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Protector of Citizens
Ombudsman

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**THE SUBMISSION OF THE PROTECTOR OF CITIZENS (SERBIAN NHRI) ON
IMPLEMENTATION OF THE CONVENTION AGAINST TORTURE AND OTHER
CRUEL, INHUMAN OR DEGRADING TREATMENT IN THE REPUBLIC OF SERBIA
PRIOR TO THE EXAMINATION OF THE THIRD PERIODIC REPORT OF THE
REPUBLIC OF SERBIA AT THE 72nd SESSION OF THE COMMITTEE**

INTRODUCTION

In the capacity of the National Human Rights Institution, the Protector of Citizens submits the Contribution on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: the Convention) to the United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: "the Committee") prior to the examination of the Third Periodic Report of the Republic of Serbia at the 72nd session of the Committee.

The contribution is based on the relevant data which Protector of Citizens has at its disposal and consists of two parts.

The first part contains the answers to the List of Issues prior to reporting (*LoIPR*) submitted by the Committee to the Republic of Serbia in 2017, while the second part is the overview of the Protector of Citizens' operations in the capacity of the National Preventive Mechanism.

The contribution covers the period from 2019 to October 2021 in order for the Committee to get acquainted with the relevant information on the implementation of the Convention prior to the examination of the Third Periodic Report of the Republic of Serbia.

The Protector of Citizens is the National Human Rights Institution (NHRI) of the Republic of Serbia holding the highest A status awarded by the Global Alliance of the National Human Rights Institutions. This status was first awarded to the Protector of Citizens in 2010 followed by reaccreditation in 2015 for the period until 2020. At December 2020 session of the Subcommittee for Accreditation of the United Nations, the decision on granting the status to the Protector of Citizens was deferred to October 2021.

Since its establishment, the Protector of Citizens has been continuously developing and strengthening regional and international cooperation at the bilateral and multilateral level with relevant actors in the field of torture prevention and is convinced that this contribution will be a useful source of information for the Committee on the Implementation of the Convention, especially in view of the position of the Protector of Citizens as a National Human Rights Institution.

ANSWERS BY THE PROTECTOR OF CITIZENS TO THE LIST OF ISSUES PRIOR TO REPORTING (*LoIPR*)

This part of the contribution contains the answers by the Protector of Citizens to the List of Issues prior to reporting (*LoIPR*) submitted by the Committee to the Republic of Serbia in 2017, with special reference to the period from 2019 to September 2021, in order to inform the Committee on the implementation of the Convention in the Republic of Serbia prior the forthcoming examination of the Third Periodic Report of the Republic of Serbia at the 72nd session of the Committee.

1. 1. *With reference to the Committee's previous concluding observations (para. 9) and the State part's follow-up replies please indicate whether:*
 - (a) *All detained persons undergo an independent medical examination from the outset of deprivation of liberty, out of hearing and sight of police officers unless requested so by the doctor;*
 - (b) *The medical record contains: (i) an account of statements made by the person that are relevant to the medical examination; (ii) objective medical findings based on a thorough examination; and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings; and the results of the examination are made available to the detained person and his or her lawyer; and*
 - (c) *Prison governors bring all medical reports containing suspected injuries of torture to the public prosecutor; and doctors can bring such record directly to the public prosecutor on a confidential basis.*

In performing the activities of the National Preventive Mechanism (hereinafter: the NPM), during the visits to police departments and police stations as parts of these departments, the Protector of Citizens pays special attention to the manner how fundamental rights of persons in police custody are exercised including the right to access to doctor and medical examination. With regards to this, it was confirmed that for the persons detained by the police on any basis, the comprehensive information clearly defining all rights pertaining to them (including the right to access to doctor) is provided in the Serbian language, national minority languages as well as another language the person in custody may understand.

Police officers provide for every person in need for doctor examination or with visible injuries such examination and in smaller communities every person is taken to a health care institution for a medical examination prior to police custody in order for a doctor to provide an opinion on whether the person is capable of being in police custody. The confirmations of the doctors on whether the person is capable of police custody are found in the documentation inspected by the NPM.

As a rule, police officers do not attend medical examinations, except in situations when the doctor requests it for security reasons. However, police officers in most of the visited police stations do not record the fact that they attended the medical examination upon the request of the doctor. The NPM issued a recommendation to visited police stations that in the cases when a doctor requests the attendance of police officers at the examination for security reasons, it must be recorded in an official note or custody minutes. Acting upon the stated recommendation, during the visits to police stations in 2021, the NPM confirmed that police officers started acting upon it and executing official notes in which they state also the information that the doctor requested the presence of police officers and that they were at a sufficient distance which provided confidential conversation between the person and the doctor so that they could monitor the person in custody, but not to hear what the person and the doctor talked about.

Furthermore, during the visits to institutes for the enforcement of penal sanctions, the NPM paid special attention to the manner of conducting of the first medical examination upon the reception in the institute, taking into account the importance of the role the services for health protection have in the fight against ill-treatment.

During the visits to institutes for the enforcement of penal sanctions in 2018 and 2019, the need for taking activities to improve the documenting of injuries was noticed, in the manner that in practice it should be provided that all injuries are recorded in special forms designed for this purpose and marked in the body charts, photographed and recorded both in the medical file of the person deprived of liberty and in the special injury record – the book of injuries as well as the information on potential ill-treatment or violent treatment of the detainee should be submitted immediately and without further delay to competent investigative authorities accompanied by relevant documentation.

During the visits in 2020 and 2021 the progress in documenting injuries and taking further activities regarding these and sending information to the competent public prosecutor's office was noticed. With regards to this, the practice of taking photos of noticed injuries and drawing these into the body charts (special forms are provided for this purpose) was introduced, and the doctor entered the opinion on the connection between the statement of the person and caused injuries in the report on confirmed injuries. The NPM confirmed that managers of institutes, as a rule, complied with the obligation to inform the competent public prosecutor's office on the cases when they admit the person with injuries and when there is a reasonable doubt that the person in custody was subject to violent treatment before the reception to the institute.

2. 2. With reference to the previous concluding observations (para. 19) and the State party's follow-up replies, please provide updates on:

(a) The steps taken to prevent violence, harassment and intimidation against human rights defenders, journalists, Lesbian, Gay, Bisexual, Transgender and Intersex persons and ethnic minorities, in particular the Roma community;

In May 2020, the Protector of Citizens signed the Agreement on establishing the platform for recording cases of safety endangerment and pressures on journalists and other media actors with seven media associations and organizations and three journalist unions. The agreement was signed with the Serbian Journalist Association, Serbian Independent Journalist Association, Independent Journalist Society of Vojvodina, Independent Electronic Media Association, Media Association, Online Media Association, Business Association of Local and Independent Media Association "Local Press", Union, Branch Culture, Art and Media Union "Nezavisnost" (Independence) and Autonomous Union of Employees in Serbian Graphics, Publishing, News and Film Industry.

The goal of setting up the platform is to establish a single database on the attacks against journalists and more efficient mechanism of protection of journalist safety. Accurate recording of every individual case of endangerment of the safety and any form of pressure against journalists and media workers shall contribute to more effective actions of competent public authorities in cases of journalist safety endangerment. Collected information would enable more efficient reaction of the Protector of Citizens to activities of competent authorities upon reported cases of violation of the freedom of media and freedom of expression. The data on the assumed measures would be available at any moment with the aim of oversight of the removal of potential detrimental consequences to the safety of media workers. In December 2020, the Protector of Citizens became a member of newly formed Working group for the protection and safety of journalists which was established under the auspices of the Ministry of Culture and Information and the Government of the Republic of Serbia.

The Working group should enable more efficient responses of competent authorities in cases of attack against journalists and monitor implementation of all activities taken with the aim of protecting their safety.

Articles 1 and 4

3. *3. With reference to the previous concluding observations (para. 8), please describe the steps taken to (a) align article 136 and article 137, paragraphs 2 and 3, of the Criminal Code with all elements of the crime of torture, as defined in article 1 of the Convention, (b) ensure that the acts of torture or ill-treatment are punished with penalties commensurate with their grave nature and (c) repeal the statute of limitations for the crime of torture and reinstate investigations and proceedings for statute-barred cases of torture.*

The provisions of the Criminal Code were not adjusted to the definition of torture from Article 1 of the Convention despite the fact that the Protector of Citizens has indicated to this need for many years.

Article 2

4. *4. Please provide updated information on effective measures adopted to guarantee that all detained persons, including minors, are afforded in practice all fundamental legal safeguards from the outset of their deprivation of liberty, such as being informed orally and in writing of the charges against them and their rights; having prompt access to a lawyer or legal aid; immediate access to an independent medical examination; and to inform a family member or any other persons of their own choice about their deprivation of liberty immediately after apprehension.*

During the visits to police stations, the NPM confirmed the improvement of the treatment of brought-in, detained persons and arrested by police officers with regards to the respect of their fundamental rights, which are at the same time the guarantee against ill-treatment as well as the improvement of the records kept by police stations for detained persons.

By the inspection of the documentation at visited police stations, which was confirmed also during the unmonitored interviews with detained persons, as well as in the interview with persons in pre-trial detention (performed during the visits to institutes), it was confirmed that the person deprived of liberty is instantly, in the language s/he understands, informed about the reasons for the deprivation of liberty, the charges against him/her, as well as on his/her rights, the written notification on rights which is immediately upon the apprehension and detention in the police station handed to him/her, which is confirmed by the detainee's signature, about the right of the detainee to inform a family member or another close person as well as the lawyer on the deprivation of liberty. The person is allowed to engage the lawyer of his/her own choice, otherwise, if the detainee should be assigned the lawyer ex officio, it is done according to the list of the Bar Association of Serbia (BAS) and established "Call center" of BAS for the appointment of lawyer ex officio.

Decisions on detention inspected by the NPM team during visits were handed to detainees timely, immediately after the apprehension which was confirmed by these persons by signature. Moreover, it is noticeable that medical reports and medical documentation as a rule are given to detained person and not stored in detention files. Police officers provided every person who needed medical examination or was visibly injured with such examination and in smaller communities every person is taken to health care institution for a medical examination prior to detention in order for a doctor to provide opinion on whether the person is capable of detention.

Acting in compliance with NPM recommendations, police officers started entering into the minutes on detention, apart from the name and relations of detained persons, the time when a close person was informed about detention as well as the reasons due to which the detained person after the termination of detention refused to receive or sign the minutes on detention.

In order to further improve the treatment of apprehended and detained persons, the NPM issued this year to the Ministry of Interior a recommendation with the aim of the improvement of the recording of the exercise of rights of apprehended and detained persons to access to lawyer by taking necessary activities to record the data on whether the person wanted to engage the lawyer of his/her choice, whether s/he was assigned the lawyer ex officio when it is legally binding and whether s/he

had an undisturbed conversation with the lawyer with recording of all relevant data on the exercise of this right: data on the lawyer, time of contacting, time when the lawyer approached the apprehended and detained person and the time when the lawyer had a conversation with the person. The hearing of the juvenile suspect and collection of information from the juvenile is conducted exclusively by trained police officers.

5. *In relation to the previous concluding observations (para. 21), please provide information on:*
- (a) The allocation of resources to enable the Ombudsman's Office to function effectively and independently, in particular with regard to its capacity to handle complaints; (b)*
 - (b) Measures taken to ensure that the Ombudsman's Office investigates and acts on complaints without undue pressure or reprisals. Please comment on reported threats and a smear campaign against the Ombudsperson, Sasa Jankovic since January 2015;*
 - (c) The number and types of complaints received by the Ombudsman's Office, and the outcome of complaints of torture and ill-treatment;*
 - (d) The level of implementation of the recommendations made by the Ombudsman's Office, particularly at Sremska Mitrovica Correctional Institution, Pančevo District Prison and the Special Prison Hospital;*
 - (e) Whether a separate department or unit for the national preventive mechanism (NPM) functions has been established within the Ombudsman's Office, in line with the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010; an*

The organizational unit of the NPM was provided with premises in the building used by the Protector of Citizens. The premises are entirely equipped with office furniture, telephones, computers, and internet connection. The employees of the NPM were provided with cell phones, photo cameras and laptops. With the aim of providing material conditions for the performance of NPM activities, primarily for the transportation to the institutions where persons deprived of liberty are accommodated, a van with 7+1 seats was provided.

