly replace light bulbs in all dormitories.

The Juvenile Correctional Institution in Valjevo should without delay adapt sanitation facilities and shower rooms in the "Internat" facility so that they fully comply with the applicable hygiene and sanitary standards and ensure privacy of persons who use them.

The Juvenile Correctional Institution in Valjevo should fix problems with damp and adapt sanitation facilities within the communal sanitation facilities of the semi-liberty unit, in accordance with the applicable regulations and standards.

The Juvenile Correctional Institution in Valjevo should place eaves large enough to cover all persons taken about for walks in case of precipitation in both areas intended for spending time on fresh air (for walk).

The Juvenile Correctional Institution in Valjevo should ensure sufficient natural light for reading and working without difficulties and adequate artificial lighting in rooms of the Increased Supervision Unit, where persons subjected to disciplinary measures are placed.

The Juvenile Correctional Institution in Valjevo should adapt the sanitation facilities within the communal sanitation facilities and sanitation facilities in dormitories, where persons placed to solitary confinement are held, in accordance with the applicable regulations and standards.

The Juvenile Correctional Institution in Valjevo should provide a day room for convicted persons separated in special rooms for increased supervision.

The Juvenile Correctional Institution in Valjevo should protect walls against damp and white wash the walls for sanitation purposes in all dormitories of the Increased Supervision Unit.

The Juvenile Correctional Institution in Valjevo should ensure necessary space for placement of convicted persons in the Increased Supervision Unit, so that one convicted person has minimum cubic meters and four square meters of space.

The Juvenile Correctional Institution in Valjevo should without delay adapt the communal bathroom and sanitation facilities in all dormitories in the Increased Supervision Unit, so that they fully comply with the applicable hygiene and sanitary requirements.

The Juvenile Correctional Institution in Valjevo should white wash the walls for sanitation purposes and repair floors in all rooms of the reception unit.

The Juvenile Correctional Institution in Valjevo should place eaves large enough to cover all persons taken out for a walk in case of precipitation in the area intended for spending time on fresh air (for walk) in the "Remand Prison" unit.

The Juvenile Correctional Institution in Valjevo should provide closed space with exercise equipment, intended for physical activities of persons sentenced for misdemeanours.

The Juvenile Correctional Institution in Valjevo should refurbish the kitchen and equip it in accordance with the applicable standards.

171 Report on Visit to the Juvenile Correctional Institution in Valjevo, 71-40/13.

Information whether provision of professional assistance was approved to a person should be recorded in a report disciplinary action, made during hearing of a convicted person against which the disciplinary action is taken.

The Juvenile Correctional Institution in Valjevo should keep a special records of complaints and appeals, where information on the manner of handling of complaints, dates of passing of decisions and instructions on legal remedies will be entered.

The Juvenile Correctional Institution in Valjevo should without delay take measures to ensure better coverage of the Institution with the video surveillance system. The Juvenile Correctional Institution in Valjevo should place a visible notice that the room is under video surveillance.

The Juvenile Correctional Institution in Valjevo should without delay take measures to equip rooms for holding persons deprived of liberty with sound alarms to alert guards in case of incidents.

In the Juvenile Correctional Institution in Valjevo, persons deprived of liberty who are subject to enforcement measures should be brought to a physician for medical examination immediately after the enforcement measure is applied and again between 12 and 24 hours after the enforcement measure is applied. The Institute should keep records on medical examinations and should record the exact time when examinations were performed.

In the Juvenile Correctional Institution in Valjevo, it is necessary to carry out internal reorganization of the Treatment Service, so that wardens and other employees in the Treatment Service are more intensively included work with convicted persons in the Increased Supervision Unit, according to conditions and evaluated needs. It is necessary to define more precisely the duties and tasks of wardens in work with this category of convicted persons, particularly those sentenced to juvenile prison.

The Juvenile Correctional Institution in Valjevo should prepare a practical information booklet for convicted persons adjusted for specific features of the institution and procedures in work of certain services of the Institution, primarily the Security Service and the Treatment Service. The information booklet should also define clear tasks and procedures in the work of the expert team at reception.

The Juvenile Correctional Institution in Valjevo should increase its use of correctional groups as an organizational and methodological form of correctional work in the work with convicted persons. In accordance with that, the Juvenile Correctional Institution in Valjevo should dedicate more attention to formation of correctional groups and comply with the criteria for their formation, particularly in case of persons sentenced to juvenile prison.

Placement in the Increased Supervision Unit for security reasons should not necessarily be an obstacle for change of the treatment program; instead, placement in the Increased Supervision Unit must be one of the criteria for change of the treatment program and a reason for more intensive work with this prison population. It is necessary to develop procedures for constant assessment of the course of the treatment of convicted persons.

The Juvenile Correctional Institution in Valjevo should, within its means and taking into account its duties and needs of convicted persons, particularly those sentenced to juvenile prison, dedicate more attention to activities on social support and assistance to convicted persons during and after their imprisonment. Individual treatment programs must also include contents in the field of post-penal social support and assistance. It is not enough to just call for cooperation and inform external actors on the need of such cooperation, but such actions and specific contents should be initiated immediately after convicted persons come to the Juvenile Correctional Institution.

The Juvenile Correctional Institution in Valjevo should take measures to ensure all convicted persons, regardless in which unit they are placed, can exercise their right to secondary education, according to the passed treatment program, and should dedicate particular attention to persons with special needs and persons with learning and cognitive disabilities. The Juvenile Correctional Institution in Valjevo should take necessary measures to ensure convicted persons can exercise their right to secondary education free of charge.

The Juvenile Correctional Institution in Valjevo should take necessary measures to ensure to convicted persons in the semi-liberty unit adequate space to spend free time on fresh air with necessary equipment.

Detainees in the Juvenile Correctional Institution in Valjevo should be able to spend at least two hours a day outside.

The Juvenile Correctional Institution in Valjevo should provide space with exercise equipment intended for physical activities of persons placed in the Increased Supervision Unit.

The detention unit of the Juvenile Correctional Institution in Valjevo should provide special space with exercise equipment intended for physical activities of detainees.

The Juvenile Correctional Institution in Valjevo should ensure that visits to detainees last at least one hour, as stipulated by the currently applicable regulations.

The Juvenile Correctional Institution should provide rooms adjusted to convicted persons with disabilities, i.e. accommodation appropriate for the type and degree of their special needs.

The Juvenile Correctional Institution in Valjevo should ensure services of at least one psychiatrist by employing an adequate physician-specialist, which will ensure that a psychiatrist (or a neuropsychiatrist) is present in the Institution at least two times a week, each time at least for four hours, in order to achieve an integrated approach in health care for underage population with continual participation of such specialist in the multidisciplinary team.

It should be ensured that employees hired to perform health care tasks have licenses in accordance with the law issued by the competent medical chamber.

Provide job classification for the Health Care Service in the Institution.

Additional human resources should be hired for provision of health care, including minimum the sufficient number of nurses (paramedics) to ensure their presence in the Institution on the 24/7 basis.

The Juvenile Correctional Institution in Valjevo should ensure that exclusively medical staff has access to medical documentation, i.e. personal medical records and other records containing patients' medical data and personal information which are kept in the premises of the Institute used by the Health Care Service.

A physician in the Institute should provide to the director of the Institute within one month findings and recommendations in writing for improvement of hygiene in the in-patient clinic of the Health Care Service of the Institution and assessment of sanitary conditions and appliances, heating, lighting and airing in these rooms.

The existing worn out mattresses should no longer be used and adequate mattresses should be provided.

The Institute should ensure that bed sheets are changed in specified periods, at least once in 15 days, as well as that bed sheets, underwear and clothes are washed and dried in the joint wash room of the Institute.

The Juvenile Correctional Institution in Valjevo should without delay ban smoking in the in-patient clinic of the Health Care Service in all rooms used for hospitalization of patients, i.e. rooms where patients sleep, and in the day room; smoking ban in these rooms should be clearly marked by an adequate sign. A room where smoking is allowed should be specially designated and marked.

The Juvenile Correctional Institution in Valjevo should without delay adapt the sanitation facilities intended for persons who stay in the in-patient clinic, so that it fully complies with the applicable hygiene and sanitary requirements.

The Juvenile Correctional Institution in Valjevo should prepare a plan and perform regular (periodic) medical examinations of persons deprived of liberty in the period of maximum three months. Such medical examinations must at least include the elements of the first medical examination and, where necessary, in accordance with the health condition of a convicted person, other necessary measures

should also be taken. The director of the institution should be informed about the results of regular (periodic) medical examinations at least once per year and, where necessary, if health condition of a convicted person improved or deteriorated, more frequently, when such change is observed. In addition, the Institution should prepare a plan according to which underage persons will undergo regular medical examination by a relevant health institution at least once annually.

In the Juvenile Correctional Institution in Valjevo, must include the following information on coercion measures in a written report on medical examination 1) allegations of a person subjected to coercion measures about the origin of injuries and 2) opinion on correlation of the measures and injuries.

The Juvenile Correctional Institution in Valjevo should keep regular records in the "Visits to Increased Supervision Unit" records by entering relevant information in all fields in the form, while one row (under one number) should be used to record exclusively information on a visit to one person.

The Institution should without delay ensure that convicted person C.U. is referred to a hospital with adequate equipment and staff trained to treat persons with mental disorders, i.e. Special prison Hospital. Detention of persons with indisputably diagnosed mental disorders, primarily psychotic, in the Institute where there is no adequate equipment or staff trained to treat such persons, even when such persons receive prescribed pharmacotherapy from a medical specialist, can be identified as unhuman treatment, particularly if it is long-term detention.

In possible similar cases in the future, the Institute should require from a psychiatrist who performs medical examination to provide his opinion whether further treatment can be performed in the Institute or a patient must be referred to a specialized institution at every medical examination (the first and control examinations). In addition, the Institute should without delay respect the psychiatrist's recommendation in connection with periods within which control medical examination should be performed.

A physician should regularly keep Records of Injuries and enter information for each patient in adequate fields, with special attention paid to entering of the following information 1) allegations of a person subjected to coercion measures about the origin of injuries and 2) the physician's opinion on correlation of the event described in allegations and injuries.

A physician should submit to the director his/her findings and recommendation in writing about the improvement of hygiene in the institution and hygiene of convicted persons, the condition of sanitary conditions and appliances, heating, lighting and airing in the rooms where convicted persons stay.

I/III – 3 – Centre for Children and Youth with Developmental Disabilities Veternik¹⁷²:

It is necessary to encourage the development of initial and continual training for professionals and other employees hired to provide services of maintenance and rehabilitation.

The institution should make analysis the necessary number of employees and the type of treatment, develop a work organization plan, which will ensure inclusion of all users in rehabilitation activities and identify necessary training programs, which will encourage work with users with complex disabilities.

It is necessary to provide adequate accommodation and required rehabilitation to bed-ridden users without delay.

It is necessary to eliminate shortcomings in continual supervision of users placed in the rooms for "increased supervision".

"Increased supervision" should not be used as a correctional measure.

Accommodation in the rooms for "increased supervision" should be improved.

¹⁷² Report on Visit to the Centre for Children and Youth with Developmental Disabilities, 71-26/13.

No form of solitary confinement of users should be used, because isolation of users, regardless of its duration, is cruel, unhuman and degrading treatment, and if such isolation lasts for a long period, it could constitute torture.

Physical restraint should not be used as a correctional measure, taking into account that it is exclusively a medical measure which can only be prescribed by a physician.

A sufficient number of physicians and other relevant medical specialists should be ensured for treatment of users.

It is necessary to form a team of experts of various profiles which would make an individual rehabilitation plan with various contents for each individual user, including medical care and treatment, the manner and quality of diet, physical therapy, correction of speech disorders, correction of sensory disorders (vision, hearing), occupational therapy, work therapy, sociotherapy, recreation, hobbies... It is necessary to keep a rehabilitation plan in writing for each user.

In case competent health institutions refuse to provide adequate health care outside the Centre, the head of the health service of the competent institution should be informed, as well as the management of the Centre which then should inform the Ministry of Health and provide relevant medical documentation.

After admission, users and their family members should be informed about the code of conduct in the Institution and their rights. In addition, it is necessary to establish adequate formal procedures for submission of requests, complaints and appeals on the work of the Institution and its employees, which can be submitted by users or their parents or guardians, and to establish adequate procedures for handling of requests, complaints and appeals. It is necessary to keep records on submitted requests, complaints and appeals.

I/III – 4 – Special Hospital for Psychiatric Disorders Kovin¹⁷³:

Worn out accommodation capacities should be adapted. The existing large rooms should be divided into smaller rooms.

The hospital should provide necessary facilities where patients can place their personal belongings in patient rooms and other rooms where patients stay (day rooms, halls, dining room...) and should decorate them in such a manner as to ensure more humane environment and to reflect their individuality of patients who use them.

The hospital should encourage patients to bring their personal belongings: books, magazines, photos.

The hospital should encourage patients to wear day clothes during the day.

Privacy should be ensured for patients in toilets and bathrooms.

The Special Hospital for Psychiatric Disorders Kovin should place visible notices in writing on patients' rights and duties in the Hospital in all units.

The Hospital should, within its means, prepare brochures intelligible to patients to inform them about their rights and duties and the code of conduct, which will be available to patients and their families.

The Special Hospital for Psychiatric Disorders Kovin should ensure that consent in writing of a patient or his/her guardian to apply a specific measure is required at subsequent introduction of each new medical measure.

The Special Hospital for Psychiatric Disorders Kovin should inform the head of the competent court about the problems it faces when it commits persons without their consent and hospitalizes persons with mental disorders in the psychiatric institution without their consent, according to the provisions of the Law on Protection of Persons with Mental Disorders on the competence of the court in the commitment of persons without their consent.

¹⁷³ Report of NPM on Visit to the Special Hospital for Psychiatric Disorders Kovin, No. 71 –73/ 13

The Hospital should without delay submit to the Protector of Citizens a copy of the communication sent to the court.

The Special Hospital for Psychiatric Disorders Kovin should inform authorities supervising the work of guardianship authorities in case competent social work centres refuse cooperation.

In the Special Hospital for Psychiatric Disorders Kovin, patients should not be physically restrained in the same rooms where other patients who are not physically restrained stay.

The Special Hospital for Psychiatric Disorders Kovin should also include in the records on the use of physical restraint additional information on the following facts: whether less restrictive measures were taken before physical restraint; information on visits of a competent psychiatrist and other medical staff to a physically restrained patient; whether and when the legal representative of a patient was informed about the measure; possible injuries suffered by patients or medical staff; and patients' comments.

The content of individual treatment plans for patients in the Hospital should also include all necessary psychosocial rehabilitation programs, including occupational (work) therapy, group therapy, individual psychotherapy, drama, music and sport activities etc.

Educated experts of different profiles and patients themselves should participate in preparation of treatment plans.

Individual plans should also include support plans after release from the hospital. These plans should be enclosed in writing to each medical record.

The Hospital should take all available measures to include patients in an organized manner in passing of important decisions relevant for their stay and treatment in the Hospital.

The Hospital should organize informative sessions for patients and for employees and should provide technical support for the organization, election of members and operation of the Patients' Council.

In case other health institutions refuse to provide adequate health care outside the Hospital, the Hospital should inform director of the competent health institution and provide relevant medical documentation and should inform the Ministry of Health.

The Hospital should without delay analyse the existing needs for relevant community mental health protection services which can take care of patients after they are released from the Hospital for the territory covered by the Hospital.

The Hospital should submit the analysis to the Ministry of Health, the Provincial Secretariat for Health Care, Social Policy and Demography and the Protector of Citizens.

It is necessary to include as many patients as possible in social and psychological rehabilitation programs by giving them certain tasks and duties, offering them to attend workshops, group sessions and one-on-one talks etc. Such programs should be developed in all units, particularly in closed units. The Hospital should improve the existing and introduce new psychosocial programs and rehabilitation activities.

Within the context of introduction of new activities, it is necessary to analyse the required number of experts and necessary additional trainings in accordance with the plan for development of new activities.

It is necessary that employees take more account of patients' opinions and wishes in selection of activities in which patients will participate.

It is necessary that the Hospital consider introducing round-the-clock working hours of the Central Occupational Therapy unit and day care centre "Suncani kutak" to ensure increased work engagement of patients and their increased involvement in occupational therapy.

It is necessary that the Hospital develops specific measures to ensure introduction of physical and other leisure activities in all units, adjusted to patients, their health condition and interests.

It is necessary that the Hospital include patients themselves in the process of design of new activities.

It is necessary that the Hospital organizes using of adequate rooms intended for visits.

The Hospital should without delay analyse the existing financing system of the Hospital, emphasizing the current shortcomings, and should present a model financing which would ensure full exercise of the right to treatment and rehabilitation, i.e. better functioning of the Hospital.

The Hospital should submit the analysis to the Ministry of Health, the Provincial Secretariat for Health Care, Social Policy and Demography and the Protector of Citizens.

