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Institucioni i Avokatit të Popullit • Institucija Ombudsmena • Ombudsperson Institution

REPORT WITH RECOMMENDATIONS
Of the
NATIONAL PREVENTIVE MECHANISM
Of the
OMBUDSPERSON
on visit to
Elderly and People without Family Care Home

For: Mr. Skënder Reçica, Minister
Ministry of Labour and Social Welfare
Mr. Bajram Kelmendi, Acting director
Department for Social Policy and Family

Pursuant to Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 17 of the Law no.05/L-019 on Ombudsperson, the Ombudsperson's National Preventive Mechanism against Torture visited Elderly and People without Family Care Home on 2 and 30 November 2017.

Prishtina, on 25 January 2018

Dates of visits and composition of monitoring team

1. Pursuant to Article 17 of the Law 05/L-019 on Ombudsperson, National Preventive Mechanism on Torture (hereinafter “NPM”) of the Ombudsperson , on 2 and 30 November 2017 visited the Elderly and People without Family Care Home (hereinafter “EPWFCH”). The monitoring team was composed by a legal adviser, a physician and a psychologist.

Cooperation with NPM during the visit

2. During the visit, the team received very good co-operation by the staff, it had access to all facilities without delay, was provided with all the information needed to carry out its task and was able to speak in private with residents.

General information

3. EPWFCH is an institution of social character and functions within the Ministry of Labor and Social Welfare (hereinafter referred to as "MLSW"). Official capacity of this institution is 110 residents. At the time of the visit, the number of residents was 63, 27 of which were men and 36 women. Out of them, 3 residents are under the age of 65.
4. Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care (hereinafter in the text “Regulation”) the issue of residents’ admission criteria is regulated, organizing of life and work with residents as well as house rules and activities.
5. Similarly, criteria for residents’ placement in this institution are regulated in more detailed manner by Administrative Instruction no. 10/2014 on activities and requirements of placement of Residents in House of Elderly Persons without Family Care and Community Based Houses.
6. Legislation of the Republic of Kosovo does not impose involuntary placement in social care institutions. All residents residing in this institution are placed based on a signed contract with abovementioned institution. Therefore, it is considered that all residents are placed here on the basis of their free will.

Residents’ categories

7. The following residents’ categories are placed within the EPWFCH: dependent persons, semi-dependent persons and those independent. Dependent users are those which cannot fulfil their life needs in an independent manner but ought to be assisted permanently by others. They also need medical assistance all the time. Semi-dependent users are those who have impaired or halved the capability for fulfilling life needs. Other category are residents who are independent, who even though are aged people have maintained capability to fulfil their life needs without being assisted by anyone.¹ **During the visit NPM was informed that 13 residents are dependent and 5 residents are semi-dependent, while 4 other residents suffer from dementia.**

¹Article 5 of the Administrative Instruction no. 10/2014 on Activities and Requirements of Placement of Residents in House of Elderly Persons without Family Care and Community Based Houses.

Placement of residents in EPWFCH

8. Article 8 of the Administrative Instruction 07/2011 determines basic criteria on placement of residents in EPWFCH. According to this Article, the following criteria ought to be fulfilled: the person should be permanent resident of Republic of Kosovo, be above 65 years old, have no children of own or adopted, be in a good mental health and not suffering from any contagious disease.
9. Notwithstanding, during the visit and relevant documents checkup, the NPM has observed that this institution has sheltered people with different psychiatric diagnoses, persons with limited mental abilities or those with delays in development.
10. Based on information provided by social worker, ability to act has been abolished to 7 residents and legal guardians from the Centers for Social Work from Municipalities from which the residents have come, show not interested in their cases, with the exception of the CSW in Gjilan, which through the designated officer appointed as legal guardian, responds to the legal obligations.
11. Further, NPM has observed that in this institution 3 persons under the age of 65 are accommodated. **Accommodation of these persons in this institution is in contradiction with Administrative Instruction 07/2011 and the Regulation on Internal Organization of Work in Elderly and People without Family Care Home.**

Residents outing from EPWFCH

12. For going out to town, users are obliged to report to social services employee, while for family visits they are obliged to have a written permit. Leaving EPWFCH without permit is considered as an escape from the institution.² EPWFCH employee noticing that during his/her shift one of the residents is missing is obliged to check within institution in all other departments and if it is confirmed that resident is not found, the employee is obliged to inform EPWFCH director, police and social service official .³

Physical ill-treatment

13. During the visit, the NPM interviewed a number of residents and no complaints have been served as per physical abuse or verbal abuse, as well as conduct that would impair the human dignity of residents in the EPWFCH. **The NPM highly evaluates the commitment of the staff to care for the elderly people, especially towards those that are immovable. The NPM gained the impression that relations between the staff and residents are good and friendly.**
14. NPM has observed that outer premises of the institution are under CCTV surveillance.