The Protector of Citizens has a separate budget line for the NPM activities. By the adopted Law on Budget for 2019 special purpose funds were allocated for the performance of the NPM activities in the amount of: RSD 4,800,000.00 and the funds in the same amount were allocated for 2020.

On 20th July, 2017 Zoran Pašalić MSc was appointed to the office of the Protector of Citizens and since taking the office, the Protector of Citizens has not faced pressure of any kind.

In 2019 the Protector of Citizens received 3276 complaints. In the field of rights of persons deprived of their liberty, in 2019 the Protector of Citizens reviewed 184 cases, of which there were 174 complaints of citizens and 10 own-initiative investigations. The majority of complaints (125) referred to the treatment of persons serving the prison sentence and 20 complaints to the treatment of persons at the execution of the pre-trial detention measure. Complaints of persons in pre-trial detention, as in previous years, referred to the duration of detention, violation of the right to trial in reasonable time and violation of the right to fair trial¹, while the convicts' complaints referred to discontent with treatment work and health care.

In two control investigations initiated upon the complaints of persons deprived of their liberty in 2019 the Protector of Citizens confirmed that acting of the controlled administrative authority resulted in the violation of the right of the complainant to the inviolability of physical and mental integrity.

¹ Taking into account that the Protector of Citizens is not authorized to control the operation of courts, complainants were referred to contact competent authorities in this respect.

In one investigation that monitored police officers' conduct, the Protector of Citizens determined that, by excessive use of coercive measure, police officers violated the right of the complainant to the inviolability of the physical and mental integrity by inflicting bodily injuries during the apprehension and deprivation of liberty; and on the same occasion, the omissions in the operation of internal control were identified. Thus, the Protector of Citizens issued recommendation to take all measures and actions prescribed by the law to determine the disciplinary accountability of police officers who treated the complainant immediately during his deprivation of liberty as well as to take all necessary measures so that in future internal control mechanisms in police would actually fulfill in every individual case the purpose for which they were prescribed, which is: conscientious, professional and impartial assessment of the justification and regularity of the use of means of coercion by police officers. The recommendations were acted upon.

Furthermore, in the oversight procedure the Protector of Citizens determined illegalities and irregularities in the treatment of the convict by employees of security service as well as the omissions in the conduct of doctors at the institute during medical examination to establish the existence of bodily injuries and existence of indications that the convict was subject to violent treatment, which resulted in the violated right of the convict to inviolability of physical and mental integrity with regards to the protection against torture, inhuman or degrading treatment or punishment as well as the right to health care. Recommendations were issued that in the legally prescribed procedure the accountability of employees for the treatment of the convict should be inspected, that medical examination of convicts following the application of coercive measures, and any time during the examination when injuries are noticed on the convicts' body, should be conducted in compliance with Istanbul Protocol, meaning that noticed injuries should be photographed, described in details in the medical file and in a separate report on confirmed injuries which is submitted by the doctor to the manager, as well as that the doctor should enter the allegations of the convict on how the injuries were inflicted and express the opinion on the link between the allegations and caused injuries. All recommendations were acted upon.

In 2020 the Protector of Citizens received 5,056 complaints, which is an increase by approximately 54 percent in comparison to 2019. In the field of rights of persons deprived of liberty, the Protector of Citizens handled 325 cases in 2020, of which there were 293 citizen complaints and 32 own initiative investigations.

The greatest number of complaints (234) referred to the treatment of persons serving the prison sentence or at the execution of pre-trial detention. The complaints of convicts referred predominantly to the dissatisfaction with the provided health care and treatment work, as well as the dissatisfaction with the fact that, due to epidemiological measures, they were unable to exercise extended rights and privileges have work engagement outside the prison and also in one period to receive families or other close persons. The Protector of Citizens did not confirm in any of the investigations initiated upon the complaints of convicts or detained persons in 2020 that the treatment of the controlled authority resulted in the violation of the right of complainant to the inviolability of physical or mental integrity.

In this year, 48 complaints were received about the treatment of detainees and persons against whom police powers were exercised, and the Protector of Citizens initiated 25 oversight investigations on the basis of citizen complaints about illegal actions of the police and excessive use of force during July public gatherings. Regarding own initiative investigations, the Protector of Citizens initiated in total 12 oversight procedures of legality and regularity of the operation of Ministry of Interior, 8 of which referred to the activities of the police during public gatherings of citizens in July. During the oversight procedures it was confirmed that, inter alia, individual members of the Ministry of Interior during the protest in July, 2020 in Belgrade and Novi Sad illegally and irregularly treated individual citizens and thus violated their right to inviolability of physical and mental integrity and right to dignity. Thus, the Protector of Citizens issued recommendations so that identified shortcomings would be removed, with the aim of the improvement of the operation of authorities and prevention of similar omissions in future.

Taking into account that the introduction of visible identification labels would provide more efficient supervision and implementation of the investigation and prevention of potential ill-treatment during the exercise of police activities and application of police authorizations and at the same time contribute to the police integrity and responsibility, the Protector of Citizens issued the recommendation to the Ministry of Interior to provide that all police officers during the treatment of citizens and application of police authorizations wear visible identification labels on the basis of which it is possible to identify easily every officer who treats citizens. The Protector of Citizens also issued the recommendation that the Ministry of Interior should provide by continued training that all police officers act during the exercise of police powers in compliance with the law and other regulations and observe the standards designated by the European Convention for the protection of human rights and fundamental freedoms, UN Basic Principles on the use of force and firearms by law enforcement officials, European Code of Police Ethics and other international acts referring to the Police as well as that it is necessary that the Minister of Interior, Police Director and Heads of Police Departments, exercising their role in the fight against impunity for torture, send a strong message that the inadequate treatment of citizens is against the law, unprofessional and subject to corresponding sanctions. The stated recommendations were acted upon.

Acting upon own initiative, the Protector of Citizens, in the oversight procedure of the operation of the Ministry of Interior, confirmed the shortcomings with regards to the treatment by police officers of the apprehended and detained person, which reflected in illegal and degrading treatment during the apprehension, which violated the right of citizens to inviolability of physical and mental integrity and right to dignity. Therefore, the Protector of Citizens issued recommendations so that the identified shortcomings would be removed with the aim of the improvement of the operation of the authority and prevention of similar omissions in future. The recommendations were acted upon, so, inter alia, there was a training organized for police officers with regards to valid regulations and standards referring to the prohibition of torture, inhuman or degrading treatment as well as the training on legal and proper application of police authorizations and manner of their documenting and recording and a disciplinary procedure was initiated against the police officer. The Internal Control Department also filed criminal charges to the competent public prosecutor's office.

In one of oversight procedures initiated upon the complaint received by the Protector of Citizens from a person in pre-trial detention indicating to illegal treatment by police officers during the arrest, the Protector of Citizens confirmed that the medical examination during the admission of the complainant in prison was not conducted in compliance with regulations and standards, which is one of the most important mechanisms of protection against potential ill-treatment. Namely, the report on the conducted medical examination failed to describe confirmed injuries in detail and the opinion of the doctor on the relation between the allegations of the person in custody and caused injuries was not entered, which resulted in the violation of the right of the complainant to protection against ill-treatment.

Acting upon issued recommendations, the Administration for the Enforcement of Penal Sanctions of the Ministry of Justice took activities with the aim of the provision of the observance of Istanbul Protocol by health care service and the Training Center of the Administration for the Enforcement of Penal Sanctions received the recommendation of the Protector of Citizens so that all employees of the prison would be included in the training on valid regulations and standards in the field of rights of persons deprived of liberty and prohibition of ill-treatment.

Since the beginning of 2021, the Protector of Citizens received 210 complaints of persons deprived of liberty, majority of which were filed by persons accommodated at institutions for the enforcement of penal sanctions (174) and a smaller number of these referred to the violation of the right to inviolability of physical and mental integrity (four investigations are in progress). The recommendations issued by the Protector of Citizens, upon completed oversight procedures of legality and regularity of the Ministry of Interior operation, read that the Ministry should organize and conduct trainings for police officers on the police officers' conduct upon being informed by the health care institution that the person with confirmed injuries which, according to his/her

allegations, were caused by police officers, is in this institution, in order to ensure that police officers' conduct is in compliance with applicable regulations and Investigation Conducting Methodology in Cases of Police Ill-Treatment, as well as to ensure the provision of trainings for police officers of the Internal Control Department on the activities in cases of investigation of alleged ill-treatment by police officers.

With regards to the complaints of a great number of convicts about accommodation in the IV pavilion of the Penitentiary Institution in Sremska Mitrovica and monitoring acting upon the issued recommendation by the NPM from 2012, that without further delay the adaptation of this pavilion should be done since it does not meet the requirements for the accommodation of convicts, in 2020 the NPM paid oversight visit to this institution. The NPM confirmed that the "IV pavilion" facility at Penitentiary Institution Sremska Mitrovica was overcrowded and that it did not meet the requirements for the accommodation of convicts pursuant to valid regulations and standards and issued recommendations with regards to this. The recommendations stated that without further delay measures should be taken so that all convicts in this facility would have accommodation in compliance with applicable regulations and standards. Also, it was recommended that from that moment on the convicts should not be located in dormitories as long as prescribed accommodation conditions are provided. Acting upon the recommendation the Penitentiary Institution Sremska Mitrovica does not accommodate convicts in this pavilion anymore and the construction of a new pavilion for the accommodation of convicts was completed.

The old District prison in Pančevo does not exist anymore, but a new penitentiary institution in Pančevo was built and it started operating in the end of 2018. Last year the NPM paid first regular visit to this institution and confirmed that it fulfills applicable regulations and standards. It was a two-day visit and during it the complete situation at the institution was controlled with regards to the respect of the rights of persons deprived of liberty. The report was executed on the paid visit in which the NPM praised the examples of positive practice in the treatment of persons deprived of liberty at this institution and issued four recommendations for further improvement of the treatment, which primarily referred to the training of the treatment officers and organization of group treatment work and specialized treatment program. All issued recommendations were acted upon by the Institution within the deadline.

In October 2018 the new Rulebook on the Internal organization and Systematization of jobs at the Secretariat of the Protector of Citizens was passed and it was approved at the plenum by the National Assembly in December the same year. The new Rulebook renamed the Secretariat of the NPM to the Department and a greater number of job positions was systematized with 6 employees in total – three independent and three senior advisors, of whom one is the Head of the Department.

Administrative and technical activities for the purpose of the NPM operation are performed by the Secretariat of the Protector of Citizens.

6. 7. (e) *Any international agreement to prevent and combat human trafficking signed and ratified by State party.*

The new Law on the Protector of Citizens, due for adoption by the end of 2021, specifies that the Protector of Citizens act as the National Rapporteur on Combatting Trafficking in Human Beings, pursuant to the Law on ratifying the Council of Europe Convention on Action against Trafficking in Human Beings.

Article 3

7. 8. *In light of the previous concluding observations (para. 14), please describe the measures taken to ensure the prompt and fair individualized asylum determination procedure.¹⁶ Please indicate whether the State party has allocated sufficient financial and human resources to the Asylum Office for the speedy process of claims. Please detail the steps taken to ensure that (a) all asylum seekers, including those at Nikola Tesla Airport and transit zones, are afforded procedural safeguards including free legal aid and interpretation services at all stages of the asylum procedure; and (b)*

vulnerable persons seeking asylum, such as victims of trafficking or torture, unaccompanied minors and persons with disabilities, are identified and referred to appropriate authorities without delay.

