



REPUBLIC OF SERBIA
Belgrade



Protector of Citizens
Ombudsman

Setting-up of National Preventive Mechanism in Serbia

Initial 6 months: Getting ready, no monitoring

Belgrade, January 2012.

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1. INTRODUCTION

Pursuant to the Law amending the Law on Ratification of Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) ¹, adopted on 28 July 2011, the Protector of Citizens shall fulfill the mandate of National Preventive Mechanism (NPM). In discharging the functions of NPM the Protector of Citizens shall collaborate with ombudsmen of autonomous provinces and associations whose statute intended goal is the promotion and protection of human rights and freedoms, in accordance with the Law. The Protector of Citizens informed the Subcommittee for prevention of torture and other cruel, inhuman or degrading treatment or punishment (Subcommittee) of the aforementioned activities.

For the purpose of informing relevant authorities and bodies, this publication contains information about all activities conducted by the Protector of Citizens over the past six months of 2011, as part of the preparatory process with a view to ensuring effective performance of the functions of NPM in accordance with the OPCAT. The Protector of Citizens submitted the report on all undertaken activities, to Subcommittee on 25 January 2012.

1.1. Protector of Citizens

1.1.1 Mandate

Republic of Serbia Constitution

The Republic of Serbia Constitution ² Article 138 lays down that the Protector of Citizens is an independent administrative body which safeguards the rights of citizens and controls the activities of the bodies of government administration, of the body in charge of legal protection of property rights and interests of the Republic of Serbia as well as of any other bodies and organizations, companies and institutions entrusted with the exercise of public powers. The Protector of Citizens is not authorized to control the activities of the National Assembly, the President of the Republic, the Government, the Constitutional Court, the courts and public prosecutors offices. The Protector of Citizens is appointed and relieved of duty by the National Assembly in accordance with the Constitution and the law. The Protector of Citizens answers to the National Assembly. The Protector of Citizens enjoys immunity as a Member of Parliament. The immunity of the Protector of Citizens is decided upon by the National Assembly. A law is adopted on the Protector of Citizens.

The Law on the Protector of Citizens (Ombudsman)

The Law on the Protector of Citizens ³ lays down that the Protector of Citizens is independent, autonomous in performing its duties, a state body which safeguards and looks after promotion of citizens' rights and controls the legality and regularity of the work (performed) by bodies of government administration, the body in charge of legal protection of property rights and interests of the Republic of Serbia as well as of other bodies and organizations, enterprises and institutions entrusted with the exercise of public powers.

In performing the duties from its remit the Protector of Citizens acts within the limits of the Constitution, the law, other regulations and bylaws as well as the ratified international treaties and the generally accepted rules of international law.

¹ attachement 4.1.

² Constitution of Republic of Serbia ("Official Gazette of the Republic of Serbia" No. 98/2006), attachement 4.2.

³ Law on the Protector of Citizens ("Official Gazette of RS", Nos. 79/2005 and 54/2007), attachement 4.3.

The Protector of Citizens has the right to submit motions and/or initiate the (procedure for the) passage of bills and amendments to the laws as well as of other regulations and bylaws and is empowered to give opinions in the course of the procedure of drafting regulations. It is further empowered to launch the procedure before the Constitutional Court for assessing the constitutionality and legality of laws and other regulations and bylaws. It is authorized to publicly recommend that any functionary held accountable for a breach of a citizen's right be removed from office and/or to initiate the start of disciplinary proceedings against any employee with an administrative body who is directly held accountable for the committed infringement.

If it is found that the actions carried out by a functionary or an employee with the administrative body had elements of a criminal act or any other punishable act, the Protector of Citizens is authorized to submit to the competent body a request or, better to put it, an application for the relevant criminal proceedings, petty offence proceedings or any other proceedings to be initiated.

Administrative bodies have the task to work together with the Protector of Citizens, enable access to premises and make available all data that are at their disposal and of relevance to the proceedings going on to achieve the goal of its preventive action regardless of the degree of their confidentiality, except when this is in conflict with the law. The Protector of Citizens has the right to conduct an interview with any employee with the administrative body when that is of relevance to the ongoing proceedings.

It has been stipulated in particular that the Protector of Citizens should have the right of unhindered access to the institutions for enforcement of penal sanctions and to any other places where persons deprived of liberty (PDLs) are held as well as the right to talk to such persons behind closed doors.

The Protector of Citizens has one Deputy in charge of protecting the rights of PDLs.

1.1.2. Action-taking

Reactive work

The Protector of Citizens initiates the procedure for control of the legality and regularity of the activities of the administrative bodies upon a complaint from citizens or on its own initiative. Any natural or juridical person, be it domestic or foreign, holding the view that by any act of an administrative body, its action or through its omission to act their rights have been infringed upon, may submit a complaint to the Protector of Citizens.

The complaint is submitted in writing or verbally for the record and no administrative tax nor is any other fee charged for its submission. The complaint includes the name of the body whose activities it concerns, a description of the breach of the right concerned, any facts and pieces of evidence corroborating the complaint, data on which legal remedies have been exhausted and details about the individual submitting the complaint.

PDLs have the right to submit the complaint in a sealed envelope. Appropriate envelopes must be provided in a visible and public manner at all the institutions where PDLs are held, which should be taken care of by the administrations of such institutions as well as the ministry in charge of judicial affairs.

Any complaints submitted by PDLs are acted upon by a special Department for Protection of PDLs at which there are three (3) employees. The Department is managed by the Deputy Protector of Citizens in charge of protection of PDLs' rights.

In case it is established, during the course of the implemented procedure, that there were certain shortcomings in the activities of an administrative body, the Protector of Citizens will address a recommendation to the body concerned to remove the identified shortcoming.

The Protector of Citizens has addressed to the competent authorities around 40 recommendations to remove identified deficiencies in the activities of the institutions holding PDLs.

The procedures for the control of legality and regularity of the work of administrative bodies initiated in response to the complaints lodged by citizens or on own initiative are administered by the Deputy Protector of Citizens in charge of protection of PDLs' rights.

Promotion and pro-active work

The Protector of Citizens looks after the promotion of citizens' rights, has the right to act preventively, by providing good offices, mediation and advice on issues from his preview, in order to enhance the work of administrative bodies and promote protection of human rights and liberties.

In order to promote and safeguard the rights of PDLs as well as to prevent torture and other cruel, inhuman or degrading treatment or punishment the Protector of Citizens set up the "Preventive Mechanism of the Protector of Citizens" on 2 July 2009, as a team of the Protector of Citizens (set up) to monitor the institutions where PDLs are held.

The "Preventive Mechanism of the Protector of Citizens" has for as long as two years been persistently and systematically gathering, checking and processing all data concerning the protection of PDLs' rights.

In order to work efficiently, the Methodology of the "Preventive Mechanism of the Protector of Citizens" was established specifying how to act before, during the course and after a visit to the institutions where PDLs are held.

Apart from the employees with the Protector of Citizens, the "Preventive Mechanism of the Protector of Citizens" includes, as its members, experts, primarily lawyers, physicians-forensic experts, psychiatrists and psychologists.

The "Preventive Mechanism of the Protector of Citizens" has to date completed around 50 visits to the institutions at which PDLs are held and drawn up reports suggesting over 200 actions to be taken in order to eliminate the identified shortcomings.

The activities and duties of the "Preventive Mechanism of the Protector of Citizens" for monitoring the institutions at which PDLs are held were administered by the Deputy Protector of Citizens in charge of protection of the rights of PDLs.

The "Preventive Mechanism of the Protector of Citizens" ceased its activities after the Protector of Citizens was designated as the NPM.

1.2. Optional Protocol

1.2.1. State Party

The Republic of Serbia signed the OPCAT on 25 September 2003, passed the Law on Ratification⁴ on 1 December 2005 and became a State Party of the OPCAT on 26 September 2006.

1.2.2. Designation of the NPM

Under the Law amending the Law on the Ratification of the Optional Protocol, adopted on 28 July 2011 at the sitting of the Republic of Serbia National Assembly, the Protector of Citizens was designated as the authority performing the duties of the NPM.

1.2.3. Model of the NPM

The Model of the NPM in the Republic of Serbia is defined by the relevant law. It stipulates that the Protector of Citizens shall carry out the duties of the NPM in collaboration with the Ombudsmen of the autonomous provinces and the associations whose statute intended goal is the promotion and protection of human rights and freedoms.

1.2.4. Reasons for selection

The Law stipulates that the Protector of Citizens discharges the function of the NPM for a number of reasons.

Namely, the mandate of the Protector of Citizens under the Law on the Protector of Citizens covers the competences and powers of the NPM stipulated by the OPCAT, including visits to the institutions at which PDLs are kept, interviews with them, access to data, making recommendations to the competent authorities, informing the general public on the presence of torture and promoting the status of PDLs.

In addition to the above, it was observed that the Protector of Citizens had been pursuing intensive preventive activities as its team of experts, i.e. the "Prevention Mechanism of THE Protector of Citizens", kept paying visits over a period of two (2) years to police stations, detention units, prisons, stationary-type social welfare institutions, mental institutions, shelters for asylum-seekers, etc.

In addition to the above, a decisive reason was also the fact that the Protector of Citizens has been recognized as the body acting on the basis of the Paris Principles, which is why in April 2010 it was accredited as a National Human Rights Institution (NHRI) within the system of the United Nations and given "A" status.

The reason for stipulating cooperation between the Protector of Citizens and the Ombudsmen of the autonomous provinces and associations in performing the NPM duties is that the provincial Ombudsman of the Autonomous Province of Vojvodina and numerous associations of citizens have for many years now been extremely active in protecting the rights of PDLs and in preventing torture as well as that they hold a wealth of know-how in monitoring the institutions where PDLs are held.

⁴ Law on the Ratification of the OPCAT ("Official Gazette of Serbia and Montenegro - International Treaties", no. 16/05 and 2/06, "Official Gazette of the Republic of Serbia - International Treaties", no. 7/2011)

2. INITIAL SIX MONTHS: GETTING READY TO START WORK OF NPM

2.1. Proceeding point - Plan of activities for the initial 6 months: preparation

After designation of the NPM in Serbia in mid-2011, the Protector of Citizens did not start right away visiting the institutions at which PDLs are kept but made use of the first six months exclusively to get the adopted complex model of the NPM organized and complete the necessary preparatory steps as a pre-requisite for efficient implementation of monitoring visits.

2.2. Re-organization - setting up a separate organizational unit

Following the Subcommittee's guidelines the Protector of Citizens set up a separate organizational unit within the Experts Service of the Protector of Citizens – "NPM"⁵. The main task of this unit is to pursue activities of a pro-active nature to act preventively in order to preclude torture or any other form of ill-treatment and enhance the status of PDLs⁶.

The organizational unit NPM is administered by the Deputy Protector of Citizens in charge of protection of the rights of PDLs. While it has the same administrator, this pro-active unit is totally functionally separate from the existing Department for the Protection of the Rights of PDLs, which plays a re-active role.

The Jobs Description for the separate organizational unit of the NPM has been drafted. In addition to the visits to the institutions where PDLs are held, the NPM will draw up reports on visits to those institutions as well as periodic reports on work done, will address recommendations to the competent administrative bodies and submit motions in the form of acts of the Protector of Citizens, thereby proposing bills and amendments to the laws concerning prevention of torture. As part of the duties of the NPM also envisaged are direct cooperation with the Subcommittee and other international and regional human rights protection mechanisms and mechanisms for the prevention of torture, with state bodies, national mechanisms for the prevention of torture of other countries and NGOs as well as development and keeping (up to date) of a database and a separate website.

The Staffing Scheme has been drafted envisaging four (4) new job positions: a mid-level adviser, an adviser and two junior advisers. For the time being, pending the adoption of the Staffing Scheme, one mid-level male adviser and two younger female advisers are employed under fixed-term contracts. This shows that the gender balance principle has been complied with. Of the mentioned employees there are two lawyers and one employee is a teacher of special education, which is how a balance in terms of different fields of professional expertise has been achieved, as stipulated under Article 18 of the OPCAT.

2.3. Securing means of labor

At the building used by the Protector of Citizens the Organizational Unit NPM has been given separate premises in its own right.

The premises are fully outfitted with office furniture, telephones lines and personal computers with Internet access. Employees at this organizational unit have been given cell phones and laptop computers.

In order to create tangible conditions for performing the duties of the NPM, primarily for transport to the institutions at which PDLs are accommodated, in December 2011 a vehicle (van 7+1 seats) was purchased with the funds from the budget of the Protector of Citizens.

⁵ Separate organizational unit NPM / job position, job description, job requirements, attachement 4.4.

⁶ Tasks and duties of separate organizational unit NPM, attachement 4.5.

The adopted budget of the Protector of Citizens for 2012 envisages separate funds intended for performing the duties of the NPM and amounting to RSD 7,670,000 (approx. EUR 75,000); this amount does not cover the salaries and contributions for the four (4) envisaged jobs in the separate organizational unit NPM.

The Financial Plan of the NPM for 2012 has been made specifying as the purpose the approved funds are intended to serve the execution of the tasks of the NPM. The envisaged disbursements are for travel expenses, per diems, commission fees to experts and NGO representatives participating in visits and writing reports, equipment, fuel, development of a publication, translation of documents, etc.

2.4. Establishing cooperation in performing the duties of the NPM

2.4.1. Provincial Ombudsman

A number of working meetings were held with the representatives of the Provincial Ombudsman of AP Vojvodina in order to identify the forms of cooperation prescribed by the Law in performing the duties of the NPM. Despite the problems that are commonplace worldwide when it comes to cooperation between the national and regional/provincial Ombudsmen, especially when it is necessary to introduce joint institutional (modalities of) work, agreement was reached fast, to the mutual satisfaction. The Protector of Citizens and the Provincial Ombudsman of AP Vojvodina signed on 12 December 2011 a Memorandum on Cooperation between the Protector of Citizens and the Provincial Ombudsman in performing the duties of the NPM⁷.

The Cooperation Memorandum regulates in more detail the cooperation between the Protector of Citizens and the Provincial Ombudsman in performing the duties of the NPM. It is envisaged that this cooperation will be pursued through the Provincial Ombudsman's active participation in the NPM monitoring team's visits to the institutions where the PDL are held in the territory of the AP Vojvodina. Likewise, it has been envisaged that the Provincial Ombudsman will also take part in the planning of visits to these institutions, drawing up of reports, making recommendations, (giving of) opinions and (drafting of) other documents of the NPM. The Provincial Ombudsman will also be involved in cooperation between the NPM and representatives of civil society, the state organs and bodies as well as in other activities of the NPM.

2.4.2. Associations

Several working meetings were held with the representatives of the associations whose statute intended goal is the promotion and protection of human rights and freedoms. Further, a public debate took place with the participation of the academia, former convicts and the media so as to exchange views in order to identify the best model of cooperation between the Protector of Citizens and the associations prescribed by the Law in executing the tasks of the NPM. Despite the delicate nature of the problems when it comes to the cooperation between the state bodies and the civil (society) sector, a dynamic debate identified a model appropriate to the current state of play in the Republic of Serbia and acceptable to all the potential participants in execution of these tasks. The public debate lasted around two (2) months, which shows that the principle of transparency, stipulated by the guide of the Association for the Prevention of Torture (APT), was adhered to.

