

## Report from Centre for Human Rights-Nibs, Serbia, for UPR

Key words: prison, situation of the prisoners during serving their sentences, Serbia

A. 1. Project ``Monitoring conditions in KHZ Nibs``, funded by EC, was implemented from May 2007 to May 2008. In this period implementing Team realized 8 regular and 4 extra visits to Nibs Penitentiary and this represents a source of information for this Report

2. Project methodology: (1) Visits: a) obtaining the authorization of access; b) Establishing the program of visits/ plan for each visit; c) Methodology of visits; d) Follow up to the visit. (2) Visits repetition. (3) Observation and comparison. (4) Conversations: (``free``/ purposeful discourse or an interview). (5) Reports (Annual and after each visit). (6) Measures recommended. (7) Questionnaires. (8) Reporting results to international institutions, bodies and organizations.

3. As a report model we used OSCE guide ``Monitoring on prisons and imprisonment institutions, practical guide for NGOs``. The text of complete Report is enclosed (Annex 1).

4. There are 3 penitentiaries and 28 district prisons in Serbia. Monitoring was conducted only in Penitentiary Niš. Probability that the conditions in other prisons are better is insignificant.

B. 5. Acceptation and application of European Prison Rules through national legislation derives from the membership of Serbia in CoE. At the moment of this Report making (July 2008) new Law on Execution of Prison Sanctions is being prepared, which is, probably, more harmonized with international ones, in comparison to the existing one. Implementation of a strategy for the reform of the system for execution of prison sanctions is underway at the moment.

6. Regarding application of UN convention against torture, it can be stated that it is forbidden by Law and it can be said that the condition is better than in previous period, but that is still not satisfying. There is no direct, systematically organized, torturing on the level of Penitentiary Niš, but individual cases are relatively frequent, with visible effort of certain structures in Penitentiary Niš to minimize the number of these cases or, if possible, to cover them. On the other hand the prisoners are absolutely unfamiliar with possibility to submit an individual request directly to the UN Committee Against Torture, after having used all the legal remedies in Serbia. Besides that, it should be especially emphasized, that physical condition of certain facilities (especially those premises where solitary confinement rooms are located) is catastrophically bad, so that prolonged stay in these conditions, itself, represents a kind of inhumane and degrading treatment, in sense of Convention.

C. 7. All the prisons in Serbia are characterized by high over-crowding and it is not possible to meet even national standards that are at lower level than those given in European Prison Rules. When speaking about the prison in which we monitored the conditions, we can say that, during the realization of the project, the number of prisoners kept growing from initial 950 to 1153 prisoners in visit VIII. Optimum number of prisoners in Penitentiary Niš is 850.

8. Following aspects (according to European Prison Rules) were under monitoring regime during project implementation:

9. **I/ Treatment (a,b,c)**

10. **I/a-Torture and ill-treatment:** Regarding the interview carried out with the prisoners, the team members came into the conclusion that only a small number of interviewed prisoners is of the opinion of being exposed to the physical violence by the officers of the penitentiary even in those situations which were officially recorded as applied restraint measures.

11. During the interview with the examinees being lately injured by the officers in applying the restraint measures and according to the documentation of the medical service, it is concluded that they reject to talk about that particular event. It implies to either avoiding renewing trauma by speaking about it or they are afraid of the consequences they would have due to the reporting. On

the other hand, what become relative are the optimistic answers of the prisoners about the quantity of restraint measures applied and about the small number of recorded cases of applied measures of constraint consequently being injured.

12. The problem of psychological violence is slightly expressed partially due to the fact that the prisoners were not directly exposed to the violence or within the given answers they were unable to recognize a certain behavior as psychological violence since this kind of "communication" is considered normal and usual for the penitentiary conditions.

13. A number of the interviewed prisoners state that there are prisoners with certain additional privileges given by the officials of the penitentiary at Niš. Among the privileged are "the tippers" and "the tipping" is paid with the privileges. The other group of the privileged/preferred are the wealthy ones (they communicate with the guards through their relatives and, according to the statement of the prisoners, pay for their transfer to a better dormitory), as well as the prisoners being the main dealers of the forbidden goods at the penitentiary.