Within its activities the NPM regularly oversees the position of migrants in Serbia. There are still small number of migrants who actually seek asylum. Migrants themselves express the intention to seek asylum by contacting the patrol or coming to the police station. They can also contact the officers of the Commissariat for refugees and migrations, where they receive the questionnaire of the Asylum office to complete and then take them to police station. Moreover, UNHCR is regularly present at centers for reception and accommodation of migrants and assesses the needs of every newly arrived migrant. The person who needs international protection will be informed about their rights and possibilities and refer to the association which provides legal assistance in the asylum procedure. The associations which perform activities at centers also provide support on a daily basis through motivation, counseling and solving of other relevant problems also with regards to the asylum procedure. According to officers in reception centers, lawyers come to centers on a regular basis, take powers of attorney and take further actions in the procedure. After the registration at the police station, migrants who expressed the intention to seek asylum are relocated from reception centers to an asylum center.

Migrants at reception centers interviewed by the NPM during the visits stated that they were familiar with who they could contact if they wished to enter the asylum procedure. Social welfare centers are always engaged when it comes to unaccompanied minors. Minor unaccompanied migrants may contact any center for reception and accommodation when they are provided with a temporary guardian from a local social welfare center depending on which reception center they contacted for accommodation. For minor unaccompanied migrants there are two asylum centers designated, as well as five homes. Upon the accommodation to these institutions designated for them, they are given a new guardian.

During the last year, the NPM paid special attention to overseeing of the treatment of minor unaccompanied migrants as the most vulnerable category of migrant population. The novelty is that minor unaccompanied migrants are accommodated at the asylum centers in Bogovađa and Sjenica – under the competence of the Commissariat for Refugees and Migrations, homes Vasa Stajić, Institute for Education of Children and Youth in Niš and J.J. Zmaj under the competence of the Ministry of Labor, Employment Veteran and Social Affairs and at two houses managed by non-governmental organizations: “Pedro Arupe” house in Belgrade – *Jesuit refugee service* organization and Kuća Spasa in Loznica – *Border free Serbia* organization.

During these visits the NPM established that the conditions where minor migrants stay were satisfactory and the social welfare institutions where they were or in houses managed by non-governmental organizations were exceptionally good, beneficiaries had many activities at their disposal and certain non-governmental organizations participated in the their realization, that beneficiaries are provided with an adequate health care, that all beneficiaries are informed on the reasons of accommodation as well as their rights and obligations. The communication is mostly performed without major difficulties in English and often in Serbian and the employees have interpreters available. In the Thematic report from the stated visits, the NPM issued recommendations which primarily refer to the need to hire a sufficient number of social workers in the asylum centres places where minor unaccompanied migrants are accommodated, so that all activities on the reception, accommodation and protection of minor migrants are performed without obstructions and in a quality manner. Moreover, it was indicated to the need for the competent ministry to continue with the investment and support to the greatest possible extent the functioning of the accommodation of minor unaccompanied migrants at social welfare homes and houses managed by charity organizations.

During the visits of the NPM to reception centers for migrants and asylum centers, it was noticed that interpreters were present in all locations. Interpreters provide direct services of translation to

migrants on a daily basis or if needed. With regards to the language structure in centers, interpreters for Arabic, Farsi, Pashto, Urdu and English were engaged.

Within the overseeing of the treatment of border authorities at Nikola Tesla Airport and the conditions where persons deprived of their liberty stay in transit zone, the NPM confirmed that activities on the improvement of accommodation conditions where persons in transit zone are staying were taken considering that the works on the reconstruction of the Airport included also the construction of new premises for the accommodation of foreigners whose entrance into the country was denied and which would be in compliance with applicable standards. Furthermore, acting upon the NPM recommendation, the station of the border police Belgrade at Nikola Tesla Airport placed the contacts of relevant domestic and international organizations which provide assistance to persons with denied entrance into the Republic of Serbia in the exercise of their rights in a prominent location in the room where these persons stay.

The Law on Free Legal Aid recognizes the persons seeking asylum in Republic of Serbia as free legal aid beneficiaries.

8. 10. With reference to the previous concluding observations (para. 15), please provide information on the measures taken to:

- (c) Guarantee the legal and administrative safeguards and remedies in forced return procedures; and

The Law on Foreigners, in Article 82 prescribes that the Protector of Citizens, in compliance with the competences from the Law on the Protector of Citizens and Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, shall monitor the procedure of forced removal of foreigners.

UNHCR provides important support to the NPM in these activities by providing translation services. During the conducted monitoring, it was noticed that police officers conducting the removals respected the integrity and dignity of foreigners and showed high level of professionalism in the performance of their job. The NPM noticed the improvement of the treatment of foreigners by police officers and that foreigners were timely, not less than 24 hours before, notified about the conducting of forced removal, that they are allowed to inform the person of their choice on their removal from the country, etc. Furthermore, the activities on the expansion of the capacity of the Reception center for foreigners were taken so the construction of the new facility was initiated and with regards to this the NPM issued a letter to the Ministry of Interior indicating international standards which should be met by the facilities of this type. The facility shall contain accommodation rooms, dining room and kitchen, the room for medical examinations and other necessary premises and in cooperation with the Ministry of Health medical staff will be provided in the Reception center, who would be constantly present, conduct medical examinations, prescribe and distribute therapy and monitor general hygienic state.

In the procedure of forced removal, the NPM confirmed that foreigners in the procedure do not always have the option to indicate to the existence of the facts which would indicate to the prohibition of their forced removal to a certain country. The NPM issued to the Ministry of Interior the recommendation with the purpose of full observance of the *non-refoulement* principle. The response of the Ministry stated that it was planned in cooperation with UNHCR to organize and hold seminars and trainings for officers who treat foreigners at the territory of entire country, with regards to the inspection of meeting of the conditions for passing the decision on return in every specific case but the dynamics of the realization of these activities was conditioned by epidemiologic situation.

Early in 2021 the NPM monitored the treatment of migrants at the borders with North Macedonia, Bulgaria and Croatia. The general impression after having tens of discussions with migrants accommodated at reception centres and with officers was that there are many of them who illegally

pass the border of Serbia and Bosnia and Herzegovina, Croatia, Hungary and Romania and are subjected to illegal expelling and physical and verbal violence by the police of neighbouring countries as well as stealing money, personal objects, telephones and similar. When it comes to Serbia, all accusations referred to the events in the south of the country and rarely included physical violence.

When it comes to the treatment by officers of the Republic of Serbia, these allegations were impossible to verify: the witnesses were unable to tell the exact time and place of events or potential perpetrators, and alleged injuries were not documented or visible when the conversation with them was held. On the other hand, the NPM cannot verify the accuracy of the allegations on inadequate treatment by foreign officers.

None of the migrants the NPM discussed with filed complaints in order to investigate the case of illegal treatment they were subject to by police officers after entering the country. The general impression is that migrants do not have the interest to deal with this, since they want to leave the country as soon as possible.

Regardless of this, the NPM indicated in its report on monitoring the treatment of migrants at the state border with North Macedonia to these allegations with the aim of providing that such treatment did not repeat and that in cases when the same occurs, conducting of effective investigation, determination of individual responsibility and sanctioning of responsible police officers are provided. It was indicated to the need to provide clear instructions so as to ensure that all irregular migrants who are entering or have entered to the territory of the Republic of Serbia are individually identified, recorded and subject to legally prescribed procedures. They should also be informed that, if they believe that police treatment has violated their rights, they may file a complaint so that their case would be investigated as well as that due to this they should not suffer any consequences. The Ministry of Interior acted upon this recommendation and the NPM Report was submitted to all smaller organizational units of the regional center of border police with clear order to act in compliance with the recommendation and in compliance with the law, bylaws, instructions and take all necessary measures with the aim of the prevention of torture and other ill-treatment of migrants.

9. *12. Please describe the measures taken to prevent ill-treatment or physical abuse committed by law enforcement officials against asylum-seekers and undocumented immigrants, indicating the number of such cases reported during the reporting period and the penalties imposed on perpetrators thereof. Please indicate whether any sanction has been imposed on the army and police officers who abandoned an asylum-seeking family of seven in the woods close to the Bulgarian border in December 2016. Please also provide updates on the situation of the internally displaced persons living in collective centres and irregular settlements throughout the country.*

During the visit to the Asylum center in Bogovađa in 2020 the NPM received several allegations of minor migrants on inadequate treatment of security service members who are not members of the Commissariat for Refugees and migration but security service provided by the Red Cross of Serbia. Regardless of the stated, the NPM indicated in its report that it was necessary to introduce trainings for the members of security with the aim of education and sensitization to the context of work with children and this report was also submitted to the Red Cross of Serbia so as to take activities of informing officers engaged in the security of the facility that the torture and other cruel, inhuman or degrading treatment or punishment was absolutely prohibited and subject to corresponding sanctions.

In the procedure conducted against the Bogovađa Asylum Center and the Inter-Municipal Social Welfare Center for the municipalities of Ljig, Lajkovac and Mionica, it was determined that the mentioned bodies made omissions in their work because they did not take appropriate measures regarding the physical violence of security workers against unaccompanied minor migrants under the guardianship of the Inter-Municipal Social Welfare Center, who were accommodated in the Bogovađa Asylum Center, nor did they inform the police and the competent prosecutor's office about

this information. Regarding the identified omissions, the Protector of Citizens issued recommendations, and they were acted upon.

Article 10

10. 16. *With reference to the previous concluding observations (para. 20), please provide information on trainings developed to ensure that all law enforcement officials, prison staff, border guards and other public officials are fully aware of the provisions of the Convention. Please provide information on the methodology used to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment.*
11. 17. *Please clarify whether training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is provided to medical personnel and other law enforcement and judiciary officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture. Please indicate whether the training is regular and compulsory, the overall size of the target group and the percentage of those trained during the period under review.*

The Protector of Citizens in the reactive work issued to the Ministry of Interior the recommendation to organize trainings for police officers so as to provide activities in compliance with valid regulations and Investigation Conducting Methodology in Cases of Police Ill-Treatment as well as trainings for police officers of Internal Control Department on the activities in cases of investigation of alleged ill-treatment by police officers.

In the preventive work and the performance of the activities of the National Preventive Mechanism, the Protector of Citizens indicated in recommendations to the need for conducting trainings for criminalist inspectors on hearing techniques and conduct during hearing. Acting upon this recommendation, the Ministry of Interior initiated during 2020 specialist trainings of crime inspectors on hearing techniques during the interrogation of suspects.

In the thematic report of the NPM dedicated to monitoring of police treatment of citizens during protests in July 2020, the recommendation was issued to the Ministry of Interior to conduct systemic and continued training of police officers on the role of police and application of police authorizations during public gatherings. Furthermore, the NPM submitted this, as well as individual reports from the visits to police stations to the Commission for the implementation of standards of police activities in the field of torture prevention so as to continue the activities taken with the aim of raising of the awareness on the prohibition of any form of inadequate treatment of persons deprived of liberty.

The NPM was informed on trainings of police officers within the Program of professional trainings for 2021 and among them there are trainings to the topic "The protection of human rights of persons deprived of liberty and police officers", as well as thematic units "Application of police authorizations" and "Commission for the implementation of the standard of police activities in the field of torture prevention". Moreover, attendants of the Basic police training within the subject "Police operation in the community, human rights and police code of ethics", "Application of police authorizations and use of coercive means" and "Suppression of criminality" acquire knowledge and skills in the field of the protection of human rights and application of police authorizations. Police officers also had trainings on the treatment of sensitive or especially vulnerable groups of migrants, such as trainings for the treatment of minors and human-trafficking victims.

Within the project of the Council of Europe Strengthening of the Protection of Human Rights of Persons Deprived of their Liberty in Serbia the working group for the execution of the Manual for conducting information interview with different categories of persons was organized and it will be working on the development of the manual/ guidelines for conducting interview/ treatment of vulnerable categories of persons.