⁷ Memorandum of Cooperation with Provincial Ombudsman, attachment 4.7.

The Protector of Citizens announced on 29 December 2011 in the *“Official Gazette of the Republic of Serbia”* and on the website of the Protector of Citizens a Public Call for selection of the associations with which it would cooperate in executing the tasks of the NPM ⁸. The Call mentioned that the cooperation would cover participation of the associations in visits to places where PDLs are held, drawing up of reports, recommendations, opinions and other documents as well as executing other tasks of the NPM. The deadline for submission of applications in response to the Public Call was 15 days as of the date of its publication in the *“Official Gazette of the Republic of Serbia”*. It was pointed out that individual associations would be selected for systemic monitoring of the status of PDLs and presence of torture at police stations, detention units, prisons, stationary-type social welfare institutions and mental hospitals as well as of the status of special vulnerable groups among PDLs, primarily minors and women.

On 26 December 2011 the Protector of Citizens issued a Decision to appoint a Commission to select the associations under the Public Call for cooperation in executing the tasks of the NPM ⁹. The Commission members include the Deputy Protector of Citizens, deputy Provincial Ombudsman, Deputy Commissioner for Information of Public Importance and Personal Data Protection, Madam Assistant Commissioner for Protection of Equality and Madam Secretary General of the Protector of Citizens’ Technical Service.

Under the Public Call for cooperation in performing the duties of the NPM nine (9) applications were submitted, there were no applications received upon the expiry of the set time limit. The applications were submitted by the following: the Victimology Society of Serbia; Belgrade Center for Human Rights; the Helsinki Committee for Human Rights in Serbia; Dialogue; the Committee for Human Rights - Valjevo; the Human Rights Center - Niš; the International Aid Network (IAN); Mental Disability Rights International Serbia (MDRI-S); and the Lawyers’ Committee for Human Rights (YUCOM).

On 20 January 2012 the Protector of Citizens’ Commission for Selection of Associations under the Public Call for cooperation in performing the NPM duties was in session. The session made an expert evaluation of the applications received. The Commission recommended to the Protector of Citizens to establish cooperation in performing the duties of the NPM with all the associations that had submitted applications, because all the applicant associations complied with all the requirements envisaged under the Public Call¹⁰.

However, it also recommended that particular associations should systematically monitor the status of PDLs and presence of torture: at police stations - Belgrade Center for Human Rights; in prisons - Helsinki Human Rights Committee in Serbia; at stationary-type social welfare institutions - MDRI-S; in mental hospitals - IAN; the position of minors in prisons and detention units - Dialogue and the Committee for Human Rights - Valjevo; the position of women in total institutions - the Victimology Society of Serbia.

The Protector of Citizen has reached a decision on NGOs with which it would cooperate in executing the tasks of NPM, thus accepting the recommendation made by the Commission. ¹¹. The decision was forwarded to all the applicants under the Public Call and it was made public via the Protector of Citizens’ website.

Following the Commission’s recommendation for selection of associations under the Public Call, the Protector of Citizens concluded agreements with all the associations that had submitted applications, to establish cooperation in performing the duties of the NPM, and with the relevant associations - those recommended by the Commission to administer systemic monitoring of the status of PDLs and of presence of torture in particular sectors - accepting unconditionally the duty thus specified ¹².

⁸ Public Call for Cooperation in Performing tasks of the NPM, attachment 4.8 ; Application on the basis of Public Call for Cooperation in Performing tasks of the NPM, attachment 4.9.

⁹ Decision on establishing the Commission for the selection of NGOs on the basis of Public Call, attachment 4.10.

¹⁰ Report of the Commission for the selection NGOs to cooperate with Ombudsman, attachment 4.11.

¹¹ Decision on NGOs to cooperate with the Ombudsman, attachment 4.12.

¹² Cooperation Agreement between Ombudsman and NGO, attachment 4.13.

2.5. Cooperation with external entities

2.5.1. National level

In order to efficiently perform the duties of the NPM on the national level, the Protector of Citizens reached agreement with the Commission for the Control of Enforcement of Penal Sanctions, appointed in July 2011 under a decision of the Republic of Serbia National Assembly, on a number of joint activities. The Commission's goal is to carry out control of enforcement of penal sanctions and detention measures; to take stock of the situation in the field of enforcement of penal sanctions; and to propose measures to eliminate irregularities as well as measures to improve living conditions, treatment and protection of PDLs.

The intensive cooperation was reached with The Directorate for Human and Minority Rights of the Ministry of Human and Minority Rights, Public Administration and Local Self-Government. In October 2011 the Directorate organized a round table on „Establishing National Preventive Mechanism in the Republic of Serbia and the Challenges of the Future Cooperation“, with participation of representatives from APT, Swiss NPM, Spanish Ombudsman and NPM, European Commission, Council of Europe, OSCE Mission to Serbia and representatives of state authorities and NGOs ¹³.

2.5.2. International level

OSCE Mission to Serbia has in the recent period provided support to the Protector of Citizens in the process of establishment and creating conditions for the efficient work of NPM, thus continuing the provision of long-term support to the activities of the Protector of Citizens in protection of the PDLs.

The Protector of Citizens has provided timely information to the Subcommittee as well as a number of other relevant international and regional bodies regarding the designation of The Protector of Citizens to act as NPM in accordance with the law amending the law on OPCAT ratification. In direct contacts with Mari Amos, member of Subcommittee, the activities undertaken by the Protector of Citizens with the view to preparing for efficient performance of duties of NPM have been discussed.

Previously established cooperation with APT, particularly with Matthew Pringle, Europe and Central Asia Programme Officer has been intensified and a series of important issues for NPM have been discussed in the recent period. A APT Global Forum on the OPCAT “Preventing Torture, Upholding Dignity: From Pledges to Actions” which took place on 10 and 11 November in Geneva, Switzerland was attended by Deputy Ombudsman in charge of the NPM.

Previously established collaboration with the European NPM Network has been enhanced, particularly with Markus Jaeger, Head of the Human Rights co-operation division, Directorate General of Human Rights and Rule of Law Directorate of Human Rights, CoE. Deputy Ombudsman in charge of NPM participated in a round table discussion held on 18 October 2011 in Kiev Ukraine, followed by the NPM Thematic Workshop which took place from 20 to 21 October 2011 in Baku, Azerbaijan. In addition, Deputy Ombudsman participated in Annual stock-taking and planning meetings NPMs and NHRs held from 6 to 7 December 2011 in Ljubljana, Slovenia.

¹³ The Conclusions from the Round Table - Establishing the NPM / Challenges, attachment 4.15.

The Protector of Citizens has over a long period of time had very intensive collaboration with NPM of Slovenia. In the last period, several mutual visits have been undertaken with a view to discussing issues important for PDLs as well as issues referring to the organization and activities of NPM. During the last visit to Slovenia from 27 to 29 September, a joint tour of one of the prisons in the vicinity of Ljubljana was undertaken, on which occasion the methodology and/or the procedures applied by NPM of Slovenia were observed firsthand.

The Protector of Citizens has continued previously established cooperation with Ombudsman of Spain, and during a number of contacts, experience was exchanged with NPM of Macedonia, the Czech Republic, Lithuania, Switzerland, the UK, Albania, Azerbaijan...

2.6. Education programs

The employees in the Expert Services of the Protector of Citizens have in the course of the past years undergone numerous educational trainings on the position of PDLs, prevention of torture and any other form of abuse. The speakers were renowned experts in the field concerned, inter alia: Manfred Novak, Eric Rosenthal, Matthew Pringle, Marco Mona, Renco Bonn, Ivan Selih, Dainius Puras, Douvile Joudicate, Jan Pfeiffer and Robert Van Voren, as well as a considerable number of national experts.

The representatives of the Ombudsman Office attended a seminar entitled "Ombudsman and OPCAT" held in Warsaw, Poland from 13 to 14 September, 2011.

With the support provided by the OSCE Mission to Serbia, a number of education programs have been executed:

In period between 27 and 29 September the representatives of the Protector of Citizens, along with the Provincial Ombudsman, paid a study visit to NPM of Slovenia in Ljubljana, whose model is quite similar to Serbia's NPM model. During the visit a joint tour of one of the prisons in the vicinity of Ljubljana was conducted, on which occasions the methodology and/or the procedures applied by NPM of Slovenia were observed firsthand.

On 13 October Mathew Pringle a representative from APT paid a working visit to the Protector of Citizens, the purpose of which was to share experience from this field, give a talk on the subject of organization and position of NPM unit within the Ombudsman office, provide examples of good and bad practice regarding the NPM organization and elaborate on different aspects of relationship between Ombudsman and NGOs regarding the work of NPM.

In the past, several workshops have been organised on the position of PDLs, prevention of torture and other forms of ill-treatment. Special attention has been paid on the situation in psychiatric hospitals in Serbia. Representatives of the Provincial Ombudsman and NGO representatives took part in the work of the roundtables.

2.7. Visibility

2.7.1. Website of the NPM

The website of the Serbian NPM containing information about all the activities of the NPM, information about the visits, information regarding recommendations addressed to the authorities, publications etc. has been installed¹⁴. All the relevant legal documents national and international alike are going to be available on the website. For the time being the website is only available in Serbian language, and the English version is under way.

¹⁴ Website of the NPM, attachement 4.16.

2.7.2. Presentation of the NPM

On 13 October 2011, the Protector of Citizens organized a round table, with the support provided by the OSCE Mission to Serbia, dedicated to promoting the NPM. This meeting was attended by the representatives of the Protector of Citizens and representatives of the Provincial Ombudsman as well as by civil society representatives who in the course of the public debate indicated a desire to participate in NPM. The list of participants in the meeting goes on to include state bodies' representatives, international and regional organization representatives, as well as academia and media representatives while attendance and participation of former convicts in the debate did not go unnoticed.

2.7.3. Getting the professional public acquainted with the work of NPM

Deputy Ombudsman in charge of performing activities related to the NPM has given a number of lectures aimed at getting the judges, police officers, prison staff, journalists, the Judicial Academy students, and medical students as well as civil society representatives acquainted with the scope of competences of NPM.

2.8. Other decisions important to the performance of NPM

2.8.1. The plan of visits

The plan of visits to be undertaken by NPM in 2012 was adopted¹⁵. The Program of visits was drawn up in accordance with agreement reached by The Protector of Citizens, Provincial Ombudsman and selected associations in charge of conducting systematic monitoring of conditions of PDLs, in their special areas of expertise. The intention is to undertake visits to all institutions where people deprived of their liberty are accommodated within the next four years, which consequently means that NPM shall conduct about 80 visits in 2012 alone, 50 of which are to be undertaken to the Police stations, 10 to prisons, 5 to psychiatric hospitals, 6 to social welfare institutions of residential type, one to a shelter for foreigners and 10 to nursing homes for the elderly.

2.8.2. Decisions on the NPM working methods

A draft of Decision on working methods of NPM has been drawn up resulting in the Protector of Citizens regulating the working methods of the NPM more closely.

2.8.3. Methodology of conducting visits

The Methodology of the visits to be undertaken by NPM to institutions providing accommodation to persons deprived of their liberty has been drafted and is to be based on previously adopted „Preventative mechanism of the Protector of Citizens“ methodology for monitoring of institutions where PDLs are held¹⁶.

2.8.4. Decision on remuneration policy

Decision has been drafted on the remuneration policy for fulfilling the duties of NPM. The aforesaid decision prescribes criteria for setting fee rates for associations with whom The Protector of Citizens closely cooperates in performing functions of NPM as well as fee rates for outside associates for the provision of services in their area of expertise¹⁷. Representatives of associations and outside associates are entitled to remuneration for covering the transportation costs, daily allowances when conducting visits and fees for drawing up reports by virtue of their engagement in activities of NPM.

¹⁵ Plan of visits / 2012, attachement 4.6.

¹⁶ Methodology of Ombudsman's Preventative mechanism (PM) attachement 4.17.

¹⁷ Decision on the fees for performing tasks of the NPM, attachement 4.14.

2.9. Test Visit

For the purpose of evaluating the existing methodologies for conducting prison visits, the Protector of Citizens carried out a test visit to „Pavilion VII“ located at Penal Correctional Institution in Pozarevac - Zabela. The team, led by Deputy Ombudsman for the protection of rights of PDLs, comprised of the employees in the Expert Services of the Protector of Citizens, one psychiatrist and two forensic doctors as well as the representative of the NGO Helsinki Committee for human rights in Serbia. The purpose of the visit was to establish the presence of torture. The visit has not been pre-announced and upon arrival to the „Pavilion VII“ the prison staff was told to keep prisoners within the prison premises and not to enter prison cells if not accompanied by our team members. Members of the monitoring team divided into three groups carried out visits to all 90 cells, as well as to all other premises within the pavilion. Doctors who were in the team conducted brief unsupervised interviews with all of the 220 prisoners individually, with a view to obtaining information whether they (the prisoners) have in the past six months been subjected to torture or any other form of abuse. The prisoners who claimed to have suffered bodily injuries were examined then and there by the forensic doctors and their injuries were photographed.

3. CONCLUSION

The Protector of Citizens has within the last six months of 2011, after being designated as the authority performing the duties of NPM, used his competences solely for the purposes of conducting all necessary preparatory work in order to create conditions for effective functioning of NPM.

We are convinced that the established structure and methodology of this very complex model of Serbian NPM, which includes the engagement of the Protector of Citizens and the Provincial Ombudsman and NGOs alike, shall enable efficient work of NPM, as of January 2012.

4. ATTACHMENTS

4.1. Law on amending the Law on ratification OPCAT

LAW ON AMENDING THE LAW ON RATIFICATION OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

"Official Gazette of the Republic of Serbia - International Treaties", no. 7/2011

Adopted on 28 July 2011, on eight session of the National assembly of Republic of Serbia

Entered into force: 9 August 2011

Article 1

The Law on ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Official Gazette of Serbia and Montenegro - International Treaties", no. 16/05 and 2/06), after Article 2 Article 2a is added as follows:

"Article 2a

The Protector of Citizens (Ombudsman) shall operate a National mechanism for the prevention of torture.

In performing the duties of the National Mechanism for the Prevention of Torture Protector of Citizens (Ombudsman) shall cooperate with the ombudsman of autonomous provinces and associations whose statute intended goal is the promotion and protection of human rights and freedoms, in accordance with the law. "

Article 2

This Law shall come into force eight days after its publication in "Official Gazette of the Republic of Serbia - International Treaties".

4.2. Constitution of the Republic of Serbia

CONSTITUTION OF THE REPUBLIC OF SERBIA

("Official Gazette of the Republic of Serbia" No. 98/2006)

5. Protector of Citizens

Article 138

The Protector of Citizens shall be independent state body who shall protect citizens' rights and monitor the work of public administration bodies, body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions to which public powers have been delegated.

The Protector of Citizens shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices.

The Protector of Citizens shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law.

The Protector of Citizens shall account for his/her work to the National Assembly.