I/III – 5 – Ministry of the Interior and Commissariat for Refugees and Migration¹⁷⁴:

Any foreigner found in the territory of the Republic of Serbia without suitable identification documents,¹⁷⁵ any foreigner who has entered illegally into the territory of the Republic of Serbia,¹⁷⁶ as well as any other foreigner who cannot prove that he/she is staying in the territory of the Republic of Serbia legally,¹⁷⁷ shall be escorted by the police officers to the nearest police station, which shall immediately proceed with his/her identity check, i.e. establishment,¹⁷⁸ perform a search of his/her person in an attempt to find personal identification documents, and check the data and enter the data into the statutory records.

The foreigner shall be informed about his/her legal position, i.e. the rights and obligations related to his/her stay in the territory of the Republic of Serbia in a language and in a manner that he/she is able to understand.

When it is obvious or likely that a foreigner is a minor, i.e. a person under the age of 18, the police officials shall immediately invite the guardianship authority to take part in the proceedings relating to that person, perform its coordination function and the decisionmaking within its jurisdiction.

The police officers shall apply the police powers, as well as the measures and actions prescribed by the Law on State Border Crossing, i.e. the Law on Foreigners, to the person referred to in Paragraph I of this Recommendation, in order to remove him/her from the Republic of Serbia, i.e. to place him/her in the Reception Centre for Foreigners under Strict Police Supervision (Reception Centre).

There is a need to increase the accommodation capacities of the Reception Centre to the extent that would allow for the placement of and care for all foreigners who cannot be removed immediately, and whose identity has not been established or who do not have any identification documents, and for those purposes the appropriate funds shall be provided in the budget of the Republic of Serbia.

All foreigners escorted to the Reception Centre shall be provided accommodation and support in accordance with the applicable regulations and standards, including specifically adequate accommodation conditions, nutrition, hygiene, communication in a language that they can understand, provision of health care and social support, cultural and religious needs, etc.

Foreign minors shall be placed in the Reception Centre together with the parent, unless the guardianship authority deems that other accommodation would be more suitable for them.

When the conditions stipulated by the Law on Foreigners are satisfied, a foreigner who is illegally residing in the Republic of Serbia shall immediately be removed, and the necessary funds for this purposes shall be provided in the budget of the Republic of Serbia.

Any foreigner who has expressed his/her intention to seek asylum in the Republic of Serbia, i.e. any foreigner who is to be removed to a territory where he/she may face persecution on the grounds of his/her race, sex, religion, national origin, nationality, membership of a particular social group or political

174 Recommendation 75-6 / 14 arising from the report on the visit to the Asylum Centre in Bogovadja, October 2013, no. 71-59 / 13, follow-up visits on this and other centers for asylum, as well as on the analysis of data and interviews with law enforcement officials regarding the treatment of the inherited migrants and asylum seekers.

175 Passport, identity card for foreigners, a special identification card or other official document containing a photograph.

176 Outside the place or time specified for border crossing; avoiding border controls; using someone else's, invalid or fraudulent travel or other documents; giving misleading information to the border police; for the duration of the protective measure of expulsion of foreigners from the territory of the Republic of Serbia, the security measure of expulsion from the country or the measure of cancellation of stay.

177 Stay without a visa, residence permit or other legal basis.

178 Inter alia: photographing, taking fingerprints, and taking other biometrical data.

opinion,¹⁷⁹ and particularly if he/she is to be removed to a territory where there is a risk that he/she will be subjected to torture, inhuman or degrading treatment or punishment, shall be treated in accordance with the provisions of the Law on Asylum.

Any foreigner who has expressed his/her intention to seek asylum shall be registered, and, if needed, searched in an attempt to find his/her identification documents, and shall be issued a document certifying that he/she has expressed an intention to seek asylum. The certificate shall contain his/her photograph and other biometrical data.

Any foreigner who has expressed his/her intention to seek asylum shall be referred to an Asylum Centre¹⁸⁰, and informed about his/her obligation to report to the authorised officer in the Asylum Centre, i.e. Asylum Office, within 72 hours, or shall be escorted by the police officers to the Centre if the relevant conditions specified in the Law on Asylum are satisfied.

The Asylum Centres should be established and organised solely to ensure the efficient implementation of the asylum procedure.

There is a need to increase the accommodation capacities in the Asylum Centres to the extent that would allow for the placement of and care for all persons escorted, i.e. referred, to the Asylum Centre in accordance with the Law on Asylum, and the necessary funds for this purpose shall be provided in the budget of the Republic of Serbia.

All foreigners referred, i.e. escorted, to the Asylum Centre shall be provided accommodation and support in accordance with the applicable regulations and standards, including specifically adequate accommodation conditions, nutrition, hygiene, communication in a language that they can understand, provision of health care and social support, cultural and religious needs, etc.

Foreign minors shall be placed in the Asylum Centre together with the parent, unless the guardianship authority deems that other accommodation would be more suitable for them.

The authorised persons in the Asylum Centre shall refrain from the practice of granting leave of absence from the Centre. The Asylum Centres shall refrain from the practice of "keeping" rooms, i.e. beds, for the asylum seekers who have left the Asylum Centre on any grounds. The vacant capacities no longer occupied by their previous users shall be given without any delay to the newly arrived foreigners who have been referred, i.e. escorted, to the Asylum Centre.

The Police Directorate within the Ministry of the Interior shall establish the Asylum Office, as an independent unit outside the Border Police Directorate, and ensure an adequate number of authorised officers, implement their comprehensive training, and provide the necessary funding for their operations.

The Asylum Office shall ensure that there are authorised asylum officers on duty in all the Asylum Centres on a daily basis.

The authorised Asylum Office officer shall register in accordance with the Law on Asylum any foreigner who has expressed his/her intention to seek asylum immediately upon his/her receipt to the Asylum Centre, after which he/she shall issue the foreigner an identity card without any delay, assessing in each particular case the need to restrict the movement of such person.¹⁸¹

The foreigner shall be informed in a language and in a manner that he/she is able to understand about his/her obligation to submit within 15 days from his/her registration an asylum claim to the Asylum Office, i.e. authorised Asylum Office officer on daily duty in the Asylum Centre, who will inform him/her of the consequences of missing the deadlines, explain how the claim is to be submitted, and provide him/her assistance in compiling the claim.

179 Unless there are justified reasons to believe that the foreigner poses a threat to the security of the Republic of Serbia or if he/she has been convicted for a serious crime, and therefore poses a threat to public order.

180 The Centre to which a person who has expressed an intention to seek asylum will be referred shall be determined by the Ministry of the Interior in cooperation with the Commissioner for Refugees and Migrations.

181 By ordering his/her stay in the Asylum Centre under strict police surveillance or by prohibiting him/her to leave the Asylum Centre, specific addresses or a specific area.

The authorised Asylum Office officer shall interview immediately the foreigner who has applied for asylum in a language that he/she is able to understand, whereby the asylum procedure shall be implemented and completed as soon as possible.

The Asylum Office should approve a foreigner's request for stay outside the Asylum Centre unless there are reasons to restrict his/her movements prescribed by the Law on Asylum.

Any foreigner who fails to submit an asylum claim within the timeline specified by the Law on Asylum, any foreigner whose asylum claim has been rejected or denied, or it was decided to suspend the procedure, shall be removed from Republic of Serbia in accordance with the Law on Foreigners, unless he/she can be granted stay in the Republic of Serbia on other grounds.

Any foreigner whose removal from the Republic of Serbia is not possible immediately after the decision on his/her removal has been adopted, shall be placed in the Asylum Centre until the necessary conditions are satisfied.

The necessary funds for the removal of foreigners from the Republic of Serbia shall be provided in the budget of the Republic of Serbia.

The Ministry of the Interior shall forward to the Government of the Republic of Serbia, i.e. the relevant Minister, within 15 days from the receipt of this Recommendation, draft regulations, i.e. revised regulations, that need to be adopted in order to ensure the full implementation of these recommendations, forwarding a copy of each regulation to the Ombudsman without any delay.

ANNEX II

Relevant Regulations / Excerpts from Regulations and NPM Documents

II Relevant Regulations / Excerpts from Regulations and NPM Documents

1. Law amending the Law on Ratification of Optional Protocol
 2. Law on Ratification of Optional Protocol
 3. Constitution of the Republic of Serbia
 4. Law on Protector of Citizens
 5. Certificate accrediting the Protector of Citizens as the National Human Rights Institution with "A" status
 6. Letter to the UN Subcommittee on Prevention of Torture
 7. Request to the National Assembly – Excerpt from Job Classification in NPM
 8. Proposal for Organizational Structure of NPM Secretariat
 9. Memorandum on Cooperation with Provincial Ombudsman
 10. Decision on Establishing the Commission for the Selection of NGOs
 11. Report of the Commission on Selection of NGOs
 12. Decision on Selection of NGOs
 13. Model Agreement with NGOs
 14. Decision on the Fees for Performing tasks of NPM and the Decision amending this Decision
 15. NPM Plan of Visits for 2014
 16. Official Website of NPM
 17. NPM leaflet
 18. Conclusions on necessary requirements for work in NPM
 19. Methodology of National Preventive Mechanism
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II – 1 Law amending the Law on Ratification of the Optional Protocols

LAW ON AMENDING THE LAW ON RATIFICATION

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. 7/2011

Adopted on 28 July 2011, on eight session of the National assembly of Republic of Serbia

Entered into force: 9 August 2011

Article 1

The Law on ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Official Gazette of Serbia and Montenegro – International Treaties”, no. 16/05 and 2/06), after Article 2 Article 2a is added as follows:

Article 2a

The Protector of Citizens (Ombudsman) shall operate a National mechanism for the prevention of torture.

In performing the duties of the National Mechanism for the Prevention of Torture Protector of Citizens (Ombudsman) shall cooperate with the ombudsman of autonomous provinces and associations whose statute intended goal is the promotion and protection of human rights and freedoms, in accordance with the law.”

Article 2

This Law shall come into force eight days after its publication in “Official Gazette of the Republic of Serbia – International Treaties”.

II – 2 Law on Ratification of the Optional Protocols

LAW ON RATIFICATION

(“Off. Gazette of Serbia and Montenegro – International Treaties”, no. 16/2005 and 2/2006 and “Off. Gazette – International Treaties”, no. 7/2011)

Article 1

Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on 18 December 2002, in the original Arabic, Chinese, English, French, Russian and Spanish.

Article 2

The text of the Protocol originally in English and translated into Serbian language is as follows:

OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR 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 (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty 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 directorate, 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 fulfilment 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

1. 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 programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme 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 fulfil 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 defence, 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 fulfil 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 programmes 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 favour 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 favour 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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II – 3 Constitution of the Republic of Serbia

CONSTITUTION OF THE REPUBLIC OF SERBIA

(“Official Gazette of the Republic of Serbia” No. 98/2006)

5. Protector of Citizens

Article 138

The Protector of Citizens shall be independent state body who shall protect citizens’ rights and monitor the work of public administration bodies, body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions to which public powers have been delegated.

The Protector of Citizens shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor’s Offices.

The Protector of Citizens shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law.

The Protector of Citizens shall account for his/her work to the National Assembly.

The Protector of Citizens shall enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Protector of Citizens.

The Law on the Protector of Citizens shall be enacted.

II – 4 Law on the Protector of Citizens (Ombudsman)

LAW ON THE PROTECTOR OF CITIZENS

INTRODUCTORY PROVISIONS

Article 1

The Protector of Citizens is hereby established, as an independent body that shall protect the rights of citizens and control the work of government agencies, the body authorized for legal protection of property rights and interests of the Republic of Serbia and other bodies and organisations, enterprises and institutions which have been delegated public authority (hereinafter: administrative authorities).

The Protector of Citizens shall also ensure that human freedoms and rights are protected and promoted.

In the context of this law, the term 'citizen' covers not only local nationals but also any physical person who is a foreign national, as well as any local or foreign legal person whose rights and responsibilities are determined by the administrative authorities specified under paragraph 1 of this Article.

Article 2

The Protector of Citizens is independent and autonomous in performance of his/her duties established under this Law and no one has the right to influence the work and actions of the Protector of Citizens.

In performance of duties within his/her competence the Protector of citizens shall act in accordance with the Constitution, law and other regulations and general acts, as well as the ratified international treaties and generally accepted rules of international law.

Article 3

The seat of the Protector of Citizens shall be in Belgrade.

The Protector of Citizens may issue a decision to establish an office outside its seat.

The general act determining the organisation of the Protector of Citizens shall also govern the organisation of offices outside its seat.

II APPOINTMENT AND END OF OFFICE

Article 4

The National Assembly of the Republic of Serbia (hereinafter: the Assembly) shall appoint the Protector of Citizens following the proposal of the National Assembly Committee for Constitutional Issues (hereinafter: the Committee).

Each parliamentary group in the National Assembly has the right to propose to the Committee its candidate for the Protector of Citizens.

Several parliamentary groups may propose a joint candidate for the Protector of Citizens.

The proposal of the Committee has to be supported by a majority vote of all the members of the Committee.

Before the proposals for the Protector of citizens are finalized, the Committee can decide to hold a session where all candidates will be able to express their views on the role and manner of fulfilment of the Protector of Citizens' function.

The Protector of Citizens is appointed for a period of five years and the same person may be elected at most twice in succession.

The procedure for the appointment of the Protector of Citizens shall start at least six months before the end of office of the outgoing Protector of Citizens.

Article 5

A person is eligible for the position of the Protector of Citizens if they are nationals of the Republic of Serbia and meet the following requirements:

- bachelor's degree in law;
- at least ten years of experience in jobs related to the purview of the Protector of Citizens;
- high moral character and qualifications;
- significant experience in the protection of civil rights.

Article 6

The Protector of Citizens shall have four deputies that help him/her in performing the duties prescribed by this Law, and within the powers delegated to them by the Protector of Citizens.

When delegating powers to deputies, the Protector of Citizens shall in particular ensure special expertise for the performance of duties under the Protector of Citizens' competency, primarily in respect to the protection of rights of persons deprived of their liberty, children's rights, rights of national minorities and rights of disabled persons.

The Protector of Citizens shall designate a deputy who will replace him/her when absent or prevented from performing his/her duties.

Deputies of the Protector of citizens shall be appointed by the Assembly following the recommendation of the Protector of Citizens.

Deputies of the Protector of Citizens shall be appointed to a five-year term of office and the same person may be elected at most twice in succession.

A person is eligible for the position of Deputy Protector of citizens if they are nationals of the Republic of Serbia and meet the following requirements:

- university degree;
- at least five years of experience in jobs related to the purview of the Protector of citizens;
- if they are persons of high moral character and qualifications
- have significant experience in the protection of civil rights.

Article 7

The Protector of Citizens and his deputies shall swear the following oath before taking office: "I solemnly swear to perform my duties responsibly, impartially and independently, in compliance with the law and the Constitution and to conscientiously work on the protection of human rights and freedoms."

The Protector of Citizens shall swear the oath before the National Assembly, and his/her Deputies before the Speaker of the National Assembly

Article 8

The Protector of Citizens, i.e. his/her Deputies, shall take office the moment he/she swears the oath.

If the Protector of Citizens, i.e. his/her Deputies, fails to take office within 30 days from the day he/she swore the oath without justifiable reason, he/she shall be deemed not elected. This fact is concluded by the National Assembly on the basis of a Committee's notification. In such event, the procedure for the election of a new Protector of Citizens, i.e. his/her Deputies, is immediately initiated.

Article 9

The Protector of Citizens, i.e. his/her Deputies, shall not hold other public office, perform another professional activity, or any duty or task that might influence their independence and autonomy.

The Protector of Citizens and his/her Deputies shall not be members of political organisations.

The Protector of Citizens and his/her Deputies shall have the status of officials pursuant to the law regulating the conflict of interests in performing public functions, and the provisions of this Law shall fully apply to them.

All public, professional and other functions of the Protector of Citizens and/or Deputies, i.e. the duties or tasks they have been performing, which are opposite to the provisions of this Law, as well as membership in a political party, shall cease on the day of taking office.

Article 10

The Protector of Citizens and his/her Deputies shall not be held accountable for opinion, criticism or recommendation they made while performing their function.

The Protector of Citizens and his/her Deputies shall not make any political statements.

Article 11

The term of office of the Protector of Citizens shall cease in the following cases:

- with the end of mandate, unless he/she is re-appointed;
- in case of death;
- by resigning from office;
- by loss of citizenship, which is determined based on the act of the competent state body;
- by meeting requirements for mandatory retirement pursuant to the law;
- by becoming permanently physically or mentally unable to carry out his/her duties, which is determined on the basis of documentation of relevant medical institution
- by dismissal.

Article 12

The Protector of Citizens shall be dismissed from office by the National Assembly, following the proposal of the Committee or at least one third of the total number of deputies.

If the Committee initiates the motion for dismissal, it must be supported by a majority of the members of the Committee.