Internal manual for medical staff at the institutes which, *inter alia*, refers to the manner of documenting of injuries in compliance with the Istanbul Protocol was executed and distributed to all institute and trainings with regards to its applications were initiated.

Article 11

12. 18. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please indicate the frequency with which they are reviewed.

By passing bylaws, the improvements of the normative framework important for the operation of the police and position of police officers and other employees of the Ministry were continued. The Rulebook on the manner and conditions of application of police authorizations towards minor persons² and the Rulebook on police authorizations³ were adopted and in the content of the Rulebook there are incorporated remarks and recommendations of the Protector of Citizens whose purpose was to prevent the reduction of the reached level of exercise of rights in the procedures before police as well as to clearly define which police authorizations and under which conditions are applied on adults and which on minors.

During the visits to police stations, the NPM confirmed that the state of the detention premises were improved, since many detention premises were adapted in compliance with standards. Moreover, it was noticeable that there was improvement in the treatment of apprehended and detained persons by police officers with regards to the observance of their fundamental rights as well as the improvement of the records kept by police stations for detained persons, which was discussed in the response to question no. 4.

13. 19. With reference to the previous concluding observations (para. 12), please provide information on the measures taken to reduce prison overcrowding, including the use of alternatives to imprisonment, both before and after trial, and the construction of new prisons in Pančevo and Kragujevac. Please provide statistical data, disaggregated by sex, age, ethnic origin or nationality, on the number of pretrial detainees, convicted prisoners and persons deprived of their liberty in psychiatric hospitals and other institutions for the mentally or physically disabled, and the occupancy rate of all places of detention. Please also inform the Committee on the measures taken to:
- (a) Improve the material conditions of prison establishments and enhance out-of-cell activities;
 - (b) Remove all the "non-standard issue objects" (i.e. bicycle locking cables, wooden floor tiles and baseball bats, etc.) from all police premises where persons may be held or questioned;
 - (c) Utilise audio-video equipment for monitoring interrogation rooms;
 - (d) Afford all persons deprived of liberty access to medical care, including mental healthcare and to improve the quality of prisoners' medical records;
 - (e) Increase the number of prison staff, including medical doctors and nurses;
 - (f) Prevent incidents of death, suicide, attempted suicide and inter-prisoner violence in custody. Please provide statistical data on such incidents, indicating the causes thereof and results of investigations into these incidents and measures taken by state authorities to prevent such phenomena;
 - (g) Protect the rights of vulnerable detainees, notably women, children and persons with mental conditions; and
 - (h) Ensure the legal safeguards to persons in specialized institutions subjected to involuntary hospitalization; and to adopt and implement clear guidelines governing the use of restraint in health-care facilities.

² "Official Gazette of RS", number 83/19.

³ "Official Gazette of RS", number 41/19.

The Administration for the Enforcement of Penal Sanctions continued to invest in material conditions of the persons deprived of liberty and increase of the capacity of the institute for the enforcement of penal sanctions by constructing new pavilions at the Penitentiary Institution in Sremska Mitrovica, District Prison in Leskovac, and also material conditions were improved at District Prison in Novi Sad, Special Prison Hospital, District Prison in Belgrade, Penitentiary Institution in Požarevac, Penitentiary Institution for Women in Požarevac, etc.

This year the Draft of the Strategy of the Development of the System of Enforcement of Penal Sanctions for the Period 2021-2027 was executed and it, inter alia, plans the continuation of the activities of the improvement of material conditions at the institutes for the enforcement of penal sanctions, especially the activities at the reconstruction of pre-trial detention units at institutes.

As previously said, last year the NPM paid the first regular visit to new Penitentiary Institution in Pančevo, which was constructed in compliance with the European standards with regards to the accommodation for convicts and detainees.

During 2021 the NPM visited twice the Penitentiary Institution for women in Požarevac in which the accommodation conditions were improved by the construction of new facility which entirely meets contemporary standards of the accommodation of persons deprived of their liberty. The capacity of the facility is sufficient to accommodate around 160 persons and on the day of the visit 81 convicts were accommodated there, classified into half-open and open department.

In 2021 the NPM visited also the District Prison in Leskovac, since a new facility for the accommodation of convicts with the capacity for 200 persons was constructed within this institute.

The works on the construction of new prison in Kragujevac are in progress and planned to be completed by 2022.

The Ministry of Interior, acting in compliance with the Rulebook on the conditions which should be met by the premises for detention of persons, continued with the improvement of conditions for the staying of detained persons at the detention premises – all detention premises in PD for the city of Belgrade were adapted and a great number of detention premises in other police departments. All premises were adapted in compliance with valid regulations and standards, which to a great extent improved the conditions of staying of detained persons. The adaptation of detention premises will continue.

However, most of police administrations and police stations visited by the NPM still don't have separate premises for hearing, which are equipped with technical equipment for audio and/or video recording, even though the existence of these premises is one form of preventive activity and a significant measure of protection of the persons deprived of liberty against potential prohibited treatment by police officers.

The NPM noticed efforts of the Ministry of Interior to provide for the needs of police stations separate premises designated for keeping temporary confiscated objects, so that they wouldn't be kept at premises not designed for it and in an inadequate manner and indicated to the need to continue taking of these activities and provision of such premises in all police stations. Finally, what is encouraging, is the fact that by visiting offices of criminal inspectors, in the offices and closets in the majority of police stations there were no non-standard and/or unlabeled cases from criminal offences found.

The NPM issued a recommendation to competent authorities – to the Ministry of Interior and Ministry of Justice, with the aim of the improvement of the treatment of persons detained by police accommodated at the premises of the institute for the enforcement of penal sanctions. The authorities received the recommendations, when detained persons are accommodated at the prison premises, always to accommodate them separately from other persons deprived of liberty, to enable staying in

fresh air and to be provided with means and conditions for personal hygiene maintenance. During the visits, the NPM noticed that this recommendation is acted upon.

During the visits in 2020 and 2021 the NPM noticed positive examples of the institutes which made the program of work engagement for persons in pre-trial detention and the progress in the increase of employment of convicts is noticeable. However, there is still the need to provide persons in pre-trial detention and convicts accommodated in closed prison units with sufficient available activities as well as staying during the day in common premises with other convicts and pre-trial detainees with whom they do not have limited contact due to conducting of criminal proceedings by the court.

Moreover, the problems of understaffing at certain institute services, as well as of trainings of institute officers are still present, especially regarding the trainings targeting officers who perform the treatment activities and whose implementation was aggravated due to epidemiologic situation. The Administration for the Enforcement of Penal Sanctions took activities on the improvement of acting in this respect and development of capacities of institute officials for the development and implementation of new rehabilitation programs, so the trainings of prison staff on the implementation of new specialized programs for group work with prisoners were initiated. Within the project of the Council of Europe, new specialized programs for group work with convicts were made, among them Specialized program for group work with drug addicts which was distributed to all institutes.

Even though in certain institutes additional medical staff was engaged, there is still insufficient number of employees for 24-hour presence at the institutes. Furthermore, during the visits to individual institutes, it was noticed that in the regular prison regime there are certain convicts with mental disorders, for whom in the circumstances of serving the sentence an individualized approach to their treatment, which would include the preparation of the individual plan of treatment and provision of an effective psycho-social rehabilitation treatment cannot be provided. With regards to this, the NPM issued recommendation that the Administration for the Enforcement of Penal Sanctions should provide that all persons with mental disorders serving the prison sentence be dislocated from the regular prison regime and that at inpatient health care unit within the institute, Special prison hospital or other corresponding health care institute they should be provided with the health care suitable for their disease and need for treatment. It was noticed that activities were taken for the purpose of acting upon it. Moreover, as a rule, the psychiatric services were available at the institutes and psychiatrists are permanently employed in bigger institutes, while in smaller ones they are engaged on the contract basis, i.e. visit the institute periodically.

During the visits to detention departments at the institutes for the enforcement of penal sanctions the NPM performed unsupervised interviews with women in pre-trial detention, minors and members of national minorities. There were no remarks to their treatment by institute officers and it was confirmed that they were treated in compliance with regulations, have psychological support available, adequate health care and protection. In a smaller number of cases it was noticed that relatively small number of women in one pre-trial detention unit has as a consequence that some of them during the enforcement of the pre-trial detention measure were, sometimes for a longer period of time, practically in solitary confinement, which was presented in reports. During visits, the NPM did not observe any discrimination of the Roma national minority in detention facilities.

Taking into account that on 21st December last year celebrated 10th anniversary of the adoption of the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)⁴, as well as the fact that the NPM of Serbia on 8th March, International Women's Day, for the first time together with the Association for the prevention

⁴ Available at: https://npm.lls.rs/index.php?option=com_content&view=article&id=463:pci-for-women-in-pozarevac-harmonized-the-treatment-of-female-convicts-with-international-standards&catid=32:reports-on-visits&Itemid=23.

of torture and many monitoring bodies from the whole world, invited public authorities for continued acting with the aim of the protection of women in prison, the NPM visited last year twice the Penitentiary Institution for Women in Požarevac and monitored the implementation of Bangkok rules. The NPM noticed significant improvement of accommodation conditions since the new facility was constructed in compliance with the standards. Special attention was dedicated to the manner of exercise of health care of female convicts, as well as the position of pregnant women and convicts staying with their children at the Institute.

A report with recommendations on the visit was issued to the authorities for rectifying the identified shortcomings and improvement of the treatment of female prisoners. Penitentiary Institution for women in Prison and the Administration for the Enforcement of Penal Sanctions took measures for the purpose of acting upon the recommendations of the NPM. Acting upon recommendations it was provided that neuropsychiatrist visits the Institute more frequently and the proposal for the opening of job position of a permanently employed psychiatrist was submitted to the Administration. New systematization of job positions stipulates four new job positions for the employment of treatment officers. The Institute regulated by internal procedures the search of children with the provision of skillfulness, professionalism and sensitivity and respect for their dignity during the search. The convicts are enabled during the enforcement of solitary confinement to have contacts with family members. Moreover, the Institute stipulated by internal procedures that children visitors leave the premise for visits before the female convict they came to visit, taking into account that the end of the visit may be especially difficult for children and parents and that watching the parent leave as per order of the prison officer may be additionally aggravating for children.

The Penitentiary Institution took measures that pregnant women, nursing mothers and convicts with children are provided with the participation in working and other activities which are adjusted to their needs and possibilities and submitted to the Administration the proposal to expand the systematization of job positions of nursery educators so as to create conditions for childcare in the absence of immediate mother care.

With regards to the application of restrictive measures towards persons with mental disorders, the Protector of Citizens indicated to competent authorities to the shortcomings in regulations since the Law on Protection of Persons with Mental Disorders, contrary to applicable standards includes the provisions which stipulates the measure of patient isolation. Taking into consideration the attitudes of international contracting bodies that the isolation of persons with difficult or acute mental disorders is not allowed, and that their solitude in any duration is a cruel, inhuman or degrading treatment, especially the fact that the application of measures of isolation is not the practice in psychiatric institutions in the Republic of Serbia, the Protector of Citizens suggested the removal of provisions referring to the isolation of persons with mental disorders. The stated still has not been acted upon.