The Protector of Citizens shall enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Protector of Citizens.

The Law on the Protector of Citizens shall be enacted.

4.3. Law on the Protector of Citizens (Ombudsman)

LAW ON THE PROTECTOR OF CITIZENS

INTRODUCTORY PROVISIONS

Article 1

The Protector of Citizens is hereby established, as an independent body that shall protect the rights of citizens and control the work of government agencies, the body authorized for legal protection of property rights and interests of the Republic of Serbia and other bodies and organisations, enterprises and institutions which have been delegated public authority (hereinafter: administrative authorities).

The Protector of Citizens shall also ensure that human freedoms and rights are protected and promoted.

In the context of this law, the term 'citizen' covers not only local nationals but also any physical person who is a foreign national, as well as any local or foreign legal person whose rights and responsibilities are determined by the administrative authorities specified under paragraph 1 of this Article.

Article 2

The Protector of Citizens is independent and autonomous in performance of his/her duties established under this Law and no one has the right to influence the work and actions of the Protector of Citizens.

In performance of duties within his/her competence the Protector of citizens shall act in accordance with the Constitution, law and other regulations and general acts, as well as the ratified international treaties and generally accepted rules of international law.

Article 3

The seat of the Protector of Citizens shall be in Belgrade.

The Protector of Citizens may issue a decision to establish an office outside its seat.

The general act determining the organisation of the Protector of Citizens shall also govern the organisation of offices outside its seat.

II APPOINTMENT AND END OF OFFICE

Article 4

The National Assembly of the Republic of Serbia (hereinafter: the Assembly) shall appoint the Protector of Citizens following the proposal of the National Assembly Committee for Constitutional Issues (hereinafter: the Committee).

Each parliamentary group in the National Assembly has the right to propose to the Committee its candidate for the Protector of Citizens.

Several parliamentary groups may propose a joint candidate for the Protector of Citizens.

The proposal of the Committee has to be supported by a majority vote of all the members of the Committee.

Before the proposals for the Protector of citizens are finalized, the Committee can decide to hold a session where all candidates will be able to express their views on the role and manner of fulfilment of the Protector of Citizens' function.

The Protector of Citizens is appointed for a period of five years and the same person may be elected at most twice in succession.

The procedure for the appointment of the Protector of Citizens shall start at least six months before the end of office of the outgoing Protector of Citizens.

Article 5

A person is eligible for the position of the Protector of Citizens if they are nationals of the Republic of Serbia and meet the following requirements:

- bachelor's degree in law;
- at least ten years of experience in jobs related to the purview of the Protector of Citizens;
- high moral character and qualifications;
- significant experience in the protection of civil rights.

Article 6

The Protector of Citizens shall have four deputies that help him/her in performing the duties prescribed by this Law, and within the powers delegated to them by the Protector of Citizens.

When delegating powers to deputies, the Protector of Citizens shall in particular ensure special expertise for the performance of duties under the Protector of Citizens' competency, primarily in respect to the protection of rights of persons deprived of their liberty, children's rights, rights of national minorities and rights of disabled persons.

The Protector of Citizens shall designate a deputy who will replace him/her when absent or prevented from performing his/her duties.

Deputies of the Protector of citizens shall be appointed by the Assembly following the recommendation of the Protector of Citizens.

Deputies of the Protector of Citizens shall be appointed to a five-year term of office and the same person may be elected at most twice in succession.

A person is eligible for the position of Deputy Protector of citizens if they are nationals of the Republic of Serbia and meet the following requirements:

- university degree;
- at least five years of experience in jobs related to the purview of the Protector of citizens;
- if they are persons of high moral character and qualifications
- have significant experience in the protection of civil rights.

Article 7

The Protector of Citizens and his deputies shall swear the following oath before taking office: "I solemnly swear to perform my duties responsibly, impartially and independently, in compliance with the law and the Constitution and to conscientiously work on the protection of human rights and freedoms."

The Protector of Citizens shall swear the oath before the National Assembly, and his/her Deputies before the Speaker of the National Assembly.

Article 8

The Protector of Citizens, i.e. his/her Deputies, shall take office the moment he/she swears the oath.

If the Protector of Citizens, i.e. his/her Deputies, fails to take office within 30 days from the day he/she swore the oath without justifiable reason, he/she shall be deemed not elected. This fact is concluded by the National Assembly on the basis of a Committee's notification. In such event, the procedure for the election of a new Protector of Citizens, i.e. his/her Deputies, is immediately initiated.

Article 9

The Protector of Citizens, i.e. his/her Deputies, shall not hold other public office, perform another professional activity, or any duty or task that might influence their independence and autonomy.

The Protector of Citizens and his/her Deputies shall not be members of political organisations.

The Protector of Citizens and his/her Deputies shall have the status of officials pursuant to the law regulating the conflict of interests in performing public functions, and the provisions of this Law shall fully apply to them.

All public, professional and other functions of the Protector of Citizens and/or Deputies, i.e. the duties or tasks they have been performing, which are opposite to the provisions of this Law, as well as membership in a political party, shall cease on the day of taking office.

Article 10

The Protector of Citizens and his/her Deputies shall not be held accountable for opinion, criticism or recommendation they made while performing their function.

The Protector of Citizens and his/her Deputies shall not make any political statements.

Article 11

The term of office of the Protector of Citizens shall cease in the following cases:

- with the end of mandate, unless he/she is re-appointed;
- in case of death;
- by resigning from office;
- by loss of citizenship, which is determined based on the act of the competent state body;
- by meeting requirements for mandatory retirement pursuant to the law;
- by becoming permanently physically or mentally unable to carry out his/her duties, which is determined on the basis of documentation of relevant medical institution
- by dismissal.

Article 12

The Protector of Citizens shall be dismissed from office by the National Assembly, following the proposal of the Committee or at least one third of the total number of deputies.

If the Committee initiates the motion for dismissal, it must be supported by a majority of the members of the Committee.

The Protector of Citizens may be dismissed only in the following cases:

- due to incompetence or negligence in discharging his/her duties;
- if he/she holds other public function or engages in professional activity, duty or task that might influence his/her independence and autonomy, or if he/she acts contrary to the law regulating the prevention of the conflict of interests in performing public functions;
- if convicted for a criminal offence which makes him/her unsuitable for this function.

The Protector of Citizens has the right to address the members of the National Assembly at the session in which his/her dismissal is to be discussed.

Article 13

Following the recommendation of the Committee, the National Assembly may reach a decision to suspend the Protector of Citizens in situations when:

- 1) he/she has received measure of remand;
- 2) he/she is convicted for a criminal offence which makes him/her unsuitable for this function but his/her sentence is still not enforceable.

The National Assembly shall abolish a decision on suspension as soon as the reasons for suspension are terminated.

Article 14

The provisions related to the end of office of the Protector of Citizens shall accordingly apply to his/her Deputies. The Protector of Citizens may also make the proposal for the dismissal of a Deputy.

Article 15

In the event of termination of office of the Protector of Citizens or a Deputy for reasons specified under Article 11, item 1 – 6 hereof, the Assembly shall state without a debate that the conditions for the end of office have been met.

Legal consequences of the end of office shall come into effect as of the date the decision referred to in paragraph 1 of this Article was passed.

Article 16

In the event of end of office of the Protector of Citizens, a Deputy designated by the Protector of Citizens to replace him/her when absent or prevented from work shall perform this function until the election of a new Protector of Citizens.

The election of the new Protector of Citizens shall be made at latest within 6 months from the end of office of the preceding Protector of Citizens.

II POWERS

Article 17

The Protector of Citizens shall have the power to control the respect of the rights of citizens, establish violations resulting from acts, actions or failure to act by administrative authorities, if they are violations of the laws, regulations and other general acts of the republic.

The Protector of Citizens shall have the power to control the legality and regularity of the work of administrative bodies.

The Protector of Citizens shall not have the power to control the work of the National Assembly, President of Republic, Government of Serbia, Constitutional Court, courts and public prosecution's office.

Article 18

The Protector of Citizens shall have the power to launch initiatives with the Government or National Assembly for the amendment of laws or other regulations or general acts, if he deems that violations of citizens' rights are a result of deficiencies of such regulations. He shall also have the power to launch initiatives for new laws, other regulations and general acts, if he considers it significant for exercising and protecting citizens' rights.

The Government, or the competent Committee of the National Assembly, shall be obliged to consider the initiatives of the Protector of Citizens.

In the process of drafting of regulations, the Protector of Citizens shall have the power to give his opinion to the Government and National Assembly on draft laws and regulations if they concern the issues relevant for the protection of citizens' rights.

Article 19

The Protector of Citizens shall have the power to initiate proceedings before the Constitutional Court for the assessment of legality and constitutionality of laws, other regulations and general acts which govern issues related to the freedoms and rights of citizens.

Article 20

The Protector of citizens shall have the power to publicly recommend the dismissal of an official who is responsible for violation of citizen's right, i.e. to initiate disciplinary proceedings against an employee of the administrative authorities who is immediately responsible for performed injury, when the recurring behaviour of the official or employee reveals the intent to refuse co-operation with the Protector of Citizens or when it is determined that the injury made to the person caused material or other serious damage to that person.

If revealed that activities of an official or an employee of the administrative authorities contain elements of criminal or other punishable act, the Protector of Citizens shall have power to submit request, i.e. to file a motion to initiate misdemeanour, criminal or other appropriate proceedings.

Article 21

Administrative authorities shall co-operate with the Protector of Citizens and enable his access to their premises and information available to them, which are of importance for the proceedings he runs, i.e. for the fulfilment of the goal of his preventive operation, regardless of the degree of confidentiality of such information, unless it is contrary to the law.

The Protector of Citizens shall have power to interview any employee of administrative authorities when it is of significance for the proceedings he runs.

The Protector of Citizens, i.e. Protector of Citizens' Deputy, shall have the duty of confidentiality as regards the information acquired during his term of office even after the end of office.

Everyone working in the Protector of Citizens' Secretariat is subject to the pledge of secrecy.

Article 22

The Protector of Citizens shall have authority to freely access correctional institutions and other places where persons deprived of liberty are held and to speak in privacy with those persons.

Article 23

The President of the Republic, the Prime Minister and members of the Government, the Speaker of the National Assembly and officials in administrative agencies are obligated to receive the Protector of Citizens at his request at latest within fifteen days.

IV PROCEDURE

Article 24

The Protector of Citizens initiates proceedings following the complaint of a citizen or on his own initiative.

In addition to the right to initiate and run proceedings, the Protector of Citizens shall have the right to act preventively by offering good services, negotiating and giving advice and opinions related to issues from his competency, with the view of improving the work of administrative authorities and protection of human rights and freedoms.

Article 25

Any physical or legal, local or foreign person who considers that their rights have been violated by an act, action or failure to act of an administrative authority may file a complaint with the Protector of Citizens.

In case of violation of child's rights, the complaint referred to in paragraph 1 of this Article may be submitted by his/her parent, i.e. legal representative on behalf of the juvenile. In case of violation of the rights of a legal person, a person authorized to represent that legal person may file the complaint.

Prior to submitting a complaint, a citizen is required to endeavour to protect their rights in appropriate legal proceedings.

The Protector of Citizens shall direct the complainant to instigate relevant legal proceedings when such proceedings are provided, and shall not instigate investigation until all legal remedies have been exhausted.

Exceptionally, the Protector of Citizens may initiate proceedings even before all legal remedies have been exhausted if the complainant would sustain irreparable damage or if the complaint is related to violation of good governance principle, particularly incorrect attitude of administrative authorities towards the complainant or other violations of rules of ethical behaviour of administrative authorities employees.

The Protector of Citizens shall not proceed on anonymous complaints.

Exceptionally, if the Protector of Citizens considers that an anonymous complaint provides basis for his operation, he may initiate proceedings on his own initiative.

Article 26

A complaint is filed in writing or orally on record and shall not require payment of any fees or other dues.

A complaint may be filed not later than one year from the day the violation of the right of citizen occurred, and/or from the date of the last action undertaken by the administrative authority in respect of the violation.

Article 27

The complaint shall contain the name of the administrative authority involved, description of the violation of the right, facts and evidence supporting the complaint, information about the legal remedies already used and data on the complainant.

At the request of the complainant, the Secretariat of the Protector of Citizens is obliged to offer technical assistance to draft a complaint, without any kind of compensation.

Persons deprived of liberty are entitled to submit their complaints in a sealed envelope.

All institutions where there are persons deprived of liberty shall visibly and publicly provide adequate envelopes, which shall be ensured by the management of such institutions and the Ministry of Justice.

Article 28

The Protector of Citizens shall act on each complaint except:

- if the case is not within the competence of the Protector of Citizens;
- if it is filed after the expiry of the statutory deadline;
- if it is filed prior to exhausting all available legal remedies, and the requirements specified under paragraph 5 of Article 25 are not fulfilled;
- if a complaint is anonymous;
- if it does not contain information required to proceed, and the complainant has neither corrected such deficiency even in the period determined for supplementing the complaint nor asked the Protector of Citizens' Secretariat to assist him in correcting such deficiencies.

If for any of the reasons specified in paragraph 1 of this Article, there are no grounds for an action of the Protector of Citizens, he/she shall reject the complaint and notify the complainant, stating the reasons for rejecting the complaint.

Article 29

The Protector of Citizens shall notify the complainant and the administrative authority involved about the beginning and end of a proceeding.

The administrative authority is required to respond to all requests of the Protector of Citizens and to provide all requested information and documents within a period set by the Protector of Citizens that may not be shorter than 15 or longer than 60 days.

In certain justified cases, the Protector of Citizens may decide not to disclose to the administrative authority the identity of the person who submitted a complaint.

Article 30

If the administrative authority involved eliminates the irregularities by itself, the Protector of Citizens shall so notify the complainant and leave him/her a 15-day period to declare whether he/she is satisfied with such action.

If the complainant declares that he/she is satisfied with the manner the irregularity has been corrected, and also when the complainant fails to respond within the set deadline, the Protector of Citizens shall discontinue the proceedings.

Article 31

Upon determination of all relevant facts and circumstances, the Protector of Citizens may inform the complainant that his/her complaint is unfounded or may find that irregularities existed in the work of the administrative authority.

If the Protector of Citizens determines that irregularities existed in the work of the administrative authority, he shall deliver a recommendation to the administrative authority on steps to be undertaken in order to rectify the noted irregularity.

The administrative authority is obliged to inform the Protector of Citizens at latest within 60 days of the day it received the recommendation whether it proceeded pursuant to the recommendation and eliminated the irregularity, or about reasons why it failed to proceed pursuant to the recommendation.

Exceptionally, where there is danger that the rights of complainant might be permanently and seriously violated if irregularities are not corrected, the Protector of Citizens may, in his recommendation to the administrative authority, determine a shorter period for elimination of such irregularities, which shall not be shorter than 15 days.

If the administrative authority fails to proceed pursuant to the recommendation, the Protector of Citizens may so inform the public, the National Assembly and the Government, and may recommend proceedings to determine the accountability of the official in charge of the administrative authority.