The Protector of Citizens may be dismissed only in the following cases:

- due to incompetence or negligence in discharging his/her duties;
- if he/she holds other public function or engages in professional activity, duty or task that might influence his/her independence and autonomy, or if he/she acts contrary to the law regulating the prevention of the conflict of interests in performing public functions;
- if convicted for a criminal offence which makes him/her unsuitable for this function.

The Protector of Citizens has the right to address the members of the National Assembly at the session in which his/her dismissal is to be discussed.

Article 13

Following the recommendation of the Committee, the National Assembly may reach a decision to suspend the Protector of Citizens in situations when:

- 1) he/she has received measure of remand;
- 2) he/she is convicted for a criminal offence which makes him/her unsuitable for this function but his/her sentence is still not enforceable.

The National Assembly shall abolish a decision on suspension as soon as the reasons for suspension are terminated.

Article 14

The provisions related to the end of office of the Protector of Citizens shall accordingly apply to his/her Deputies. The Protector of Citizens may also make the proposal for the dismissal of a Deputy.

Article 15

In the event of termination of office of the Protector of Citizens or a Deputy for reasons specified under Article 11, item 1 – 6 hereof, the Assembly shall state without a debate that the conditions for the end of office have been met.

Legal consequences of the end of office shall come into effect as of the date the decision referred to in paragraph 1 of this Article was passed.

Article 16

In the event of end of office of the Protector of Citizens, a Deputy designated by the Protector of Citizens to replace him/her when absent or prevented from work shall perform this function until the election of a new Protector of Citizens.

The election of the new Protector of Citizens shall be made at latest within 6 months from the end of office of the preceding Protector of Citizens.

II POWERS

Article 17

The Protector of Citizens shall have the power to control the respect of the rights of citizens, establish violations resulting from acts, actions or failure to act by administrative authorities, if they are violations of the laws, regulations and other general acts of the republic.

The Protector of Citizens shall have the power to control the legality and regularity of the work of administrative bodies.

The Protector of Citizens shall not have the power to control the work of the National Assembly, President of Republic, Government of Serbia, Constitutional Court, courts and public prosecution's office.

Article 18

The Protector of Citizens shall have the power to launch initiatives with the Government or National Assembly for the amendment of laws or other regulations or general acts, if he deems that violations of citizens' rights are a result of deficiencies of such regulations. He shall also have the power to launch initiatives for new laws, other regulations and general acts, if he considers it significant for exercising and protecting citizens' rights.

The Government, or the competent Committee of the National Assembly, shall be obliged to consider the initiatives of the Protector of Citizens.

In the process of drafting of regulations, the Protector of Citizens shall have the power to give his opinion to the Government and National Assembly on draft laws and regulations if they concern the issues relevant for the protection of citizens' rights.

Article 19

The Protector of Citizens shall have the power to initiate proceedings before the Constitutional Court for the assessment of legality and constitutionality of laws, other regulations and general acts which govern issues related to the freedoms and rights of citizens.

Article 20

The Protector of citizens shall have the power to publicly recommend the dismissal of an official who is responsible for violation of citizen's right, i.e. to initiate disciplinary proceedings against an employee of the administrative authorities who is immediately responsible for performed injury, when the recurring behaviour of the official or employee reveals the intent to refuse co-operation with the Protector of

Citizens or when it is determined that the injury made to the person caused material or other serious damage to that person.

If revealed that activities of an official or an employee of the administrative authorities contain elements of criminal or other punishable act, the Protector of Citizens shall have power to submit request, i.e. to file a motion to initiate misdemeanour, criminal or other appropriate proceedings.

Article 21

Administrative authorities shall co-operate with the Protector of Citizens and enable his access to their premises and information available to them, which are of importance for the proceedings he runs, i.e. for the fulfilment of the goal of his preventive operation, regardless of the degree of confidentiality of such information, unless it is contrary to the law.

The Protector of Citizens shall have power to interview any employee of administrative authorities when it is of significance for the proceedings he runs.

The Protector of Citizens, i.e. Protector of Citizens' Deputy, shall have the duty of confidentiality as regards the information acquired during his term of office even after the end of office.

Everyone working in the Protector of Citizens' Secretariat is subject to the pledge of secrecy.

Article 22

The Protector of Citizens shall have authority to freely access correctional institutions and other places where persons deprived of liberty are held and to speak in privacy with those persons.

Article 23

The President of the Republic, the Prime Minister and members of the Government, the Speaker of the National Assembly and officials in administrative agencies are obligated to receive the Protector of Citizens at his request at latest within fifteen days.

IV PROCEDURE

Article 24

The Protector of Citizens initiates proceedings following the complaint of a citizen or on his own initiative.

In addition to the right to initiate and run proceedings, the Protector of Citizens shall have the right to act preventively by offering good services, negotiating and giving advice and opinions related to issues from his competency, with the view of improving the work of administrative authorities and protection of human rights and freedoms.

Article 25

Any physical or legal, local or foreign person who considers that their rights have been violated by an act, action or failure to act of an administrative authority may file a complaint with the Protector of Citizens.

In case of violation of child's rights, the complaint referred to in paragraph 1 of this Article may be submitted by his/her parent, i.e. legal representative on behalf of the juvenile. In case of violation of the rights of a legal person, a person authorized to represent that legal person may file the complaint.

Prior to submitting a complaint, a citizen is required to endeavour to protect their rights in appropriate legal proceedings.

The Protector of Citizens shall direct the complainant to instigate relevant legal proceedings when such proceedings are provided, and shall not instigate investigation until all legal remedies have been exhausted.

Exceptionally, the Protector of Citizens may initiate proceedings even before all legal remedies have been exhausted if the complainant would sustain irreparable damage or if the complaint is related to violation of good governance principle, particularly incorrect attitude of administrative authorities towards the complainant or other violations of rules of ethical behaviour of administrative authorities employees.

The Protector of Citizens shall not proceed on anonymous complaints.

Exceptionally, if the Protector of Citizens considers that an anonymous complaint provides basis for his operation, he may initiate proceedings on his own initiative.

Article 26

A complaint is filed in writing or orally on record and shall not require payment of any fees or other dues.

A complaint may be filed not later than one year from the day the violation of the right of citizen occurred, and/or from the date of the last action undertaken by the administrative authority in respect of the violation.

Article 27

The complaint shall contain the name of the administrative authority involved, description of the violation of the right, facts and evidence supporting the complaint, information about the legal remedies already used and data on the complainant.

At the request of the complainant, the Secretariat of the Protector of Citizens is obliged to offer technical assistance to draft a complaint, without any kind of compensation.

Persons deprived of liberty are entitled to submit their complaints in a sealed envelope.

All institutions where there are persons deprived of liberty shall visibly and publicly provide adequate envelopes, which shall be ensured by the management of such institutions and the Ministry of Justice.

Article 28

The Protector of Citizens shall act on each complaint except:

- if the case is not within the competence of the Protector of Citizens;
- if it is filed after the expiry of the statutory deadline;
- if it is filed prior to exhausting all available legal remedies, and the requirements specified under paragraph 5 of Article 25 are not fulfilled;
- if a complaint is anonymous;
- if it does not contain information required to proceed, and the complainant has neither corrected such deficiency even in the period determined for supplementing the complaint nor asked the Protector of Citizens' Secretariat to assist him in correcting such deficiencies.
- If for any of the reasons specified in paragraph 1 of this Article, there are no grounds for an action of the Protector of Citizens, he/she shall reject the complaint and notify the complainant, stating the reasons for rejecting the complaint.

Article 29

The Protector of Citizens shall notify the complainant and the administrative authority involved about the beginning and end of a proceeding.

The administrative authority is required to respond to all requests of the Protector of Citizens and to provide all requested information and documents within a period set by the Protector of Citizens that may not be shorter than 15 or longer than 60 days.

In certain justified cases, the Protector of Citizens may decide not to disclose to the administrative authority the identity of the person who submitted a complaint.

Article 30

If the administrative authority involved eliminates the irregularities by itself, the Protector of Citizens shall so notify the complainant and leave him/her a 15-day period to declare whether he/she is satisfied with such action.

If the complainant declares that he/she is satisfied with the manner the irregularity has been corrected, and also when the complainant fails to respond within the set deadline, the Protector of Citizens shall discontinue the proceedings.

Article 31

Upon determination of all relevant facts and circumstances, the Protector of Citizens may inform the complainant that his/her complaint is unfounded or may find that irregularities existed in the work of the administrative authority.

If the Protector of Citizens determines that irregularities existed in the work of the administrative authority, he shall deliver a recommendation to the administrative authority on steps to be undertaken in order to rectify the noted irregularity.

The administrative authority is obliged to inform the Protector of Citizens at latest within 60 days of the day it received the recommendation whether it proceeded pursuant to the recommendation and eliminated the irregularity, or about reasons why it failed to proceed pursuant to the recommendation.

Exceptionally, where there is danger that the rights of complainant might be permanently and seriously violated if irregularities are not corrected, the Protector of Citizens may, in his recommendation to the administrative authority, determine a shorter period for elimination of such irregularities, which shall not be shorter than 15 days.

If the administrative authority fails to proceed pursuant to the recommendation, the Protector of Citizens may so inform the public, the National Assembly and the Government, and may recommend proceedings to determine the accountability of the official in charge of the administrative authority.

Article 32

The Protector of Citizens may act on his own initiative when on the basis of his own knowledge or information received from other sources, and only exceptionally on the basis of anonymous complaints, he estimates that an act, undertaking or inactivity of an administrative authority caused violation of human rights and freedoms.

Provisions of Articles 29 through 31 of this Law shall accordingly apply to proceedings instituted by the Protector of Citizens on his own initiative.

V REPORT TO THE ASSEMBLY AND CO-OPERATION OF PROTECTOR OF CITIZENS WITH OTHER BODIES

Article 33

The Protector of Citizens shall submit a regular annual report to the Assembly that shall include information on activities in the preceding year, noted irregularities in the work of administrative authorities and recommendations to improve the status of citizens in relation to administrative authorities.

The report shall be submitted not later than 15 March of the following year and shall be published in the "Official Gazette of the Republic of Serbia", and on the Internet page of the Protector of Citizens and shall also be delivered to public media.

The Protector of Citizens may submit special reports during the year, if necessary.

Article 34

Relationship between the Protector of Citizens and the authorities of autonomous provinces and local self-government units authorized for the protection of citizens' rights are based on mutual co-operation within the scope of powers of the Protector of Citizens determined by this Law.

The Protector of Citizens shall co-operate with the Ombudsman of an autonomous province and the civic defender (Ombudsman) in a local self-government unit, where established, as well as with the competent office of the President of Republic and the Assembly, with the aim to exchange information on noted problems and manifestations in the work of administrative authorities, from the perspective of protection and improvement of human rights and freedoms.

Article 35

In case the Protector of Citizens receives a complaint related to the violation of citizens rights by an act, undertaking or inactivity of administrative authorities, not connected with the violation of the laws, other regulations and general acts of the Republic, but with the violation of regulations or general acts of an autonomous province or local self-government unit, the Protector of Citizens shall refer the complaint without delay to the Ombudsman of the autonomous province i.e. civil defender (ombudsman) of the local self-government unit, if such is established.

In case a body of an autonomous province or local self-government unit that is in charge of the protection of citizens' rights issues receives a complaint related to the violation of the law, other regulations or general acts of the Republic, it shall forward that complaint without delay to the Protector of Citizens.

In case the complainant in his/her complaint simultaneously points to a violation of the law, other regulation or general act of the Republic and a violation of a regulation or general act of an autonomous province i.e. local self-government unit, the body that received the complaint (the Protector of Citizens, Provincial Ombudsman or civil defender-ombudsman of the local self-government unit) shall handle the complaint within its own scope of powers and shall forward a copy of the complaint to the other competent body (the Protector of Citizens, Provincial Ombudsman or civil defender-ombudsman of the local self-government unit, if such is established) so that it handles the complaint within its own scope of powers pursuant to paragraphs 1 and 2 of this Article.

VI RIGHT TO SALARY*Article 36*

The Protector of Citizens is entitled to a salary equal to that of the salary of the president of the Constitutional Court, and deputies to that of a judge of the Constitutional Court.

VII FUNDS FOR WORK OF THE PROTECTOR OF CITIZENS*Article 37*

The funds for the work of the Protector of Citizens are provided in the Republic budget.

The Protector of Citizens shall draft a proposal for funds for the following year, pursuant to methodology and criteria in force for other budget spending units and shall deliver it to the Government for inclusion as an integral part of the proposed Republic budget.

Annual funds for the work of the Protector of Citizens should be sufficient to enable him to fulfil his duties in efficient and operational manner, and should be in accordance with microeconomic policy of the Republic.

VIII SECRETARIAT*Article 38*

A Secretariat of the Protector of Citizens is hereby established to perform specialised and administrative tasks.

The Secretariat shall be managed by the Secretary General, who shall hold a degree in law and have minimum five years of experience and meet the requirements for employment in administrative authorities.

The Protector of Citizens shall issue a general act on the organisation and job classification of the Secretariat, which is approved by the Assembly.

The Protector of Citizens shall decide on the employment of staff in the Secretariat.

The Secretary General and other employees of the Secretariat are subject to regulations on labour relations in government bodies.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 39

The Assembly shall elect the Protector of Citizens within six months of coming into force of this Law.

The Protector of Citizens shall submit a proposal for the election of his deputies within 3 months of taking office, and the Assembly shall elect the deputies within 2 months from the date of submitting the proposal

Article 40

The Protector of Citizens shall issue a general act on the organisation and work of the Secretariat within 60 days of taking office.

Staffing of the Protector of Citizens' Secretariat should be finished within 60 days of coming into force of the general act on the organisation and work of the Secretariat.

Article 41

The Assembly shall harmonise the provisions of its Rules of Procedure with the provisions of this Law within six months of entering into force of this Law.

The Rules of Procedure of the Assembly shall determine the measures to be taken upon a regular and/or special report of the Protector of Citizens.

Article 42

Until the general act on the organization and work of the Secretariat comes into force, on the recommendation of the Protector of Citizens, the Government shall provide premises, means and other prerequisites necessary for the beginning of work.

Article 43

The Protector of Citizens shall not deal with cases that occurred prior to coming into force of this Law.

Article 44

This Law shall come into force eight days after publication in the "Official Gazette" of the Republic of Serbia.

II – 5 CERTIFICATE OF ACCREDITATION OF A PROTECTOR OF CITIZENS AS NATIONAL INSTITUTION FOR HUMAN RIGHTS WITH “A” STATUS



INTERNATIONAL
COORDINATING
COMMITTEE

COMITÉ
INTERNACIONAL
DE COORDINACIÓN

COMITÉ
INTERNACIONAL
DE COORDINACIÓN

لجنة
التسيق
الدولية



United Nations
Human Rights
Office

Certifying
Se certifica que
Document certifiant que
نشهد بأن

Protector of Citizens of the Republic of Serbia

has been accredited under the Paris Principles with 'A' status from 2010 to 2015.
ha sido acreditado/a por los Principios de París como clase 'A' desde el año 2010 al 2015.
a obtenu l'accréditation de statut 'A' de 2010 à 2015 conformément aux Principes de Paris.
تم منحها / منحها بموجب مبادئ باريس اعتماد الفئة 'أ' من ٢٠١٠ إلى ٢٠١٥.



ROSLYN NOONAN
Chair
International Coordinating Committee of National Institutions
for the Promotion and Protection of Human Rights



VLADEN STEPANYEV
Chair
National Institutions and Regional Mechanisms Section
Office of the High Commissioner for Human Rights

II – 6 LETTER UN Subcommittee on Prevention of Torture

Ms Aneta Stančevska

SPT Member and Country Rapporteur for the Republic of Serbia

Subcommittee on Prevention of torture

INFORMATION FOR SUBCOMMITTEE ON PREVENTION OF TORTURE RESPONSE TO QUESTIONS FROM A LETTER DATED 2 DECEMBER 2013

Dear Ms Stančevska,

I would like to thank you for your comments on 2012 Annual Report of the NPM of the Republic of Serbia. NPM will accept all of your remarks.

I hope that following answers would contribute clearer picture about the work of the NPM of Serbia.