14. Regarding the interrelation among the prisoners themselves the power results not only in money but also in goods possession. The relation between the prisoners - members of the various ethnical and religious groups depends on their numerical quantity: when the number of majority group members is equal to the number of other existing groups the relationship is good.

15. The majority of the Romas is poor so that they are consequentially discriminated since they are required to work for others. Being additionally employed at the penitentiary they are engaged in duties nobody wants to do, which is the same for the Romas out of the penitentiary.

16. Regarding the existence of the racquet within the informal groups the overall opinion of the prisoners is that it is mainly represented at the "C" dormitory later resulting in conflicts and injuring. Almost all of them is of the opinion that the stuff is extremely corrupted and that everything is for sale at the penitentiary. It is stated that the existed corruption fosters the importations of drug and mobile phones into the penitentiary, and the work positions being on a sort of illegal trade.

17. According to the interviewed the informal groups exist without being organized by sectors but the type of "extra activities" put illegally in practice. The overall opinion is that they are absolutely allowed to do everything being under the full protection of the penitentiary stuff.

18. **I/b- Solitary confinement:** It is legislated by The Law on Execution of Penal Sanctions that the maximum period of time the prisoners should stay in solitary confinement is 15 days, being confirmed by some of the imprisoned. However, few of the prisoners mention that this legislated period of time is not always obeyed so that the solitary confinement period can even last for a month. Before being sent to the solitary confinement the prisoners go through the health check, then once a day, being more frequent if it is needed.

19. They all agree that their right for staying outside for an hour a day is obeyed during the period of solitary confinement.

20. **I/c- Means of restraints :** The prisoners are not informed enough not only about the conditions for applying the means of restriction but also what they are consisted of.

21. **II/ Protection measures (a,b,c,d,e)**

22. **II/ a- Informing the persons deprived of liberty:** Informing persons deprived of liberty: Prisoners should get introduced with the Rule book of House Rules at the admission in the Penitentiary. Answers of interviewees differ, no matter whether it was orally done or the text was made available to them in written form.

23. The following question comes up- it is informing of illiterate prisoners, whether they are paid enough time and efforts in order to understand what is presented, so that they could equally realize their right to information and not to be discriminated in comparison to literate prisoners.

24. House rules are visibly posed as long as it is torn by prisoners. Contents of House rules are in line with valid laws..

25. **II/ b- Inspection:** Only one of all interviewed prisoners had met with representatives of some NGO, before our visit. It was Helsinki Committee for Human rights which had visited Penitentiary Niš before.

26. **II/ c- Disciplinary procedures:** In the period of 6 months, on which the data received from the Penitentiary is based, there were 262 disciplinary procedures were conducted, which, in comparison to total number of prisoners, represents 1/4.

27. Impression is that interviewees are pretty discouraged in respect of their chances in eventual disciplinary procedure against them and that on the other hand they are almost completely uninterested in getting introduced with the way in which they could protect their rights in appellate procedure as well as in the process of lodging complaints to a treatment by Penitentiary officers.

28. **II/ d-Complaints procedures:** Prisoners have a weak understanding of the procedures and reasons for a complaint, and almost without exceptions, don't use expert legal assistance. It is probably the reason why only one prisoner's complaint was adopted.

29. System of giving legal assistance is organized in line with law, but there are certain lacks that can have significant consequences to legitimacy of disciplinary procedure. Insufficient number of employees on these duties can be seen in the fact that one person is a deputy in Disciplinary Commission, and at the same time he gives legal advice to prisoners, which brings to factual and involuntary conflict of interests. No matter the fact that in cases, when involved in Disciplinary Commission work, he or she can avoid giving legal advice to a prisoner against whom the procedure is conducted.

30. It may turn out to be useful to remind of statistical data that show that almost in 100% of the cases, the person against whom the disciplinary procedure was conducted were declared guilty.

