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**National Institutions and Regional Mechanisms Section (NIRMS)**

**Field Operations and Technical Cooperation Division (FOTCD)**

**United Nations Office of the High Commissioner for Human Rights (OHCHR)**

*Dear Sir, Dear Madam,*

In the letter registered at the People's Advocate institution under no. 10499 of 24 May 2021, the Special Rapporteur on the human rights of migrants, requested our contribution, in order to prepare his forthcoming report to the General Assembly on the impact of COVID on the human rights of migrants.

To inform your forthcoming report to the General Assembly, we send you the following submission regarding the activity of our **Department on Army, Justice, Police, Penitentiaries, and the Department on the Prevention of Torture and other cruel, inhuman or degrading treatment or punishment in places of detention.**

- **Department on Army, Justice, Police, Penitentiaries**

1. The Department on Army, Justice, Police, Penitentiaries proceeded ex officio in connection with two cases presented by the press on migrants:

- *Ex officio notification no. 18662 of October 20, 2020*

According to media reports, the border police did not allow Syrian citizens, who had the status of residents of Denmark, to enter the country. In this case, an investigation was conducted at the General Inspectorate of the Border Police and Recommendation no. 200 of November 27, 2020 was issued.

- *Ex officio notification no. 2175 of February 2, 2021*

According to media reports, a migrant from Mali claimed to have been beaten and humiliated by Romanian police after crossing the border from Serbia. In this case, information was requested from the General Inspectorate of Border Police. The case was closed due to the fact that the alleged facts could not be proved and the person in question could not be identified.

- *Ex officio notification no. 5244 of March 15, 2021*

The ex officio proceeding was initiated as a result of the information published in the press under the title, “*You don't need to beat them. They are good. Why on the bodies of migrants crossing Romania have been found wounds inflicted by metal batons*”. In connection with this case, information was requested from the General Inspectorate of the Border Police, the Prosecutor's Office attached to the Timișoara Court of Appeal, the Timișoara Territorial Inspectorate of the Border Police. The file is in progress.

2. The Department on Army, Justice, Police, Penitentiaries, has not been notified with petitions in connection with this subject.

- **The Department on the Prevention of Torture and other cruel, inhuman or degrading treatment or punishment in places of detention**

Considering the special conditions imposed by the state of emergency established on the territory of Romania from 16.03.2020 and, subsequently, the state of alert, established in Romania starting with 15.05.2020, the People's Advocate institution, requested through official letters sent to the General Inspectorate for Immigration (IGI), regional accommodation centres and procedures for asylum seekers and accommodation centres for foreigners taken into public custody (Regional Centres for Procedures and Accommodation for Asylum Seekers in: Timișoara, Maramureș, Giurgiu, București, Rădăuți, Galați and the Centres for Foreigners Taken in Public Custody in Arad and Otopeni, the following: *the measures taken regarding the strategy for the establishment of the state of emergency and the state of alert on the Romanian territory; measures taken to protect foreigners from contamination with COVID-19 and to respect their fundamental rights; measures taken with regard to staff (supplementing the number of staff, ensuring permanence in the provision of medical assistance, filling vacancies, etc.); deficiencies and problems encountered; the measures taken to ensure the communication of foreigners taken into public custody with the outside world, the family, the lawyer, the embassy, non-governmental organizations; measures for concluding collaboration protocols with the authorities, for ensuring precise functional circuits in case of COVID 19 infections, during the pandemic; the measures taken to ensure that the staff of the centre enjoy the right to health care and public hygiene, as well as the permanent information of the People's Advocate during the pandemic on the evolution of the situation in regional accommodation and procedures centres for asylum seekers and centres for accommodation of foreigners taken into public custody, about possible suspicions or confirmed cases of COVID-19 infections and the procedure adopted in such situations.*

***Regarding the measures taken in the centres subordinated to the IGI during the pandemic in order to protect foreigners against contamination with COVID-19 and to respect their fundamental rights***

The IGI management informed us that in Romania, at the level of regional accommodation and procedures centres for asylum seekers and accommodation centres for foreigners taken into public custody, the *Action Plan of the General Inspectorate for Immigration for the implementation of the measures contained in the decree establishing the state of*

*emergency was applied, which set out a series of specific objectives, of which we highlight the following:*