1. Based on the visits to the police stations conducted in 2012 in cooperation with the Belgrade Center for Human Rights, the Serbian NPM made 150 recommendations in its reports submitted to the institutions visited in 2012, as well as another 56 recommendations in the remaining reports submitted to these institutions in January and February 2013. Out of the total number of 206 recommendations, the relevant authorities accepted 193 recommendations. The implementation of these recommendations was discussed during several meetings of the cooperative dialogue with the police. Most of those recommendations not implemented by the authorities were made to improve the material conditions in detention rooms, while failure to implement the recommendations was, in most cases, justified by the lack of financial resources. In order to implement the recommendations for improving the material conditions all police stations required additional funding from the Ministry of Interior. The Annual Report of the NPM for 2012 made a reference to it in the Paragraph 7 which says that a general recommendation was made to administrative authorities to bring the material conditions of their detention rooms in line with the existing standards. The Serbian NPM does not accept these excuses and maintains its position that the lack of financial resources is not the justifiable reason for poor material conditions. Based on 38 visits to the police stations conducted in 2013 and 160 recommendations made, we can conclude that no significant improvements were made. For these reasons, we will pay more attention to this issue in our 2013 Annual Report.
2. As far as remand is concerned (pre-trial/trial detention), 20 recommendations were made, all were accepted but only 7 were implemented to date. The lack of financial resources is again stated by the relevant authorities as the main reason for failure to implement the remaining 13 recommendations mostly pertaining to material conditions. Nevertheless, we have to note that during 2013 capacities of the detention places were renovated and aligned with the existing standards to a considerable extent (for example, at the Belgrade District Prison detention facility and the Valjevo Juvenile Correctional Facility). In the following period, through its follow-up visits the Serbian NPM will continue to monitor how many recommendations submitted in 2013 were implemented and what changes were made.
3. In the penitentiary field, 64 recommendations in the visits reports in 2012 were implemented. In this area as well, it is clear from the authorities' responses that the major obstacle to the implementation of the remaining recommendations (mostly pertaining to the improvement of material conditions in prisons) is the lack of financial resources. The amnesty which was implemented in the previous period reduced the prison overcrowding by 10%, which to a certain extent created an opportunity for increasing the available capacity for the most vulnerable prisoners. What concerns us most is the fact that the recommendations pertaining to the right to health care and labor, as well as the preparation for release, are not sufficiently implemented. A reference in the 2012 NPM Annual Report said that a general recommendation was submitted to the administrative authorities that it was necessary to rectify the above mentioned irregularities and bring the operations in line with the existing standards.

4. The response of authorities on recommendations regarding the rights of persons with mental disabilities which are detained was that they have accepted them. During 2013, in cooperative dialogue on discussing recommendations and finding the modalities to their implementation, representatives of Ministry of health and representatives of psychiatric hospitals stated that the most of recommendations had been implemented. NPM findings are that although that authorities stated that they have accepted all recommendations, psychiatric hospitals don't act in accordance with them. In addition, NPM shall pay special attention on the effects of the Law on the rights of persons with mental disabilities (adopted in 2013).
5. The psychiatric hospital Sveti Vracevi submitted the information and requests to the Ministry of Health according to the recommendations made by the NPM. So far we are not aware of the outcome. In the following period, through its follow-up visit to the psychiatric hospital Sveti Vracevi (planned in 2014) the Serbian NPM will monitor how many of these recommendations were implemented and what changes were made.
6. In 2013, the NPM sent out a new report to the authorities stating the need for one more Asylum Centre, because the two existing were not enough. Meanwhile, the authorities founded three additional Asylum Centres – in Obrenovac, Tutin and Sjenica. Based on the overview of the overall asylum system in Serbia, the NPM submitted a systemic recommendation to relevant administrative authorities to rectify numerous irregularities mostly pertaining to unlawful operations. The recommendation is available at www.npm.rs.
7. In several cases in which the Prosecutor's Office was informed about the cases of ill-treatment the prosecutor dropped the charges. The opinion of the Serbian NPM is that the Prosecutor's Office and other administrative authorities of the Republic of Serbia do not play their role in combating impunity for torture. To further discuss this issue, the Serbian NPM organized a round table on combating impunity for torture. The round table gathered all key stakeholders who adopted the conclusions on the measures to advance the current status in the forthcoming period.
8. Most of deficiencies which NPM had find in prison for woman are related to the bad material conditions. According to what the NPM was pointing to the prison for women, authorities are going to carry out great reconstruction of that prison in 2014. In the following period NPM will monitor the progress of these activities and what changes were made.
9. In 2013 follow-up visit was conducted to the Penal-Correctional Facility Sremska Mitrovica. In report it is ascertained that 36 recommendations were implemented.
10. The meetings with visited institutions and competent ministries usually take place in our premises and the conclusions we make are various, depending on the topics considered. The great number of meetings were conducted with the police stations and the Ministry of Interior and some of the conclusions were as follows: there are not enough funds in the Ministry budget for adaptations of police premises and police stations and they make efforts to raise some funds from the municipal budgets; the area of health care of persons deprived of liberty is not regulated in a proper manner on the national level (there are different practices in the police stations); some provisions of the Guidelines for Treatment of PDL in Police Custody, issued by the Minister of Interior, are not in line with the international standards and national Law on the Police (e.g. obligatory presence of the police officer to the health examination of the PDLs, the unnecessary use of handcuffs – the police officers are obliged to use them every time they transport PDLs, regardless that person is dangerous for him/herself or for the others or there is risk of escape).

The Serbian NPM recommended to the Ministry of Interior Affairs to amend the Guidelines for Treatment of persons in Police Custody. Serbian Ombudsman/NPM submitted an opinion to the Ministry of Health on the Draft Law on the Protection of People with Mental Disabilities in which the Ombudsman/NPM pointed out flaws in the Draft Law.

II – 7 REQUEST TO THE NATIONAL ASSEMBLY – EXCERPT FOR JOB CLASSIFICATION IN NPM



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
31-310/2013
Belgrade



Protector of Citizens
Ombudsman

Ref. No.36821 25 December 2013

NATIONAL ASSEMBLY

Committee on Administrative, Budgetary, Mandate and Immunity Issues

- Mr. Zoran Babic, Chairperson of the Committee -

Pursuant to Article 6, paragraph 3 of the Law amending the Law on the Budget System ("Official Gazette of RS", No. 108/2013), I hereby submit this request to the Committee on Administrative, Budgetary, Mandate and Immunity Issues of the National Assembly for the purpose of obtaining approval for new employment...

Rationale

... In addition to tasks from the sphere of competence stipulated by the Law on Protector of Citizens, when the Law amending the Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("Official Gazette of RS – International Agreements", No. 7/2011) entered into force, which in its Article 2a designated the Protector of Citizens to perform the tasks of the National Preventive Mechanism, it was necessary to hire employees to perform tasks of the National Preventive Mechanism. One advisor and two junior advisors have been employed for a definite period for those tasks. In rationale of the Government's Draft Law on Performing the Tasks of the National Preventive Mechanism it was determined that those tasks should be performed by four civil servants: 1 senior advisor, 1 advisor and 2 junior advisors. When the Law entered into force, the NPM began operating without amendments to the instrument on job classification, by hiring employees for a definite period due to increased workload.

... The above facts and the previous five years of practice in work of the Protector of Citizens reaffirm the need to amend not only the Law on the Protector of Citizens, but also the applicable Bylaw on Internal Organization and Job Classification in Secretariat of the Protector of Citizens, which should ensure performing of all tasks from the sphere of competences stipulated by the Law on the Protector of Citizens and expanded competences stipulated by other laws and enactments.

The Draft Law amending the Law on the Protector of Citizens, the adoption of which should have been followed by amendments to the instrument on job classification, was submitted to the National Assembly for adoption in 2012, but was withdrawn from the procedure by the Serbian Government's decision, which also resulted in delay of amendments to the Bylaw on Job Classification.

PROTECTOR OF CITIZENS

Sasa Jankovic

II – 9 MEMORANDUM OF COOPERATION WITH PROVINCIAL OMBUDSMAN



Republic of Serbia Autonomous
Province of Vojvodina
PROVINCIAL OMBUDSMAN



REPUBLIC OF SERBIA



Protector of Citizens
Ombudsman

Memorandum of Cooperation

Signed between the

Protector of Citizens

and

Provincial Ombudsman

This Memorandum regulates in detail the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with the Provincial Ombudsman, in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006 and “Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*).

The cooperation of the Protector of Citizens with the Provincial Ombudsman in performing tasks of the National Preventive Mechanism against Torture shall be implemented through participation of the Provincial Ombudsman in visits of the Monitoring team of the National Preventive Mechanism against Torture to the institutions in the territory of AP Vojvodina, where persons are deprived of their liberty; participation in planning visits to such institutions; participation in drafting reports, recommendations, opinions and other documents of the National Preventive Mechanism against Torture; participation in cooperation of the National Preventive Mechanism against Torture with the representatives of the civil society, state authorities and bodies; as well as other activities of the National Preventive Mechanism against Torture .

In the Plan for visits of the National Preventive Mechanism against Torture to institutions where persons are deprived of their liberty, the representative/es¹⁸² of the Provincial Ombudsman may be appointed as head of the team for certain visits to the institutions in the territory of AP Vojvodina.

Representative of the Provincial Ombudsman shall participate in making plans for visits of the National Preventive Mechanism against Torture to institutions where persons are deprived of their liberty, in the part that relates to institutions found in the territory of AP Vojvodina.

Representative of the Provincial Ombudsman shall participate in drafting reports of the National Preventive Mechanism against Torture on the performed visits to institutions as member of the Monitoring team, i.e. in making draft reports on the performed visits where he/she was the head of the Monitoring team.

The Provincial Ombudsman shall participate in making proposals for measures, recommendations, initiatives, opinions and other documents of the National Preventive Mechanism against Torture related to visits to institutions, in which its representative took part or was the head of the Monitoring team.

¹⁸² All gramatically gender-specific nouns in this Memorandum shall be used as gender neutral and refer to gender equality of the members of both genders.

The Provincial Ombudsman shall contribute to drafting of special and periodic reports of the National Preventive Mechanism against Torture to the extent in which its representatives participated in the activities to which the report relates.

The Provincial Ombudsman shall participate in the cooperation of the National Preventive Mechanism against Torture with the representatives of the civil society, state authorities and bodies, as well as other activities, such as public hearings, conferences and other gatherings, particularly when the aforementioned relate to institutions found in the territory of AP Vojvodina.

In all documents of the National Preventive Mechanism against Torture, in whose drafting participated the Provincial Ombudsman, its contribution and logo shall be indicated at a particularly noticeable place.

The Provincial Ombudsman in its reports and public addressing shall present its role and activities within cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture .

The Provincial Ombudsman shall keep as confidential all data that come to its knowledge on the basis of the participation in performing tasks of the National Preventive Mechanism against Torture .

Data contained in the published reports of the National Preventive Mechanism against Torture are not confidential, and the Provincial Ombudsman may use these data for its needs or publishing purposes, at the same time indicating that these data are data of the National Preventive Mechanism against Torture and defining its role in the concrete case.

The Provincial Ombudsman shall not undertake any action on behalf of the National Preventive Mechanism against Torture without previous consent of the Protector of Citizens, i.e. reached agreement, and shall act in compliance with the Decision that regulates in detail the manner of performing tasks of the National Preventive Mechanism against Torture .

The Provincial Ombudsman shall bear all costs for the activities undertaken for the implementation of cooperation foreseen in this Memorandum.

The cooperation agreed in this Memorandum shall not influence the implementation of competences of the Protector of Citizens and Provincial Ombudsman based on applicable regulations.

Immediately upon signing this Memorandum the Signatory parties shall appoint persons authorized for its implementation and inform in writing the other party on this fact.

The *Memorandum* is concluded for an *indefinite period of time and may be amended with written agreement of Signatory parties.*

In Belgrade, 12 December 2011

PROVINCIAL OMBUDSMAN

Aniko Hajnrih

PROTECTOR OF CITIZENS

Muškinja Saša Janković

PUBLIC CALL FOR SELECTION OF ASSOCIATION



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Republic of Serbia

PROTECTOR OF CITIZENS

ANNOUNCES

PUBLIC CALL

for cooperation in performing tasks of the National Preventive Mechanism against Torture

In compliance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (“*Official Gazette of Serbia and Montenegro – International Agreements*”, Nos. 16/2005, 16/2005 and 2/2006 and “*Official Gazette of the Republic of Serbia – International Agreements*”, No. 7/2011),

the Protector of Citizens invites all Associations, whose Statutes foresee the objective of association for the promotion and protection of human rights and freedoms, for cooperation in performing tasks of the National Preventive Mechanism against Torture, as follows: participation of Associations in visits to places where persons are deprived of their liberty, drafting reports, recommendations, opinions and other documents, as well as performing other tasks of the National Preventive Mechanism against Torture.

Subject of Public call

Subject of Public call is the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture as follows: participation of Associations in visits to places where persons are deprived of their liberty, drafting reports, recommendations, opinions and other documents, as well as performing other tasks of the National Preventive Mechanism against Torture in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

Publishing the Public call

Public call is published in the “Official Gazette of the Republic of Serbia” and made public on the Protector of Citizens website: www.zastitnik.rs

Deadline for submitting applications

Deadline for submitting applications is 15 days from announcement of Public call in “Official Gazette of the Republic of Serbia”.

Submitting applications on the basis of Public call

Applications on the basis of Public call must be submitted to the Protector of Citizens in a sealed envelope with indication: *"PUBLIC CALL FOR COOPERATION IN PERFORMING TASKS OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE – DO NOT OPEN"*, to the address: Belgrade, Deligradska 16.

Condition for participation in Public call

Condition for participation in Public call is as follows:

1. The Association is registered with the competent authority in the Republic of Serbia
2. The Statute of the Association foresees the objective of association for the promotion and protection of human rights and freedoms

Application on the basis of Public call

Application on the basis of Public is made on the form: **"Application for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture"**, which can be taken over personally in the premises of the Protector of Citizens or downloaded from the website of the Protector of Citizens, i.e. it must contain all data envisaged in the prescribed form.

Enclosures to the application on the basis of Public call

The following shall be enclosed to the application:

1. Decision on the registration of the Association;
2. Statute of the Association;
3. Description of the activities of the Association for the promotion and protection of human rights and freedoms over the past 5 years;
4. List of reports and publications of the Association in the field of the promotion and protection of human rights and freedoms over the past 5 years;
5. Qualification structure of the Association members, employees and associates.

Untimely and incomplete applications

Applications submitted after the expiry of the deadline, applications not made on the prescribed form, i.e. applications that do not contain all data envisaged in the prescribed form, as well as applications to which all documents required according to this public call are not enclosed, shall not be considered.

Selection criteria

Criteria for the selection of associations qualified for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture are as follows:

1. Quality and quantity of activities of the Association for the promotion and protection of human rights and freedoms over the last 5 years, particularly activities for the protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment;
2. Number of reports and publications of the Association in the field of promotion and protection of human rights and freedoms over the past 5 years, particularly in the field of protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment;
3. Number of qualified persons among members, employees and associates of the Association in the field of the promotion and protection of human rights and freedoms, particularly in the field of protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment.

Selection according to Public call

Upon receiving timely and complete applications with enclosed documentation, and on the basis of the defined criteria, a special Commission shall make a list of associations that meet the conditions for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

The Commission shall recommend to the Protector of Citizens establishment of cooperation in performing tasks of the National Preventive Mechanism against Torture with the Associations found on the list, and individual Associations shall be recommended for systematic monitoring of the situation of persons deprived of liberty and occurrence of torture in police stations, institutions for enforcement of criminal sanctions, *stationary social care institutions and psychiatric hospitals, as well as the situation of particularly vulnerable categories among persons deprived of liberty.*

Adopting a selection decision on the basis of Public call

Protector of Citizens shall issue a Decision on the selection of Associations at the proposal of a special Commission of the Protector of Citizens for the selection of Associations on the basis of Public call. The Decision shall be submitted to all Public call participants and shall be made public in the website of the Protector of Citizens. The Decision is final.

Deadline for issuing the Decision on selection on the basis of Public call

The Commission for the selection of Associations on the basis of Public call shall make a decision on the selection of Associations within 8 days from the date of the expiry of the deadline for submitting applications.

Publishing and submitting the Decision on selection on the basis of Public call

The Decision of the Commission for the selection of Associations on the basis of Public call shall be published on the website of the Protector of Citizens and submitted to all applicants.

Concluding Cooperation Agreements

The Protector of Citizens shall conclude Cooperation Agreements with the Associations selected on the basis of Public call.

Withdrawal

If an association selected on the basis of Public call does not sign a Cooperation Agreement with the Protector of Citizens within 30 days from the date of submittance of the Commission's Decision on the selection of Associations on the basis of Public call, it shall be considered that the selected association has withdrawn from the cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

Duration of cooperation

The Cooperation Agreement shall be signed for a one-year period, and may be prolonged with the consent of both signatory parties for one more year.

Information on the Public call

Other necessary information can be obtained from Mirjana Drljačić-Sudarević, Senior Advisor; Tel.: 011/2068-100, e-mail: mirjana.sudarevic@zastitnik.rs.

