

NATIONAL PREVENTIVE MECHANISM

- visit to -

BRNIK AIRPORT POLICE STATION

Disclaimer: The following report contains only main findings regarding the visit. It was produced on the basis of the original report on the visit of the National Preventive Mechanism and the response of the authorities to it. It is intended for publishing purposes on the official Human Rights Ombudsman of the Republic of Slovenia webpage.

The Human Rights Ombudsman of the Republic of Slovenia, through two of its representatives and accompanied by a representative of a contractual non-governmental organisation, the Legal-Information Centre for NGOs (PIC), under the tasks and authorisations of the National Preventive Mechanism (hereinafter: NPM), in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, conducted, without prior notice, an inspection of the border detention premises of Brnik Airport Police Station (hereinafter: Station) on 28 September 2010.

The Station employs 60 authorised officials of which there are 6 female police officers. Police officers carry out tasks in three areas or in three groups, namely in the border control group, which is the most numerous group, in the security control group and in the operational task group. The Station does partially cover the area of the airport inside the fence, the so-called “airside” on the right side of the platform (representing the international part), the “land side” on the left side of the platform (representing the public part) and the area close to the outer border of the fence, although this is merely for security reasons.

The Station does not have conventional police custody premises, since in the case of detentions ordered; the detention itself is carried out in the detention premises of Škofja Loka Police Station or in Ljubljana Moste Police Detention Centre. However, the Station does possess a room equipped for interrogation. The Station would use this room also in the event of the interrogated person in police custody demanding the presence of a lawyer; however, according to the explanation of the commander and his deputy, it has not yet happened that a person held in police custody would demand a lawyer.

The Station also has a border detention room or International Area for Refused Aliens as it is called, where the detention of persons in accordance with the National Border Control Act is carried out. In the cases of detention or refusal of entry at the border, this is recorded on the “Refusal of Entry at the Border” form, which is also

available in the English language and in the case of a shorter detention (up to six hours) an "Official Note on Detention" form is also filled in, both of which are signed by the person who is refused or detained. In the case that border detention lasts for more than six hours, a decision on the detention is delivered to the person. In the case of longer border detentions (more than 48 hours); a decision of relocation to Postojna Aliens Centre is passed. The commander and his deputy also explained that meals for border detained persons are provided by Ljubljana Jože Pučnik Airport.

In 2010, until the day of our visit, the Station ordered 14 police custodies and 147 border detentions according to the National Border Control Act. During our visit, no person was detained at the border, nor were there any persons in the process of a police custody procedure.

The International Area for Refused Aliens is located in a separate building from the Station building, which has not been assessed as the best solution (in the International Area for Refused Aliens, persons deprived of their liberty may be border detained for up to 48 hours, whereas in the case of a longer deprivation of liberty, the person is to be placed in the Aliens Centre). The International Area for Refused Aliens is divided into two separate parts. On the ground floor, there is a living room with chairs and tables. The room is spacious enough; it has enough natural light, running water, separate sanitary facilities for men and women and a shower cabin. It does not have video surveillance; therefore physical surveillance is conducted by a police officer from the police officer room in front of the living room. In this part, the police officer has sanitary facilities available which are separate from the other premises intended for border detained persons. The sleeping area is located on the first floor and comprises two larger bedrooms with several beds – metal bunk beds. In the smaller room, there is space (beds) for six persons whilst in the larger room; there is space (beds) for 12 persons. Each bed has a suitable mattress, bed cover and pillow, and when persons are accommodated they receive single-use bed linen as explained by the commander and his deputy.

The Station allows the border detained persons to spend time in the fresh air, where smoking is also possible. The area for spending time in the fresh air is under direct supervision of a police officer. We considered the lack of roofing in case of bad weather in the space a deficiency. Therefore, the NPM proposed that in the case of a reconstruction of the airport premises, a small jutting roof should be provided, which would allow border detained aliens to move outside in bad weather. In their response to the report, the Ministry of the Interior communicated that the International Area for Refused Aliens used by the Station for the purpose of border detaining persons is owned by the Aerodrom Ljubljana, d.d. company; in the development plans of the airport, these areas are planned to be demolished, although, the new area envisaged for the International Area for Refused Aliens will supposedly also be equipped with a jutting roof.

