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Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution**

Pristina, 22 February 2017

**REPORT WITH RECOMMENDATIONS
OF
NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE OF
OMBUDSPERSON**

concerning the visit to SPECIAL INSTITUTE IN SHTIME

To: Mr Arban Abrashi, Minister
Ministry of Labour and Social Welfare (MLSW)

Mr Imet Rrahmani, Minister
Ministry of Health

Mrs Lirije Kajtazi, chairperson
Commission on Human Rights, Gender Equality, Missing Persons and Petitions

Mr Xhemajl Dugolli, Director
Special Institute in Shtime

Mr Naim Ismajli, Mayor
Municipality of Shtime

Pursuant to Article 135, paragraph 3 of Constitution of the Republic of Kosovo and Article 17 of Law 05/L-019 on Ombudsperson, Ombudsperson's National Preventive Mechanism against Torture visited Special Institute in Shtime (hereinafter "SISH")

Dates on the visit and the composition of the monitoring team

1. In conformity with Article 17 of Law 05/L-019 on Ombudsperson, National Preventive Mechanism against Torture (hereinafter “NPMT”) of Ombudsperson, on 13 December 2016 visited the Special Institute in Shtime (hereinafter “SISH”). The monitoring team was composed of one legal advisor, one doctor and one psychologist.

General description of institution

2. Special Institute in Shtime (SISH) is managed by the Ministry of Labour and Social Welfare (MLSW), which is run by the Director of Institute. It is an open-type institution, which provides 24 hour services: food, footwear, health care, work therapy, education, and social treatment. Beneficiaries of services in this institution are mainly persons with mental disabilities – mental development delay.
3. The Capacity of SISH is 64 residents, while during the last visit made, there were 59 residents present, of whom 39 males and 20 females, the average age of whom was 45 years of age.
4. Personnel of SISH are 70 persons in total, divided in several services, such as; medical services, which is composed of: 1 general practitioner, 11 nurses, 1 pharmacy technician, 23 medical assistants, and one hairdresser; technical service is comprised of: 1 chief of service, 1 machinist, 4 launderers, 4 guards, 2 drivers; social service is comprised of: 1 social worker, 1 agricultural technician, 1 professional therapist, 1 craftsman instructor, 1 tailoring instructor, 1 carpentry instructor; catering service is comprised of: 1 chief of service, 4 cooks, 2 cook assistants, 2 dishwashers, 1 medical assistant; administration service is comprised of finance officer, personnel officer, petty cash officer, and storage officer.

Relevant legislation

5. First Law on Mental Health No. 05/L-025 which entered into force in December 2015 aims to protect and promote mental health, prevent the problems associated with it, guaranteeing the rights and improving the quality of life for persons with mental disorders. Article 18 of this Law determines the promulgation of the sublegal act for the treatment of residents who are in the social care institution¹. To date, no sublegal act or a special Law regulating the treatment of residents in social care institutions was promulgated, which are managed by MLSW and municipalities.
6. These institutions are regulated by two Administrative Instructions: (MLSW) No. 11/2014 for work and placement of residents, persons with mental disabilities – delay in mental development at the Special Institute in Shtime and in homes with community based; and Administrative Instruction No 13/2010 on the provision of services to community – homes for persons with mental disabilities – mental development delay.
7. According to AI (MLSW) No.11/2014 for work and placement of residents, persons with mental disabilities – mental development delay at the Special Institute in Shtime and in homes with community based determines the treatment of persons who were declared mentally incapable by the Basic Court. NPMT of the OI investigated all cases of residents

¹ Article 18, paragraph 1 of Law No. 05/L-025 on Mental Health determines: *“Persons who are in residential social care institutions are offered counselling, treatment, rehabilitation and mental health care equally and according to health standards, approved by the Ministry of Health.”* Paragraph 2 of this Article determines: *The way of organization and provision of services, as provided in paragraph 1, of this Article shall be determined by special sub-legal act proposed by the Ministry of Health in cooperation with the Ministry of Labour and Social Welfare, adopted by the Government.*

without a court decision and in February 2016 and published a report with recommendations.² During the visit made on 13 December 2016, NPMT was informed that OI recommendation was implemented by SISH.

Cooperation with NPMT during the visit

8. During the visit made by NPMT, personnel of SISH offered full cooperation to the monitoring team. The team without any delay had access to all places where residents were accommodated and was able to discuss with some residents with a slight delay of mental development, who were able to talk.