Article 32

The Protector of Citizens may act on his own initiative when on the basis of his own knowledge or information received from other sources, and only exceptionally on the basis of anonymous complaints, he estimates that an act, undertaking or inactivity of an administrative authority caused violation of human rights and freedoms.

Provisions of Articles 29 through 31 of this Law shall accordingly apply to proceedings instituted by the Protector of Citizens on his own initiative.

V REPORT TO THE ASSEMBLY AND CO-OPERATION OF PROTECTOR OF CITIZENS WITH OTHER BODIES

Article 33

The Protector of Citizens shall submit a regular annual report to the Assembly that shall include information on activities in the preceding year, noted irregularities in the work of administrative authorities and recommendations to improve the status of citizens in relation to administrative authorities.

The report shall be submitted not later than 15 March of the following year and shall be published in the "Official Gazette of the Republic of Serbia", and on the Internet page of the Protector of Citizens and shall also be delivered to public media.

The Protector of Citizens may submit special reports during the year, if necessary.

Article 34

Relationship between the Protector of Citizens and the authorities of autonomous provinces and local self-government units authorized for the protection of citizens' rights are based on mutual co-operation within the scope of powers of the Protector of Citizens determined by this Law.

The Protector of Citizens shall co-operate with the Ombudsman of an autonomous province and the civic defender (Ombudsman) in a local self-government unit, where established, as well as with the competent office of the President of Republic and the Assembly, with the aim to exchange information on noted problems and manifestations in the work of administrative authorities, from the perspective of protection and improvement of human rights and freedoms.

Article 35

In case the Protector of Citizens receives a complaint related to the violation of citizens rights by an act, undertaking or inactivity of administrative authorities, not connected with the violation of the laws, other regulations and general acts of the Republic, but with the violation of regulations or general acts of an autonomous province or local self-government unit, the Protector of Citizens shall refer the complaint without delay to the Ombudsman of the autonomous province i.e. civil defender (ombudsman) of the local self-government unit, if such is established.

In case a body of an autonomous province or local self-government unit that is in charge of the protection of citizens' rights issues receives a complaint related to the violation of the law, other regulations or general acts of the Republic, it shall forward that complaint without delay to the Protector of Citizens.

In case the complainant in his/her complaint simultaneously points to a violation of the law, other regulation or general act of the Republic and a violation of a regulation or general act of an autonomous province i.e. local self-government unit, the body that received the complaint (the Protector of Citizens, Provincial Ombudsman or civil defender-ombudsman of the local self-government unit) shall handle the complaint within its own scope of powers and shall forward a copy of the complaint to the other competent body (the Protector of Citizens, Provincial Ombudsman or civil defender-ombudsman of the local self-government unit, if such is established) so that it handles the complaint within its own scope of powers pursuant to paragraphs 1 and 2 of this Article.

VI RIGHT TO SALARY

Article 36

The Protector of Citizens is entitled to a salary equal to that of the salary of the president of the Constitutional Court, and deputies to that of a judge of the Constitutional Court.

VII FUNDS FOR WORK OF THE PROTECTOR OF CITIZENS

Article 37

The funds for the work of the Protector of Citizens are provided in the Republic budget.

The Protector of Citizens shall draft a proposal for funds for the following year, pursuant to methodology and criteria in force for other budget spending units and shall deliver it to the Government for inclusion as an integral part of the proposed Republic budget.

Annual funds for the work of the Protector of Citizens should be sufficient to enable him to fulfil his duties in efficient and operational manner, and should be in accordance with microeconomic policy of the Republic.

VIII SECRETARIAT

Article 38

A Secretariat of the Protector of Citizens is hereby established to perform specialised and administrative tasks.

The Secretariat shall be managed by the Secretary General, who shall hold a degree in law and have minimum five years experience and meet the requirements for employment in administrative authorities.

The Protector of Citizens shall issue a general act on the organisation and job classification of the Secretariat, which is approved by the Assembly.

The Protector of Citizens shall decide on the employment of staff in the Secretariat.

The Secretary General and other employees of the Secretariat are subject to regulations on labour relations in government bodies.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 39

The Assembly shall elect the Protector of Citizens within six months of coming into force of this Law.

The Protector of Citizens shall submit a proposal for the election of his deputies within 3 months of taking office, and the Assembly shall elect the deputies within 2 months from the date of submitting the proposal.

Article 40

The Protector of Citizens shall issue a general act on the organisation and work of the Secretariat within 60 days of taking office.

Staffing of the Protector of Citizens' Secretariat should be finished within 60 days of coming into force of the general act on the organisation and work of the Secretariat.

Article 41

The Assembly shall harmonise the provisions of its Rules of Procedure with the provisions of this Law within six months of entering into force of this Law.

The Rules of Procedure of the Assembly shall determine the measures to be taken upon a regular and/or special report of the Protector of Citizens.

Article 42

Until the general act on the organization and work of the Secretariat comes into force, on the recommendation of the Protector of Citizens, the Government shall provide premises, means and other prerequisites necessary for the beginning of work.

Article 43

The Protector of Citizens shall not deal with cases that occurred prior to coming into force of this Law.

Article 44

This Law shall come into force eight days after publication in the "Official Gazette" of the Republic of Serbia.

4.4. Separate organizational unit NPM / job position, job description, job requirements

7. DEPARTMENT / SECTION > NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

| Job position name | Job description | No. of employees | Job requirements | Position, title, type |
|--|---|------------------|---|---------------------------------------|
| Department / Section Head | Management of Department/Section; performs the most complex tasks from the scope of work of Department/Section; planning, coordination and supervision of employees in Department/Section; in the absence of Deputy Protector of Citizens, management of the Team for visiting closed institutions; preparing draft recommendations, opinions, regular, extraordinary and final reports of the National Preventive Mechanism; following domestic and international regulations in the field of torture prevention and rights of persons deprived of liberty; and preparing initiatives and proposals for the amendment of relevant domestic regulations; necessary consultations with the Protector and his/her Deputy authorized for the protection of human rights and freedoms and rights of persons deprived of liberty; cooperation with other internal units of the Administrative and Technical Service of the Protector of Citizens, and other authorities for performing tasks in the scope of work of Department/Section; performing other tasks from the scope of work of Department/Section, by order of the Protector or his/her Deputy. | 1 | Law School, or other faculty of social sciences, at least 7 years of professional experience, passed state qualifying exam, knowledge of English, computer knowledge (MS Office package and Internet). | Senior Advisor (Senior Researcher) |
| Job related to cooperation and drafting reports | Preparing the implementation of all forms of cooperation, coordination and communication (organization of visits to closed institutions, gathering individual reports, working meetings, etc.) of the National Preventive Mechanism with the representatives of the state and provincial authorities, organizations of civil society and international organizations, particularly the United Nations Subcommittee on Prevention of Torture and the institutions that act in the field of torture prevention and protection of persons deprived of liberty; participating in visits to closed institutions and offering support in drafting reports; keeping databases relevant for the work of the National Preventive Mechanism; offering expert support in making a draft plan of necessary funds for the work of the National Preventive Mechanism, and monitoring spending of the approved funds; participating in the organization and implementation of promotional activities of the National Preventive Mechanism in public; performing other tasks by order of the Department/Section Head. | 1 | Law School, School of Economics or other faculty of social sciences, at least 3 years of professional experience, passed state qualifying exam, knowledge of English, computer knowledge (MS Office package and Internet). | Advisor (Independent Researcher) |
| Job related to visits to closed institutions and support in drafting reports | Participating in visits to closed institutions; offering support in making draft reports; gathering data of importance for database and work of the National Preventive Mechanism by using all available resources (library, Internet, publications, direct consultations, etc.); participating in expert seminars for the improvement of the quality and efficiency of his/her work and the work of the National Preventive Mechanism; performing other tasks by order of the Department/Section Head. | 2 | Law School, Faculty of Philosophy or other faculty of social sciences, at least 1 year of professional experience, passed state qualifying exam, knowledge of English, computer knowledge (MS Office package and Internet). | Junior Advisor (Researcher) |

4.5. Tasks and duties of separate organizational unit NPM

7. Department /Section: National Preventive Mechanism against Torture

In Department/Section of National Preventive Mechanism against Torture the following tasks and duties are performed:

- Visits to institutions where persons are deprived of their liberty, in order to check, i.e. control their treatment and protection against torture, other cruel, inhuman or degrading treatment or punishment;
- Drafting reports on performed visits to institutions where persons are deprived of their liberty (internal reports, general and thematic);
- Drafting periodic and ad hoc reports, particularly annual reports on the activities and actions of the National Preventive Mechanism against Torture, treatment and situation of persons deprived of liberty, occurrence of torture and recommendations for the prevention of torture;
- On the basis of performed checks, i.e. control, giving recommendations to competent state authorities for the better treatment and situation of persons deprived of liberty in order to prevent torture, other cruel, inhuman or degrading treatment or punishment, and act observing domestic legislation and relevant standards and recommendations of United Nations, Council of Europe, European Union, Organization for Security and Cooperation in Europe and other international organizations whose member is the Republic of Serbia;
- Submitting proposals and giving opinions concerning the applicable or proposed laws related to the protection against torture, other cruel, inhuman or degrading treatment or punishment;
- Initiating acts of the Protector, in which laws are proposed and initiatives for amendments of laws, by-laws and other regulations initiated for the improvement of protection against torture, other cruel, inhuman or degrading treatment or punishment, observing the relevant standards and recommendations of the United Nations, Council of Europe, European Union, Organization for Security and Cooperation in Europe and other international organizations whose member is the Republic of Serbia;
- Direct cooperation with Ombudsmen of Autonomous Provinces and associations, whose Statutes foresee the objective of association for the improvement and protection of human rights and freedoms, in accordance with law;
- Direct cooperation with the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- Cooperation with international and regional mechanisms for the protection of human rights and prevention of torture, particularly through providing information to the United Nations Committee on Prevention of Torture, United Nations Human Rights Committee, United Nations Human Rights Council, United Nations Special Rapporteur on Torture, and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

- Cooperation with state authorities and bodies competent for the protection of rights of persons deprived of liberty and prevention of torture, other cruel, inhuman or degrading treatment or punishment;
- Cooperation with the National Preventive Mechanisms against Torture in other countries in order to develop practice and improve effectiveness of work, particularly within the European network of National Preventive Mechanisms against Torture;
- Cooperation with international and domestic non-governmental organizations for the increased protection against torture and other cruel, inhuman or degrading treatment or punishment,
- Establishing and keeping a database on institutions where persons are deprived of their liberty, and visited institutions; reports of the state, international and non-governmental organizations and institutions related to treatment and situation of persons deprived of liberty; applicable regulations, and other data of importance for the work of the National Preventive Mechanism against Torture;
- Preparing the participation of the Protector of Citizens, i.e. Deputy Protector of Citizens, in all forms of public hearings on draft laws, and in conferences and public hearings organized for the exchange of experiences in the field of prevention of torture, other cruel, inhuman or degrading treatment or punishment;
- Making a draft plan of necessary funds for functioning of the National Preventive Mechanism against Torture, and monitoring spending of the approved funds;
- Other tasks and duties from the scope of work of Department / Section.

4.6. Plan of visits / 2012

| NPM SERBIA / PLAN OF VISITS for 2012. | | | | | | | | | | | | |
|--|----------|---|-------------|---|----------|--|----------|-----------------------------------|----------|--------------------------|----|---|
| | | POLICE DEPARTMENT (PD) & POLICE STATIONS (PS) | | PRISON (KPZ,OZ,VPD) / incl. Detention units & PRISON HOSPITAL | | PSYCHIATRIC HOSPITAL (PH) & Psychiatric unit in Hospital | | SOCIAL WELFARE (residential type) | | INST. for ELDERLY | | Other |
| feb | 20,21 | PD Zrenjanin (1+4 PS) | | | | | | | | | | |
| mar | 12,13 | PD Jagodina (1+4 PS) | 19,20 | KPZ Pozarevac (women) | 26,27 | PH Novi Kneževac | | | 1 5 | Mol Becej | | |
| apr | | | 9,10,11,12 | KPZ S. Mitrovica | 13 | Hospital S.Mitrovica | 23,24 | Novi Becej | 2 3 | Futog Apatin | | |
| may | 14,15 | PD Bor (1+3 PS) PD Zajecar (1+3 PS) | 16,17 | OZ Negotin, OZ Zajecar | 7 | Hospital Sombor | 28 | monastery | | | | |
| jun | | | 11,13 | KPZ Valjevo (juveniles) | 4 | Hospital Novi Sad | | | | | 5 | Police detention for foreigners Beograd |
| july | 23,24,25 | PD Novi sad (1+11 PS) | | | 2,3 | PH Laza Lazarević (Bg) | 16,17 | Othon (Moravica) | | | | |
| aug | | | | | | | | | 27.28.29 | Beograd (5 institutions) | 23 | Military detention Nis |
| sep | 24,25 | PD Kikinda (1+6 PS) | 10,11,12 | VPD Krusevac (juveniles) | 3 | Hospital Beograd | 17 | Čurug | | | 18 | Inst. for illegal migrants Bogovadja |
| oct | 29,30 | PD Prokuplje (1+3 PS) | | | 1,2,3 | PH Kovin | 22,23,24 | Stamnica (Kuline) | | | | |
| nov | | | 5 | OZ Subotica | 12,13,14 | PH Gornja Toponica | 26,27 | 1. oktobar (Stari Lec) | | | | |
| dec | 3,4,5 | PD Pancevo (1+7 PS) | 17,18,19,20 | Prison hospital Beograd | | | | | 6 | private institution | 7 | Airport Nikola Tesla Beograd |

4.7. Memorandum of Cooperation with Provincial Ombudsman



REPUBLIC OF SERBIA



Memorandum of Cooperation

Signed between the

Protector of Citizens
and
Provincial Ombudsman

This Memorandum regulates in detail the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with the Provincial Ombudsman, in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *„Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011*).

The cooperation of the Protector of Citizens with the Provincial Ombudsman in performing tasks of the National Preventive Mechanism against Torture shall be implemented through participation of the Provincial Ombudsman in visits of the Monitoring team of the National Preventive Mechanism against Torture to the institutions in the territory of AP Vojvodina, where persons are deprived of their liberty; participation in planning visits to such institutions; participation in drafting reports, recommendations, opinions and other documents of the National Preventive Mechanism against Torture; participation in cooperation of the National Preventive Mechanism against Torture with the representatives of the civil society, state authorities and bodies; as well as other activities of the National Preventive Mechanism against Torture .

In the Plan for visits of the National Preventive Mechanism against Torture to institutions where persons are deprived of their liberty, the representative/es¹⁸ of the Provincial Ombudsman may be appointed as head of the team for certain visits to the institutions in the territory of AP Vojvodina.

Representative of the Provincial Ombudsman shall participate in making plans for visits of the National Preventive Mechanism against Torture to institutions where persons are deprived of their liberty, in the part that relates to institutions found in the territory of AP Vojvodina.

Representative of the Provincial Ombudsman shall participate in drafting reports of the National Preventive Mechanism against Torture on the performed visits to institutions as member of the Monitoring team, i.e. in making draft reports on the performed visits where he/she was the head of the Monitoring team.