31. **II/e-Separation of categories of detainees:** Prisoners can require change of accommodation for security and family reasons, i.e. brothers can be together. Those incapable of working are separated in a special department.

32. All interviewees know who decides upon the change of accommodation but they are doubtful in respect of equal criteria based on which the accommodation is changed or regarding the criteria for the advancement through categories. Out of that it comes that general conclusion is that change of accommodation is one of main potential resources for corruption spreading in Penitentiary.

33. Prisoners unwillingly talk about the cases of sexual abuse although a small number of them said that they had heard of it. Based on prisoners' statements, allegedly only one case of sexual abuse happened, in the time of rebel.

34. **III/ Regime and activities (a,b,c,d,e,f)**

35. **III/ a- Contacts with the outside world:** The prisoners are aware of the fact that the letters can be sent on daily basis. They hand over an open mail in order to be checked if there is anything else except for the written paper. This is something the prisoners are informed about. They are informed about the conditions for receiving regular and external packages, received according to the category classification.

36. Keeping family and other social relations is enabled according to the law. The searching of the visitors is performed due to the need.

37. There is not recognized the need by the penitentiary staff for some additional care (compared with the prisoners who have regular visits) for the prisoners being without any visits nor is recognized the reason for doing so.

38. The access to the information from outside world is through TV and newspaper, it is free but without much variety and in insufficient number compared to the number of prisoners per newspaper.

39. **III/ b- Education:** The institution has not offered any possibility for education since the school was burnt in the year 2000 during the riots. At the same time the prisoners are interested in

gaining additional education. The prisoners have access to the library by not simple enough procedure that will encourage them to reading and self learning.

40. **III/ c- Outdoor activities:** All of the interviewed prisoners claim that their daily outdoor activities last less than an hour. The prisoners are able to do exercises up to hour a day at the gym or outside in the open air where the courses for group sports are situated.

41. **III/ d- Leisure activities:** At the beginning of the project (July, 2007) there were no leisure activities. Later on (October, 2007) the art (engraving) and painting courses started. At the moment the music section is being prepared (April, 2008).

42. **III/ e- Religion :** The orthodox church has been renovated whereas other religious entities do not exist. Generally, the religious ceremonies of other faith can be performed.

43. The interviewed prisoners who belongs to some of generally accepted religious communities in Serbia (orthodox, catholic and Islamic faith) make no complaints on respecting their religious rights regarding the fact that those religious rights, except for the occasional fasting, are not followed. On the other hand one of the interviewed, the member of a small religious community (an Adventist) states that due to his faith he is not only often exposed to insults ("sectarian" and other) but also to physical violence by other prisoners that was the answer to the question about the bruise under his eye.

44. **III/ f- Work:** Some of the interviewed prisoners are not interested for any kind of work during their servitude whereas the ones who are interested state that there is not enough work for all. The work is on voluntary basis and the salaries are from 1200 to 2000 dinars; at the third dormitory to 3000 dinars (the amounts are based upon the decision on prisoners' wage rate). The working hour is from 8:00 am to 3 pm.

45. **IV/ Medical services (a)**

46. **IV/ a- Access to medical care:** The prisoners have access to the medical service in any time on the request given to the security staff or the treatment officer who escort them to the medical ward to receive a medical care. The medical service consists of a certain number of practitioners and medical technicians with a full time job in penitentiary at Niš, and medical consultants engaged according to the schedule.

47. **V/ Material conditions (a,b)**

48. **V/ a- Food:** All of the interviewed prisoners are generally satisfied with the quality, quantity and variety of meals. Two different menus are prepared: regular and diet-diabetic. The approximate nutrition value of the regular meals is 13 616 J, whereas of the diet-diabetic is 13 200 J. The prisoners have three meals a day. If it isn't possible to prepare hot meals the prisoners have dry ones.