In the preventive work, through visits of teams of the NPM, in the reports with recommendations for the improvement existing situation, it is insisted on the records on the application of physical restraint of violent patients at psychiatric institutions containing all necessary data, as follows: reasons for the application of the measure of mechanical restraint; description of the measures applied before the mechanical restraint; the type of means used for mechanical restraint; the information on the location (premises) where the measure of mechanical restraint was used; the exact time (day/hour/minute) when the measure of mechanical restraint was initiated; the name of the psychiatrist who passed the decision on the application of the measure of mechanical restraint; description of medical measures applied during mechanical restraint; description of all potential injuries of patient subject to the application of the measure of mechanical restraint (caused before and during the application of the measure), as well as potential injuries of other patients and health care employees (caused in the event preceding the mechanical restraint); data on periodical visits of patients subject to the measure of mechanical restraint and monitoring of his/her health condition by the psychiatrist (number of visits, exact time and duration of visits, conducted activities); the data

on time of notification of the director of the institution or another person authorized by the director for this purpose on the applied measure of mechanical restraint as well as the information if and when the legal representative and the member of the close family of the patient subject to the measure were informed; the allegations and comments of the patient during and immediately after they were subject to the measure of mechanical restraint; exact time (day/hour/minute) of the termination of the measure of mechanical restraint.

Such approach resulted in reduced frequency and duration of the application of these measures to patients as well as better recording of data on visits of patients by psychiatrist and medical staff.

Moreover, the NPM during visits to certain institutions established that forms which were used during the reception to the institution frequently included both accommodation and treatment, i.e. bulk consent to all future medical measures. In the reports on visits, it was especially indicated to these institutions that the consent to accommodation/ to hospital treatment and consent with proposed medical measure were two separate issues and that it was needed to adjust the procedure and forms for the reception of persons with mental disorders to the treatment to valid regulations and standards so that the patient gives consent to hospitalization separately from the consent to a certain proposed medical measure/measures.

Articles 12 and 13

14. 20. *In the light of the previous observations (para. 10) and the State party's follow-up information, please provide annual statistical data on the number of complaints, investigations, prosecutions, conviction and punishment of torture and ill-treatment, including excessive use of force, committed by law enforcement, security, military or prison officials, including recent examples of such complaints. This information should include the number of such cases reported by doctors following medical examinations of detainees and the outcome of those cases. Please also explain the mandate and work of the bodies, including the Department for Internal Control and the Sector of Internal Control of the Police (SUKP), that investigate the allegations of torture, ill-treatment by the police, prison staff, security personnel and military, indicating how the independence of these bodies is guaranteed so that there is no hierarchical or institutional link between the alleged perpetrators and the investigators. Please also provide information on any other efforts made to steps taken to promptly and impartially investigate and prosecute cases of torture and ill-treatment and punish perpetrators with penalties proportionate to the grave nature of their acts, and in particular on measures to:*
15. (a) *Establish a fully independent body or mechanism to investigate allegations of torture and ill-treatment by law enforcement officials;*
- (b) *Amend the Criminal Procedure Code to oblige public prosecutors to undertake a prompt, effective and impartial investigations wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed as the result of the actions or omissions of State officials or persons acting in an official capacity, regardless of the filing of a formal complaint;*
- (c) *Ensure that all suspects in prima facie cases of torture and ill-treatment are immediately suspended from duties, indicating the percentage of cases in which suspected public officials were actually suspended; and*

According to the data submitted to the Protector of Citizens by all basic public prosecutor's offices (58) for the period from 1st January, 2015 to 30th June, 2020, of the total number of filed criminal charges for the criminal offence of Testimony Extortion from Article 136 of the Criminal Code and the criminal offence of Abuse and Torture committed by an officer during the performance of duty, from Article 137 Paragraph 3 of the Criminal Code (683), in approximately 6.3 percent of cases (43) there was a motion to indict filed to the competent court. According to the data received from 64 basic courts for the period from 1st January, 2015 to 30th June, 2020, of the total number of conducted court proceedings for criminal offences from Article 136 and Article 137 Paragraph 3 of the Criminal

Code (107) in about 30 percent of cases the final conviction (32) was passed, which is twice as high as the percentage of final convictions from the period 2010-2014.

Most frequently, suspended verdicts were pronounced – short prison sentences (3-6 months), which shall not be enforced if the convict does not commit a criminal offence again in the period of one year. In six cases the verdict designated as the deadline for the review the period of two years and in two cases it was three years. Prison sentences were imposed in three cases. House arrest was imposed in two cases. Criminal charges for the criminal offence Testimony Extortion from Article 136 of the CC are rarely filed so for this offence court proceedings are rarely conducted.

Police officer of the Internal Control Department in cooperation with the Republic Public Prosecutor's Office executed "The Investigation Conducting Methodology in Cases of Police Ill-Treatment". The Republic Public Prosecutor's Office adopted the methodology in the form of the binding instruction for prosecutors and the Ministry of Interior passed the Instruction on the Investigation Conducting Methodology in Cases of Police Ill-Treatment in October, 2017.

In compliance with the Instruction on the Investigation Conducting in Cases of Police Ill-Treatment the competent authority for investigation conducting in cases of ill-treatment is the public prosecutor. Exceptionally, the public prosecutor may confer the execution of individual evidence activities to the Internal Control Department and in that case s/he is obliged to effectively take the activities for which s/he was authorized, with the aim of performing timely and efficient actions. The stated instruction emphasizes the need for the investigation to be independent and for the public prosecutor and police officers of the Internal Control Department participating in the investigation to be independent and impartial towards the persons whose actions are subject to the investigation.

16. 22. *Please provide information on the outcome of the investigations and disciplinary/criminal proceedings related to:*

(a) The alleged physical ill-treatment of inmates by prison officers at the Nis Correctional Institution in 2014; Pančevo District Prison in 2015; Sremska Mitrovica Correctional Institution; and Valjevo Juvenile Correctional Institution; and

(b) The alleged ill-treatment of residents in the Pavilion A-Old at the Veternik Residential Facility; and the Special Hospital for Psychiatric Diseases "Dr. Slavoljub Bakalovic.

The NPM visited all aforementioned institutions during the previous and this year and during the visits unmonitored conversations were conducted with certain persons accommodated there. There were no complaints to illegal or unprofessional conduct of the officers of visited institutions.

Article 16

17. 26. *In the light of the previous concluding observations (para. 18), please provide updates on the measures to:*

(a) Afford effective legal safeguards to all persons with mental and psychosocial disabilities who are involuntarily institutionalized;

(b) Facilitate the deinstitutionalization of persons with mental and psychosocial disabilities through alternative measures;

(c) Register all uses of restrictive measures as well as isolation imposed on persons with mental and psychosocial disabilities. Please provide the information, disaggregated by location, age, sex, and reason for the restriction being imposed, on the (i) number of persons subjected to restrictions and (ii) the number of investigations conducted into any use of restraints and results thereof;

There are negative effects of the deprivation of legal capacity which transform the deprivation of legal capacity into a resource for the deprivation of liberty by placing persons in the psychiatric hospitals and social institutions on the grounds of consent for treatment or accommodation provided on behalf of these persons by their guardians (substitute decision making). The Protector of Citizens indicated that the essential protection of rights of persons with mental disorders requires a systematic

approach and inter-department cooperation, especially the cooperation of the Ministry of Labor, Employment, Veteran and Social Affairs and Ministry of Health aiming at finding of the systemic solution which would be based on strategic documents in the field of protection and promotion of mental health, deinstitutionalization and development of community services, accompanied by the amendments to the Family Law in the section referring to the institutes of guardianship and declaration of legal incapability, for the purpose of empowering of persons with mental disorders for an autonomous life in community with a developed concept of supported decision making.

It was indicated to competent ministries that it is necessary to amend regulations for the purpose of creating an efficient and sustainable system of “deinstitutionalization”, which except for the health aspect involves to a great extent the social aspect and the creation of corresponding conditions for the accommodation and necessary support to persons with mental disorders and their families for the life outside psychiatric institutions, in an environment which is to the least possible extent designated by their mental disorders.

In previous years necessary activities aimed at the establishment of non-institutional accommodation and support in communities to persons with mental disorders (and their families) by focusing on day care centers and dispensary treatment and establishment of centers for the protection of mental health at the local community were not conducted.

Instead, in big psychiatric hospitals a significant number of patients who do not require further hospital treatment are still accommodated, since there are no conditions for their community accommodation.

As in psychiatric hospitals, in big social welfare institutions a great number of beneficiaries is accommodated for a long period of time, because the community does not provide conditions for their residence. As evidence to this, there is the fact that in certain social welfare institutions the number of accommodated beneficiaries is not reduced and exceeds the accommodation capacities. The problems which aggravate the process of deinstitutionalization are also distanced locations of certain social welfare institutions from the families of beneficiaries, which additionally aggravates their participation and inclusion in the social community.

The deprivation of liberty of beneficiaries in residential social welfare institutions, such as persons with dementia in gerontology centers and homes for the elderly, is performed on the basis of doctor opinion, and as a consequence of the lack of corresponding legal framework which would regulate the process of restriction of the freedom of movement of these persons. With regards to the restriction of the freedom of movement of beneficiaries of social welfare institutions, the NPM issued a recommendation to the Ministry of Labor, Employment, Veteran and Social Affairs in order to take measures from its competence and regulate this issue. Moreover, the NPM indicated to this need also in the Opinion to the Law on the Protection of the Rights of Beneficiaries of Temporary Accommodation in Social Welfare, which is still not adopted.

ACTIVITIES OF NPM 2019-2021

This part of the contribution provides an overview of the activities of the NPM in the said reporting period in order to acquaint the Committee with the manner in which the NPM fulfills its mandate as well as the situation in the places of detention and the position of persons deprived of liberty.

NPM – activities 2019

During 2019, the National Preventive Mechanism (NPM) conducted 77 visits to places where persons deprived of liberty are or may be accommodated. In total, 20 visits were paid to police stations, 16 institutions for enforcement of penal sanctions, 13 social welfare institutions and 8 psychiatric institutions. Also, 4 visits were made in order to monitor the treatment of refugees and migrants. For the first time this year, the NPM made 16 visits to military facilities where the premises for the execution of disciplinary measures are located, which consist of a ban on leaving the special premises in the military facility.

Article 82 of the Law on Foreigners stipulates that the Protector of Citizens, in accordance with the competencies of the Law on the Protector of Citizens and the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, monitors the forced removal procedure. In this regard, in 2019 the NPM started monitoring the procedures of forced removal of foreigners, and this year 8 monitoring procedures were performed.

This year, 24 reports were made on visits and monitoring of forced removals of foreigners. In some cases, unique reports were prepared for several visited institutions, due to the need for a systematic review of a particular problem.

A total of 198 recommendations were sent, of which 195 were from the report on visits to places where persons deprived of their liberty are or may be, and 3 recommendations in the field of supervision over forced removal of foreigners.

During this year, the NPM issued an Opinion on the Draft Law on Protection of the Rights of Persons with Mental Disabilities, Beneficiaries of Accommodation in Social Protection, Opinion on the Proposal of the Rulebook on Police Powers and Proposal of Conclusion on Adoption of the Migration Profile of the Republic of Serbia for 2018.

Police /prosecutorial detention

The visits to the police stations were aimed at monitoring the treatment of the brought-in, detained and arrested persons, the manner of exercising their rights, controlling the material conditions in the detention facilities, the manner of keeping the seized items, etc. The treatment of detained persons was also monitored during visits to institutions for enforcement of penal sanctions, given the practice of using prison premises in certain police departments to detain persons on the basis of the Criminal Procedure Code.

Also, during the visit to the institutions for enforcement of penal sanctions, the NPM conducted interviews with pre-trial detainees, who were brought to the implementation of this measure after police detention, in order to collect information on the treatment of police officers during detention, as well as during the exercise of other police powers.

Based on the performed visits to police administrations and police stations within them, 8 reports were made and 54 recommendations were sent. 40 recommendations were acted upon, two recommendations were not acted upon and further monitoring was required for 12 recommendations.

Enforcement of penal sanctions

During 2019, the NPM made 16 visits to institutions for enforcement of penal sanctions. 6 reports were made and 43 recommendations were sent to rectify the identified shortcomings and improve the actions of the authorities. 25 recommendations were acted upon, 5 were not, and 13 recommendations require further monitoring.