¹⁸ All gramatically gender-specific nouns in this Memorandum shall be used as gender neutral and refer to gender equality of the members of both genders.

The Provincial Ombudsman shall participate in making proposals for measures, recommendations, initiatives, opinions and other documents of the National Preventive Mechanism against Torture related to visits to institutions, in which its representative took part or was the head of the Monitoring team.

The Provincial Ombudsman shall contribute to drafting of special and periodic reports of the National Preventive Mechanism against Torture to the extent in which its representatives participated in the activities to which the report relates.

The Provincial Ombudsman shall participate in the cooperation of the National Preventive Mechanism against Torture with the representatives of the civil society, state authorities and bodies, as well as other activities, such as public hearings, conferences and other gatherings, particularly when the aforementioned relate to institutions found in the territory of AP Vojvodina.

In all documents of the National Preventive Mechanism against Torture, in whose drafting participated the Provincial Ombudsman, its contribution and logo shall be indicated at a particularly noticeable place.

The Provincial Ombudsman in its reports and public addressing shall present its role and activities within cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture .

The Provincial Ombudsman shall keep as confidential all data that come to its knowledge on the basis of the participation in performing tasks of the National Preventive Mechanism against Torture .

Data contained in the published reports of the National Preventive Mechanism against Torture are not confidential, and the Provincial Ombudsman may use these data for its needs or publishing purposes, at the same time indicating that these data are data of the National Preventive Mechanism against Torture and defining its role in the concrete case.

The Provincial Ombudsman shall not undertake any action on behalf of the National Preventive Mechanism against Torture without previous consent of the Protector of Citizens, i.e. reached agreement, and shall act in compliance with the Decision that regulates in detail the manner of performing tasks of the National Preventive Mechanism against Torture .

The Provincial Ombudsman shall bear all costs for the activities undertaken for the implementation of cooperation foreseen in this Memorandum.

The cooperation agreed in this Memorandum shall not influence the implementation of competences of the Protector of Citizens and Provincial Ombudsman based on applicable regulations.

Immediately upon signing this Memorandum the Signatory parties shall appoint persons authorized for its implementation and inform in writing the other party on this fact.

The Memorandum is concluded for an indefinite period of time and may be amended with written agreement of Signatory parties.

In Belgrade, 12 December 2011

PROVINCIAL OMBUDSMAN

Aniko Hajnrlih Muškinja

PROTECTOR OF CITIZENS

Saša Janković

4.8. Public Call for Cooperation in Performing tasks of the NPM



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Republic of Serbia PROTECTOR OF CITIZENS

ANNOUNCES

PUBLIC CALL

for cooperation in performing tasks of the National Preventive Mechanism against Torture

In compliance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *„Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011*),

the Protector of Citizens invites all Associations, whose Statutes foresee the objective of association for the promotion and protection of human rights and freedoms, for cooperation in performing tasks of the National Preventive Mechanism against Torture, as follows: participation of Associations in visits to places where persons are deprived of their liberty, drafting reports, recommendations, opinions and other documents, as well as performing other tasks of the National Preventive Mechanism against Torture.

Subject of Public call

Subject of Public call is the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture as follows: participation of Associations in visits to places where persons are deprived of their liberty, drafting reports, recommendations, opinions and other documents, as well as performing other tasks of the National Preventive Mechanism against Torture in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Publishing the Public call

Public call is published in the „Official Gazette of the Republic of Serbia“ and made public on the Protector of Citizens website: www.zastitnik.rs

Deadline for submitting applications

Deadline for submitting applications is 15 days from announcement of Public call in „Official Gazette of the Republic of Serbia“.

Submitting applications on the basis of Public call

Applications on the basis of Public call must be submitted to the Protector of Citizens in a sealed envelope with indication: „*PUBLIC CALL FOR COOPERATION IN PERFORMING TASKS OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE – DO NOT OPEN*“, to the address: Belgrade, Deligradska 16.

Condition for participation in Public call

Condition for participation in Public call is as follows:

1. The Association is registered with the competent authority in the Republic of Serbia
2. The Statute of the Association foresees the objective of association for the promotion and protection of human rights and freedoms

Application on the basis of Public call

Application on the basis of Public is made on the form: „**Application for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture**“, which can be taken over personally in the premises of the Protector of Citizens or downloaded from the website of the Protector of Citizens, i.e. it must contain all data envisaged in the prescribed form.

Enclosures to the application on the basis of Public call

The following shall be enclosed to the application:

1. Decision on the registration of the Association;
2. Statute of the Association;
3. Description of the activities of the Association for the promotion and protection of human rights and freedoms over the past 5 years;
4. List of reports and publications of the Association in the field of the promotion and protection of human rights and freedoms over the past 5 years;
5. Qualification structure of the Association members, employees and associates.

Untimely and incomplete applications

Applications submitted after the expiry of the deadline, applications not made on the prescribed form, i.e. applications that do not contain all data envisaged in the prescribed form, as well as applications to which all documents required according to this public call are not enclosed, shall not be considered.

Selection criteria

Criteria for the selection of associations qualified for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture are as follows:

1. Quality and quantity of activities of the Association for the promotion and protection of human rights and freedoms over the last 5 years, particularly activities for the protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment;
2. Number of reports and publications of the Association in the field of promotion and protection of human rights and freedoms over the past 5 years, particularly in the field of protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment;
3. Number of qualified persons among members, employees and associates of the Association in the field of the promotion and protection of human rights and freedoms, particularly in the field of protection and promotion of the rights of persons deprived of liberty and prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment.

Selection according to Public call

Upon receiving timely and complete applications with enclosed documentation, and on the basis of the defined criteria, a special Commission shall make a list of associations that meet the conditions for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

The Commission shall recommend to the Protector of Citizens establishment of cooperation in performing tasks of the National Preventive Mechanism against Torture with the Associations found on the list, and individual Associations shall be recommended for systematic monitoring of the situation of persons deprived of liberty and occurrence of torture in police stations, institutions for enforcement of criminal sanctions, stationary social care institutions and psychiatric hospitals, as well as the situation of particularly vulnerable categories among persons deprived of liberty.

Adopting a selection decision on the basis of Public call

Protector of Citizens shall issue a Decision on the selection of Associations at the proposal of a special Commission of the Protector of Citizens for the selection of Associations on the basis of Public call. The Decision shall be submitted to all Public call participants and shall be made public in the website of the Protector of Citizens. The Decision is final.

Deadline for issuing the Decision on selection on the basis of Public call

The Commission for the selection of Associations on the basis of Public call shall make a decision on the selection of Associations within 8 days from the date of the expiry of the deadline for submitting applications.

Publishing and submitting the Decision on selection on the basis of Public call

The Decision of the Commission for the selection of Associations on the basis of Public call shall be published on the website of the Protector of Citizens and submitted to all applicants.

Concluding Cooperation Agreements

The Protector of Citizens shall conclude Cooperation Agreements with the Associations selected on the basis of Public call.

Withdrawal

If an association selected on the basis of Public call does not sign a Cooperation Agreement with the Protector of Citizens within 30 days from the date of submittance of the Commission's Decision on the selection of Associations on the basis of Public call, it shall be considered that the selected association has withdrawn from the cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

Duration of cooperation

The Cooperation Agreement shall be signed for a one-year period, and may be prolonged with the consent of both signatory parties for one more year.

Information on the Public call

Other necessary information can be obtained from Mirjana Drljačić-Sudarević, Senior Advisor; Tel.: 011/2068-100, e-mail: mirjana.sudarevic@zastitnik.rs .

PROTECTOR OF CITIZENS
Belgrade, Deligradska 16
Tel.: 011 / 2068 - 100
Website: <http://www.zastitnik.rs/>

4.9. Application on the basis of Public Call for Cooperation in Performing tasks of the NPM



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
 Belgrade



Protector of Citizens
 Ombudsman

| APPLICATION on the basis of PUBLIC CALL for Cooperation in Performing Tasks of the NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE | |
|---|--|
| Full Association Name | |
| Abbreviated Association Name | |
| Association Address | |
| Association E-mail | |
| Association Web Address | |
| Telephone | |
| Association Reg. No. Registration Authority | |
| Association founding date | |
| Statutory objectives of the Association | |
| Person authorized for representation (Name, Position, ID No.) | |
| Exhibits | 1. <i>Decision on the Association Registration;</i> 2. <i>Association Statute;</i> 3. <i>Description of Association's activities;</i> 4. <i>List of reports and publications of the Association;</i> 5. <i>Qualification structure</i> |
| Place and Date | |
| Signature and Seal | |

4.10. Decision on establishing the Commission for the selection of NGOs on the basis of Public Call



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens („Official Gazette of the Republic of Serbia“, No. 105/2007), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment („Official Gazette of Serbia and Montenegro – International Agreements“, Nos. 16/2005, 16/2005 and 2/2006 and „Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011), I hereby issue the following

DECISION

on establishing the Commission for the selection of Associations on the basis of Public Call

- I. Commission for the selection of Associations on the basis of Public call in performing tasks of the National Preventive Mechanism against Torture is established, and consists of:
 1. Miloš Janković, Deputy Protector of Citizens of the Republic of Serbia, Chairman of the Commission
 2. Stevan Arambašić, Deputy Provincial Ombudsman, Vice Chairman of the Commission
 3. Aleksandar Resanović, Deputy Commissioner for Information of Public Importance and Personal Data Protection
 4. Ljiljana Lončar, Assistant Commissioner for Information of Public Importance and Personal Data Protection
 5. Jasminka Jakovljević, Secretary General of the Administrative and Technical Service of the Protector of Citizens, Clerk of the Commission
- II. The task of the Commission includes the following:
 - Opening and reviewing all received applications on the basis of Public call for cooperation;
 - Drafting records on opening of the applications, and making a list of associations that fulfill formal requirements for cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture;
 - Expert assessment of applications and drafting a written report on the assessment of applications;
 - Recommending to the Protector of Citizens to establish cooperation in performing tasks of the National Preventive Mechanism against Torture with the listed Associations;
 - Recommending to the Protector of Citizens to establish cooperation with the listed Associations for systematic monitoring of the situation of persons deprived of liberty and occurrence of torture in police stations, penitentiaries, stationary social care institutions and psychiatric hospitals, as well as particularly vulnerable categories among persons deprived of liberty;
 - Preparing draft announcement to be posted on website of the Protector of Citizens, on Associations with which the Protector of Citizens shall conclude Cooperation Agreements.

PROTECTOR OF CITIZENS

Saša Janković

4.11. Report of the Commission for the selection NGOs to cooperate with Ombudsman



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

REPORT OF THE COMMISSION

for the selection of Associations to cooperate with the Protector of Citizens
in performing tasks of the
National Preventive Mechanism against Torture

The Protector of Citizens, pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens („Official Gazette of the Republic of Serbia“, No. 105/2007), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Official Gazette of Serbia and Montenegro – International Agreements“, Nos. 16/2005, 16/2005 and 2/2006 and „Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011), issued on 26 December 2011 Decision on establishing the Commission for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

Public call for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture was published on 29 December 2011 in the „Official Gazette of the Republic of Serbia, No. 100/2011 and website of the Protector of Citizens. Deadline for submitting applications was 13 January 2012.

The Commission consisting of: Chairman, Miloš Janković, Vice Chairman, Stevan Arambašić, Members, Aleksandar Resanović and Ljiljana Lončar, and Clerk, Jasminka Jakovljević, held a meeting on 20 January 2012 beginning at 11 a.m., where the submitted applications were considered.

The Commission established that the following Associations responded with their applications to the Public call:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights - Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights - Niš,

and that all applications were submitted on time.

The Commission opened and reviewed all received applications and enclosed documentation.

It was established that all applications included all necessary data, and that all required documents were enclosed to applications.

On the basis of individually reviewed applications, the Commission established that all aforementioned Associations meet the required conditions for cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture.

On the basis of the aforementioned, the Commission unanimously proposes to the Protector of Citizens:

I

To issue a Decision on the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with all stated Associations:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights - Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights - Niš,

II

To conclude with all Associations mentioned under item I of this Report individual Cooperation Agreements on performing tasks of the National Preventive Mechanism against Torture

III

To determine in detail, in individual Cooperation Agreements, form and manner for the implementation of cooperation, and to specifically oblige individual associations to systematically monitor situation of persons deprived of liberty, occurrence of torture and other forms of ill-treatment, as follows:

- Belgrade Center for Human Rights
 - in police stations and places of detention
- Victimology Society of Serbia
 - situation of women in closed institutions
- Dialogue and Committee for Human Rights - Valjevo
 - situation of convicted minors and minors in detention
- Mental Disability Rights Initiative of Serbia (MDRI-S)
 - in stationary social care institutions
- International Assistance Network (IAN)
 - in psychiatric hospitals
- Helsinki Committee for Human Rights in Serbia
 - in prisons

CHAIRMAN OF THE COMMISSION

Miloš Janković

4.12. Decision on NGOs to cooperate with the Ombudsman



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens („Official Gazette of the Republic of Serbia“, No. 105/2007), and the Report of the Commission for the selection of Associations on the basis of Public call to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture (Published in the “Official Gazette of the Republic of Serbia“, No. 100/2011), announced in compliance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Official Gazette of Serbia and Montenegro – International Agreements“, Nos. 16/2005, 16/2005 and 2/2006 and „Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011), I hereby issue the following

DECISION

on Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture

I

The Protector of Citizens shall cooperate in performing tasks of the National Preventive Mechanism against Torture with the following associations:

1. Belgrade Center for Human Rights
2. Victimology Society of Serbia
3. Dialogue
4. Mental Disability Rights Initiative of Serbia (MDRI-S)
5. Committee of Lawyers for Human Rights (YUCOM)
6. International Assistance Network (IAN)
7. Committee for Human Rights - Valjevo
8. Helsinki Committee for Human Rights in Serbia
9. Center for Human Rights - Niš,

II

With the Associations mentioned in Paragraph I of this Decision, the Protector of Citizens shall conclude individual Cooperation Agreements in performing tasks of the National Preventive Mechanism against Torture, which shall regulate in detail form, manner and duration of cooperation.

III

This Decision shall be delivered to all Associations that submitted their applications on the basis of Public call, and shall be published on the website of the Protector of Citizens.

Explanation

Pursuant to Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *„Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*), the Protector of Citizens announced a Public call for the selection of Associations to cooperate in performing tasks of the National Preventive Mechanism against Torture. Public call was published on the website of the Protector of Citizens on 26 December 2011 and in the *„Official Gazette of the Republic of Serbia“*; No. 100/2011 of 29 December 2011.

The Protector of Citizens, pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens, issued on 26 December 2011 Decision on establishing the Commission for the selection of Associations with which the Protector of Citizens shall cooperate in performing tasks of the National Preventive Mechanism against Torture.

In its Report of 20 January 2012 the Commission suggested to the Protector of Citizens to issue Decision on the cooperation of the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture with the applicant Associations, as follows: Belgrade Center for Human Rights; Victimology Society of Serbia; Dialogue; Mental Disability Rights Initiative of Serbia (MDRI-S); Committee of Lawyers for Human Rights (YUCOM); International Assistance Network (IAN); Committee for Human Rights – Valjevo; Helsinki Committee for Human Rights in Serbia; Center for Human Rights – Niš; and to conclude with all applicant Associations individual Cooperation Agreements in performing tasks of the National Preventive Mechanism against Torture, in which form and manner of the cooperation implementation shall be specified.