PROTECTOR OF CITIZENS
Belgrade, Deligradska 16
Tel.: 011 / 2068 – 100
Website: <http://www.zastitnik.rs/>

APPLICATION FORM FOR THE PUBLIC CALL FOR SELECTION OF THE ASSOCIATION



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

APPLICATION on the basis of PUBLIC CALL for Cooperation in Performing Tasks of the NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE	
Full Association Name	
Abbreviated Association Name	
Association Address	
Association E-mail	
Association Web Address	
Telephone	
Association Reg. No. Registration Authority	
Association founding date	
Statutory objectives of the Association	
Person authorized for representation (Name, Position, ID No.)	
Exhibits	1. Decision on the Association Registration; 2. Association Statute; 3. Description of Association's activities; 4. List of reports and publications of the Association; 5. Qualification structure
Place and Date	
Signature and Seal	

II – 10 Decision on establishing the Commission for the selection of NGOs on the basis of Public Call



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens (*“Official Gazette of the Republic of Serbia”, No. 105/2007*), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *“Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), I hereby issue the following

DECISION

on establishing the Commission for the selection of Associations on the basis of Public Call

I. Commission for the selection of Associations on the basis of Public call in performing tasks of the National Preventive Mechanism against Torture is established, and consists of:

1. Miloš Janković, Deputy Protector of Citizens of the Republic of Serbia, Chairman of the Commission
2. Stevan Arambašić, Deputy Provincial Ombudsman, Vice Chairman of the Commission
3. Aleksandar Resanović, Deputy Commissioner for Information of Public Importance and Personal Data Protection
4. Ljiljana Lončar, Assistant Commissioner for Information of Public Importance and Personal Data Protection
5. Jasminka Jakovljević, Secretary General of the Administrative and Technical Service of the Protector of Citizens, Clerk of the Commission

II. The task of the Commission includes the following:

- Opening and reviewing all received applications on the basis of Public call for cooperation;
- Drafting records on opening of the applications, and making a list of associations that fulfill formal requirements for cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture;
- Expert assessment of applications and drafting a written report on the assessment of applications;
- Recommending to the Protector of Citizens to establish cooperation in performing tasks of the National Preventive Mechanism against Torture with the listed Associations;
- Recommending to the Protector of Citizens to establish cooperation with the listed Associations for systematic monitoring of the situation of persons deprived of liberty and occurrence of torture in police stations, penitentiaries, stationary social care institutions and psychiatric hospitals, as well as particularly vulnerable categories among persons deprived of liberty;
- Preparing draft announcement to be posted on website of the Protector of Citizens, on Associations with which the Protector of Citizens shall conclude Cooperation Agreements.

PROTECTOR OF CITIZENS

Saša Janković

II – 11 Report of the Commission for the selection NGOs to cooperate with Ombudsman



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

REPORT OF THE COMMISSION

for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture

The Protector of Citizens, pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens (*“Official Gazette of the Republic of Serbia”, No. 105/2007*), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *“Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), issued on 26 December 2011 Decision on establishing the Commission for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

Public call for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture was published on 29 December 2011 in the *“Official Gazette of the Republic of Serbia, No. 100/2011* and website of the Protector of Citizens. Deadline for submitting applications was 13 January 2012.

The Commission consisting of: Chairman, Miloš Janković, Vice Chairman, Stevan Arambašić, Members, Aleksandar Resanović and Ljiljana Lončar, and Clerk, Jasminka Jakovljević, held a meeting on 20 January 2012 beginning at 11 a.m., where the submitted applications were considered.

The Commission established that the following Associations responded with their applications to the Public call:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights – Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights – Niš,

and that all applications were submitted on time.

The Commission opened and reviewed all received applications and enclosed documentation.

It was established that all applications included all necessary data, and that all required documents were enclosed to applications.

On the basis of individually reviewed applications, the Commission established that all aforementioned Associations meet the required conditions for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

On the basis of the aforementioned, the Commission unanimously proposes to the Protector of Citizens:

I

To issue a Decision on the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with all stated Associations:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights – Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights – Niš,

II

To conclude with all Associations mentioned under item I of this Report individual Cooperation Agreements on performing tasks of the National Preventive Mechanism against Torture

III

To determine in detail, in individual Cooperation Agreements, form and manner for the implementation of cooperation, and to specifically oblige individual associations to systematically monitor situation of persons deprived of liberty, occurrence of torture and other forms of ill-treatment, as follows:

- Belgrade Center for Human Rights
 - in police stations and places of detention
- Victimology Society of Serbia
 - situation of women in closed institutions
- Dialogue and Committee for Human Rights – Valjevo
 - situation of convicted minors and minors in detention
- Mental Disability Rights Initiative of Serbia (MDRI-S)
 - in stationary social care institutions
- International Assistance Network (IAN)
 - in psychiatric hospitals
- Helsinki Committee for Human Rights in Serbia
 - in prisons

CHAIRMAN OF THE COMMISSION

Miloš Janković

II – 12 Decision on NGOs to cooperate with the Ombudsman



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens (*“Official Gazette of the Republic of Serbia”, No. 105/2007*), and the Report of the Commission for the selection of Associations on the basis of Public call to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture (*Published in the “Official Gazette of the Republic of Serbia”, No. 100/2011*), announced in compliance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *“Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), I hereby issue the following

DECISION

on Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture

I

The Protector of Citizens shall cooperate in performing tasks of the National Preventive Mechanism against Torture with the following associations:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights – Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights – Niš,

II

With the Associations mentioned in Paragraph I of this Decision, the Protector of Citizens shall conclude individual Cooperation Agreements in performing tasks of the National Preventive Mechanism against Torture, which shall regulate in detail form, manner and duration of cooperation.

III

This Decision shall be delivered to all Associations that submitted their applications on the basis of Public call, and shall be published on the website of the Protector of Citizens.

Explanation

Pursuant to Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *“Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), the Protector of Citizens announced a Public call for the selection of Associations to cooperate in performing tasks of the National Preventive Mechanism against Torture. Public call was published on the website of the Protector of Citizens on 26 December 2011 and in the *“Official Gazette of the Republic of Serbia”*; No. 100/2011 of 29 December 2011.

The Protector of Citizens, pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens, issued on 26 December 2011 Decision on establishing the Commission for the selection of Associations with which the Protector of Citizens shall cooperate in performing tasks of the National Preventive Mechanism against Torture.

In its Report of 20 January 2012 the Commission suggested to the Protector of Citizens to issue Decision on the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with the applicant Associations, as follows: Belgrade Center for Human Rights; Victimology Society of Serbia; Dialogue; Mental Disability Rights Initiative of Serbia (MDRI-S); Committee of Lawyers for Human Rights (YUCOM); International Assistance Network (IAN); Committee for Human Rights – Valjevo; Helsinki Committee for Human Rights in Serbia; Center for Human Rights – Niš; and to conclude with all applicant Associations individual Cooperation Agreements in performing tasks of the National Preventive Mechanism against Torture, in which form and manner of the cooperation implementation shall be specified.

The Protector of Citizens issued this Decision accepting the Commission proposal.

PROTECTOR OF CITIZENS

Saša Janković

II – 13 Cooperation Agreement between Ombudsman and NGO



Protector of Citizens
Ombudsman



REPUBLIC OF SERBIA



Belgrade Centre
for Human Rights

Cooperation Agreement

Signed by and between

Protector of Citizens

and

Belgrade Center for Human Rights, Association from Belgrade,

(hereinafter referred to as: the Association)

Date: 31 January 2012 in Belgrade

This Agreement regulates the cooperation of the Protector of Citizens with the Association in performing tasks of the National Preventive Mechanism against Torture, pursuant to Decision of the Protector of Citizens 73-3/2012, Ref. No. 1421 of 20 January 2012, in accordance with the proposal of the Commission for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, and in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006 and “Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*).

The cooperation of the Protector of Citizens with the Association shall be implemented in such a way that the Association shall participate in performing tasks of the National Preventive Mechanism against Torture. The Association is particularly obliged to systematically monitor the situation of persons deprived of liberty, occurrence of torture and other forms of ill-treatment in police stations and detention units.

The Association shall participate in the visits of the National Preventive Mechanism against Torture to places where persons are deprived of their liberty, and drafting reports on performed visits to institutions in which the representative of the Association took part.

The Association shall participate in drafting proposals of measures to be undertaken, recommendations, initiatives, opinions and other documents of the National Preventive Mechanism against Torture concerning the visits to institutions in which the representatives of the Association took part.

The Association shall contribute to drafting special and periodic reports of the National Preventive Mechanism against Torture in the extent to which its representatives participated in the activities to which the report relates.

The Association shall participate in the implementation of cooperation of the National Preventive Mechanism against Torture with the state authorities and bodies, as well as other activities such as public hearings, conferences and other gatherings.

In all documents of the National Preventive Mechanism against Torture, that were drafted with the participation of the Association, the contribution of the Association and its logo shall be indicated at a particularly noticeable place.

The Association is authorized to present in the reports and public addressing its roles and activities in performing tasks of the National Preventive Mechanism against Torture.

The Association shall keep as confidential all data that come to its knowledge on the basis of the participation in performing tasks of the National Preventive Mechanism against Torture, and if this is not the case, the cooperation shall terminate.

Data contained in the published reports of the National Preventive Mechanism against Torture are not confidential data, and the Association may use these data for its own needs and publishing, stating that these data were obtained by the National Preventive Mechanism against Torture and the role of the Association in the concrete case.

The Association shall not undertake any action on behalf of the National Preventive Mechanism against Torture without previous consent of the Protector of Citizens, and if this is not the case, the cooperation shall terminate.

The Association is entitled to a reimbursement for expenses incurred during the activities undertaken for the implementation of cooperation defined in this Agreement, and in accordance with the document that regulates reimbursement of expenses for performing tasks of the National Preventive Mechanism against Torture.

The cooperation agreed with this Agreement shall not affect the implementation of competences of the Protector of Citizens and the activity of the Association based on applicable regulations.

Immediately upon signing this Agreement, the Association shall appoint a person for the cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, and inform on this fact the Protector of Citizens in writing.

The Signatory parties may amend this Agreement only in writing.

This Agreement is concluded for a one-year period and may be extended with consent of both *Signatory parties for one more year*.

BELGRADE CENTER FOR
HUMAN RIGHTS

PROTECTOR OF CITIZENS
Saša Janković

II – 14 Decision on the fees for performing tasks of the NPM



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens (*“Official Gazette of the Republic of Serbia”, No. 105/2007*), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *“Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), I hereby issue the following

Decision

on the fees for performing tasks of the National Preventive Mechanism against Torture

Article 1

This Decision regulates criteria for determining fees of the Associations that cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, as well as the amount of fees for the engagement of external associates for providing expert services.

ASSOCIATIONS’ FEES

Article 2

On the basis of the engagement of the Associations’ representatives in the activities of the National Preventive Mechanism against Torture, the Associations are entitled to the following:

1. travel and accommodation expenses and per diem allowances – for visits to institutions outside the seat of the association
2. remuneration – for the time spent during the visit to institutions
3. fee for drafting reports on the performed tasks

Article 3

Travel and accommodation expenses and per diem allowances are provided in compliance with the Regulation on expense allowances, reimbursements and severance pay of civil servants and appointees (*“Official Gazette of the Republic of Serbia”, Nos. 86/07, 93/07 and 98/07- Full text*)

Article 4

Associations’ fees for the work of their representatives during their visits to institutions are determined in the amount of the average monthly salary per employee in the economy of the Republic of Serbia, according to the last final data of the Republic Statistical Office, on the date of departing for business trip.

The Associations are entitled to proportionate part of the monthly amount of the fee from the previous paragraph, determined according to the number of working hours for the engagement of their representatives.

Article 5

Fees for drafting reports on visits to institutions where persons are deprived of their liberty, amount to 10% of the average monthly salary per employee in the economy of the Republic of Serbia, i.e. 5% of the mentioned monthly salary for drafting reports on visits to police stations, gerontology centers, old people nursing homes, border crossings, military detention facilities.

Fees determined in paragraph 1 shall be increased depending on the duration of the visit, i.e. 50% on the basis of each subsequent day of the visit to the same institution.

Article 6

Gross fees for the performed tasks of the National Preventive Mechanism against Torture by the representatives of the Associations shall be paid to the accounts of Associations at the end of the calendar month by adding all related fees for the performed activities in the month, on the basis of the report of responsible officer from the Division for the National Preventive Mechanism against Torture Affairs.

EXTERIOR ASSOCIATES – EXPERTS’ FEES*Article 7*

With the exterior associate engaged for providing expert services in performing tasks of the National Preventive Mechanism against Torture a contract of hire is concluded, where reasons for the engagement and all related expense allowances and reimbursements are stated:

1. travel and accommodation expenses and per diem allowances – for visits to institutions outside the seat of the association
2. remuneration – for the time spent during the visit to institutions
3. fee for drafting reports on the performed tasks

Article 8

Travel and accommodation expenses and per diem allowances are provided in compliance with the applicable regulations from Article 3 of this Decision.

Article 9

Fees for the work of exterior associates – experts for visits to institutions are determined in the amount of the salary of the civil servant of the highest rank and pay scale, as proportionate part of the monthly amount of salary determined according to the number of working hours of the engagement of the exterior associate in performing tasks of the National Preventive Mechanism against Torture.

Article 10

Fees of exterior associates for drafting reports on the visit to institutions in which persons deprived of liberty are found, amounts to 10% of the monthly salary of a civil servant of highest rank and pay scale, i.e. 5% of the mentioned monthly salary for drafting a report on visits to police stations, gerontology centers, old people nursing homes, border crossings, military detention facilities.

Fees determined in paragraph 1 shall be increased depending on the duration of the visit, i.e. 50% on the basis of each subsequent day of the visit to the same institution.

Article 11

Fees for the performed tasks of the National Preventive Mechanism against Torture by the engaged exterior associates shall be paid to the accounts of Associations at the end of the calendar month by adding all related fees for the performed activities in the month, on the basis of the report of responsible officer from the Division for the National Preventive Mechanism against Torture Affairs.

Article 12

The responsible officer in the Division for the National Preventive Mechanism against Torture Affairs must keep record of all expenses on the basis of the engagement of the representatives of Associations or exterior associates-experts, and he/she is obliged to submit to the Section for Financial and Material Affairs a monthly report with all related exhibits (Proposal for the engagement of the representative of an association or expert; filled in travel order; copy of the report on the performed tasks; bills, etc.)

Article 13

This Decision shall come into force on the eighth day following its posting on the Bulletin Board in the premises of the Protector of Citizens.

PROTECTOR OF CITIZENS

Saša Janković



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
31-310/ 2013
Belgrade



Protector of Citizens
Ombudsman

Ref. No.36821 25 December 2013

Pursuant to Article 3, paragraph 4 of the Decision on Formation and Work of Secretariat of the Protector of Citizens (*"Official Gazette of RS"*, No. 105/2007) and the need arising from Article 2a, paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (*"Official Gazette of Serbia and Montenegro – International Agreements"*, No. 16/2005, No. 16/2005 and 2/2006 and *"Official Gazette of RS – International Agreements"*, No. 7/2011), the Secretary General of the Secretariat of the Protector of Citizens, under authorisation number 48-44-1491 of 5 February 2009, hereby passes this

DECISION

amending the Decision on the Fees for Performing Tasks of the National Preventive Mechanism

Article 1

Article 6 of the Decision on the Fees for Performing Tasks of the National Preventive Mechanism 76 – 79/12, ref. No. 14119 of 11 June 2012 (hereinafter referred to as the "Decision") shall be amended as follows:

The fees for the tasks of the National Preventive Mechanism against Torture performed by the representatives of associations shall be paid to the accounts of associations on the basis of an issued invoice the amount of which is calculated by adding all related fees for activities performed upon expiry of each calendar month.

Together with invoices, associations shall provide calculations for each visit made by a representative of an association prepared in accordance with the provisions of the Decision and a report on a visit which shall be kept at the Division for the National Preventive Mechanism affairs.

Article 2

Article 11 shall be amended by adding a new paragraph as follows:

Fees for the tasks of the National Preventive Mechanism against Torture performed by hired external associates-experts, with whom a service contract is signed, shall be paid after completion of each individual task.

In order to pay fees referred to in paragraph 1 of this Article, the head of the authority shall pass a special decision determining the amount of fees on the basis of calculation made by the responsible employee in the Division for the National Preventive Mechanism affairs, which shall constitute an integral part on the manager's decision on the amount of fees.

Article 3

All other provisions of the decision shall remain unchanged.

Article 4

This Decision shall enter into force on the eight day of its publication on the notice board in the premises of the Protector of Citizens.