- *proper planning of all available resources, in order to manage the situation that led to the establishment of the state of emergency and the state of alert, or a possible influx of immigrants;*
- *ensuring psychological assistance measures for foreigners accommodated in asylum and custody centres, in order to prevent the occurrence of maladaptive behaviours;*
- *ensuring additional measures for protecting the health of foreigners taken into public custody, as well as of any person who comes into contact, from an institutional point of view, with the staff of the General Inspectorate for Immigration;*
- *supplementing the accommodation and management capacity in case of overcrowding of I.G.I.;*
- *ensuring the communication of foreigners taken into public custody with the outside world, family / lawyer / embassy / non-governmental organizations, concluding protocols with the authorities, to ensure precise information circuits in case of COVID-19 infections.*

Each Centre has developed its own Plan of Measures in order to prevent the infection with Covid-19 virus of foreigners staying in the centre or staff, as well as to keep the centre in working order in case of suspicion / confirmation of Covid-19 virus contamination, which established the following measures: *the wearing of protective materials by all staff; maintaining the physical distance between people; hand washing and sanitation using sanitizer containers; frequent ventilation of rooms and common areas; avoid long-term exposure (more than 15 minutes) in contact with newly accommodated visitors or foreigners; display in the common areas information materials on protection against contamination; sanitation and disinfection of accommodation areas and common areas.*

The personal hygiene materials were distributed to the foreigners according to the norms, and they have also received materials provided additionally by NGOs. They were informed about the observance of the hygiene norms for the prevention of the disease, containers with sanitizers were installed at the entrances and in the common spaces.

An important measure adopted at the level of the centres was to separate the flow of newly accommodated foreign nationals in the centre from the other foreigners.

The visit received by foreigners took place after a previous preparation of the activity by: *sanitizing the space, equipping both visitors and foreigners accommodated with protective materials, masks, gloves, limiting the visiting time, scheduling visits so as to allow sanitizing the spaces intended for this purpose.*

The medical and psychological assistance activities were carried out in compliance with the protection measures.

Throughout this period, foreigners staying in the centres had no restrictions on ensuring communication with families, had access to telephone and were in contact with their families, embassies or lawyers, depending on the situation.

In view of the traffic restrictions imposed by the state of emergency, consular assistance was provided by facilitating telephone conversations between foreigners staying in the centre and representatives of consular offices, without imposing time restrictions. Also, in some cases, on the basis of requests, visits or meetings with lawyers, in conditions of protection against COVID 19 infection were carried out. During the visits, documents and other necessary goods were handed over, the foreigners received legal advice, and so on.

In order to manage the situation in Timiș County, an area that faced a large influx of immigrants who crossed the border from Serbia to Romania, working meetings were held at the Institution of the Prefect of Timiș County with IGI representatives. During the meetings, the issues on migration were addressed, with emphasis on the need to identify accommodation spaces and on the reaction of the competent authorities, according to the legislation in force, with the particular aim of speeding up efforts at local level to authorize quarantine facilities for immigrants.

According to the internal programmatic and operational documents of the IGI, regarding the way of concrete intervention in the context of the coronavirus pandemic, in the situation of identifying persons suspected of being infected with the Covid-19 virus (medical evaluation, indications resulting from the application of the questionnaire / declaration on own responsibility regarding the transit areas and the persons with whom the applicant for international protection came into contact), they were urgently presented to the public health directorates in order to establish specific measures.

An example is the situation in the city of Galați, where 42 asylum seekers, who came in contact with an asylum seeker confirmed positive with coronavirus, were accommodated and were given food and appropriate medical treatment by local authorities and NGOs carrying out activities in the Regional Centre for Procedures and Accommodation for Asylum Seekers (CRPCSA) Galați.

Regarding the measures taken in the centres subordinated to IGI, during the alert state, in order to protect foreigners against COVID-19 contamination and to respect their fundamental rights, the IGI leadership informed us that at the level of the subordinate centres continued the application of prophylaxis measures to prevent the spread of COVID-19 virus, by: *distribution of protective articles and sanitizers; installation of protection panels in the spaces designated for registering, fingerprinting and interviewing; organization of training sessions, both with the accommodated persons and with the staff of the centres regarding the increased measures of personal hygiene and limiting the interaction with other persons; distribution and display of informative materials, translated into the main languages spoken by the accommodated persons; playing translated video materials on TV devices located in centres; performing the medical control of the accommodated persons, several times a day; purchase of disinfection devices; installation of sanitizer dispensers and contracting additional specialized services for disinfection.*

The medical evaluation activity was intensified by the doctors of the centres, thus ensuring the accomplishment of this activity regardless of the time of arrival of the persons and before any other procedural act or actual accommodation.

The collaboration with the structures of the General Inspectorate of the Border Police was strengthened to ensure the implementation of the medical evaluation and quarantine of persons, as appropriate, and at the level of regional centres were created isolation areas for the accommodation of persons for whom this measure was imposed.