The Protector of Citizens issued this Decision accepting the Commission proposal.

PROTECTOR OF CITIZENS

Saša Janković

4.13. Cooperation Agreement between Ombudsman and NGO



Protector of Citizens
Ombudsman



REPUBLIC OF SERBIA



BEOGRADE CENTER
FOR HUMAN RIGHTS

Cooperation Agreement

Signed by and between

Protector of Citizens

and

Belgrade Center for Human Rights, Association from Belgrade,
(hereinafter referred to as: the Association)

Date: 31 January 2012 in Belgrade

This Agreement regulates the cooperation of the Protector of Citizens with the Association in performing tasks of the National Preventive Mechanism against Torture, pursuant to Decision of the Protector of Citizens 73-3/2012, Ref. No. 1421 of 20 January 2012, in accordance with the proposal of the Commission for the selection of Associations to cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, and in accordance with Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*“Official Gazette of Serbia and Montenegro – International Agreements”, Nos. 16/2005, 16/2005 and 2/2006* and *„Official Gazette of the Republic of Serbia – International Agreements”, No. 7/2011*).

The cooperation of the Protector of Citizens with the Association shall be implemented in such a way that the Association shall participate in performing tasks of the National Preventive Mechanism against Torture. The Association is particularly obliged to systematically monitor the situation of persons deprived of liberty, occurrence of torture and other forms of ill-treatment in police stations and detention units.

The Association shall participate in the visits of the National Preventive Mechanism against Torture to places where persons are deprived of their liberty, and drafting reports on performed visits to institutions in which the representative of the Association took part.

The Association shall participate in drafting proposals of measures to be undertaken, recommendations, initiatives, opinions and other documents of the National Preventive Mechanism against Torture concerning the visits to institutions in which the representatives of the Association took part.

The Association shall contribute to drafting special and periodic reports of the National Preventive Mechanism against Torture in the extent to which its representatives participated in the activities to which the report relates.

The Association shall participate in the implementation of cooperation of the National Preventive Mechanism against Torture with the state authorities and bodies, as well as other activities such as public hearings, conferences and other gatherings.

In all documents of the National Preventive Mechanism against Torture, that were drafted with the participation of the Association, the contribution of the Association and its logo shall be indicated at a particularly noticeable place.

The Association is authorized to present in the reports and public addressing its roles and activities in performing tasks of the National Preventive Mechanism against Torture.

The Association shall keep as confidential all data that come to its knowledge on the basis of the participation in performing tasks of the National Preventive Mechanism against Torture, and if this is not the case, the cooperation shall terminate.

Data contained in the published reports of the National Preventive Mechanism against Torture are not confidential data, and the Association may use these data for its own needs and publishing, stating that these data were obtained by the National Preventive Mechanism against Torture and the role of the Association in the concrete case.

The Association shall not undertake any action on behalf of the National Preventive Mechanism against Torture without previous consent of the Protector of Citizens, and if this is not the case, the cooperation shall terminate.

The Association is entitled to a reimbursement for expenses incurred during the activities undertaken for the implementation of cooperation defined in this Agreement, and in accordance with the document that regulates reimbursement of expenses for performing tasks of the National Preventive Mechanism against Torture.

The cooperation agreed with this Agreement shall not affect the implementation of competences of the Protector of Citizens and the activity of the Association based on applicable regulations.

Immediately upon signing this Agreement, the Association shall appoint a person for the cooperation with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, and inform on this fact the Protector of Citizens in writing.

The Signatory parties may amend this Agreement only in writing.

This Agreement is concluded for a one-year period and may be extended with consent of both Signatory parties for one more year.

BELGRADE CENTER FOR
HUMAN RIGHTS

PROTECTOR OF CITIZENS

Saša Janković

4.14. Decision on the fees for performing tasks of the NPM



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to Article 3 paragraph 4 of the Decision on establishing and work of the Administrative and Technical Service of the Protector of Citizens („Official Gazette of the Republic of Serbia“, No. 105/2007), and the need arising from Article 2a paragraph 2 of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Official Gazette of Serbia and Montenegro – International Agreements“, Nos. 16/2005, 16/2005 and 2/2006 and „Official Gazette of the Republic of Serbia – International Agreements“, No. 7/2011), I hereby issue the following

Decision **on the fees for performing tasks of the** **National Preventive Mechanism against Torture**

Article 1

This Decision regulates criteria for determining fees of the Associations that cooperate with the Protector of Citizens in performing tasks of the National Preventive Mechanism against Torture, as well as the amount of fees for the engagement of external associates for providing expert services.

ASSOCIATIONS' FEES

Article 2

On the basis of the engagement of the Associations' representatives in the activities of the National Preventive Mechanism against Torture, the Associations are entitled to the following:

1. travel and accommodation expenses and per diem allowances – for visits to institutions outside the seat of the association
2. remuneration – for the time spent during the visit to institutions
3. fee for drafting reports on the performed tasks

Article 3

Travel and accommodation expenses and per diem allowances are provided in compliance with the Regulation on expense allowances, reimbursements and severance pay of civil servants and appointees („Official Gazette of the Republic of Serbia“, Nos. 86/07, 93/07 and 98/07- Full text)

Article 4

Associations' fees for the work of their representatives during their visits to institutions are determined in the amount of the average monthly salary per employee in the economy of the Republic of Serbia, according to the last final data of the Republic Statistical Office, on the date of departing for business trip.

The Associations are entitled to proportionate part of the monthly amount of the fee from the previous paragraph, determined according to the number of working hours for the engagement of their representatives.

Article 5

Fees for drafting reports on visits to institutions where persons are deprived of their liberty, amount to 10% of the average monthly salary per employee in the economy of the Republic of Serbia, i.e. 5% of the mentioned monthly salary for drafting reports on visits to police stations, gerontology centers, old people nursing homes, border crossings, military detention facilities.

Fees determined in paragraph 1 shall be increased depending on the duration of the visit, i.e. 50% on the basis of each subsequent day of the visit to the same institution.

Article 6

Gross fees for the performed tasks of the National Preventive Mechanism against Torture by the representatives of the Associations shall be paid to the accounts of Associations at the end of the calendar month by adding all related fees for the performed activities in the month, on the basis of the report of responsible officer from the Division for the National Preventive Mechanism against Torture Affairs.

EXTERIOR ASSOCIATES – EXPERTS' FEES

Article 7

With the exterior associate engaged for providing expert services in performing tasks of the National Preventive Mechanism against Torture a contract of hire is concluded, where reasons for the engagement and all related expense allowances and reimbursements are stated:

1. travel and accommodation expenses and per diem allowances – for visits to institutions outside the seat of the association
2. remuneration – for the time spent during the visit to institutions
3. fee for drafting reports on the performed tasks

Article 8

Travel and accommodation expenses and per diem allowances are provided in compliance with the applicable regulations from Article 3 of this Decision.

Article 9

Fees for the work of exterior associates – experts for visits to institutions are determined in the amount of the salary of the civil servant of the highest rank and pay scale, as proportionate part of the monthly amount of salary determined according to the number of working hours of the engagement of the exterior associate in performing tasks of the National Preventive Mechanism against Torture.

Article 10

Fees of exterior associates for drafting reports on the visit to institutions in which persons deprived of liberty are found, amounts to 10% of the monthly salary of a civil servant of highest rank and pay scale, i.e. 5% of the mentioned monthly salary for drafting a report on visits to police stations, gerontology centers, old people nursing homes, border crossings, military detention facilities.

Fees determined in paragraph 1 shall be increased depending on the duration of the visit, i.e. 50% on the basis of each subsequent day of the visit to the same institution.

Article 11

Fees for the performed tasks of the National Preventive Mechanism against Torture by the engaged exterior associates shall be paid to the accounts of Associations at the end of the calendar month by adding all related fees for the performed activities in the month, on the basis of the report of responsible officer from the Division for the National Preventive Mechanism against Torture Affairs.

Article 12

The responsible officer in the Division for the National Preventive Mechanism against Torture Affairs must keep record of all expenses on the basis of the engagement of the representatives of Associations or exterior associates-experts, and he/she is obliged to submit to the Section for Financial and Material Affairs a monthly report with all related exhibits (Proposal for the engagement of the representative of an association or expert; filled in travel order; copy of the report on the performed tasks; bills, etc.)

Article 13

This Decision shall come into force on the eighth day following its posting on the Bulletin Board in the premises of the Protector of Citizens.

PROTECTOR OF CITIZENS

Saša Janković

4.15. Conclusions from the Round Table - Establishing the NPM / Challenges



REPUBLIC OF SERBIA

MINISTRY OF HUMAN AND MINORITY RIGHTS,
PUBLIC ADMINISTRATION AND LOCAL SELF-GOVERNMENT

The Directorate for Human and Minority Rights

Belgrade

**The Conclusions from the Round Table Discussion on
“Establishing the National Mechanism for Prevention of Torture in the Republic of Serbia
and the Challenges of Future Cooperation”
held on 14 November 2011 in Belgrade**

I

In order for the Ombudsman to be able to commence efficient performance of the role of National Mechanism for Prevention of Torture, the following conditions need to be met:

- administrative capacity building in the Ombudsman’s Professional Service with another four job positions,
- providing premises and equipment for the work of its staff,
- providing an adequate vehicle for continuous visits paid to the institutions where persons deprived of liberty are placed,
- providing special funds within the Ombudsman's budget earmarked for covering the expenses of the National Mechanism for Prevention of Torture, primarily for paying the staff's salaries and other income, fees for hired experts and non-governmental organisations taking part in the visits and reporting, fuel costs and other expenditures incurred in efficient performance of duties that the National Mechanism for Prevention of Torture has.

II

Establishing the National Mechanism for Prevention of Torture should not have any negative impact on the access of other international and domestic bodies and civil sector representatives to the places of detention, or limit the actions of the existing mechanisms for monitoring the human rights situation of persons deprived of liberty.

III

In order to enable the National Mechanism for Prevention of Torture to perform three duties under its competences **it is necessary that:**

The Government of the Republic of Serbia

- Ministry of the Interior, especially the Police Directorate, Internal Audit Sector, all police administrations and stations,
- Ministry of Justice, especially the Directorate for Enforcement of Penal Sanctions,
- Ministry of Health, especially the specialised hospitals for mental diseases and the Specialised Hospital for Addiction Diseases,
- Ministry of Labour and Social Policy, especially the stationary institutions of social welfare,
- Ministry of Defence,

The National Assembly of the Republic of Serbia

- Commission for Control over Execution of Penal Sanctions,
 - Committee for Judiciary and Administration of the National Assembly of the Republic of Serbia,
- Serbia's Supreme Court,**

The National Public Prosecutorial Office,

The High Judicial Council,

The State Council of Prosecutors

as well as all the staff therein,

establish cooperation stipulated by **the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, which provides **the National Mechanism for Prevention of Torture** with:

- unhindered, unannounced and daily access to all institutions where persons deprived of liberty are placed, *i.e.* to all premises and installations,
- having conversation in private with all persons deprived of liberty and all employees,
- access to all data on the number of people deprived of liberty, the institutions where these persons are placed, their location, treatment and placement facilities,
- implementation of the recommendations issued by the National Mechanism for Prevention of Torture in accordance with its mandate,
- timely and efficient exchange of relevant information.

Establishment of full cooperation of all state bodies with the National Mechanism for Prevention of Torture is a prerequisite for its efficient work aiming at prevention of torture and other cruel, inhuman or degrading treatment or punishment in the Republic of Serbia.

IV

The National Mechanism for Prevention of Torture is encouraged to deliver the reports on its visits to places of detention together with recommendations regularly and within reasonable time-frame to institutions in charge of implementing the recommendations.

V

The National Mechanism for Prevention of Torture is encouraged to, whenever necessary, in accordance with its powers, inform the public of its work, whereby it will contribute to transparency of its work and transparency of the work of institutions where persons deprived of liberty are or can be placed.

The National Mechanism for Prevention of Torture is encouraged to submit regular annual reports to the National Assembly of the Republic of Serbia, describing its activities, findings and recommendations, irrespective of the Ombudsman's regular annual report.

Regarding this, the Directorate for Human and Minority Rights will inform the following of this round-table conclusions:

- The United Nations' Committee Against Torture,
- The United Nations' Subcommittee for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- The United Nations' Special Rapporteur on Torture,
- The European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment,
- The Council of Europe's Network of National Mechanisms for Prevention of Torture,
- The Association for Prevention of Torture.

The Directorate for Human and Minority Rights will deliver the Conclusions and edited text of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to:

The Government of the Republic of Serbia

- Ministry of the Interior,
- Ministry of Justice, especially the Directorate for Enforcement of Penal Sanctions,
- Ministry of Health,
- Ministry of Labour and Social Policy,
- Ministry of Defence,
/ With kind request to the relevant ministries to submit them to all institutions under their competences, where persons deprived of liberty are or can be placed.

The National Assembly of the Republic of Serbia

- Commission for Control over Execution of Penal Sanctions,
- Committee for Judiciary and Administration of the National Assembly of the Republic of Serbia,

Serbia's Supreme Court,

The National Public Prosecutorial Office,

The High Judicial Council,

The State Council of Prosecutors

4.16. Web site of the Serbian NPM



Заштитник грађана

Ombudsman



Почетна
О нама
Контакт
Права лица лишених слободе
Заштитник грађана



Милош Јенковић
Заменик Заштитника грађана

Улога Заштитника грађана

- ▶ Национални механизам за превенцију тортуре
- ▶ Активности Заштитника грађана
- ▶ Догађаји
- ▶ Препорука, мишљења, иницијативе
- ▶ Извештаји
- ▶ Публикације
- ▶ Статистика



Национални механизам за превенцију тортуре

Почетна

Тродневна посета Казнено - поправног завода за жене у Пожаревцу

Тим Националног механизма за превенцију тортуре (НПМ) обавио је тродневну мониторинг посету 19-21 марта 2012. године Казнено - поправног завода за жене у Пожаревцу. У саставу тима који ће предводити заштитника грађана Милош Јенковић, а у саставу тима, поред запослених у Стручној служби Заштитника грађана, представници Пожарског Омбудсмана, два лидера, представници Заступничког друштва, невладине организације Београдски центар за људска права као и представница Хелсиншког одбора за људска права.

Национални механизам за превенцију тортуре у посети Полицијској управи Јагодина

Национални механизам за превенцију тортуре (НПМ) обавио је 12. и 13. марта 2012. године мониторинг посету Полицијској управи Јагодина и полицијским станицама у њеном саставу. Тим је предводио заштитник грађана Милош Јенковић, а у саставу тима, поред запослених у Стручној служби Заштитника грађана, био је и представник Београдског центра за људска права.

Опширније...