COPY TO:

1. Department for Financial and Material Affairs
2. Registry Office

SECRETARY GENERAL

Jasminka Jakovljevic

II – 15 NPM Plan of Visits for 2014

ANNUAL PLAN OF VISITS OF NPM IN 2014 (provisional dates)									
	POLICE STATION	PRISONS	PSYCHIATRIC INSTITUTIONS	SOCIAL CARE INSTITUTIONS	OTHER				
Feb	12, 13	PD Sombor (1+3) PD Subotica (1+2)							
Mar			11	PB Sveti Vračevi	13, 20	Elderly Home in Sremska Kamenica			
Apr	14, 15	PD Valjevo (1+5)					1	Monitoring of detention facilities at Belgrade Airport	
May			22, 23	SPB Višac					
Jun	16, 17	PD Vranje (1+6)	23	KCV Novi Sad	24, 25	4 elderly homes in Belgrade	16, 17	4 regional centres of border police	
Jul	8, 9	PD Novi Pazar (1+2)			16, 17	Gerontology Centre in Ruma	16, 17, 18	Asylum centre Tutin asylum center Sjenica	
Aug	4, 5	PD Prijepolje (1+2)			25, 26	1. oktobar (Stari Lec)			
Sep	15, 16	PD Pirot (1+3)			25	elderly home in Novi Sad			
Oct					2, 3	Stamnica	15	Asylum centre Banja Koviljača	
Nov	19, 20	PD Niš (1+6)	18	KCS Beograd	6, 7	Čurug			
Dec			22, 23, 24	KPB Laza Lazarević			12	Asylum centre Bogovada	

+ thematic report - status of persons with special needs in the prison system (3 A15:C17)

+ monitoring of sheltering migrants during the readmission procedure (5 visits)

+ ad-hoc visits, as needed



PROTECTOR OF CITIZENS

OMBUDSMAN OF SERBIA

NATIONAL PREVENTIVE MECHANISM



About Serbia NPM

- ▶ About us

Model of Serbia NPM

- ▶ Protector of citizens
- ▶ In cooperation with
- ▶ Provincial Ombudsman
- ▶ Associations

Visits & recommendations

- ▶ Events
- ▶ Reports
- ▶ Visits
- ▶ Recommendations



Serbian NPM

Visit the Police Department Novi Pazar, Police station in its composition and the Centers for housing asylum seekers in Tutin and Sjenica

Team of National Preventive Mechanism conducted a visit from 3th till 5th of September in 2014, conducted a visit to the Police Department in Novi Pazar and Police stations in its composition (Police Stations Sjenica and Tutin), the District Prisons in Novi Pazar and the Centers for housing asylum seekers in Tutin and Sjenica. The aim of these visits is to monitor the treatment on the recommendation of the National Preventive Mechanism to improve the asylum system in the Republic of Serbia.

Unannounced visits to the Asylum Centre in Banja Koviljaca, Police Department Sabac and Police station Loznica

Serbia, 20 July 2014 09:13 |   

Monitoring team of National Preventive Mechanism on 18th of July in 2014 conducted an unannounced visit to the Asylum Centre in Banja Koviljaca, Police Department Sabac and Police Station Loznica to determine the regularity and legality of these institutions with regard to respecting rights of persons deprived of their liberty.

Visit to the Police Department of Vranje, Police stations in its composition and the Detention Unit of the District Prison in Vranje

Tuesday, 15 July 2014 11:15 |   

Monitoring Team of National Preventive Mechanism (NPM) in the period from 07th till 09th of July in 2014 conducted a visit to the Police Department of Vranje and Police stations in its compositions (Bosilegrad, Bujanovac, Vladin Han, Presevo, Surdulica Targoviste) and the Detention Unit of the District Prisons in Vranje. During the visit the team members checked the legality and regularity of the treatment for persons deprived of their liberty. They also visited the Regional center of the border police in Presevo in order to follow the treatment on the recommendation Asylum addressed to the Ministry of Interior and the Commissioner for Refugees, and Migration.

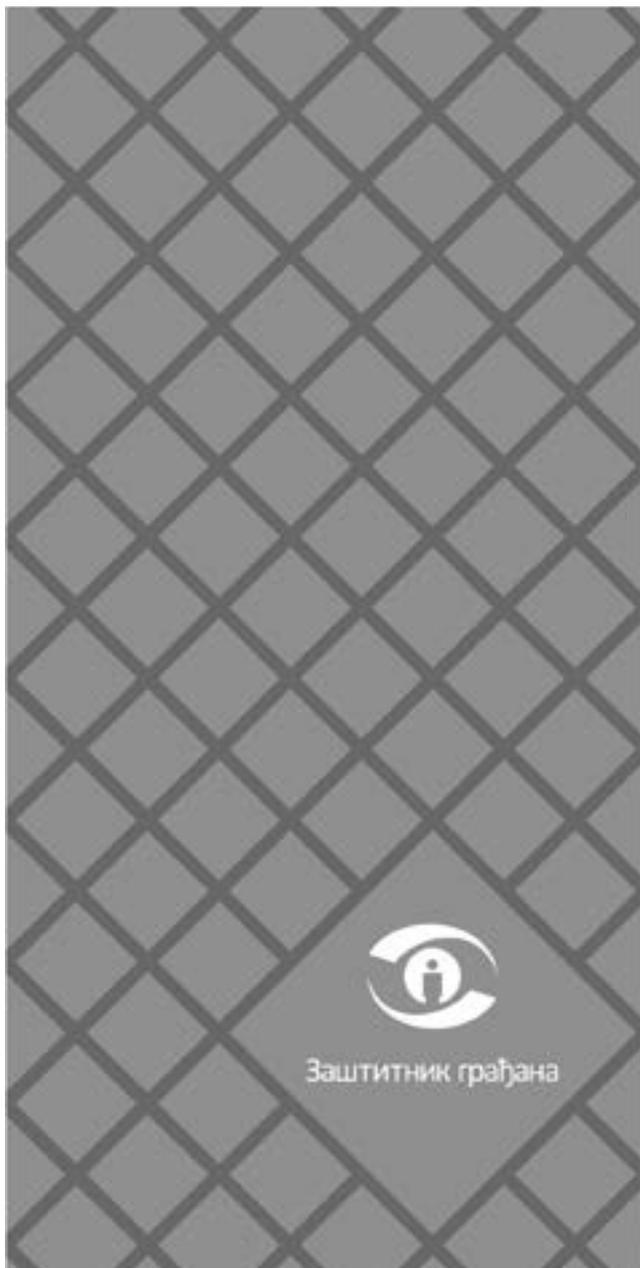


- ▶ Law on ratification CAT
- ▶ Law on ratification OPCAT
- ▶ Constitution of Republic of Serbia
- ▶ Law on Protector of Citizens

NPM Documents

- ▶ NPM Documents

II – 17 LEAFLET NPM



Национални механизам за превенцију тортуре (НПМ)

Генерална скупштина Уједињених нација је 2002. године сачинила Опциони протокол уз Конвенцију против тортуре и других сурових, нељудских или понижавајућих казни и поступака, чији је непосредни циљ да успостави систем редовних посета местима где се налазе лица лишена слободе од стране независних међународних и домаћих тела, ради превенције тортуре и других сурових, нељудских или понижавајућих казни и поступака.

Опционим протоколом се предвиђа да све државе потписнице успоставе националне механизме за превенцију тортуре, који ће редовним посетама установама у којима се налазе лица лишена слободе деловати превентивно у циљу побољшања њиховог третмана и услова у којима се та лица налазе.

Република Србија је 2006. године је постала држава чланица Опционог протокола уз Конвенцију против тортуре и других сурових, нељудских или понижавајућих казни и поступака.

II – 18 Conclusions from the Round Table – Establishing the NPM / Challenges



REPUBLIC OF SERBIA

Ministry of Human and Minority Rights,

PUBLIC ADMINISTRATION AND LOCAL SELF-GOVERNMENT

The Directorate for Human and Minority Rights

Belgrade

The Conclusions from the Round Table Discussion on
 “Establishing the National Mechanism for Prevention of Torture in the Republic of Serbia
 and the Challenges of Future Cooperation”
 held on 14 November 2011 in Belgrade

I

In order for the Ombudsman to be able to commence efficient performance of the role of National Mechanism for Prevention of Torture, the following conditions need to be met:

- administrative capacity building in the Ombudsman’s Professional Service with another four job positions,
- providing premises and equipment for the work of its staff,
- providing an adequate vehicle for continuous visits paid to the institutions where persons deprived of liberty are placed,
- providing special funds within the Ombudsman’s budget earmarked for covering the expenses of the National Mechanism for Prevention of Torture, primarily for paying the staff’s salaries and other income, fees for hired experts and non-governmental organisations taking part in the visits and reporting, fuel costs and other expenditures incurred in efficient performance of duties that the National Mechanism for Prevention of Torture has.

II

Establishing the National Mechanism for Prevention of Torture should not have any negative impact on the access of other international and domestic bodies and civil sector representatives to the places of detention, or limit the actions of the existing mechanisms for monitoring the human rights situation of persons deprived of liberty.

III

In order to enable the National Mechanism for Prevention of Torture to perform thee duties under its competences **it is necessary that:**

The Government of the Republic of Serbia

- Ministry of the Interior, especially the Police Directorate, Internal Audit Sector, all police directorates and stations,

- Ministry of Justice, especially the Directorate for Enforcement of Penal Sanctions,
- Ministry of Health, especially the specialised hospitals for mental diseases and the Specialised Hospital for Addiction Diseases,
- Ministry of Labour and Social Policy, especially the stationary institutions of social welfare,
- Ministry of Defence,

The National Assembly of the Republic of Serbia

- Commission for Control over Execution of Penal Sanctions,
- Committee for Judiciary and Administration of the National Assembly of the Republic of Serbia,

Serbia's Supreme Court,

The National Public Prosecutorial Office,

The High Judicial Council,

The State Council of Prosecutors

as well as all the staff therein,

establish cooperation stipulated by **the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, which provides **the National Mechanism for Prevention of Torture** with:

- unhindered, unannounced and daily access to all institutions where persons deprived of liberty are placed, i.e. to all premises and installations,
- having conversation in private with all persons deprived of liberty and all employees,
- access to all data on the number of people deprived of liberty, the institutions where these persons are placed, their location, treatment and placement facilities,
- implementation of the recommendations issued by the National Mechanism for Prevention of Torture in accordance with its mandate,
- timely and efficient exchange of relevant information.

Establishment of full cooperation of all state bodies with the National Mechanism for Prevention of Torture is a prerequisite for its efficient work aiming at prevention of torture and other cruel, inhuman or degrading treatment or punishment in the Republic of Serbia.

IV

The National Mechanism for Prevention of Torture is encouraged to deliver the reports on its visits to places of detention together with recommendations regularly and within reasonable time-frame to institutions in charge of implementing the recommendations.

V

The National Mechanism for Prevention of Torture is encouraged to, whenever necessary, in accordance with its powers, inform the public of its work, whereby it will contribute to transparency of its work and transparency of the work of institutions where persons deprived of liberty are or can be placed.

The National Mechanism for Prevention of Torture is encouraged to submit regular annual reports to the National Assembly of the Republic of Serbia, describing its activities, findings and recommendations, irrespective of the Ombudsman's regular annual report.

Regarding this, the Directorate for Human and Minority Rights will inform the following of this round-table conclusions:

- The United Nations' Committee Against Torture,
- The United Nations' Subcommittee for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- The United Nations' Special Rapporteur on Torture,
- The European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment,
- The Council of Europe's Network of National Mechanisms for Prevention of Torture,
- The Association for Prevention of Torture.

The Directorate for Human and Minority Rights will deliver the Conclusions and edited text of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to:

The Government of the Republic of Serbia

- Ministry of the Interior,
- Ministry of Justice, especially the Directorate for Enforcement of Penal Sanctions,
- Ministry of Health,
- Ministry of Labour and Social Policy,
- Ministry of Defence,
/ With kind request to the relevant ministries to submit them to all institutions under their competences, where persons deprived of liberty are or can be placed.

The National Assembly of the Republic of Serbia

- Commission for Control over Execution of Penal Sanctions,
 - Committee for Judiciary and Administration of the National Assembly of the Republic of Serbia,
- Serbia's Supreme Court,

The National Public Prosecutorial Office,

The High Judicial Council,

The State Council of Prosecutors

II – 19 Methodology of work of the Preventive Mechanism



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to point 8 of the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty, reg.no. 4846, of 2 July 2009,

The Preventive Mechanism of the Protector of Citizens issues the following:

Methodology

**of work of the preventive mechanism of protector of citizens – ombudsman
(PM) for monitoring PLACES OF DETENTION OF persons deprived of liberty**

Belgrade, October 2009

1. mandate, principles and goals

1.1. MANDATE

The mandate of the Preventive Mechanism for monitoring places of detention of persons deprived of liberty (hereinafter: Preventive Mechanism), comes within the legal authority of the Protector of Citizens (*Law on the Protector of Citizens, "Official Gazette of the RS", no.79/2005 and 54/2007*) laid down in the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty, reg.no. 4846, of 2 July 2009.

The Preventive Mechanism conducts monitoring of places of detention of persons deprived of liberty.

Monitoring places of detention of persons deprived of liberty includes continuous and systematic gathering, checking and processing of data, as well as determining the situation in institutions concerning respect of rights of persons deprived of liberty and with regard to that recommending adequate measures.

Monitoring places of detention of persons deprived of liberty is first of all conducted by visiting those institutions, as well as by collecting information on the status of persons deprived of liberty in those institutions in any other way, particularly from: the reports of these institutions (e.g. filled-in questionnaires); findings of other subjects that conducted monitoring of these institutions; other activities of the Protector of Citizens; media etc.

Preventive Mechanism is entitled to:

1. Unimpeded and unannounced visits to institutions
2. Unrestricted access to all institutional premises
3. Unrestricted and unsupervised interview with all persons deprived of liberty
4. Unrestricted and unsupervised interview with the personnel
5. Unrestricted access to all records, regardless of degree of confidentiality
6. Unrestricted copying of documentation, regardless of degree of confidentiality

Agreement on bringing of camera and taking of photographs is worked out with the management of institution

1.2. PRINCIPLES

Principles of functioning of the Preventive Mechanism are set out by the Protector of Citizens' Decision on Establishment of Preventive Mechanism, as well as by other generally accepted monitoring principles: do no harm, act strictly according to the law, respect management and personnel of the institution, adhere to the house rules of the institution and comply with internal rules, respect established competences and internal job assignments in the institution, do not become involved in existing interpersonal conflicts in institution, treat all contacted persons in a polite manner, demonstrate respectful attitude towards the institution that one presents, act in accordance with the set goal of visit following the determined method of work, respect the hierarchy and special assignments of the monitoring team members, act in coordination with other monitoring team members, demonstrate professional behaviour, do not deal with circumstances that are outside the competence, respect interlocutor's integrity, avoid any partiality, draw attention to the confidentiality of interview, show empathy for suffering that

our interlocutor refers to, do not create unrealistic expectations for the interlocutor, take care of safety of the source of information, do not take photographs of any person without his/her consent, carry out investigation procedure with several sources, ask the interlocutors clear and precise questions, establish reliable, clear, precise and comparative facts etc.

1.3. GOALS

The goals of the Preventive Mechanism are within the competence of the Protector of Citizens set out in the Law on the Protector of Citizens and determined by the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty.

Main goals of visits to institutions are:

1. Determining the real situation (establishing reliable, clear, precise and comparative facts suitable for analysis)
2. Identifying irregularities in work, that is, identifying violations of rights of persons deprived of liberty
3. Recommending measures for elimination of work irregularities
4. Control of the change of situation and implementation of measures for elimination of work irregularities

2. PREVIOUS ACTIVITIES OF THE PREVENTIVE MECHANISM

2.1 ESTABLISHMENT OF THE PREVENTIVE MECHANISM

2.1.1. DESIGNATION OF PERSONNEL COMPOSITION

The Preventive Mechanism for monitoring places of detention of persons deprived of liberty (hereinafter: Preventive Mechanism) is comprised of all members of the Protector of Citizens' Council for protection of persons deprived of liberty.

The members of the Preventive Mechanism are also the Protector of Citizens' Expert Service staff, namely everyone working in the Department for Rights of Persons Deprived of Liberty, as well as some staff working in other departments of the Complaints Division and Division for Improvement of Rights that deal with rights of members of particularly vulnerable groups present among persons deprived of liberty.

The Preventive Mechanism members are also other experts that possess knowledge relevant for protection of rights of persons deprived of liberty, namely lawyers, first of all experts in criminal law and in protection of rights of persons deprived of liberty, as well as doctors, mainly general practice, internal and forensic medicine specialists and psychiatrists.

The Protector of Citizens defines the Preventive Mechanism personnel composition by a special decision.

2.1.2. DETERMINING ORGANIZATION OF WORK AND PERSONNEL ASSIGNMENTS

The Protector of Citizens' Deputy for Protection of Rights of Persons Deprived of Liberty is the Preventive Mechanism coordinator (hereinafter: coordinator).

When it comes to the protection of persons deprived of liberty that belong to particularly vulnerable groups, the coordinator guides the activities of the Preventive Mechanism in agreement with the Protector of Citizens' Deputies for Gender Equality, Child Rights, National Minority Rights and Rights of Persons with Disabilities.

On the basis of consultation with the Preventive Mechanism members, the coordinator gives special assignments for specific areas to particular members of the Preventive Mechanism.

The Protector of Citizens' Expert Service is in charge of the Preventive Mechanism organizational and administrative tasks.

By a special decree the Protector of Citizens appoints the Preventive Mechanism administrative secretary from among the Protector of Citizens' Expert Service staff (hereinafter: administrative secretary).

By the coordinator's order, the administrative secretary guides and performs organizational and administrative tasks of the Preventive Mechanism and is responsible for their realization.

2.2. DRAFTING OF QUESTIONNAIRES

Questionnaires should contain systematized and standardized questions related to general and special data on institution and persons deprived of liberty.

