



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

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Belgrade



**Protector of Citizens
Ombudsman**

**MEMO TO THE COMMITTEE AGAINST TORTURE
FOR ITS CONSIDERATION OF THE STATE PARTY REPORT OF THE REPUBLIC OF
SERBIA**

Intro on the Serbian Ombudsman

The Constitution of the Republic of Serbia defines the Protector of Citizens/Ombudsman as an independent institution mandated to protect and promote rights of citizens and to control administrative institutions, agencies, bodies and other legal entities entrusted with public powers. The Protector of Citizens is elected in the National Parliament and, thus, responsible to the Parliament for its activities. The dedicated Law on the Protector of Citizens stipulates that ombudsman oversees and enhances protection of human and minority rights and freedoms, and controls fairness and legality of work of public administration.

In his/her work, Ombudsman refers to the Constitution, laws and other regulations and general acts, as well as to the ratified international treaties and generally accepted rules of international law. Ombudsman has a power of legislative initiative before the National Parliament and is authorized to initiate a procedure before the Constitutional Court for the appraisal of the legality of laws and other legal instruments and general acts.

The Protector of Citizens is mandated to publicly recommend dismissal of officials and civil servants responsible for the violation of citizens' rights or for non-cooperation with the ombudsman. This recommendation constitutes a formal ground for dismissal or other disciplinary sanction. Ombudsman may also submit criminal or misdemeanour charges, should he/she find elements of a criminal/misdemeanour act in actions of administration.

The administration has an obligation to fully cooperate with the Protector of Citizens and to allow him/her access to all its facilities, data and information in their possession. Ombudsman is granted by law a right to free access to all places of detention and is entitled to have private interviews with persons deprived of liberty.

Four deputies are provided to Ombudsman to assist him/her in specialized issues defined by the law: protection of rights of persons deprived of liberty, gender equality, children's rights, rights of national minorities and rights of persons with disabilities.

The first Protector of Citizens in Serbia is Mr. Sasa Jankovic, elected in the National Parliament of the Republic of Serbia on June 29, 2007 and sworn to duty on July 24, 2007.

Election of four deputies was in procedure before the parliament at the very moment of writing this memo. The ombudsman proposed Mr. Milos Jankovic, former Head of the Directorate for Execution of Penitentiary Sanctions of the Ministry of Justice to be elected as one of four deputy ombudsman. If the Parliament approves the proposal, Mr. M. Jankovic will be designated for duties related to protection of rights of persons deprived of liberty.

Issues related to the position of persons deprived of liberty in Serbia: Ombudsman's point of view with a reference to CAT's mandate

The Republic of Serbia ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and, therefore, it has taken an obligation to introduce an independent national mechanism for the prevention of torture. The deadline for the introduction has expired. The Protector of Citizens believes that his office fulfils all criteria stipulated in the Part IV of the Optional Protocol to be designated as the national preventive mechanism against torture. Hence, the Ombudsman will initiate appropriate procedure before respective authorities in the Republic of Serbia to this effect.

Until reaching full institutional capacity (hiring all staff and having deputies elected in the Parliament), the Ombudsman has decided to focus his attention mainly to the prison facilities. For the purpose of this memo, three issues will be highlighted as particularly detrimental to the rights of prison inmates from the perspective of Ombudsman:

Lack of space

The capacity of Serbian detention places is not sufficient to accommodate present number of inmates. Latest adaptations to the existing facilities resulted in further reduction of space as a result of adjustments required to improve conditions of life in prisons. According to the figures from 2007, the average number of persons deprived of their liberty at the Correctional Institutions in the Republic of Serbia is 9500. When compared to 5500 detained persons in 2001 and 7500 persons in 2004 - the current number presents an increase of in 73% and 27% respectively. The increase of number of detained persons is not followed by the adequate increase of accommodation capacities. It is estimated that the available space in detention places in Serbia meets only 50% of needs. Therefore new detention facilities are a must.

The fact that the newly renovated detention facilities, such as the District Court in Belgrade and Special Prison Hospital in Belgrade, still remain short of relevant international standards is particularly worrying. As an example, the inmate premises in the District Court in Belgrade and are located between corridors and are deprived of any direct air flow and daylight. It should nevertheless be noted that the Government has made efforts to adjust/improve the existing capacities.

Poor accommodation conditions at detention facilities do not constitute torture *per se*, but occasionally may be defined as inhuman and degrading.

Health care

Law on the Execution of Penal Sanctions brought improvements to the level of health care available to inmates. Nevertheless, the cases investigated by the Ombudsman revealed that the level of protection established by this Law has not been implemented fully. Poor accommodation conditions once again cause shortcomings in medical treatments. There is an acute lack of medical staff. The first-aid stations are not supplied with required medical equipment. The medical staff can not be considered as independent from the prison administration considering the fact that they are employees of the prison institution. That creates a potential threat to integrity of medical records which should contain evidence of any torture excessive coercion. Ministry of Health is not obliged to monitor exercise of professional duties of medical staff in prisons.

In particular, the problem of large number of inmates affected by the HIV and hepatitis C as well as those addicted to psycho-drugs has become evident. Unconfirmed information suggests that almost 50% of the whole imprisoned population is infected.

Internal and external control mechanisms

Although the Law on the Execution of Penal Sanctions and relevant by-laws provide for it, internal control by the relevant department of the Ministry of Justice seems to be insufficient and sporadic.

Parliamentary control of facilities with persons deprived of liberty has been absent.

Despite the proclaimed transparency in detention system, prison monitoring by non-governmental organizations is a rare case. Protector of Citizens does not know of any non-governmental organization which conducts monitoring in a systemic and regular way. activities at Serbian jails. Only a few non-governmental organizations conduct ad hoc monitoring, usually locally.