Посета Геронтолошком Центру Бечеј

Дана 5. марта 2012. године обављена је посета установи социјалне заштите - Геронтолошком центру Бечеј. Чланови Националног механизма за превенцију тортуре су такође посетили регионални центар за старије особе и запосленима, а притом обилазили објекте центра и са свим корисницима. У циљу превенције тортуре и других судорова, неуједносно, пошкољавачког казни и поступака, тим НПМ је контролисао услове смештаја корисника, здравствану негу која им се пружа као и начине поступања према њима.

Национални механизам за превенцију тортуре у посети Дома за старе и пензионере Мол

Посета првој установи социјалне заштите у оквиру мандата Националног механизма за превенцију тортуре (НПМ) реализована је 01. марта 2012. године обилазком Дома за старе и пензионере у Молу. Чланови НПМ у реализовали све активности. Они су запослени у Стручној служби Заштитника грађана Републике Србије и заменик Пожарског омбудсмана Стеван Арвићковић са својим сарадницима.

Опширније...



Избор
Додаток

▶ Притиски оквир

▶ Промени стандарди

▶ Судске одлуке

▶ Места за заштиту права

▶ Организације и институције

▶ Извештаји

▶ Публикације и радови

▶ Установе за задржавање

▶ Затвори

▶ Дечије и социјалне установе

▶ Здравствене установе

▶ Полиција

▶ Азил и провештајници

▶ Остало

▶ Корисни линкови

▶ Корисни линкови

ГАЛЕРИЈА

4.17. Methodology of Ombudsman`s Preventative mechanism (PM)



REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS
Belgrade



Protector of Citizens
Ombudsman

Pursuant to point 8 of the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty, reg.no. 4846, of 2 July 2009,

The Preventive Mechanism of the Protector of Citizens issues the following:

METHODOLOGY

OF WORK OF

THE PREVENTIVE MECHANISM

OF PROTECTOR OF CITIZENS - OMBUDSMAN

(PM)

FOR MONITORING PLACES OF DETENTION

OF PERSONS DEPRIVED OF LIBERTY

Belgrade, October 2009

1. MANDATE, PRINCIPLES AND GOALS

1.1. MANDATE

The mandate of the Preventive Mechanism for monitoring places of detention of persons deprived of liberty (hereinafter: Preventive Mechanism), comes within the legal authority of the Protector of Citizens (*Law on the Protector of Citizens, "Official Gazette of the RS", no.79/2005 and 54/2007*) laid down in the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty, reg.no. 4846, of 2 July 2009.

The Preventive Mechanism conducts monitoring of places of detention of persons deprived of liberty.

Monitoring places of detention of persons deprived of liberty includes continuous and systematic gathering, checking and processing of data, as well as determining the situation in institutions concerning respect of rights of persons deprived of liberty and with regard to that recommending adequate measures.

Monitoring places of detention of persons deprived of liberty is first of all conducted by visiting those institutions, as well as by collecting information on the status of persons deprived of liberty in those institutions in any other way, particularly from: the reports of these institutions (e.g. filled-in questionnaires); findings of other subjects that conducted monitoring of these institutions; other activities of the Protector of Citizens; media etc.

Preventive Mechanism is entitled to:

1. Unimpeded and unannounced visits to institutions
2. Unrestricted access to all institutional premises
3. Unrestricted and unsupervised interview with all persons deprived of liberty
4. Unrestricted and unsupervised interview with the personnel
5. Unrestricted access to all records, regardless of degree of confidentiality
6. Unrestricted copying of documentation, regardless of degree of confidentiality

Agreement on bringing of camera and taking of photographs is worked out with the management of institution

1.2. PRINCIPLES

Principles of functioning of the Preventive Mechanism are set out by the Protector of Citizens' Decision on Establishment of Preventive Mechanism, as well as by other generally accepted monitoring principles: do no harm, act strictly according to the law, respect management and personnel of the institution, adhere to the house rules of the institution and comply with internal rules, respect established competences and internal job assignments in the institution, do not become involved in existing interpersonal conflicts in institution, treat all contacted persons in a polite manner, demonstrate respectful attitude towards the institution that one presents, act in accordance with the set goal of visit following the determined method of work, respect the hierarchy and special assignments of the monitoring team members, act in coordination with other monitoring team members, demonstrate professional behaviour, do not deal with circumstances that are outside the competence, respect interlocutor's integrity, avoid any partiality, draw attention to the confidentiality of interview, show empathy for suffering that our interlocutor refers to, do not create unrealistic expectations for the interlocutor, take care of safety of the source of information, do not take photographs of any person without his/her consent, carry out investigation procedure with several sources, ask the interlocutors clear and precise questions, establish reliable, clear, precise and comparative facts etc.

1.3. GOALS

The goals of the Preventive Mechanism are within the competence of the Protector of Citizens set out in the Law on the Protector of Citizens and determined by the Protector of Citizens' Decision on Establishment of Preventive Mechanism for monitoring places of detention of persons deprived of liberty.

Main goals of visits to institutions are:

1. Determining the real situation (establishing reliable, clear, precise and comparative facts suitable for analysis)
2. Identifying irregularities in work, that is, identifying violations of rights of persons deprived of liberty
3. Recommending measures for elimination of work irregularities
4. Control of the change of situation and implementation of measures for elimination of work irregularities

2. PREVIOUS ACTIVITIES OF THE PREVENTIVE MECHANISM

2.1. ESTABLISHMENT OF THE PREVENTIVE MECHANISM

2.1.1. DESIGNATION OF PERSONNEL COMPOSITION

The Preventive Mechanism for monitoring places of detention of persons deprived of liberty (hereinafter: Preventive Mechanism) is comprised of all members of the Protector of Citizens' Council for protection of persons deprived of liberty.

The members of the Preventive Mechanism are also the Protector of Citizens' Expert Service staff, namely everyone working in the Department for Rights of Persons Deprived of Liberty, as well as some staff working in other departments of the Complaints Division and Division for Improvement of Rights that deal with rights of members of particularly vulnerable groups present among persons deprived of liberty.

The Preventive Mechanism members are also other experts that possess knowledge relevant for protection of rights of persons deprived of liberty, namely lawyers, first of all experts in criminal law and in protection of rights of persons deprived of liberty, as well as doctors, mainly general practice, internal and forensic medicine specialists and psychiatrists.

The Protector of Citizens defines the Preventive Mechanism personnel composition by a special decision.

2.1.2. DETERMINING ORGANIZATION OF WORK AND PERSONNEL ASSIGNMENTS

The Protector of Citizens' Deputy for Protection of Rights of Persons Deprived of Liberty is the Preventive Mechanism coordinator (hereinafter: coordinator).

When it comes to the protection of persons deprived of liberty that belong to particularly vulnerable groups, the coordinator guides the activities of the Preventive Mechanism in agreement with the Protector of Citizens' Deputies for Gender Equality, Child Rights, National Minority Rights and Rights of Persons with Disabilities.

On the basis of consultation with the Preventive Mechanism members, the coordinator gives special assignments for specific areas to particular members of the Preventive Mechanism.

The Protector of Citizens' Expert Service is in charge of the Preventive Mechanism organizational and administrative tasks.

By a special decree the Protector of Citizens appoints the Preventive Mechanism administrative secretary from among the Protector of Citizens' Expert Service staff (hereinafter: administrative secretary).

By the coordinator's order, the administrative secretary guides and performs organizational and administrative tasks of the Preventive Mechanism and is responsible for their realization.

2.2. DRAFTING OF QUESTIONNAIRES

Questionnaires should contain systematized and standardized questions related to general and special data on institution and persons deprived of liberty.

Answers to asked questions should offer relevant picture of the situation in the institution and be suitable for comparison and analysis.

The questionnaires should be of tabular type. Questions need to be precise, clear and recognizable. Terminology used should be standardized and harmonized. The style of asked questions and offered answers should be unique. The questions should mainly be based on provisions of concrete regulations and valid standards so that their answers immediately point out the possible shortcomings or irregularities in work. Whenever it is objectively possible, the answers should be set as alternatives, with entering of numeric data, but leaving blank space in certain questions for recording of personal opinion. It is desirable that after the group of questions referring to specific area, provisions of regulations and standards on the basis of which they are asked are stated.

Drafting of questionnaire will be done in two phases. The first phase includes drafting of initial questionnaires used for creation of electronic database about institutions, drafting of questionnaires that precede visit to an institution, as well as drafting of questionnaires that are used in the course of visit to prisons. In the second phase the questionnaires that will be used during visits to other places of detention of persons deprived of liberty will be developed.

2.2.1. INITIAL QUESTIONNAIRES

These questionnaires will be forwarded to all places of detention of persons deprived of liberty for their answer.

The goal of these questionnaires is to create a special database of places of detention of persons deprived of liberty („identity card of institutions“) within the electronic database of the Preventive Mechanism (EDPM).

These questionnaires contain general, standardized questions about the type of institution, its name, address, contact, capacity, current number of persons deprived of liberty, total number of staff, health care personnel, and other relevant data.

These questionnaires are supposed to be forwarded for feedback to the management of institution.

Different initial questionnaires will be drafted depending on the type of institution: for prisons, remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylums for foreigners etc.

2.2.2. QUESTIONNAIRES PRECEDING VISITS TO INSTITUTIONS

These questionnaires will be forwarded to institutions for their feedback immediately before the planned visits.

The purpose of these questionnaires is to enable adequate preparation of the monitoring group for visit.

Beside general questions (checking data existing in the special database on institutions within EDPM) these questionnaires also contain series of special, additional questions relevant for the current visit to institution.

These questionnaires are delivered to managers of institutions, that is, of certain organizational parts of institutions, for their feedback.

Different preliminary questionnaires will be drafted depending on the type of institution: for prisons, remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylum for foreigners etc.

2.2.3. QUESTIONNAIRES USED IN THE COURSE OF VISITS

These questionnaires are intended for use by the visiting group (hereinafter: visiting group) in the course of visit to an institution.

The aim of these questionnaires is to enable complete, immediate and as objective as possible identification of the situation in an institution.

These questionnaires contain precise comprehensive questions related to the factual situation in the following areas: material conditions in institution, treatment, regime and activities of persons deprived of liberty, legitimacy of treatment and protective measures, health care, institution's personnel, status of persons deprived of liberty, protection of rights etc.

It is necessary to draft questionnaires that will be answered by managers of institutions, that is, managers of organizational parts of institutions, by the polled persons deprived of liberty (previously determined by random selection system) as well as those that will be answered by the visiting group members on the basis of their immediate perception, established contacts and access to documentation.

Different questionnaires that will be used in the course of visits will be drafted depending on the type of institution: for prisons and remand units, police stations, psychiatric and other closed health care institutions, social care institutions, asylum for foreigners etc.

Annexes to the questionnaires related to the position of particularly vulnerable groups: juveniles, young adults, women, the old, the sick, persons with disabilities, members of LGBT population, members of national minorities and foreigners will also be drafted.

A special questionnaire used for identification of the occurrence of torture will also be drafted.

2.3. FORMATION OF INFORMATION TOOLS

The electronic database of the Preventive Mechanism (EDPM) represents the main information tool.

The EDPM contains relevant data on the rights of persons deprived of liberty and places of their detention, namely: information on the Preventive Mechanism work and its documentation, regulations and standards in force, relevant court decisions and reports, basic facts about all places of detention of persons deprived of liberty („identity card of institutions“), architectural plan of institution, filled-in questionnaires about institution, reports on monitoring of institution, press clippings, as well as other relevant data.

The EDPM will be completed with data from various available sources, taking into account their credibility.

The copies of relevant regulations will be downloaded from the Protector of Citizens' regulations database, valid standards and reports will be downloaded from the official websites of institutions, data on places of detention of persons deprived of liberty („identity card of institutions“) will be formed on the basis of information gathered by the means of initial questionnaires, while press clippings on persons deprived of liberty and on torture will be taken from the Protector of Citizens' database.

The EDPM has the form of website.

Initially, the EDPM will be set as an internal website on the Protector of Citizens' server; afterwards it will be available via the Internet with different levels of access (by using the domain controller, members of the Preventive Mechanism will be able to access all data in the base with special code, while other users will be restricted only to the "open" areas, i.e. bases of the website).

2.4. DETERMINING THE STRUCTURE OF REPORTS

The Preventive Mechanism reports are drafted according to the structure established in advance:

1. Basic facts about the visit (*time, type of visit, members of team, interlocutors...*),
2. Relevant information about the institution that the monitoring team had at its disposal before the visit (*existing reports about the situation in institution*),
3. Basic facts about the institution (*type of institution, capacity, its description...*),
4. Team activities that are implemented in the course of monitoring (*actions that the visiting team conducted in order to become aware of the situation in the institution*),
5. Identified factual situation in certain areas (*facts that the visiting team verified as indisputable and are related to the position of persons deprived of liberty in places of detention, e.g.: living conditions, health care, nutrition, hygiene; classification, categorization; treatment, work, education; correspondence, telephone calls, visits, parcels; special rights, application of coercive and special measures, disciplinary procedures and measures; complaints and actions taken upon grievances and complaints, provision of legal aid; position of juveniles, women, minorities and LGBT persons, religious rights, post-release assistance, internal controls and visits of external subjects; transfers, suspension of sentence; disciplinary procedures against the personnel; internal oversight over the work; attitude towards the Protector of Citizens...*)
6. Identified irregularities in the work of institution (*identified developments that are not in accordance with the regulations and standards in force*),
7. Indication to relevant provisions of domestic and international regulations and standards related to the perceived developments of work irregularities
8. Recommendation of measures for elimination of noted irregularities in work and period of time for procedure i.e. for elimination of irregularities
9. General conclusion about the situation in institution

2.5. EDUCATION OF THE PREVENTIVE MECHANISM MEMBERS

The internal training of the Preventive Mechanism members is carried out in order to make them fully qualified to adequately implement all anticipated activities.

The internal training is carried out through courses in the following areas: relevant international instruments and national legislation in the field of basic human rights and freedoms, rights of persons deprived of liberty and torture; modalities of monitoring of institutions, types of institutions, categories of persons deprived of liberty, tools for determining the real situation in institution and comparison of the noted situation with relevant national and international standards; competence, mandate, principles, methodology of work and goals of the Preventive Mechanism; familiarization with the questionnaires; structure and methodology of drafting of the Preventive Mechanism reports, etc.

The external training is implemented with the view of professional development of the Preventive Mechanism members.

2.6. COOPERATION WITH SIMILAR INSTITUTIONS

Intensive cooperation and exchange of experience with other institutions dealing with protection and improvement of position of persons deprived of liberty (international and nongovernmental organizations, similar mechanisms etc.) will be established.

The Preventive Mechanism members will participate at gatherings and in study visits in the country and abroad the topic of which will be protection of rights of persons deprived of liberty and functioning of institutions that conduct monitoring of institutions where these persons are detained.

3. PREPARATION OF MONITORING

In the process of preparation of monitoring of places of detention of persons deprived of liberty, the first step is to identify the priority visits according to the type of institutions and their situations and on the basis of the findings prepare the plan of visits to institutions (hereinafter: Plan of visit) .

The following types of visits exist: regular, control and emergency

REGULAR VISITS

Regular visits are periodic visits carried out with the view of systematic control of situation in institutions in relation to the respect of rights of persons deprived of liberty.