During the visits to the institutions for enforcement of penal sanctions, the emphasis was placed on the treatment of persons deprived of liberty by the police before they were brought-in to the institution. The visits were carried out by visiting both the local police station and the institution, which made it possible to cross-reference the data obtained from persons with official allegations and documentation. In this way, Penitentiary Institution Čuprija, Penitentiary Institution Požarevac - Zabela, DP Zaječar and DP Vranje were visited.

A control visit to DP Kragujevac was performed, during which the acting upon previously sent recommendations was being determined. Two visits were made to the Penitentiary Institution Sremska Mitrovica: during the first one, the NPM examined video surveillance, medical examinations after the application of coercive measures and material conditions in the Reception department. The second visit aimed to check whether the persons deprived of liberty with whom the NPM team spoke during the first visit suffered any consequences as a result.

NPM conducted the first systematic visit to DP Prokuplje, during which the complete situation in the institution was monitored in terms of respect for the rights of persons deprived of liberty. Acting on the recommendations of the NPM, the District Prison in Prokuplje undertook activities to create better living conditions for persons deprived of liberty - unnecessary beds in the rooms where they stay were removed, mattresses were replaced, the amount of fruit in the weekly menus was increased and leaflets for foreigners translated into several languages. The Institution was instructed by the Administration for Enforcement of Penal Sanctions to properly document the injuries of persons deprived of liberty, the obligation of doctors to enter allegations of persons about the manner of occurrence, describe injuries in detail and take photos of them and express their opinion on the connection between allegations and injuries.

This year, the NPM also made two visits to the Penitentiary Institution Niš. The first was a control one, to monitor the treatment of previously sent recommendations, and during the second visit, the NPM paid attention to monitoring the treatment of addicts to psychoactive substances, and the following 2020. continued to visit institutions for enforcement of penal sanctions in order to monitor the treatment of addicts to psychoactive substances.

Detention of persons in the social welfare institutions

Of the total number of visits to social welfare institutions this year, 5 were thematic, dedicated to human, sexual and reproductive rights of women with disabilities, 2 regular ones, 4 study ones conducted with representatives of the NPM of Turkey and the Dutch Ombudsman, 1 extraordinary one and 1 control one (*follow-up*). In the prepared reports, 48 recommendations were sent to the institutions and competent bodies visited. Out of this number, the competent authorities acted on 17 recommendations, not on 9, and for the largest number of recommendations - 22 of them, further monitoring is needed. Also, two reports were made and sent in 2020.

The NPM determined that in visited social welfare institutions, a large number of beneficiaries are still in the accommodation for a longer period, because the conditions for their stay in the community are not provided. Also, beneficiaries continued to be restricted in their freedom of movement outside the institution, although there is neither valid legal basis for that, nor procedures that would regulate their detention in the institution. During the visit, the NPM among other things, found that beneficiaries are not informed about their rights upon placement, nor are they provided with information / brochures on rights due to perceived or reduced mental capacity of beneficiaries, and that accommodation conditions in some institutions are unsatisfactory.

Detention of persons with mental disabilities in psychiatric hospitals

For the first time this year, regular visits were made to all psychiatric clinics at clinical centers. NPM paid special attention to the conditions of inpatient psychiatric treatment of children and youth, as one of the most vulnerable groups. The departments for child and adolescent psychiatry at the Center for Mental Health Protection of the Clinical Center Niš and the Clinic for Psychiatry of the Clinical Center of Vojvodina were visited, and the Clinic for Neurology and Psychiatry for Children and Youth was visited as part of the International Human Rights Day.

Visit to the Psychiatry Service of the General Hospital "Dr. Laza K. Lazarević" in Šabac was performed together with the representatives of the Institution for Human Rights and Equality of the Republic of Turkey, as a part of their study visit to the NPM.

In 2019, four reports were made on regular, systematic visits and a total of 42 recommendations were sent regarding the treatment of persons who are in accommodation and treatment in the visited institutions. Out of the total number of sent recommendations, 29 were acted upon, 4 were not acted upon, and further monitoring is required for 9. Two reports on the visits were sent in 2020.

Most of given recommendations are aimed at improving the procedure when applying the measure of physical restraint of patients by tying, so that this measure is implemented and recorded in full accordance with the established standards. Acting on given recommendations, activities were undertaken aimed at better application and recording of data on the application of physical restraint, more systematic and orderly keeping of medical documentation, development of a plan for education of secondary medical staff, improvement of material conditions, preparation of special forms for informed patient consent to a subsequently introduced medical measure and expansion of the psychosocial rehabilitation plan in accordance with the individual needs of patients and adjusted to their abilities, etc.

Treatment of refugees/migrants

In 2019, the NPM made an unannounced visit to the Shelter for Foreigners in Padinska Skela, and at the end of the year, the first visit of the NPM to the Niš Border Police Station and the Konstantin Veliki Airport was made. During the visit, the treatment of foreigners who were denied entry into the country and the conditions in which they stay until they leave the airport were monitored. The report on the visit, with recommendations for rectifying observed shortcomings, was sent to the competent authorities in 2020.

International cooperation

During 2019, NPM Serbia achieved bilateral cooperation with four foreign delegations, within their visits to the Protector of Citizens, during which one of the areas to which special attention was paid was the exchange of experiences and good practices in the field of torture prevention. Meetings were held with: the High Commissioner for Human Rights of the Russian Federation and her associates, the Ombudsman of Romania and her associates, a representative of the Ombudsman of the Netherlands and representatives of the Institution for Human Rights and Equality of the Republic of Turkey who were in study visit to the NPM of Serbia in March and May 2019. During all visits of foreign delegations, apart from the presentation of the NPM of Serbia, the methodology of work and aspects to which the Serbian NPM pays special attention in its work, visits were also paid to institutions where persons deprived of liberty are or may be.

Meetings of the European Network of National Human Rights Institutions (ENNHRI) Asylum and Migration Working Group were held, in the work of which the NPM also participates. Members of the Working group presented their experiences from working at borders and discussed a common methodology to be applied during future border visits.

Within the joint program of the European Union and the Council of Europe "Horizontal Facility for the Western Balkans and Turkey", i.e. one of its components, *Strengthening the Protection of Human Rights of Persons Deprived of Their Liberty and Convicted Persons in Serbia*, three compilations of NPM

recommendations were printed: "Review of Findings and Recommendations of the Protector of Citizens on the Protection of Persons with Mental Disorders in Social and Health Institutions (2011-2016)", "Review of Findings and Recommendations of the Protector of Citizens on Protection of the Rights of Detained Persons in Police Stations (2008-2017)" and "Review of Findings and Recommendations of the Protector of Citizens on Protection of the Rights of Persons Deprived of Liberty (2008-2017)".

In its first report from a visit to one country, the association "Observers of National Preventive Mechanisms" praised the transparent approach and cooperation shown by the Serbian NPM and made suggestions for improving its methodological approach. The NPM has adopted many of the proposals from the Report, as they contribute to improving the work of the NPM.

NPM - activities 2020

The previous year 2020, was marked by the pandemic of the transmissible disease COVID-19. The NPM has intensified its work this year, especially during the state of emergency⁵, to check how measures are being taken in places of detention against the spread of coronavirus and how the rights of persons deprived of liberty are being exercised in these circumstances. Also, during the state of emergency, the NPM opened a special telephone line that was available all 7 days a week from 08:00am to 10:00pm.

The methodology of the NPM's work during the visits during this period was adjusted to the circumstances of the pandemic. The NPM team conducted the visits in such a way that persons deprived of liberty and employees were not exposed to the risk of infection. Protective equipment was used, the recommended physical distance was maintained, and individual conversations were conducted through protective glass where possible.

During 2020, the NPM conducted 85 visits to institutions where persons deprived of liberty are or may be located and 18 supervision over the procedures of forced removal of foreigners. 39 reports on visits were made. The reports provided 344 recommendations, of which 10 were in the field of supervision over the forced removal of foreigners.

This year was marked by a large number of thematic visits carried out by the NPM in order to examine the situation in certain areas (treatment of psychoactive substance addicts, forensic patients, unaccompanied minor migrants, monitoring of the CPT's principles on treatment of persons deprived of liberty during a pandemic, etc.).

Police/prosecutorial detention

In order to monitor the police's treatment of brought-in, detained and arrested persons, as well as to follow the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment after the visit to the Republic of Serbia in 2017, the NPM conducted 48 visits to police administrations and police stations within them. All visits were unannounced. Based on the performed visits to police administrations and police stations within them, 22 reports were made and 142 recommendations were sent.

Following the CPT's recommendations sent after the visit to the Republic of Serbia in 2017, the NPM noticed during the visit to the police stations that a significant number of these recommendations were acted upon. Namely, the Ministry of Interior continued to improve the conditions for the stay of detained persons in detention premises - all detention premises in the Police Department for the City of Belgrade and a significant number of detention premises in other police administrations were

⁵ The World Health Organization declared the COVID-19 pandemic on March 11, 2020, and four days later the Government of the Republic of Serbia imposed a state of emergency on the entire territory of the Republic of Serbia in order to prevent the spread of this transmissible disease, which lasted from March 15 to May 6, 2020.

adapted. All premises have been adapted in accordance with applicable regulations and standards, which has significantly improved the living conditions of detained persons. The adaptation of the detention premises continued in 2021. Also, during 2020, the Ministry of Interior started with specialist training of crime inspectors on interrogation techniques during the interrogation of suspects, which need to be continued in the following period. By visiting the offices of crime inspectors, non-standard and/or unmarked criminal cases were not found in the offices and lockers of most police stations. Also, it is noticeable that as a rule, medical reports, i.e. medical documentation is given to the detained person and is not kept in the file of detention.

The shortcoming that was noticed in this reporting period is that most of the police administrations and police stations visited by the NPM do not have special premises for interrogation of persons equipped with technical equipment for audio and/or video recording. Also, although efforts have been made to provide special premises for the needs of police stations intended for the storage of temporarily seized items, it is necessary to continue undertaking these activities and to provide these premises in all police stations.

The treatment of detained persons was also monitored during visits to institutions for enforcement of penal sanctions, considering the fact that the practice of using the premises of penitentiaries in some police administrations to detain persons on the basis of the Criminal Procedure Code. Also, during the visits to the penitentiaries, the emphasis was placed on the treatment of persons deprived of liberty by the police before they were brought to the institution. Thus, during the visit to the institutions for enforcement of penal sanctions, the NPM conducted interviews with detained persons who were brought to the execution of the measure after police detention, in order to collect information on the treatment of police officers during deprivation of liberty, detention, and other police powers. The visits were carried out by visiting both the local police station and the institution, which made it possible to cross-reference the data obtained from persons with official allegations and documentation.

This year for the first time, the NPM monitored the actions of the police during public gatherings of citizens in Belgrade in July. In this regard, the NPM prepared a Thematic Report with 11 recommendations for eliminating shortcomings and improving the situation in the area, nine of which relate to the Ministry of Interior. The report was also sent to the Commission for the Implementation of Standards of Police Treatment in the Field of Torture Prevention in order to continue the activities it undertakes in order to raise awareness about the prohibition of any form of inadequate treatment of persons deprived of liberty. The NPM especially pointed out that it is necessary to conduct systematic and permanent education of police officers on the role of the police during public gatherings and the prohibition of all forms of torture, and to ensure that the use of coercive measures is in accordance with applicable regulations and standards. It is necessary to ensure that through additional education, the level of professional training and education of police officers in the application of police powers is constantly raised, in order to ensure that police actions in the application of police powers are based exclusively on legal regulations. Also, the NPM, among other things, recommended that the Ministry of Interior ensure that all police officers, when dealing with citizens, i.e. the application of police powers, have prominent police features, as well as markings on the basis of which it is possible to identify every officer who treats citizens. The recommendations were acted upon.