49. **V/ b- Overcrowding and accommodation :** Besides the overall crowded capacity of the penitentiary the specific problem is a huge number of prisoners at the Increased Supervision Department. There are three and in some places four prisoners in consolitary confinement. An additional cause of jeopardizing the privacy and personal dignity of the prisoners at Increased Supervision Department are the toilets at the solitary confinement being without any doors or partition walls.

50. The prisoners do not spend 24 hours or more indoors which complies with the national standards. The ventilation and amount of airing available indoors is adequate except for the Special Supervision department due to the factors previously mentioned.

51. The hygiene and sanitary facilities are available but only to the prisoners responsible for that job.

52. Remarks on other issues that are the part of the monitoring results:

53. Services: (a) Treatment service employs insufficient number of treatment officers in relation to number of prisoners (treatment groups consist of 65-84 prisoners per one treatment officer). At the same time treatment officers lack knowledge on human rights and imprisonment

conditions as well as skills, above all for the work with the group. Their insufficiently good work has impact on the low level of the prisoners' treatment (75-80% of remand prisoners);

(b) Treatment Service has insufficient number of staff which influences their feeling of being unsafe in contact with prisoners. Staff has not enough knowledge and skills (martial arts as well) and they are not well trained for the work in stressful situations. There is also a lack of internal control of work by someone who is not a member of a service itself, which would make information of recorded cases of restraint measures use would be more valid. (3) Medical Service is under the competence of the Ministry of Health Care, while the prisons are under the competence of the Ministry of Justice. There is no cooperation between these two ministries whose outcome would be a care of prisoners' health. At the moment there is no one who controls the proficiency of this service's work.

54. Insufficiently good work of Security Service and Health Care service can jeopardize life and health of prisoners which is one of their basic rights. Here, we also want to draw attention to groups of prisoners that have to be additionally taken care of so that they could accomplish equality in the existing system. Those are: (a) Disabled persons/ who are not recognized as a group that needs to satisfy some additional conditions during imprisonment. (b) Minorities (ethnic, national, religious, illiterate); (c) Poor.

55. Widest public and in greater part media, does not recognize prisoners as persons whose freedom of movement is suspended, as a part of a sentence, and who maintain all other human rights.

D. 56. As a great accomplishment we consider the fact that 32 out of 64 recommendations that we gave during the realization of monitoring were adopted and implemented by Prison management. The example of best practice we give our own experience, not for the reason that we would like to show that we are very successful, but for the fact that we think that this approach is the best one. It would be cooperation of the prison, Directorate for Execution of Prison Sanctions and NGOs, in implementation of results of each monitoring phase, whose aim is improvement of imprisonment conditions.

57. Challenges: (1) Training of services (additional knowledge, including human rights, imprisonment standards and skills) and making conditions for their implementation, as a precondition for the respect of human rights; (2) informing prisoners of the rights that they have in the way that is adequate regarding their possibilities; (3) stigmatization of prisoners and ex prisoners; (4) role of the media in the change of attitude of the public towards prisoners.

58. Constraints: (1) Great amounts of narcotics in prisons; (2) Overall poverty in the society; (3) Lack of the control of work within services in prisons; (4) Resistance that the system gives to the reform; (5) Too many prisoners in relation to accommodation capacities and staff number (which will not significantly change even after the completion of construction of five new prisons, which is underway at the moment, since more than 6000 person waits for sentence serving because there is not enough place in the existing prisons; (6) Lack of financial means which could be used for the conduction of reforms in adequate amount so that the effects remain firm; (7) Lack of trained NGOs that would perform monitoring as well as lack of programs and means for their training \*.

E. 59. Key national priority is European integration process. Juridical system reform is a key reform that is related to democratization and is one of the basic ones so that reaching of EU standards could be possible. Reform of the System for Execution of Prison Sanctions is a part of Juridical System reform and being such it could be considered as a priority, as well.

F. 60. Our opinion is that the State needs simultaneous education and training of the highest possible number of prison staff \* and external qualified monitoring by numerous NGOs \*.

\* Adequate technical assistance needed