Living conditions of residents and treatment

9. During 2016, a new facility was constructed in the area of SISH where the administration of this institution was located, while the part where administration was located was adapted for habitation, which facilitated the work of the personnel and enabled categorisation of residents according to sex and health status. Light category of residents was accommodated in the block A, medium category in Block A2 and serious category in Block B.
10. SISH also had activity areas, one room for painting, craftsman and tailoring room, and the recreational hall equipped with equipment, such; chess, domino, playing cards it also had a restaurant, where residents are able to be served with tea at any time. **NPMT assesses positively the restructuring of blocks within the Institution, as well as categorisation of residents according to sex and health status, which provides security to residents.**
11. Creating a positive therapeutic environment includes making available crucial sufficient area for patients, such as; light, heating, appropriate airing as well as satisfactory cleanliness. During the visit made by NPMT in rooms where residents were accommodated, there were mainly 2 to 3 beds in one room, there was natural light and rooms were warm and clean, and were in compliance with Article 6, paragraph 1.10 of Law No. 05/L-025 on Mental Health.³
12. According to standards of European Committee for the Prevention of Torture, attention should be paid to the decoration of patients' rooms and entertainment environments, to offer visual stimulation to patients, the making available of bedside cabinets next to beds and wardrobes is very desirable. During the visit by NPMT, in residents rooms there were bedside cabinets for placing clothes and personal belongings, there were also decorations for visual stimulation, e.g., different paintings, painted by residents in cooperation with instructors.
13. In addition, NPMT was informed that laundry has been functioning 24 hours in SISH, which is equipped with three washing machines, three drying machines as well as the iron for ironing clothes and bedclothes. **And this has now facilitated the issue of footwear, since the personnel of institution is able to clean the clothes on time and residents' clothes are not swapped, thus each can have their personal footwear.**

² Ex-Officio report: 757/2015 regarding court decisions for waiving and returning the working ability to residents in SISH and in homes based in community, at: http://ombudspersonkosovo.org/repository/docs/150-2016_Raport_me_rekomandime_875017.pdf

³ Article 6, paragraph 1.10 of Law No. 05/L-025 on Mental Health, determines "the right to provide appropriate living, hygienic, nutritional and security conditions"

Kitchen, food

14. During the visit made to SISH, NPMT team visited the kitchen where food is prepared and served. Kitchen had proper light and ventilation, cleanliness was on a good level. The kitchen staff possessed sanitation booklets.
15. European Committee for the Prevention of Torture places special attention to the patients' food, which according to them, not only should food be appropriate from the standpoint of quantity and quality, but also should be provided under satisfactory conditions.⁴ During the visit, NPMT was informed that Institute was supplied well and properly with food, they also planted the greenhouse with vegetables, which is used for food and is maintained by the staff and one resident. Food is prepared according to menu and is given in three meals.
16. NPMT was informed that Institute in Shtime is supplied regularly with potable water, and they have also opened three water wells in order to create water reserves in case there are problems with water. In addition, SISH had a regular contract for the realisation of the 3D services (Disinfection, Disinsection, Deratisation). **During the visit, NPMT encountered no expiry food. NPMT hails the engagement of the staff of SISH on the general care and hygiene.**

Treatment

17. According to European Committee for the Prevention of Torture, psychiatric treatment should be based on an individualised comparison, which means drafting a treatment plan for each patient, which should include rehabilitation and therapeutic activities, including individual psychotherapy, group therapy, art, theatre, music and sports. Patients should have regular access to entertainment rooms, appropriately equipped and should have the possibility to do airing workouts on the open sky⁵.
18. During the visit, NPMT was informed that, psycho-social activities are advanced in SISH, due to infrastructural possibilities and the number of staff for the execution of recreational activities and occupational therapy, they have engaged professional therapists and realise activities such as painting, tailoring, hand wooden work as well as different games (chess, domino, cards, etc.). According to the Centre's staff about 15 to 20 residents are active in the workshops, such as: tailoring, carpentry and painting. Also, an activity they regularly do is excursions during the year e.g., going nature and sightseeing in some touristic city.
19. NPMT was informed that SISH concluded an agreement of cooperation with private College "HEIMERER" which conducts bachelor programmes in the field of health, such as: Nursing, logopaedia, occupational therapy, and professional pedagogy in health. Students of this college started to do a six-month internship in SISH and this initiative helps the SISH staff realise activities and constantly advance the psycho-social area in this social care institution. **NPMT welcomes the engagement of staff for the development of psycho-social area and their dedication to residents.**