Answers to asked questions should offer relevant picture of the situation in the institution and be suitable for comparison and analysis.

The questionnaires should be of tabular type. Questions need to be precise, clear and recognizable. Terminology used should be standardized and harmonized. The style of asked questions and offered answers should be unique. The questions should mainly be based on provisions of concrete regulations and valid standards so that their answers immediately point out the possible shortcomings or irregularities in work. Whenever it is objectively possible, the answers should be set as alternatives, with entering of numeric data, but leaving blank space in certain questions for recording of personal opinion. It is desirable that after the group of questions referring to specific area, provisions of regulations and standards on the basis of which they are asked are stated.

Drafting of questionnaire will be done in two phases. The first phase includes drafting of initial questionnaires used for creation of electronic database about institutions, drafting of questionnaires that precede visit to an institution, as well as drafting of questionnaires that are used in the course of visit to prisons. In the second phase the questionnaires that will be used during visits to other places of detention of persons deprived of liberty will be developed.

2.2.1. INITIAL QUESTIONNAIRES

These questionnaires will be forwarded to all places of detention of persons deprived of liberty for their answer.

The goal of these questionnaires is to create a special database of places of detention of persons deprived of liberty ("*identity card of institutions*") within the electronic database of the Preventive Mechanism (EDPM).

These questionnaires contain general, standardized questions about the type of institution, its name, address, contact, capacity, current number of persons deprived of liberty, total number of staff, health care personnel, and other relevant data.

These questionnaires are supposed to be forwarded for feedback to the management of institution.

Different initial questionnaires will be drafted depending on the type of institution: for prisons, remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylums for foreigners etc.

2.2.2. QUESTIONNAIRES PRECEDING VISITS TO INSTITUTIONS

These questionnaires will be forwarded to institutions for their feedback immediately before the planned visits.

The purpose of these questionnaires is to enable adequate preparation of the monitoring group for visit.

Beside general questions (checking data existing in the special database on institutions within EDPM) these questionnaires also contain series of special, additional questions relevant for the current visit to institution.

These questionnaires are delivered to managers of institutions, that is, of certain organizational parts of institutions, for their feedback.

Different preliminary questionnaires will be drafted depending on the type of institution: for prisons, remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylum for foreigners etc.

2.2.3. QUESTIONNAIRES USED IN THE COURSE OF VISITS

These questionnaires are intended for use by the visiting group (hereinafter: visiting group) in the course of visit to an institution.

The aim of these questionnaires is to enable complete, immediate and as objective as possible identification of the situation in an institution.

These questionnaires contain precise comprehensive questions related to the factual situation in the following areas: material conditions in institution, treatment, regime and activities of persons deprived of liberty, legitimacy of treatment and protective measures, health care, institution's personnel, status of persons deprived of liberty, protection of rights etc.

It is necessary to draft questionnaires that will be answered by managers of institutions, that is, managers of organizational parts of institutions, by the polled persons deprived of liberty (previously determined by random selection system) as well as those that will be answered by the visiting group members on the basis of their immediate perception, established contacts and access to documentation.

Different questionnaires that will be used in the course of visits will be drafted depending on the type of institution: for prisons and remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylum for foreigners etc.

Annexes to the questionnaires related to the position of particularly vulnerable groups: juveniles, young adults, women, the old, the sick, persons with disabilities, members of LGBT population, members of national minorities and foreigners will also be drafted.

A special questionnaire used for identification of the occurrence of torture will also be drafted.

2.3. FORMATION OF INFORMATION TOOLS

The electronic database of the Preventive Mechanism (EDPM) represents the main information tool.

The EDPM contains relevant data on the rights of persons deprived of liberty and places of their detention, namely: information on the Preventive Mechanism work and its documentation, regulations and standards in force, relevant court decisions and reports, basic facts about all places of detention of persons deprived of liberty ("*identity card of institutions*"), architectural plan of institution, filled-in questionnaires about institution, reports on monitoring of institution, press clippings, as well as other relevant data.

The EDPM will be completed with data from various available sources, taking into account their credibility.

The copies of relevant regulations will be downloaded from the Protector of Citizens' regulations database, valid standards and reports will be downloaded from the official websites of institutions, data on places of detention of persons deprived of liberty ("identity card of institutions") will be formed on the basis of information gathered by the means of initial questionnaires, while press clippings on persons deprived of liberty and on torture will be taken from the Protector of Citizens' database.

The EDPM has the form of website.

Initially, the EDPM will be set as an internal website on the Protector of Citizens' server; afterwards it will be available via the Internet with different levels of access (by using the domain controller, members of the Preventive Mechanism will be able to access all data in the base with special code, while other users will be restricted only to the "open" areas, i.e. bases of the website).

2.4. DETERMINING THE STRUCTURE OF REPORTS

The Preventive Mechanism reports are drafted according to the structure established in advance:

1. Basic facts about the visit (*time, type of visit, members of team, interlocutors...*),
2. Relevant information about the institution that the monitoring team had at its disposal before the visit (*existing reports about the situation in institution*),
3. Basic facts about the institution (*type of institution, capacity, its description...*),
4. Team activities that are implemented in the course of monitoring (*actions that the visiting team conducted in order to become aware of the situation in the institution*),
5. Identified factual situation in certain areas (*facts that the visiting team verified as indisputable and are related to the position of persons deprived of liberty in places of detention, e.g.: living conditions, health care, nutrition, hygiene; classification, categorization; treatment, work, education; correspondence, telephone calls, visits, parcels; special rights, application of coercive and special measures, disciplinary procedures and measures; complaints and actions taken upon grievances and complaints, provision of legal aid; position of juveniles, women, minorities and LGBT persons, religious rights, post-release assistance, internal controls and visits of external subjects; transfers, suspension of sentence; disciplinary procedures against the personnel; internal oversight over the work; attitude towards the Protector of Citizens...*)
6. Identified irregularities in the work of institution (*identified developments that are not in accordance with the regulations and standards in force*),
7. Indication to relevant provisions of domestic and international regulations and standards related to the perceived developments of work irregularities
8. Recommendation of measures for elimination of noted irregularities in work and period of time for procedure i.e. for elimination of irregularities
9. General conclusion about the situation in institution

2.5. EDUCATION OF THE PREVENTIVE MECHANISM MEMBERS

The internal training of the Preventive Mechanism members is carried out in order to make them fully qualified to adequately implement all anticipated activities.

The internal training is carried out through courses in the following areas: relevant international instruments and national legislation in the field of basic human rights and freedoms, rights

of persons deprived of liberty and torture; modalities of monitoring of institutions, types of institutions, categories of persons deprived of liberty, tools for determining the real situation in institution and comparison of the noted situation with relevant national and international standards; competence, mandate, principles, methodology of work and goals of the Preventive Mechanism; familiarization with the questionnaires; structure and methodology of drafting of the Preventive Mechanism reports, etc.

The external training is implemented with the view of professional development of the Preventive Mechanism members.

2.6. COOPERATION WITH SIMILAR INSTITUTIONS

Intensive cooperation and exchange of experience with other institutions dealing with protection and improvement of position of persons deprived of liberty (international and nongovernmental organizations, similar mechanisms etc.) will be established.

The Preventive Mechanism members will participate at gatherings and in study visits in the country and abroad the topic of which will be protection of rights of persons deprived of liberty and functioning of institutions that conduct monitoring of institutions where these persons are detained.

3. PREPARATION OF MONITORING

In the process of preparation of monitoring of places of detention of persons deprived of liberty, the first step is to identify the priority visits according to the type of institutions and their situations and on the basis of the findings prepare the plan of visits to institutions (hereinafter: Plan of visit) .

The following types of visits exist: regular, control and emergency

REGULAR VISITS

Regular visits are periodic visits carried out with the view of systematic control of situation in institutions in relation to the respect of rights of persons deprived of liberty.

Regular visits are planned ahead and carried out according to the designed plan of visit.

Regular visits are announced.

CONTROL VISITS

Control visits are those carried out in order to check the situation in institutions in relation to the respect of persons deprived of liberty and compare it to the situation identified in the course of previous visit.

Control visit are planned ahead and carried out according to the designed plan of visit.

Control visits are, as a rule, announced.

EMERGENCY VISITS

Emergency visits are visits carried out in case of learning of the existence of serious irregularities related to the respect of rights of persons deprived of liberty.

A decision to carry out an emergency visit is made by the coordinator.

Emergency visits are not foreseen by the plan of visit.

Emergency visits are, as a rule, unannounced.

ESTABLISHING THE PLAN OF VISIT

According to the current situation, in the first phase the activities of the Preventive Mechanism will be primarily directed towards the implementation of prison system monitoring, while the system of monitoring of other places of detention of persons deprived of liberty will be developed in the second phase.

The Plan of visit to an institution sets approximate date and length of visit (one or several days), as well as the character of visit (regular or control visit).

The Plan of visit always includes open time period when emergency visits can be conducted.

The length of visit depends on the type of visit, type and capacity of institution, number of monitoring group members and other factors.

The Plan of visit is issued by the coordinator.

3.2. DETERMINING PERSONNEL COMPOSITION OF A VISITING GROUP

Depending on the type of institution, nature of visit and other concrete circumstances, the size and composition of visiting group is set up for each visit to institution.

The visiting group leader is appointed for each visit.

The coordinator determines the size and composition of the visiting group and appoints its leader.

When forming the visiting group attention is paid that experts of profiles necessary for implementation of adequate monitoring be included, whereas the involvement of doctors and lawyers is mandatory (*depending on the type of institution and concrete circumstances, first of all the specialists in general, internal and forensic medicine and psychiatrists, when needed also dentists, gynaecologist...*). Depending on the type of institution, the group will also be comprised of psychologists, special pedagogues and experts of other profiles.

According to the existing specialization of a visiting group members, special subgroups for monitoring of specific areas (hereinafter: subgroup for specific area) will be established (*e.g. team for general observation and treatment, team for legality of treatment, team for health care...*)

3.3. GATHERING DATA ON INSTITUTION

Members of the visiting group will start gathering relevant information about the institution that will be visited.

The sources of information are:

1. **EDPM** (*identity card of institution, direct insight into initial questionnaires, access to the architectural plan of institution, access to the existing reports, insight into the Protector of Citizens' recommendations, press clippings, as well as other existing data on the institution*)
2. **REPORT OF THE COMPLAINT DEPARTMENT** (*Report on all complaints related to the visiting institution submitted to the Protector of Citizens within last year*)
3. **DATA OF EXTERNAL SUBJECTS** (*data on the institution that are not in the EDPM and have been obtained from external subjects: international bodies, state agencies, internal oversight bodies, other organizations that conducted monitoring of that institution, the media.*)

Gathering of data on the institution is managed by the visiting group leader with technical support of the administrative secretary.

3.4. CONTACT WITH THE INSTITUTION TO BE VISITED

Prior to visit (regular or control), the contact is established with the visiting institution, the visit is announced and the questionnaire preceding the visit forwarded.

Regular visit is announced at least two weeks prior to it.

3.4.1 INFORMING THE INSTITUTION AND AGREEING ON THE VISIT

The institution is informed about the day and hour of the visit, its nature, members of the group and their functions, group leader, and possible special requirements (*e.g. that in the course of visit heads of certain services, doctors etc. be present*)

All important elements of the visit and visit procedures (*e.g. use of camera or dictaphone*) are agreed with the management of institution.

Contact with the institution is either directly established by the visiting group leader or through the administrative secretary.

3.4.2. DELIVERY OF THE QUESTIONNAIRE PRECEDING THE VISIT

The questionnaire preceding the visit is delivered to the institution for feedback.

The institution has a time limit (*up to 7 days*) to deliver filled-in questionnaire, which is sufficient for giving reliable answers, taking into account that the same questionnaire has to be timely delivered to the Preventive Mechanism so that it can be processed prior to the visit (*at least 5 days*).

Delivery of the questionnaire preceding the visit is managed by the visiting group leader with technical support of the administrative secretary.

3.5. ANALYSIS OF THE EXISTING DATA ON INSTITUTION AND PREPARATORY ACTIVITIES

Members of the visiting group organize consultations related to the situation in institution and the expected effects of monitoring:

1. All gather data on institution are accumulated.
2. Analysis of the gathered data is performed.
3. Circumstances that should be particularly taken into account in the course of visit are identified.
4. Questionnaires that will be used in the course of visit are chosen and adapted.
5. Operational material (*questionnaires etc.*) is prepared.

Analysis of the existing data on institution and preparatory activities are managed by the visiting group leader with technical support of the administrative secretary.

3.6. AGREEMENT ON PROCEDURE AND ORGANIZATION

Members of the visiting group agree on the upcoming visit to the institution:

Deciding on the appearance in front of the management of institution (*attitude that should be expressed during the introductory interview with the management and appointment of persons who will actively participate in the interview together with the visiting group leader*)

Determining the behaviour in the course of visit (*determining the behaviour that the visiting group should demonstrate in the course of visit to the institution, in accordance with the mandate and the established operating principles of the Preventive Mechanism*)

Visit dynamics (*setting up the time that will be used for certain monitoring phases: joint interview with the management and joint visit of the institution, time left to subgroups for specific areas for interviews with heads of certain organizational units, with personnel and persons deprived of liberty and for review of documentation*)

Division of tasks and special assignments of subgroups for specific areas (*e.g. subgroup for general observation and treatment, subgroup for legitimacy of treatment, subgroup for health care...*)

Operational material is distributed (*questionnaires, cameras, notebooks etc.*)

Administrative and technical organizational issues (*agreement on time of outset of visit, engagement of transport means, schedule, payment of fees...*)

The agreement on procedure and the entire organization is managed by the visiting group leader with technical support of the administrative secretary.

4. MONITORING PROCEDURE DURING VISIT TO THE INSTITUTION

In the course of visit to the institution one deals in accordance with the mandate, principles of operations and established goals of the visit.

Photos are taken only in case of reached agreement with the management of institution.

4.1. INTERVIEW WITH THE MANAGEMENT OF INSTITUTION

Upon arrival to the institution, all visiting group members participate in the interview with the management of institution.

In the first place, the manager of institution is invited to present the general outline of the institution to the visiting group.

Afterwards the Preventive Mechanism, its mandate, principles, goals and methods of work are presented; members of the visiting group are introduced; the activities that are to be implemented in the course of visit are indicated.

Bringing in of camera and taking of photographs is agreed with the management of institution.

On behalf of the visiting group its leader makes the presentation and conducts the interview.

Depending on the previous agreement and immediate permission of the leader, other visiting group members actively participate in the interview.

(In case of emergency visit the visiting group leader can decide to visit first a person or place in the institution due to which the emergency visit is carried out and only after that conduct interview with the management of institution, or to exclude this phase completely)

4.2. VISIT OF THE INSTITUTION

When the interview with the management of institution is finished all members of the visiting group make a joint visit of the institution.

During the visit of the institution the existing architectural plan of the institution is used and corrected.

The architecture of place is visually perceived, living area and accommodating conditions are accessed, with the view of gaining preliminary impression of the general atmosphere in the institution.

Special attention is paid to dormitories, isolation premises, bathrooms and sanitary premises, infirmary, kitchen, warehouse, dining room, living rooms, courtyards, walks, sport yards, workshops etc.

(In case of control or emergency visit the visiting group leader can decide to exclude this phase)

4.3. INTERVIEW WITH THE RELEVANT SERVICES STAFF

Interviews with the staff are conducted by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

Interviews structured according to the questionnaire are conducted with persons responsible for specific areas and, when needed, with other staff as well.

It is recommended that the interview with the staff takes place in their working premises.

The interview with one staff is, as a rule, attended by two members of the subgroup for specific area, whereby the one who conducts the interview does not record anything (*maintains eye contact all the time in order to develop trust*), while the other member is in charge of recording.

In the course of interview with the staff one should demonstrate professionalism, present the PM, purpose of the interview and persons who conduct the interview; one should not deal with circumstances that are outside one's competence, should respect the integrity of interlocutor, avoid any familiarity, not become involved in existing interpersonal conflicts in the institution, act politely in all contacts, point out the confidentiality and the possibility to refuse to talk, take care of safety of the source of information, not take photos of the staff without his/her consent, ask clear and precise questions, state reliable, clear, precise and comparative facts etc.

In the course of interview one should use the questionnaire but allow the interviewed person to go beyond the scope of asked questions.

4.4. VISIT OF SPECIAL PREMISES

Visit of the special premises is performed by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

All premises that members choose can be accessed without any restrictions.

The premises that are checked in the course of visits are marked in the existing architectural plan of institution.

4.5. ACCESS TO DOCUMENTATION

Access to documentation is conducted by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

Copies of particularly important documentations are made, by choice, regardless of degree of their confidentiality.

Documentation that cannot be copied on the spot will be asked to be subsequently delivered.

4.6. INTERVIEW WITH PERSONS DEPRIVED OF LIBERTY

Interviews planned before the visit to the institution are conducted (*usually with persons who submitted complaints or whose rights are violated according to the existing information*), with persons who asked for interview, as well as with other persons chosen by the system of random sampling (*randomly chosen*).