In order to reduce the interaction between the staff of the centre and the asylum seekers, the reception of asylum applications was carried out in the spaces specially designed for this purpose, respecting the physical distance, ensuring the presence of a single foreign national at a time, unless the presence of other persons was necessary (lawyer, parent, legal representative, etc.).

Such spaces were also used for receiving applications for residence permits, travel documents, other types of applications submitted by foreigners, as well as for the initial medical evaluation.

In order to maintain a balance between the accommodation and processing capacity at IGI level, depending on the operational situation, transfer operations were carried out between the regional centres in the country.

Regarding the foreigners that are subject to the application of the provisions of Regulation (EU) no. 604/2013 - called the Dublin III Regulation, the Romanian authorities have taken the necessary steps to ensure compliance with the obligations assumed by our country as a Member State, E.U., continuing the transfer of foreigners who have been the subject of this European normative act throughout the state of alert established at national level.

At the same time, in order to prevent the spread of the virus among applicants for international protection, as well as among aliens who benefit from a form of international protection granted by the Romanian authorities (in their case the readmission procedure is applicable), the Romanian authorities required Member States to comply with mandatory conditions before and during the transfer of these categories of aliens from those Member States to Romania, consisting in: *the obligation of Member States' authorities to perform a PCR test no later than 72 hours before the transfer of the alien to Romania and to inform the Romanian side within a maximum of 24 hours about the test result; the obligation to cancel the transfer of the alien in case the test result is positive; the opportunity to make these transfers by using charter flights instead of commercial flights; in the event of transfers by commercial flights, take specific measures to prevent the spread of COVID-19 virus; informing the IGI whether or not the aliens subject to the transfer have been previously isolated / quarantined for 14 days in the territory of the transferring Member State and mentioning the period of isolation / quarantine; informing IGI in case the alien was previously infected with COVID-19 and the date of healing, etc.*

Regarding the measures taken and the collaboration with the public health directorates, as well as with the central and local public administration authorities responsible for the situation of newly arrived aliens, on 10.11.2020 a working meeting was organized at the Timiș Prefect Institution's headquarters, attended by representatives of IGI, the General Inspectorate of Border Police, Timiș County Council, Timișoara City Hall, General Directorate of Social Assistance and Child Protection Timiș, and of the Timiș County Inspectorate of Gendarmes.

The main purpose of the meeting was to assess the operational situation in Timiș County, respectively how to manage the influx of illegal immigrants in the county, as well as to identify ways of institutional cooperation.

Regarding the projected risk of overcrowding of IGI regional asylum centres and the lack of accommodation for newly arrived immigrants, IGI leadership announced that it is carrying out activities to immediately expand the accommodation capacity of IGI centres as follows: *100 places at CRPCSA Maramureș, 100 places at CRPCSA Rădăuți, 100 places at CRPCSA Galați, respectively 250 places at the Accommodation Centre for Foreigners Taken in Public Custody Arad.*

Also, at the level of IGI centres, other accommodation solutions were identified, by supplementing with 262 places the regional asylum centres (by creating new accommodation spaces in the six asylum centres) and subsequently with 606 places (by operationalizing / setting up, in stages, the 3 mobile camps for victims of calamities / evacuees, in the custody of the Inspectorates for Emergency Situations of Galați, Suceava and Timis counties), respectively with 64 places in public custody centres (by installing beds in existing spaces).

One of the issues addressed in particular was the fact that IGI does not have enough space for conducting hearings / interview activities with the migrants who entered Romania illegally and were found in Timisoara or Timiș County. The representatives of IGI and the General Inspectorate of the Border Police established that the activities of hearing / interviewing the illegally entered migrants should be carried out jointly by the representatives of the two institutions, at the Territorial Inspectorate of the Border Police Timișoara, in the spaces owned by this structure, in order to reduce the time required for registration and to use the human and financial resources efficiently.

The IGI management mentioned in the answers sent to the People's Advocate institution that the right of persons to request a form of protection was not restricted in any form during the

state of emergency and the state of alert. Also, the activity of analysing the applications for international protection in the administrative phase was not interrupted, this being achieved by implementing additional protection measures.

The measures were instituted during the state of emergency and subsequently maintained throughout the alert period and aimed exclusively at preventing and limiting possible COVID-19 virus infections of aliens accommodated in the regional procedures and accommodation centres for asylum seekers, and were carried out in strict accordance with the regulations applicable at national level.

With my best regards,

**Renate Weber**  
  
**Ombudsperson**