In the period October-December 2020, the NPM conducted night and early morning unannounced visits to the police stations of the Police Administration for the City of Belgrade, in order to monitor the treatment of brought-in and detained persons in relation to respect for fundamental rights, which are also guarantees against torture: to immediately, in a language s/he understands, inform a person of the reasons for deprivation of liberty and of his/her rights: the right of access to a lawyer and a doctor, the right to inform a close family member or a third person of choice about deprivation of liberty.

During the visits, the NPM conducted unsupervised interviews with over 100 persons deprived of liberty, both pre-trial detained and detained ones, on the treatment of police officers during deprivation of liberty, during detention, and during the exercise of other police powers. During these visits, the largest number of interviewed persons did not complain about the actions of police officers and the possibility of exercising their rights, and that the inspection of the documentation established that these rights are respected in most cases. Also, during these visits, it was determined that, acting on the recommendations of the NPM, the records kept by police stations for detained persons were improved by entering data on the time of informing a close person about deprivation of liberty in the detention records, noting that police officers attended medical examination at the request of a doctor, as well as the reasons why a detained person refused to sign the record of detention.

Enforcement of penal sanctions

During 2020, the NPM made 21 visits to institutions for enforcement of penal sanctions. In order to monitor the application of the CPT's principles on the treatment of persons deprived of liberty during a pandemic, 4 such institutions were visited. On the occasion of these visits, the NPM prepared a Thematic Report: *Application of the CPT's Principles on the Treatment of Persons Deprived of Liberty during the Coronavirus Pandemic*, which was delivered to all visited institutions and the competent ministry. In the Report on Visits, the NPM recommended that all persons deprived of liberty, during the ban on visits, be allowed to continue to maintain contact with family members and other close persons by telephone to a greater extent than in regular circumstances. Also, if the ban on visits lasts longer, the NPM recommended that other alternative means of communication be provided, including communication over the Internet. The Administration for Enforcement of Penal Sanctions acted on this recommendation in a very short time, and the convicted persons were provided with a larger number of telephone contacts with family members and other close persons, as well as communication via the Internet, i.e. via Skype.

Recognizing that addicts to psychoactive substances are a special group within the prison population that requires a specialized approach, the NPM during this period conducted visits to institutions for enforcement of penal sanctions in order to determine the manner of treatment of addicts to psychoactive substances and eliminate circumstances that could affect the occurrence of any form of abuse. A sample of 5 largest Penitentiary Institutions (Sremska Mitrovica, Belgrade, Pančevo, Niš, Požarevac) and 5 district prisons (DP Čačak, DP Kraljevo, DP Novi Sad, DP Smederevo, DP Belgrade) were selected. During the visit, three aspects were observed: safety, treatment and health care, with the intention of checking what activities the institutions undertake in order to detect and prevent the intake of psychoactive substances, whether there are specialized programs for working with convicts who have a problem with psychoactive substance addiction, which programs are implemented, which therapy is available, whether the staff is trained to implement treatment or treatment programs, which measures are taken in order to reduce the demand and availability, prevention and reduction of harmful effects of psychoactive substances. In this regard, the NPM prepared a Thematic Report with 8 recommendations⁶ which, among other things, pointed out the need for a specialized approach when it comes to addicts to psychoactive substances, the need for more qualified staff in all services as well as creation of conditions for rehabilitation of drug addicts, which imply the existence of special departments, special work programs and trained staff so that the primary problem of addiction would not remain unsolved and in the shadow of the secondary problem - the commission of a crime. The Administration for the Enforcement of Penal Sanctions has accepted all the recommendations and informed the NPM about the manner in which they will be implemented, and the NPM will monitor the compliance with the recommendations in the following period.

⁶ Available at: https://npm.ils.rs/index.php?option=com_content&view=article&id=462:monitoring-the-treatment-of-addicts-on-psychoactive-substances-in-institutions-for-the-enforcement-of-penal-sanctions&catid=22:visits-a-recommendations&Itemid=13.

Regarding the complaints of a large number of convicted persons about the accommodation conditions in Pavilion IV in the Penal-correctional Institution in Sremska Mitrovica, and also following the action on the recommendation of the NPM from 2012 to adapt the pavilion without delay since it did not meet the conditions for accommodation of convicted persons, the NPM conducted a control visit to this institution. The NPM determined that the "Pavilion IV" facility in the Penitentiary Institution Sremska Mitrovica was overcrowded and did not meet the conditions for the accommodation of convicted persons in accordance with the applicable regulations and standards and sent recommendations in this regard. The recommendations refer to taking measures without delay so that all convicted persons in that facility are provided with accommodation in accordance with the applicable regulations and standards. It was also recommended that convicts not be further classified in dormitories until the prescribed accommodation conditions are provided. This recommendation acted upon.

This year, the NPM made its first regular visit to the new Penal-correctional Institution in Pančevo, which lasted two days, during which the complete situation in the institution was controlled in terms of respect for the rights of persons deprived of their liberty. A report was prepared on the visit, in which the NPM praised the examples of positive practice in the treatment of persons deprived of liberty in this institution and sent four recommendations for eliminating deficiencies and further improving the treatment. The Institution acted on all submitted recommendations within the deadline.

A two-day systematic visit to the District Prison in Čačak was also conducted, and the NPM prepared a Report with 43 recommendations for eliminating the observed shortcomings and improving the situation in the area. 26 recommendations were acted upon, 16 ones needed further monitoring and one recommendation was not acted upon.

Regarding the rights of persons who have been remanded in custody or who are serving a prison sentence, the NPM has determined that the Administration for Enforcement of Penal Sanctions has continued to invest in material conditions for accommodation of persons deprived of liberty and increase the capacity of institutions for enforcement of penal sanctions. It is also encouraging that during a large number of unsupervised interviews with convicted and detained persons, they did not complain that they had been victims of torture or ill-treatment by prison staff. Improvements are also noticeable in the way of documenting injuries and performing the first medical examination upon placement to the institution. In relation to the previous period, positive examples of institutions were noticed, which made a program of work engagement for remand prisoners, and a shift in increasing the employment of convicted persons is noticeable.

There is still a need to provide remand prisoners and convicts placed in closed wards with sufficient available activities, as well as to stay during the day in common rooms with other convicts, i.e. remand prisoners with whom the court did not restrict contact due to criminal proceedings. There is also still a problem of insufficient number of employees in certain services of the institute. The Administration for Enforcement of Penal Sanctions has undertaken activities to improve the conduct and develop the capacity of prison officers for the development and implementation of new rehabilitation programs, and training of prison staff on the implementation of new specialized programs for group work with prisoners has begun, which is continue in 2021.

Detention of persons in social welfare institutions

During 2020, the NPM could not fully fulfill its mandate in social welfare institutions, bearing in mind that the Ministry of Labor, Employment, Veteran and Social Policy did not allow NPM visits at one time, referring to the Order on the Prohibition of Visits and Restriction of Movement in the Facilities of Institutions for the Accommodation of the Elderly. The NPM pointed out to the relevant ministry that the ban on exercising mandates in social welfare institutions is a violation of legal regulations, international standards, the obligation of cooperation of administrative bodies with the Protector of Citizens and results in inability to control respect for fundamental rights of persons in

social welfare institutions and deterring state bodies and officials from actions that could have the character of abuse. Visits are re-enabled at the end of the year.

During 2020, the NPM conducted a systematic visit to the Gerontology Center Pančevo, during which the complete situation in the institution was monitored in terms of respect for the rights of beneficiaries. The Report prepared on the occasion of the visit provided 10 recommendations for rectifying shortcomings and improving the situation in the area. All recommendations were acted upon.

The visits paid during 2019, namely: to the Home for Mentally Ill "Čurug", as well as the Thematic Report "Human, Sexual and Reproductive Rights of Women with Disabilities in Social Welfare Institutions", which refers to five thematic visits to social welfare institutions. Acting on the sent recommendations, the Home for Mentally Ill Persons "Čurug" initiated the procedure of public procurement of project documentation for the comprehensive reconstruction of the existing accommodation capacities in order to provide conditions for accommodation of beneficiaries in accordance with the regulations. Also, it is planned to purchase one ambulance vehicle for the needs of transporting beneficiaries for specialist examinations.

In the Thematic Report "Human, Sexual and Reproductive Rights of Women with Disabilities in Social Welfare Institutions", the NPM among other things determined that the competent Centers for Social Work have irregular and insufficient contact with their beneficiaries accommodated in social welfare homes, who are assigned as direct guardians, that female beneficiaries in social welfare institutions are insufficiently informed about their rights, first of all, about the procedure, deadlines and other relevant information for regaining legal capacity, that some rooms for accommodation of female beneficiaries are not in accordance with the standards in relation to the prescribed square space per a beneficiary, that some female beneficiaries of the Home for Children and Youth with Disabilities "Veternik" have limited freedom of movement within the institution, as well as to spend time unstructured and without any daily activities, that in some institutions shower cabins intended for beneficiaries of both sexes do not provide privacy when showering because they are not separated from the rest of the bathroom by a door. Also, it was noticed that there is not a sufficient number of medical and nursing staff necessary to work with beneficiaries, that in some institutions female beneficiaries are not adequately informed about sexual diseases prevention methods and unwanted pregnancies in order to preserve reproductive health, as well as that regular systematic gynecological examinations are not organized, etc. Bearing in mind the identified shortcomings in the reporting period, the NPM sent 25 recommendations to the visited institutions and competent bodies, i.e. the Ministry. 10 recommendations were acted upon, 13 ones needed further monitoring and two recommendation was not acted upon.

Detention of persons with mental disorders at psychiatric hospitals

In 2020, two reports were made on regular, systematic visits and a total of 21 recommendations were sent regarding the treatment of persons with mental disorders who are in the psychiatric wards of health institutions. Most of the recommendations are aimed at improving the procedure when applying the measure of physical restraint of patients, so that this measure is implemented and recorded in full compliance with applicable regulations and standards of treatment of persons with mental disorders.

Acting on the recommendations of the NPM, visited institutions undertook activities for complete and detailed recording of data important for the implementation of the measure of physical restraint of agitated patients and improvement of procedures regarding informed consent of patients to the proposed medical measure, preparation of special forms for informed consent in order to prevent the lump-sum approval of medical measures, development of a plan for the education of secondary medical staff and the expansion of the plan of psychosocial rehabilitation in accordance with the individual needs of patients and adjusted to their capabilities.

The improvement of material conditions in visited institutions is noticeable, and visited institutions, acting according to the recommendations of the NPM, improved the keeping of records on the application of physical restraint, developed available psychosocial rehabilitation activities and improved information on patients' rights and protection mechanisms. However, there is still a lack of continuous specialist education of secondary medical staff. There is also a lack of capacities for taking care of the urgent conditions of minors, which makes it impossible for all patients to be treated close to their families. As in previous years, it was noticed that there is still a small number of services for the protection of mental health in the community, and on that occasion, recommendations were sent this year as well.

During 2020, the NPM also paid attention to thematic visits to institutions where forensic patients are being treated in order to monitor the treatment of persons in the enforcement of security measures of compulsory psychiatric treatment and custody in a health institution, compulsory treatment of drug addicts and compulsory treatment of alcoholics, as well as conducting of appropriate protective measures imposed in misdemeanor proceedings. 3 specialized hospitals for psychiatric diseases as well as the Special Prison Hospital were visited.

Treatment of refugees/migrants

During 2020, the NPM visited the reception centers for migrants in order to check conditions in them, treatment of persons in these centers and the measures taken by the Commissariat for Refugees and Migration to protect against the spread of the coronavirus. On the occasion of these visits, the NPM prepared a report with 12 recommendations which were sent to the competent authorities. 7 recommendations have been acted upon, 4 recommendations will be monitored in the following period, and according to the recommendation to hire a sufficient number of employees in the Adaševci and Obrenovac Reception Centers, no action has been taken yet.