Health care

20. A regular general practitioner is engaged in SISH, one psychiatrist once a week while dentistry services are provided by the Elderly Care Home in Prishtinë. In case of need, other health and specialist services are provided by Medical Family Centre in Shtime, Regional Hospital in Ferizaj and University Conical Centre in Prishtinë. Unlike other

⁴ Standards of European Committee for the Prevention of Torture, set forth in the 8th general report

⁵ Ibid.

residential institutions of mental health, SISH in 2016 also made regular gynaecology visits to residents. During 2016, Medical Family Centre in Shtime conducted laboratory analysis to residents. Regarding the supply with medicines, there was no complaint from the SISH staff.

21. The clinic where medical personnel was staying, did not meet the conditions due to small and inconvenient areas, there was no sufficient light. **NPMT concludes that the area used for medical services does not meet the minimum conditions for administration of these services.**
22. Regarding the staff training, Director of SISH has concluded an agreement of cooperation with the Medical Family Centre in Shtime and Regional Hospital in Ferizaj for continuous education of SISH medical personnel.
23. In SISH, they had several registers, such as; register of neuropsychiatric visits, visits outside SISH, infections, wounds bandaging, register of worries, sterilities, however, death, suicide attempts, injuries, and self-injuries register was missing. **NPMT encourages the medical staff to pay attention to files of residents as well as to record special cases of self-injuries, corporal damages, suicide attempts and cases when means of restraint are used.**

Ill-treatment

24. During the visit of NPMT to the Centre, a positive climate and good relations could be observed between the residents and the staff. Therefore, **NPMT recorded no case of torture or ill-treatment done by the staff to persons with mental disabilities – mental development delay.**
25. During the visit, NPMT observed that there were stray dogs within the fences of the institution, which could present a danger for residents. **NPMT recommends undertaking of measures for eliminating the problem of the presence of stray dogs in the courtyard of SISH.**

Means of restraint

26. According to European Committee for the Prevention of Torture, the restraint of agitated or violent persons should be as much as possible, not physical (e.g., verbal instruction) and where necessary physical restraint, that should in principle restraint hand control. During the visit made by NPMT, staff was interviewed regarding the issue of means of restraint in case of crises, which according to them, residents are usually clam and there is no need to use means of restraint.

Contacts with the outside world

27. European Committee for the Prevention of Torture emphasis that the maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint⁶.
28. Persons who were declared mentally incapable by the Basic Court shall be appointed a legal guardian by Centre for Social Work (CSW) or outside CSW. Article 9 of AI (MLSW) No. 11/2014 for work and placement of residents, persons with mental disabilities – delay in mental development at the Special Institute in Shtime and in community based homes, stipulates: *“Legal custody outside CSW or CSW has the legal right to show interest in the case of sheltering in SISH or community-based homes*

⁶ Standards of European Committee for the Prevention of Torture, parts from 8th General Report [CPT/Inf (98) 12], *safeguards during placement*, paragraph 54

without impediment”. During the visit, NPMT was informed that the majority of residents are without family care, but there are also the cases of lack of family interest to visit the residents. In addition, their legal guardians do not regularly visit the residents accommodated in SISH.

Complaint procedures

29. The Ombudsperson Institution has placed complaint boxes which can be opened only by personnel of this institution. Thus, the confidentiality to lodge a complaint is provided to the family members of residents. Residents with mental development delay accommodated in SISH are not able to file complaints. **NPMT has never received any complaint by the staff or family members of residents accommodated in SISH.**

Based on findings and conclusions reached during the visit, pursuant to Article 135, par. 3 of Constitution of the Republic of Kosovo, and Article 16, par. 4 of Law no. 05/L-019 on the Ombudsperson, the Ombudsperson recommends:

Ministry of Health and MLSW

- Promulgation of sub-legal acts pursuant to Article 18, par. 2 of Law No. 05/L-025 on Mental Health.

Ministry of Labour and Social Welfare

- To provide the adequate conditions (areas) for the work of medical personnel.

Special Institute in Shtime

- Creation of special registers of cases of self-injuries, corporal damages, suicide attempts, deaths and cases when means of restraint are used.

Municipality of Shtime

- Undertaking of measures for eliminating the problem of the presence of stray dogs in the courtyard of institution

Sincerely

Hilmi Jashari
Ombudsperson