

NATIONAL PREVENTIVE MECHANISM

Report on a visit to

MURSKA SOBOTA POLICE STATION FOR COMPENSATORY MEASURES

Note: In carrying out the tasks and exercising the powers under the Act Ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Uradni list RS (Official Gazette of the Republic of Slovenia), no. 114/2006) the Human Rights Ombudsman of the Republic of Slovenia (hereinafter: the Ombudsman) in the role of the National Preventive Mechanism (hereinafter: NPM) visits places of detention. In addition to the representatives of the Ombudsman, the group paying a visit normally includes representatives of contractual non-governmental organisations and occasionally also independent experts of medical and other professions, and interpreters. The legal basis for NPM inspections is presented on the following webpage: [Ombudsman as the NPM](#).

This report contains only the main findings regarding the visit, and proposals for improving the conditions or remedying irregularities. It was produced on the basis of the report on the NPM visit and the response report of the competent authorities. It is intended for publication on the Ombudsman's website.

Basic information about the facility:

- **Type of facility:** police station
- **Category of people deprived of freedom:** persons in police custody
- **Official capacity and actual occupancy of the facility on the day of the visit:** two custody rooms;¹ at the time of the NPM visit, two Romanian citizens² were in police custody

Description of the visit and preparation of the report:

- The visit was **unannounced** and **took place on 18 May 2011**.
- **Visiting group:** two Ombudsman representatives (Deputy Ombudsman and expert on criminal investigation) and two representatives of non-governmental organisations (Primus Institute, Legal Information Centre of NGOs)
- **Content of the visit:** Introductory interview with the assistant commander, followed by the inspection of custody facilities, the inspection of randomly selected cases and the final interview with the assistant commander.

¹A room for the admission of persons, which is also used for accommodating aliens in case of extradition/surrender to foreign security authorities. Murska Sobota Police Station for Compensatory Measures also has a room for information gathering and interviews.

²We did not interview them, as they only spoke Romanian. The police station, however, has engaged an interpreter for the purposes of police procedure. It was explained to us that the response of interpreters is good (the majority arrive at Murska Sobota Police Station for Compensatory Measures within about 30 minutes of the call), and that the police station has at its disposal interpreters for all languages.

► **Reporting:** A report on the visit was submitted to the Ministry of the Interior (hereinafter: the MI) on 11 July 2011, including a proposal that the ministry consider the report and communicate its observations, if any, within thirty days, regarding our findings; the Ombudsman received the relevant reply by the MI on 8 September 2011, i.e. 59 days after the dispatch.

SIGNIFICANT FINDINGS AND PROPOSALS OF THE NPM AND RESPONSE OF THE COMPETENT AUTHORITIES

► NPM commended in particular:

- well-kept custody documentation

► NPM's proposal

► Response of the competent authorities

NPM: We propose that a possibility of adding the time of surrender to the relevant report³ be considered.

NPM: We believe that in this case (and other similar cases) it would have been more correct if police officers had applied the first paragraph of Article 110 of the Minor Offences Act (ZP-1) to ensure the presence of aliens in the minor offence proceedings, and produced them before the minor offence authority for immediate proceedings. In view of this, we request that this case of alien treatment (and similar cases) be examined, and invite you to present your observations and possible measures in this regard.⁴

MI: We agree with your view that ensuring the presence of the accused by producing him or her before the competent authority under the first paragraph of Article 110 is a more appropriate measure than the measure under the fifth paragraph of Article 201, which is intended for securing the execution of decisions. In this particular case, the police officers of Murska Sobota Police Station for Compensatory Measures have assessed, after considering the subjective and objective circumstances, that by this milder measure they will achieve their purpose, i.e. that minor offence proceedings are carried out and the decision executed. We will inform Murska Sobota Police Directorate of this opinion.

³During the visit, we inspected the case of the surrender of an alien to Hungarian security authorities. It was established that a 'report on the surrender of an alien to foreign security authorities' is drawn up for the surrender procedure, in the Slovenian and Hungarian languages. The report includes all important information regarding the surrender procedure (data on the surrendered person, who surrendered the person, who received the person, date of surrender); however, the time at which the person is actually surrendered to foreign security authorities is not indicated. It was explained to us that an official note or a dispatch on the successful surrender of a person to foreign security authorities, in which the time of surrender is also indicated, is made in such a case.

⁴As stated above, there were two persons in police custody at the time of our visit. It was explained to us that because they committed a minor offence under the Firearms Act (possession of baton and telescopic baton) these persons had been requested to come to Murska Sobota Police Station for Compensatory Measures by a decision on the seizure of documents in order to ensure the presence at the proceedings, in accordance with the fifth paragraph of Article 201 of the Minor Offences Act (ZP-1). This is the practice of Murska Sobota Police Station for Compensatory Measures for ensuring the presence of persons at minor offence proceedings in such cases. It was explained that in most cases the persons whose documents have been seized by way of such a decision come by their own means of transport to Murska Sobota Police Station for Compensatory Measures, where the minor offence proceedings are continued (an interpreter is called, information gathered, decisions issued, etc.).

NPM: We point out that on 3 February 2011 at 12.00, police officers of Murska Sobota Police Station for Compensatory Measures issued a decision placing an alien in the Aliens Centre. In view of this, we request that this case be examined and invite you to present your observations and possible measures in this regard.⁵

MI: It has been established that an error was in fact committed during the procedure regarding the alien at Murska Sobota Police Station for Compensatory Measures, as the period of deprivation of liberty was longer than permitted by the law. Murska Sobota Police Directorate has pointed out the error to Murska Sobota Police Station for Compensatory Measures, both orally and in writing, and informed other police units of the findings. Specialist services of the General Police Directorate will discuss the case concerned during a consultative meeting with heads of departments and inspectors who are responsible for border issues and aliens at Police Directorates.

⁵During the inspection of the procedure involving an alien (the FIO record shows that the procedure took place from 23.17 on 31 January 2011 to 10.59 on 2 February 2011) it was established that initially police officers had conducted the procedure for surrendering an alien to foreign security authorities; however, they had encountered difficulties regarding the acceptance of the alien by foreign security authorities. Therefore, on 2 February 2011, the alien was placed in the Aliens Centre on the basis of a request for accommodation, in accordance with the second paragraph of Article 5 of the Rules on the stay and movement of aliens at the Aliens Centre and the conditions for the use of milder measures (hereinafter: the Rules). It was further established that on 3 February 2011 at 12.00, police officers of Murska Sobota Police Station for Compensatory Measures issued a decision placing the alien in the Aliens Centre. Article 5 of the Rules does allow the placement of an alien in the Aliens Centre by a request, but only in cases when it is expected that the alien will be removed from the country within 48 hours. During the inspection of the documents, it was established that the alien was not removed from the country and that on 3 February 2011 at 12.00 police officers of Murska Sobota Police Station for Compensatory Measures issued a decision on the placement of the alien in the Aliens Centre. The NPM notes that from the beginning of the procedure at Murska Sobota Police Station to the actual placement in the Alien Centre by a decision, the alien was in custody for more than 48 hours, which means that the maximum period of custody was exceeded.