During the reporting period, the NPM also monitored the actions of the Border Police Administration at Nikola Tesla Airport and the conditions in which persons deprived of liberty stay in the transit zone and determined that activities were undertaken to improve the conditions in which persons in the transit zone reside, bearing in mind the fact that reconstruction of the Airport also included the construction of a new room for the accommodation of foreigners who were denied entry into the country, which will be in accordance with the applicable standards. Also, acting on the recommendation of the NPM, the Belgrade Border Police Station at the "Nikola Tesla" Airport in a prominent place in the room where persons denied entry to the Republic of Serbia are accommodated pointed out contacts of relevant domestic and international organizations that can provide assistance to these persons to exercise their rights.

This year, thematic visits were also conducted in order to monitor the conduct towards unaccompanied minor migrants, as the most sensitive category of the migrant population. The Report, which was made after the visit to all institutions where unaccompanied minor migrants are located, sent 4 recommendations for improving the procedures related to the improvement of accommodation conditions in the asylum centers Bogovađa and Sjenica, realization of sufficiently expedient activities for unaccompanied minor migrants, engagement sufficient number of social workers in places where unaccompanied minor migrants are located, so that all activities on placement, care and protection of minor migrants are performed smoothly and with quality and the need to support the functioning of unaccompanied minor migrants in social welfare institutions and houses managed by humanitarian organizations. Three recommendations have been acted upon and one requires further monitoring.

Enforcement of disciplinary sanctions - prohibition of removal from special premises in a military facility

During 2020 the NPM prepared and sent a report on visits to military facilities that were carried out during 2019 in order to monitor the treatment of members of the Serbian Army in the enforcement of disciplinary sanctions that may constitute deprivation of liberty. During the visit to the barracks, the NPM did not find any person enforcing the disciplinary sanction prohibiting removal from special premises in the military facility, nor were those sanctions imposed during 2019 until the day

of the NPM visit. In most units of the Serbian Army and most of the barracks visited, these sanctions have not been imposed or enforced since 2011, when the obligation to serve military service was suspended.

As a result of following the recommendations, the material conditions in the disciplinary premises were improved, the provisions of the instructions governing the manner of execution of the sanction were reviewed and updated, and written documentation of information on the treatment of the sanctioned soldier and important events during the execution of the sanction was established. The daily regime of activities was pointed out in the premises, it was possible for the visits to the sanctioned soldier to take place in privacy, a mandatory medical examination was introduced before the beginning of the execution of the sanction, as well as a conversation with a psychologist. It is regulated that the distribution of therapy is performed exclusively by medical staff, and the obligation to inform sanctioned soldiers about the possibility of submitting a complaint to the Protector of Citizens is envisaged.

Oversight of the procedures of forced removal of foreigners

During the same year the NPM performed 18 supervision of the procedures of forced removal of 40 foreigners. In this regard, two reports were prepared, and 10 recommendations were made to address the identified shortcomings. It was noticed that the police officers who carry out the removals respect the integrity and dignity of foreigners and show a high level of professionalism in performing this work. Compared to the previous year, the NPM in this period noticed an improvement in the treatment of foreigners by police officers, i.e. that foreigners are informed in a timely manner and at least 24 hours in advance about the implementation of forced removal, that they are allowed to inform the person of their choice that they will be removed from the country. Also, activities have been undertaken to expand the capacity of the Shelter for Foreigners, which will contribute to the improvement of the exercise of their rights.

As the biggest problem in the forced removal procedure, the NPM found that foreigners in the return procedure do not always have the opportunity to point out the existence of facts that would indicate obstacles to forced removal to a certain country, which may lead to violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The NPM sent a recommendation to the Ministry of Interior in order to fully respect the principle of *non-refoulement*. The Ministry's response states that it plans to organize and hold seminars and trainings for officials who treat foreigners throughout the country in cooperation with the UNHCR, regarding the fulfillment of conditions for making a decision on return in each specific case, but that due to epidemic measures and the situation related to the epidemic of transmissible diseases in the past, it was not possible to implement these activities.

International cooperation

Within the framework of international cooperation, on October 12 and 13, as well as on December 7, 2020, the NPM of Serbia participated in the meetings of the NPM Network of Southeast European countries, which was organized via the Internet due to the epidemiological situation. The topic of both meetings of the Network was the treatment of persons brought and detained in the first hours of deprivation of liberty, i.e. the manner of exercising and respecting their fundamental rights, which are also a guarantee against abuse. In addition to the above, attention was paid to the exchange of experiences regarding the manner of planning visits, gathering information relevant to planning visits, forwarding information and the like.

Chairing the Medical Group of the Network, the NPM of Serbia organized an online meeting of the Network on December 22, 2020, in order to draw attention to the need to monitor the treatment of psychoactive substance addicts, especially the vulnerable category of persons deprived of liberty and on that occasion its Thematic Report was presented.

The NPM has participated in numerous international conferences organized by the Council of Europe, the Association for the Prevention of Torture (APT), the European Network of National

Human Rights Institutions (ENNHRI), which are organized via the Internet due to the epidemiological situation.

On the occasion of marking the Day of Persons with Disabilities, the Deputy Protector of Citizens and the head of the NPM attended a meeting held at the Human Rights House, during which, among other things they discussed about independent monitoring mechanism of the implementation of the UN Convention on the Rights of Persons with Disabilities.

Based on the conducted public call, the Protector of Citizens selected six civil sector associations with which the cooperation will be established in the performance of the NPM activities.

Other forms of cooperation

In order to establish a continuous dialogue regarding possible measures to implement the NPM recommendations and improve cooperation in the field of prevention of torture, individual meetings were held with representatives of the Commission for the Implementation of Police Standards in the Field of Prevention of Torture of the Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Policy, Commissariat for Refugees and Migration, the Border Police Administration, Nikola Tesla Airport and the Administration for the Enforcement of Penal Sanctions. The meetings pointed out the basic challenges related to the position of persons deprived of liberty and the conditions in which they reside, as well as the key observations of NPM monitoring teams during visits to places where persons deprived of liberty are or may be, as well as the importance of implementing NPM recommendations in order to prevent torture or from the point of view of torture prevention.

NPM – activities 2021

Since the beginning of the year, the NPM has paid 73 visits to places where persons deprived of liberty are or may be, and it is planned that the NPM will pay another 17 visits by the end of the year, i.e. a total of 90. 8 supervisions over the procedures of forced removal of foreigners were also performed.

This year, the NPM sent an opinion on the Draft Law on Amendments to the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, an opinion on the Draft Strategy for the Development of Enforcement of Penal Sanctions for the period 2021-2027, an opinion on the Draft Law on Protection of the Rights of Beneficiaries of Temporary Accommodation Services in Social Protection.

This year, as part of the continuous dialogue regarding possible measures to implement the NPM recommendations and improve cooperation in the field of prevention of torture, individual meetings were held with representatives of the Commission for the Implementation of Police Standards in the Field of Prevention of Torture of the Ministry of Interior and the Administration for Enforcement of Penal Sanctions.

Police/prosecutorial detention

This year, the NPM continued to monitor the treatment of brought-in, detained and arrested persons and the manner of exercising their fundamental rights, which are also a guarantee against ill-treatment. To that end, 26 police stations were visited, with all visits unannounced and some at night. This year, the NPM continued with the practice of monitoring the conduct of the police during visits to the institutions for enforcement of penal sanctions by conducting interviews with detained persons who were brought to the enforcement of the measure after police detention, in order to collect information on the treatment of police officers toward them during deprivation of liberty, detention and exercise of other police powers.

In order to further improve the treatment of brought-in and detained persons, the NPM sent a recommendation to the Ministry of Interior in order to improve the recording of the exercise of the rights of the brought-in and detained persons to access lawyer.

Enforcement of penal sanctions

Since the beginning of the year, the NPM has visited 13 institutions for enforcement of penal sanctions. Following the CPT's recommendations to Serbia after the 2017 visit, the NPM visited three institutions for enforcement of penal sanctions at the beginning of the year. Three control visits to prisons were also conducted, in order to monitor compliance with previously submitted recommendations.

This year, attention was paid to monitoring the implementation of the United Nations Rules (the Bangkok Rules), and the NPM twice visited the Penitentiary Institution for Women in Požarevac and made a Thematic Report in which it sent 6 recommendations. All recommendations were acted upon.

This year, the NPM also monitored the treatment of minors and twice visited the Correctional Institution in Kruševac. A report on the mentioned visits was made with recommendations for eliminating observed shortcomings and improving the work, which was recently sent to the visited institution and the competent authorities.

In the current year, the NPM has developed a special methodology for visits to the institutions for enforcement of penal sanctions and for the first time during the visits focused exclusively on the application of measures to maintain order and security in an institution, coercive measures against persons deprived of liberty, treatment of persons deprived of liberty in closed wards of the institution, and ascertaining injuries to persons during enforcement of a sentence. The methodology includes group, but also unsupervised individual interviews with persons deprived of liberty who are at higher risk of ill-treatment because they are in closed wards of the institution, on the enforcement of disciplinary and special measures, or because of certain personal characteristics, participation in emergencies and the like. During the visit, the records and other documentation on complaints whose subject is any form of abuse were inspected, as well as records on the application of coercive measures, injuries to persons deprived of liberty, all emergencies, etc. In this way, DP Leskovac and DP Smederevo have been visited so far.

Detention of persons at social welfare institutions

Since the beginning of the year, NPM has visited 10 social welfare institutions. In addition to the 6 control visits that were performed in order to monitor the implementation of previously sent recommendations, one extraordinary visit was performed, as well as 3 regular visits. During the control visits, it was noticed that the recommendations were followed to a greater extent, especially with regard to the improvement of accommodation conditions, legal protection of beneficiaries, as well as the application of restrictive measures. However, activities in the field of deinstitutionalization are still slow, in some institutions there is still a need to hire more employees, especially in direct work with beneficiaries and the like. Reports from other visits with recommendations for improving the NPM's actions will be sent in the upcoming period.

Detention of persons with mental disorders at psychiatric hospitals

Since the beginning of the year, 4 visits to psychiatric institutions have been paid. Visits to the Psychiatry Services of the Clinical Center Niš and the Center for Mental Health Protection were control visits, while visits to the Psychiatry Service of the General Hospital in Leskovac and the Special Hospital for Psychiatric Diseases in Kovin were systematic. The reports from these visits indicated, among other things, the need to intensify deinstitutionalization activities in terms of abandoning the practice of long-term hospitalization, as well as the need to establish non-institutional care and community support for people with mental disorders and their families, in order to enable life and treatment within the community. At the same time, it is necessary for the centers for social work to improve the quality of care for the beneficiaries who are under their direct care.

Treatment of refugees/migrants

This year the NPM paid special attention to monitoring the treatment of migrants at the borders and, in this regard, visited the borders with Northern Macedonia, Bulgaria and Croatia. In order to review the treatment of migrants at the borders, 7 reception centers for migrants, 4 police stations, 4 regional border police centers, 2 prisons and the Airport in Niš were visited. Three reports were made and 3 recommendations were addressed, which were acted upon.

Also, in this way, the NPM of Serbia participated in the ENHRI project dedicated to this topic and submitted its enclosure to the ENHRI report.⁷

Visits to military facilities

Since the beginning of the year, 3 military barracks have been visited in order to monitor the implementation of previously sent recommendations.

International cooperation

The NPM of Serbia participated in two meetings of the NPM Network of Southeast European countries. It also participated in numerous international conferences organized by the Council of Europe, the Association for the Prevention of Torture (APT), the European Network of National Institutions for Human Rights (ENNHRI), which were organized via the Internet due to the epidemiological situation. The NPM also had a meeting with members of the CPT delegation during their visit to the Republic of Serbia in March 2021. Also, the Deputy Protector of Citizens and the head of the NPM was elected a member of the IPCAN board, taking active participation in its work.

⁷ Available at: <https://ennhri.org/rights-at-borders/#national-report-serbia>.