During the visit, it was explained that each person who is border detained according to the National Border Control Act is brought to the International Area for Refused Aliens. In the case of short border detentions (until the departure of an airplane) the

border detained person may be placed in an international area located in the airport building itself and intended for passengers prior to their departure. The person under surveillance and accompanied by a police officer waits here for the departure of an airplane, provided that this does not last too long. We pointed out that also in this case appropriate care should be provided for aliens (sanitary needs should be met, food and drink provided). In this respect, the Ministry of the Interior confirmed that police officers at the Station provide all border detained persons with the rights to which they are entitled, also those who are detained only for a short time.

The surveillance of the national border is conducted by police officers in the spaces of the Ljubljana Jože Pučnik Airport. The work premises are in the passenger arrival and departure areas. In the passenger arrival and departure areas, "in first line" so-to-say, regular control or identification of passengers (control of passports) is carried out. Further on, beside the office of the officer on duty, there is also an office for the so-called "second line" where procedures with potential border detained persons are conducted. In this room there is a table and chairs as well as other equipment required by the police for its work, since this is also a work area. There is also a sanitary facility within this area. When visiting this area, we missed the UNHCR poster and new brochure issued by the Ministry of the Interior detailing the rights of a person held in police custody in several languages. After our visit, the commander of the Station sent us photos showing that the poster with the rights of a person held in police custody in several languages had already been put in place. During our visit, the commander and his deputy explained that a person is detained in this area for no longer than one hour and then the person is moved whether to the international area or to the International area for refused aliens. In the passenger departure area, there is a room for a police officer and a room for the so-called second line, furnished with only a table and chair, and without a sanitary facility. Police officers share the room with customs officers.

All the premises in the arrival and departure areas have not been designated as police premises. For greater recognition, we therefore proposed that doors should be marked as police premises since this would also help aliens find the police premises. In relation to this, the Ministry of the Interior took a position that this is not necessary since these premises are located in the part of the building where persons without the presence of police officers cannot enter.

When examining this year's randomly selected cases of individual police custodies or border detentions, it was established that documents were kept in perfect order. No major irregularities were discovered, however, the following was exposed:

When examining one of the cases of a person held in police custody, a police officer used a "corrector"« to correct a part of the official note on detention. Since the official note on police custody is an official document, the NPM is of the opinion that such practice is considered inappropriate. Consequently, in this specific case, it was proposed that in the future, corrections of information in official documents should not be made by using correctors; if an error is made in filling official forms, police officers should make corrections by leaving the previous information unchanged and confirming the changed information by adding their signatures. The Ministry of

Interior agreed with the above proposal and informed us that the police unit head staff had already highlighted the inappropriate correction made by the police officer.

When examining the above mentioned and one other case, it was recorded in the official notes that persons in police custody were informed of their rights in Turkish, however, it was not mentioned in any documents (official note or decision on detention) or recorded that a translator had taken part in the procedure. This, however, is evident from the note of fees enclosed to the file and prepared for a translator. Therefore, the NPM proposed that in such cases the presence of a translator stating their name and surname should always be recorded in the official note on the police custody (e.g. in the comments box) and in the decision on police detention. Moreover, we proposed that the presence of a translator in the procedure should also be defined in time. The Ministry of the Interior agreed with our proposal that the presence of a translator should be recorded in the official note on the police custody and ensured that the need for a more suitable recording of the presence of a translator will be considered in the preparation of a new official note on the detention.

Furthermore, it was established that certain forms used in the case of border detention procedures (official note and decision on detention) are available only in the Slovene language. Since police officers at the Station carry out procedures with foreign citizens, it would be reasonable, according to the NPM, with a view to informing aliens with the procedure and rights, to translate the forms, at least, into the languages of those countries whose citizens are most often dealt with at the Station (according to the explanations that we received on the occasion of our visit, these are citizens of the following three countries: Turkey, Kosovo and Greece). Translated forms would help persons to be informed of their rights immediately at the beginning of the procedure before a translator arrives. Unfortunately, the Ministry of the Interior is of a different opinion. The Ministry believes there is no need for the translation of an official note or decision on border detention in individual languages; police officers must inform a person of the reasons for their refusal of entry, reasons for border detention and planned measures (e.g. to be excluded from the country). Should this not be possible due to a lack of knowledge of the language, then the person is to be informed with the assistance of an interpreter. The translation of a person's rights in Turkish and Albanian are contained in the leaflet "Notice on the rights of persons deprived of liberty" (citizens from Greece are seldom treated for the rights connected with freedom of movement within the European Union states or in the Schengen Area). The Ministry of the Interior added that police officers use a uniform standard form for refusal at the border crossing used in all the countries within the Schengen Area based on the Schengen Borders Code, which is written in the Slovene and English language.