It is recommended that the interview with persons deprived of liberty takes place in the premises where these persons are held (*visit them*) and not in a special room assigned for this purpose by the management of institution (*where they would be brought*).

The interview with a person deprived of liberty is, as a rule, attended by two members of the visiting group, whereby the one who conducts the interview does not record anything (*maintains eye contact all the time in order to develop trust*), while the other member is in charge of recording.

In the course of interview with the staff one should demonstrate professionalism, present the PM, purpose of the interview and persons who conduct interview; one should not deal with circumstances that are outside one's competence, should respect the integrity of interlocutor, avoid any familiarity, point out the confidentiality and the possibility to refuse to talk, show empathy for the suffering that the interlocutor refers to, not create unrealistic expectations for the interlocutor, take care of safety of the source of information, not take photos of the person without his/her consent, ask clear and precise questions, state reliable, clear, precise and comparative facts etc.

In the course of interview one should use the questionnaire but allow the interviewed person to go beyond the scope of asked questions.

4.7. VERIFYING OBTAINED INFORMATION THROUGH SEVERAL DIFFERENT SOURCES

Obtained contradictory information is checked by the means of different sources (conduct control interviews with other persons, additional check-up observation, additional review of records and documentation etc.)

(In case the credibility of the obtained information is beyond doubt it is possible to exclude this phase)

4.8. SHORT MEETING OF GROUP MEMBERS

Short meeting of all visiting group teams takes place.

First impressions of the subgroups for specific areas are exchanged; main problems in the institution are indicated.

Agreement on the short summary of the situation in institution that will be submitted to the management of institution is made.

Additional questions that the management of institution will be asked are settled.

Additional documentation that will be required from the management is identified.

(The visiting group leader can decide to exclude this phase)

4.9. FINAL INTERVIEW WITH THE MANAGEMENT OF INSTITUTION

The interview is attended by all members of the visiting group.

On behalf of the visiting group, its leader conducts the interview.

The visiting group leader first informs the manager of institution about the short summary – impression about the situation in institution.

The visiting group leader compliments on what is good, points out the serious omissions related to the position of persons deprived of liberty in the institution.

According to the agreement, certain members of the visiting group, especially representatives of subgroups for specific areas, can directly point out to the management of the institution some of their specific observations.

After that, the visiting group leader can ask from the manager additional information, clarification and supplementary documentation.

Finally, the visiting group leader announces and explains further steps (sending of letter, report).

(The visiting group leader can decide to exclude this phase)

5. ACTIVITIES FOLLOWING VISIT TO THE INSTITUTION

5.1. LETTER TO THE INSTITUTION AFTER THE VISIT

Following the visit, a courteous thank-you letter is sent to the institution (five days after the visit the latest)

If necessary, additional information, clarification or documentation is required in the letter.

The letter is delivered to the institution by the visiting group leader with technical support of the administrative secretary.

5.2. GROUP MEETING, EXCHANGE OF INFORMATION AND AGREEMENT ON DRAFTING OF REPORT

Meeting of all member of the visiting group takes place. The meeting is managed by the visiting group leader.

During meeting impressions are exchanged and major problems or positive aspects in the institution detected.

Comparison of observations with previous reports findings is made.

The concept of report is determined.

Areas of the report are identified and drafting of sections of report assigned to subgroups for specific areas.

The deadline for drafting of sections of report by subgroups is determined as well as the deadline for drafting of the complete report.

The meeting is presided by the visiting group leader with technical assistance of the administrative secretary.

5.3. DRAFTING OF SECTIONS OF REPORT AND COMPILATION OF THE FULL REPORT

Subgroups for specific areas draft their sections of report.

Managed by its leader, the visiting group drafts the complete report.

Filled-in questionnaires, obtained copies of documentation and notes of the visiting team members represent the foundation for drafting of the report.

The reports have elements and structure determined in advance:

1. Basic facts about the visit (*time, type of visit, team members, interlocutors...*),
2. Relevant information about the institution that the visiting team obtained prior to visit (*existing reports about the situation in institution*),
3. Basic facts about the institution (*type of institution, capacity, its description...*),
4. Team activities implemented in the course of monitoring process (*acts that the visiting team conducted in order to become aware of the situation in institution*),
5. Identified factual situation in certain areas (*facts that the visiting team identified as indisputable that relate to the position of persons deprived of liberty in the institution, e.g.: living conditions, health care, nutrition, hygiene; classification, categorization; treatment, work, education; correspondence, telephone calls, visits, parcels; special rights, application of coercive and special measures, disciplinary procedures and measures; complaints and actions taken upon complaints and grievances, provision of legal aid; position of juveniles, women, minorities and LGBT persons, religious rights, post-release assistance, internal controls and visits of external subjects; transfers, suspension of sentence; disciplinary procedures against the personnel; internal oversight over the work; attitude towards the Protector of Citizens...*)
6. Identified irregularities in the work of institution (*identified developments that are not in accordance with the regulations and standards in force*),
7. Indication to relevant provisions of domestic and international regulations and standards related to the perceived developments of work irregularities
8. Recommendation of measures for elimination of noted irregularities in work and period of time for procedure i.e. for elimination of irregularities
9. General conclusion about the situation in institution

Report drafting is technically assisted by the administrative secretary.

5.4. DELIVERY OF REPORT TO THE VISITED INSTITUTION AND TO THE PROTECTOR OF CITIZENS

The report signed by the visiting group leader is delivered to the Protector of Citizens.

The report is delivered by the coordinator with technical support of the administrative secretary.

Together with the report, possible detached observations of certain members of the visiting group are also submitted to the Protector of Citizens.

Conclusions of the National Assembly of the Republic of Serbia

Pursuant to Article 8, paragraph 1 of the Law on National Assembly ("Official Gazette", No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly ("Official Gazette of RS", No. 20/12 – consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

CONCLUSION

BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM FOR 2013

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented activities of the Protector of Citizens in capacity of the National Preventive Mechanism in the field of protection and improvement of human and minority freedoms and rights.
2. With regard to the findings of the Protector of Citizens that as a rule detainees do not have an opportunity to spend free time during the day outside their cells in communal rooms with other detainees in cases where no court-ordered contact restrictions apply; that in most cases they do not have an opportunity to do productive work, nor are they included in social and cultural activities; that detainees are not grouped together according to the type of criminal offence of which they are indicted, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of detainees, i.e. to allow them to exercise all their rights in accordance with the applicable regulations and standards.
3. With regard to the assessment of the Protector of Citizens that women in detention are mostly and commonly isolated for long periods because their number in detention units tend to be low, whereas this is meant to be a disciplinary or a special measure of strictly limited duration for men in the penal enforcement system, the National Assembly orders the competent authorities to exercise increased caution with the aim of reducing isolation of female detainees for a long periods during detention.
4. With regard to the findings of the Protector of Citizens that many convicts in closed units do not have an option to spend free time during the day in communal rooms with other convicts, including in particular persons under increased supervision, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to enable all convicts, except to those in solitary confinement or isolation, to spend free time during the day in communal rooms with other convicts.
5. With regard to the assessment of the Protector of Citizens that there are significant shortcomings in active, individual and collective correctional work of correctional officers with convicts, the National Assembly orders the Ministry of Justice to improve treatment of convicts in penal facilities in terms of more intensive and effective work of correctional officers with convicts, increasing their work engagement where possible, education and the highest level of exercise of religious rights and to pass new or modify the existing regulations without delay, which would ensure implementation of the law in accordance with the applicable standards in that regard.
6. With regard to the assessment of the Protector of Citizens that there are numerous illegalities and irregularities in the treatment by competent authorities of irregular migrants and foreigners who expressed their intention to seek asylum in the Republic of Serbia, the National Assembly, endorsing all recommendations the Protector of Citizens gave to the Ministry of Internal Affairs and the Commissariat for Refugees and Migration in that regard, orders the authorities to which those recommendations were

given to fully implement them without delay, particularly to register all migrants who entered into the territory of the Republic of Serbia, to keep migrants under full control of the competent authorities pending final resolution of their status, i.e. deportation in accordance with the applicable regulations, as well as to pass decisions on asylum requests in an expedited procedure, while thwarting all attempts to abuse rights, with full respect for all minimum rights of irregular migrants and asylum seekers, in accordance with the rules of the international law and the applicable standards.

7. The National Assembly endorses the recommendations the Protector of Citizens gave in the capacity of the National Preventive Mechanism to the competent public authorities with the aim of improving the position of persons deprived of liberty, i.e. to prevent abuse, and orders the competent authorities to implement these recommendations without delay, as well as to notify the National Assembly thereof in writing by 31 December 2014 at the latest.

8. This Conclusion is to be published in the "Official Gazette of the Republic of Serbia".

RS No. 72

Done in Belgrade, on 23 October 2014

NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

PRESIDENT
Maja Gojković

Pursuant to Article 8, paragraph 1 of the Law on National Assembly ("Official Gazette", No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly ("Official Gazette of RS", No. 20/12 – consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

CONCLUSION

BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM FOR 2013

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented the activities of the Protector of Citizens in the capacity of the National Preventive Mechanism within his scope of his powers under constitution and law and assessed the situation and the quality of exercise and protection of the rights of persons deprived of liberty, highlighting the necessary improvements of the situation and prevention of torture and other forms of abuse.
2. With regard to the assessment of the Protector of Citizens that the competent public authorities fail to comply with their duties in the fight against impunity for torture, that they do not always conduct timely and detailed procedures to determine whether the rights of persons deprived of liberty were violated, that individual responsibility for violation of these rights and responsibility for omissions in work and organization of work was apportioned to responsible persons only in few cases, as well as that few persons responsible for violation of these rights were punished, and particularly having in mind that the Protector of Citizens and the Constitutional Court identified certain cases of abuse, the National Assembly orders the competent public authorities to fully comply with their duties in the fight against impunity for torture, to take all necessary measures and activities to prevent abuse and, in accordance with the law, to conduct timely and detailed procedures to investigate all substantiated allegations of abuse and apportion subjective and objective responsibility and to punish those responsible.
3. With regard to the assessment of the Protector of Citizens that many existing detention rooms in police stations are not compliant with the minimum standards of the European Committee for the Prevention of Torture regarding necessary accommodation conditions, the National Assembly orders the Government to allocate necessary funds for construction or refurbishment of detention rooms in police stations in accordance with the applicable standards in budget proposal for 2015.
4. With regard to the assessment of the Protector of Citizens that the Instructions on Treatment of Arrested and Detained Persons are not compliant with the applicable regulations and standards and decisions of the European Court of Human Rights (use of physical restraint, presence of non-medical staff during physical examinations, lack of duty to install alarms, authorizations of control mechanisms etc.), which results in dilemmas for police officers regarding exercise of police authorities and divergent practices in their actions, the National Assembly orders the Ministry of Internal Affairs to make the Instructions on Treatment of Arrested and Detained Persons compliant with the applicable regulations, standards and decisions of the European Court of Human Rights.
5. Due to significant shortcomings, pointed out by the Protector of Citizens in his Report, regarding active individual and collective correctional work of correctional officers with convicts, work engagement of convicts and their education, use of a system of subsequent reclassification of convicts which enables convicts to progress into a more favorable correctional group in case of good behavior, preparation of convicts for release and establishing of cooperation with social welfare organizations, the National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve treatment of convicts in order to rectify the said shortcomings and emphasizes the duty to pass regulations for implementation of the law in accordance with the applicable standards without delay.

6. It is particularly important to amend regulations on enforcement of penal sanctions for organized crime without delay, in accordance with the recommendation of the European Committee for the Prevention of Torture, which assessed the existing penal enforcement system as borderline inhuman and degrading.

7. The National Assembly orders the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to improve its treatment of convicts in terms of provision of health care, in accordance with the applicable regulations and standards. This is based on the assessment of the Protector of Citizens that there are serious shortcomings in the provision of health care to convicts in penal facilities, particularly regarding the provision of necessary medicinal products and therapy, medical examinations after prison intake procedure, lack of unique medical examination protocols, failure to perform periodic medical examinations of convicts and daily medical examinations of patients, inclusion of non-medical staff, placement of convicts with mental disorders in regular prison regime, failure to submit compulsory periodic reports on health condition of convicts, sanitary and hygiene conditions in institutions, the quality of food, physical activities of convicts etc., stipulated by the Law on Enforcement of Penal Sanctions.

8. Taking into account that the Protector of Citizens repeated his assessments stated in all previous annual reports that competence for health care services in penal facilities should be transferred from the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice to the Ministry of Health, which is one of the preconditions for efficient investigation of allegations of violent treatment of persons deprived of liberty, the National Assembly emphasizes it is necessary for the Government to consider this issue as soon as possible and propose to the National Assembly amendments to the relevant legal arrangements.

9. With the aim of ensuring more efficient and comprehensive control over the work of the Administration for the Enforcement of Penal Sanctions, the National Assembly advises the Ministry of Justice to consider the recommendations of the Protector of Citizens on activities that should be undertaken to separate the supervision unit from the Administration for the Enforcement of Penal Sanctions, so that the work of institutions and the Administration is overseen by the supervision unit as a separate organizational unit of the Ministry of Justice, and also to propose appropriate amendments of laws and other regulations in that regard.

10. The National Assembly endorses the recommendations the Protector of Citizens gave in the capacity of the National Preventive Mechanism to the competent public authorities with the aim of improving the position of persons deprived of liberty, i.e. to prevent abuse, and orders the competent authorities to implement these recommendations without delay and to notify the National Assembly thereof in writing by 31 December 2014 at the latest.

11. This Conclusion shall be published in the "Official Gazette of the Republic of Serbia".

RS No. 73

Done in Belgrade, on 23 October 2014

NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

PRESIDENT
Maja Gojković

Pursuant to Article 8, paragraph 1 of the Law on National Assembly ("Official Gazette", No. 9/10) and Article 238, paragraph 5 of the Rules of Procedure of the National Assembly ("Official Gazette of RS", No. 20/12 – consolidated text),

On the Fourth Sitting of the Second Regular Session in 2014 held on 23 October 2014, The National Assembly hereby passes this

CONCLUSION

BASED ON A REVIEW OF THE REPORT ON ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM FOR 2013

1. The National Assembly finds that in his report on the activities of the National Preventive Mechanism for 2013, the Protector of Citizens comprehensively presented the activities of the Protector of Citizens in the capacity of the National Preventive Mechanism in the field of child rights.
2. With regard to the assessment of the Protector of Citizens that many children are still placed in residential social welfare institution because conditions have not been provided for their community care; that those children are excluded from the normal social environment for unacceptably long periods, and thus they do not acquire or over time lose social and other skills necessary for living outside the institutions; that financial and other living conditions in such institutions are not compliant with the applicable standards and that understaffing is a pressing issue; that the number of children placed in those institutions significantly exceeds the statutory maximum and that in many cases, contrary to regulations, children are placed together with adult users; and that the existing shortcomings of the institutional child care system display elements of inhuman or degrading treatment, the National Assembly orders the competent public authorities to intensify activities on deinstitutionalization, i.e. reduction of capacities of the existing residential social welfare institutions and their phasing out, while ensuring full community child care and providing comprehensive support.
3. With regard to the assessment of the Protector of Citizens that in residential social welfare institutions a number of children with mental disorders and/or intellectual disabilities are isolated, and having in mind the position of the UN Committee against Torture that isolation of persons with severe or acute mental disorder is not allowed, as well as the position of the UN Special Rapporteur on Torture that isolation of such persons, regardless of its duration, constitutes cruel, inhuman or degrading treatment, the National Assembly orders the competent public authorities to take all available measures to prevent residential social welfare institutions from isolating children with mental disorders and/or intellectual disabilities.
4. The National Assembly endorses the recommendations the Protector of Citizens gave to the competent authorities in the capacity of the National Preventive Mechanism with the aim of improving the position of convicted persons placed in the Juvenile Correctional Institution Valjevo, as well as users placed in the Centre for Children and Youth with Disabilities "Veternik".
5. This Conclusion shall be published in the "Official Gazette of the Republic of Serbia".

RS No. 74

Done in Belgrade, on 23 October 2014

NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

PRESIDENT
Maja Gojković



Republic of Serbia has signed the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment in 2003. Law on ratification of the Optional Protocol was passed in 2005, and Serbia became a party to the Optional Protocol upon submitting the ratification instrument in 2006. Serbian Ombudsman was entrusted with performing the work of the National Mechanism for Prevention of Torture (NPM) in cooperation with the Ombudspersons of the Autonomous Provinces and civil society associations which have statutory goal to promote and protect human rights and freedoms.

During the second half of year 2011 Serbian Ombudsman has undertaken preparatory activities to enable NPM's functioning. Agreements of cooperation were signed with the Provincial Ombudsman of Autonomous Province of Vojvodina and nine civil society organisations. Funds necessary for functioning of the NPM were foreseen in the budget of the Serbian Ombudsman. NPM visits commenced in February 2012.