Regular visits are planned ahead and carried out according to the designed plan of visit.

Regular visits are announced.

CONTROL VISITS

Control visits are those carried out in order to check the situation in institutions in relation to the respect of persons deprived of liberty and compare it to the situation identified in the course of previous visit.

Control visit are planned ahead and carried out according to the designed plan of visit.

Control visits are, as a rule, announced.

EMERGENCY VISITS

Emergency visits are visits carried out in case of learning of the existence of serious irregularities related to the respect of rights of persons deprived of liberty.

A decision to carry out an emergency visit is made by the coordinator.

Emergency visits are not foreseen by the plan of visit.

Emergency visits are, as a rule, unannounced.

3.1. ESTABLISHING THE PLAN OF VISIT

According to the current situation, in the first phase the activities of the Preventive Mechanism will be primarily directed towards the implementation of prison system monitoring, while the system of monitoring of other places of detention of persons deprived of liberty will be developed in the second phase.

The Plan of visit to an institution sets approximate date and length of visit (one or several days), as well as the character of visit (regular or control visit).

The Plan of visit always includes open time period when emergency visits can be conducted.

The length of visit depends on the type of visit, type and capacity of institution, number of monitoring group members and other factors.

The Plan of visit is issued by the coordinator.

3.2. DETERMINING PERSONNEL COMPOSITION OF A VISITING GROUP

Depending on the type of institution, nature of visit and other concrete circumstances, the size and composition of visiting group is set up for each visit to institution.

The visiting group leader is appointed for each visit.

The coordinator determines the size and composition of the visiting group and appoints its leader.

When forming the visiting group attention is paid that experts of profiles necessary for implementation of adequate monitoring be included, whereas the involvement of doctors and lawyers is mandatory (*depending on the type of institution and concrete circumstances, first of all the specialists in general, internal and forensic medicine and psychiatrists, when needed also dentists, gynaecologist...*). Depending on the type of institution, the group will also be comprised of psychologists, special pedagogues and experts of other profiles.

According to the existing specialization of a visiting group members, special subgroups for monitoring of specific areas (hereinafter: subgroup for specific area) will be established (*e.g. team for general observation and treatment, team for legality of treatment, team for health care...*)

3.3. GATHERING DATA ON INSTITUTION

Members of the visiting group will start gathering relevant information about the institution that will be visited.

The sources of information are:

1. **EDPM** (*identity card of institution, direct insight into initial questionnaires, access to the architectural plan of institution, access to the existing reports, insight into the Protector of Citizens' recommendations, press clippings, as well as other existing data on the institution*)
2. **REPORT OF THE COMPLAINT DEPARTMENT** (*Report on all complaints related to the visiting institution submitted to the Protector of Citizens within last year*)
3. **DATA OF EXTERNAL SUBJECTS** (*data on the institution that are not in the EDPM and have been obtained from external subjects: international bodies, state agencies, internal oversight bodies, other organizations that conducted monitoring of that institution, the media.*)

Gathering of data on the institution is managed by the visiting group leader with technical support of the administrative secretary.

3.4. CONTACT WITH THE INSTITUTION TO BE VISITED

Prior to visit (regular or control), the contact is established with the visiting institution, the visit is announced and the questionnaire preceding the visit forwarded.

Regular visit is announced at least two weeks prior to it.

3.4.1 INFORMING THE INSTITUTION AND AGREEING ON THE VISIT

The institution is informed about the day and hour of the visit, its nature, members of the group and their functions, group leader, and possible special requirements (*e.g. that in the course of visit heads of certain services, doctors etc. be present*)

All important elements of the visit and visit procedures (*e.g. use of camera or dictaphone*) are agreed with the management of institution.

Contact with the institution is either directly established by the visiting group leader or through the administrative secretary.

3.4.2. DELIVERY OF THE QUESTIONNAIRE PRECEDING THE VISIT

The questionnaire preceding the visit is delivered to the institution for feedback.

The institution has a time limit (*up to 7 days*) to deliver filled-in questionnaire, which is sufficient for giving reliable answers, taking into account that the same questionnaire has to be timely delivered to the Preventive Mechanism so that it can be processed prior to the visit (*at least 5 days*).

Delivery of the questionnaire preceding the visit is managed by the visiting group leader with technical support of the administrative secretary.

3.5. ANALYSIS OF THE EXISTING DATA ON INSTITUTION AND PREPARATORY ACTIVITIES

Members of the visiting group organize consultations related to the situation in institution and the expected effects of monitoring:

1. All gather data on institution are accumulated.
2. Analysis of the gathered data is performed.
3. Circumstances that should be particularly taken into account in the course of visit are identified.
4. Questionnaires that will be used in the course of visit are chosen and adapted.
5. Operational material (*questionnaires etc.*) is prepared.

Analysis of the existing data on institution and preparatory activities are managed by the visiting group leader with technical support of the administrative secretary.

3.6. AGREEMENT ON PROCEDURE AND ORGANIZATION

Members of the visiting group agree on the upcoming visit to the institution:

1. Deciding on the appearance in front of the management of institution (*attitude that should be expressed during the introductory interview with the management and appointment of persons who will actively participate in the interview together with the visiting group leader*)
2. Determining the behaviour in the course of visit (*determining the behaviour that the visiting group should demonstrate in the course of visit to the institution, in accordance with the mandate and the established operating principles of the Preventive Mechanism*)
3. Visit dynamics (*setting up the time that will be used for certain monitoring phases: joint interview with the management and joint visit of the institution, time left to subgroups for specific areas for interviews with heads of certain organizational units, with personnel and persons deprived of liberty and for review of documentation*)
4. Division of tasks and special assignments of subgroups for specific areas (*e.g. subgroup for general observation and treatment, subgroup for legitimacy of treatment, subgroup for health care...*)
5. Operational material is distributed (*questionnaires, cameras, notebooks etc.*)
6. Administrative and technical organizational issues (*agreement on time of outset of visit, engagement of transport means, schedule, payment of fees...*)

The agreement on procedure and the entire organization is managed by the visiting group leader with technical support of the administrative secretary.

4. MONITORING PROCEDURE DURING VISIT TO THE INSTITUTION

In the course of visit to the institution one deals in accordance with the mandate, principles of operations and established goals of the visit.

Photos are taken only in case of reached agreement with the management of institution.

4.1. INTERVIEW WITH THE MANAGEMENT OF INSTITUTION

Upon arrival to the institution, all visiting group members participate in the interview with the management of institution.

In the first place, the manager of institution is invited to present the general outline of the institution to the visiting group.

Afterwards the Preventive Mechanism, its mandate, principles, goals and methods of work are presented; members of the visiting group are introduced; the activities that are to be implemented in the course of visit are indicated.

Bringing in of camera and taking of photographs is agreed with the management of institution.

On behalf of the visiting group its leader makes the presentation and conducts the interview.

Depending on the previous agreement and immediate permission of the leader, other visiting group members actively participate in the interview.

(In case of emergency visit the visiting group leader can decide to visit first a person or place in the institution due to which the emergency visit is carried out and only after that conduct interview with the management of institution, or to exclude this phase completely)

4.2. VISIT OF THE INSTITUTION

When the interview with the management of institution is finished all members of the visiting group make a joint visit of the institution.

During the visit of the institution the existing architectural plan of the institution is used and corrected.

The architecture of place is visually perceived, living area and accommodating conditions are accessed, with the view of gaining preliminary impression of the general atmosphere in the institution.

Special attention is paid to dormitories, isolation premises, bathrooms and sanitary premises, infirmary, kitchen, warehouse, dining room, living rooms, courtyards, walks, sport yards, workshops etc.

(In case of control or emergency visit the visiting group leader can decide to exclude this phase)

4.3. INTERVIEW WITH THE RELEVANT SERVICES STAFF

Interviews with the staff are conducted by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

Interviews structured according to the questionnaire are conducted with persons responsible for specific areas and, when needed, with other staff as well.

It is recommended that the interview with the staff takes place in their working premises.

The interview with one staff is, as a rule, attended by two members of the subgroup for specific area, whereby the one who conducts the interview does not record anything (*maintains eye contact all the time in order to develop trust*), while the other member is in charge of recording.

In the course of interview with the staff one should demonstrate professionalism, present the PM, purpose of the interview and persons who conduct the interview; one should not deal with circumstances that are outside one's competence, should respect the integrity of interlocutor, avoid any familiarity, not become involved in existing interpersonal conflicts in the institution, act politely in all contacts, point out the confidentiality and the possibility to refuse to talk, take care of safety of the source of information, not take photos of the staff without his/her consent, ask clear and precise questions, state reliable, clear, precise and comparative facts etc.

In the course of interview one should use the questionnaire but allow the interviewed person to go beyond the scope of asked questions.

4.4. VISIT OF SPECIAL PREMISES

Visit of the special premises is performed by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

All premises that members choose can be accessed without any restrictions.

The premises that are checked in the course of visits are marked in the existing architectural plan of institution.

4.5. ACCESS TO DOCUMENTATION

Access to documentation is conducted by members of the subgroups for specific areas (*e.g. subgroup for general and legal affairs and security, subgroup for treatment, subgroup for health care...*).

Copies of particularly important documentations are made, by choice, regardless of degree of their confidentiality.

Documentation that cannot be copied on the spot will be asked to be subsequently delivered.

4.6. INTERVIEW WITH PERSONS DEPRIVED OF LIBERTY

Interviews planned before the visit to the institution are conducted (*usually with persons who submitted complaints or whose rights are violated according to the existing information*), with persons who asked for interview, as well as with other persons chosen by the system of random sampling (*randomly chosen*).

It is recommended that the interview with persons deprived of liberty takes place in the premises where these persons are held (*visit them*) and not in a special room assigned for this purpose by the management of institution (*where they would be brought*).

The interview with a person deprived of liberty is, as a rule, attended by two members of the visiting group, whereby the one who conducts the interview does not record anything (*maintains eye contact all the time in order to develop trust*), while the other member is in charge of recording.

In the course of interview with the staff one should demonstrate professionalism, present the PM, purpose of the interview and persons who conduct interview; one should not deal with circumstances that are outside one's competence, should respect the integrity of interlocutor, avoid any familiarity, point out the confidentiality and the possibility to refuse to talk, show empathy for the suffering that the interlocutor refers to, not create unrealistic expectations for the interlocutor, take care of safety of the source of information, not take photos of the person without his/her consent, ask clear and precise questions, state reliable, clear, precise and comparative facts etc.

In the course of interview one should use the questionnaire but allow the interviewed person to go beyond the scope of asked questions.

4.7. VERIFYING OBTAINED INFORMATION THROUGH SEVERAL DIFFERENT SOURCES

Obtained contradictory information is checked by the means of different sources (conduct control interviews with other persons, additional check-up observation, additional review of records and documentation etc.)

(In case the credibility of the obtained information is beyond doubt it is possible to exclude this phase)

4.8. SHORT MEETING OF GROUP MEMBERS

Short meeting of all visiting group teams takes place.

First impressions of the subgroups for specific areas are exchanged; main problems in the institution are indicated.

Agreement on the short summary of the situation in institution that will be submitted to the management of institution is made.

Additional questions that the management of institution will be asked are settled.

Additional documentation that will be required from the management is identified.

(The visiting group leader can decide to exclude this phase)

4.9. FINAL INTERVIEW WITH THE MANAGEMENT OF INSTITUTION

The interview is attended by all members of the visiting group.

On behalf of the visiting group, its leader conducts the interview.

The visiting group leader first informs the manager of institution about the short summary – impression about the situation in institution.

The visiting group leader compliments on what is good, points out the serious omissions related to the position of persons deprived of liberty in the institution.

According to the agreement, certain members of the visiting group, especially representatives of subgroups for specific areas, can directly point out to the management of the institution some of their specific observations.

After that, the visiting group leader can ask from the manager additional information, clarification and supplementary documentation.

Finally, the visiting group leader announces and explains further steps (sending of letter, report).

(The visiting group leader can decide to exclude this phase)

5. ACTIVITIES FOLLOWING VISIT TO THE INSTITUTION

5.1. LETTER TO THE INSTITUTION AFTER THE VISIT

Following the visit, a courteous thank-you letter is sent to the institution (five days after the visit the latest)
If necessary, additional information, clarification or documentation is required in the letter.

The letter is delivered to the institution by the visiting group leader with technical support of the administrative secretary.

5.2. GROUP MEETING, EXCHANGE OF INFORMATION AND AGREEMENT ON DRAFTING OF REPORT

Meeting of all member of the visiting group takes place. The meeting is managed by the visiting group leader.

During meeting impressions are exchanged and major problems or positive aspects in the institution detected.

Comparison of observations with previous reports findings is made.

The concept of report is determined.

Areas of the report are identified and drafting of sections of report assigned to subgroups for specific areas.

The deadline for drafting of sections of report by subgroups is determined as well as the deadline for drafting of the complete report.

The meeting is presided by the visiting group leader with technical assistance of the administrative secretary.

5.3. DRAFTING OF SECTIONS OF REPORT AND COMPILATION OF THE FULL REPORT

Subgroups for specific areas draft their sections of report.

Managed by its leader, the visiting group drafts the complete report.

Filled-in questionnaires, obtained copies of documentation and notes of the visiting team members represent the foundation for drafting of the report.

The reports have elements and structure determined in advance:

1. Basic facts about the visit (*time, type of visit, team members, interlocutors...*),
2. Relevant information about the institution that the visiting team obtained prior to visit (*existing reports about the situation in institution*),
3. Basic facts about the institution (*type of institution, capacity, its description...*),
4. Team activities implemented in the course of monitoring process (*acts that the visiting team conducted in order to become aware of the situation in institution*),
5. Identified factual situation in certain areas (*facts that the visiting team identified as indisputable that relate to the position of persons deprived of liberty in the institution, e.g.: living conditions, health care, nutrition, hygiene; classification, categorization; treatment, work, education; correspondence, telephone calls, visits, parcels; special rights, application of coercive and special measures, disciplinary procedures and measures; complaints and actions taken upon complaints and grievances, provision of legal aid; position of juveniles, women, minorities and LGBT persons, religious rights, post-release assistance, internal controls and visits of external subjects; transfers, suspension of sentence; disciplinary procedures against the personnel; internal oversight over the work; attitude towards the Protector of Citizens...*)
6. Identified irregularities in the work of institution (*identified developments that are not in accordance with the regulations and standards in force*),
7. Indication to relevant provisions of domestic and international regulations and standards related to the perceived developments of work irregularities
8. Recommendation of measures for elimination of noted irregularities in work and period of time for procedure i.e. for elimination of irregularities
9. General conclusion about the situation in institution

Report drafting is technically assisted by the administrative secretary.

5.4. DELIVERY OF REPORT TO THE VISITED INSTITUTION AND TO THE PROTECTOR OF CITIZENS

The report signed by the visiting group leader is delivered to the Protector of Citizens.

The report is delivered by the coordinator with technical support of the administrative secretary.

Together with the report, possible detached observations of certain members of the visiting group are also submitted to the Protector of Citizens.