Violence among residents

15. During examination of the relevant documentation, the NPM has noticed that one of residents has physically attacked several time some other residents. The Management

² Article 51 of the Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care.

³ Article 52 of the Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care.

claims that during this year no cases of violence between residents have been recorded and that the one who has exercised violence on others, did not repeat such violent behavior towards other residents after he has been admonished.

Accommodation conditions

16. The building was built in 1960s. During the visit the NPMT observed that the yard and sidewalks of the institution were fixed and access for elderly people and persons with disabilities was significantly easier. They also have day-to-day access to the institution's garden which is vast and has sufficient green area. According to the Management, the elevator is functional but very often is out of order due to the fact that it is very old. There are no problems with water supply, although the boilers are old and damaged. **Management's main concern are old boilers and laundry machines, which are small and do not fulfill residents' needs to clean their bedsheets, clothes, blankets as well as other things, the fact that hampers the work of medical assistants.**
17. **However, the NPMT has noticed that the building needs serious investment, especially in the part where the medical service is located, in the part where water penetrating often causes serious damage of the inventory.**
18. During the visit, the management presented to NPMT the requests which have been addressed to the MLSW regarding the investments needed, for which no answer has been served to the management by this Ministry.
19. Rooms where residents are located have sufficient lighting, generally they do not have moisture, but the inventory is outdated and very damaged. Residents are accommodated in rooms by 3, 2 and 1 person. According to the management, central heating is in function at certain times and not 24 hours due to insufficient heating fuel. **Some residents complained at cold night, some reported to the monitoring team that they use electric heaters when there is no central heating.**

Food

20. According to Article 1.4 of the Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care the food is prepared into a common kitchen with the unified menu and users' opinion is taken in consideration when the menu is decided.
21. Further, Article 1.5 of the Regulation, points out that residents are also entitled to choose the menu according to their religions' rules and for users' with a medical prescription of food – there is also dietetic nutrition.
22. The NPMT has observed that a nutritional menu as well as diet menu is being served in the kitchen. According to kitchen personnel, from time to time they face a lack of fruits. NPMT noticed that the kitchen is in a good condition and is kept clean as well as food preparation machines are fully functional. **The NPMT did not receive any complaint from residents regarding this right.**

Regime

23. According to Article 9 of the Regulation, in EPWFCH work program is organized with dependent, semi-dependent and with those independent. Users able to work are engaged in working activities for as much as envisaged by professional programs and work therapy.⁴
24. Article 12 of the Regulation determines that the residents spend their free time by relaxing and by participating in entertaining and cultural activities according to activities' respective programs. An elderly people club functions within the Institution, three excursions are organized during the year, as well as therapies for them. Work program is developed by social service and work therapy in compliance with health service (doctor), by adapting it with abilities of each user engaged in work activities.⁵
25. Each floor of the Institution has rooms with TV where the elderly people spend their free time, as well as activity hall where females can be engaged in handicrafts. According to information gained from occupational therapists, about 7 or 8 residents are active in these activities. In the Resident Club there is a shared space where the psychologist and occupational therapist are located. The Residential Club has also a space for playing chess, dominoes and cards where residents can play and spend their free time.
26. NPM was notified that several activities with the residents were organized during the year by the institution, whether inside the premises of the institution or outside it, where majority of them were initiated by different non-governmental organizations, youth, school children and public institutions.

Health care

27. Health care staff in EPWFCH is comprised of: 1 full time medical practitioner (8-16), one head nurse and 7 nurses that work in shifts (12/12), a full-time pharmacist (8-16), 2 full-time physiotherapists. In the composition of the medical staff there are also 15 medical assistants who take care for people with disabilities and immobile persons. Attention towards these persons is continuous. The staff takes care for their personal hygiene and regular meals, as well as other occasional needs. The NPMT was informed that 16 immovable persons are accommodated, 9 of them have anti-decubital mattress while others don't have. Apart this there is no one with decubitus here.
28. There is also a full-time psychologist within the composition of the medical staff, while the psychiatrist works once a week. Health care is provided according to individual and general needs. Systematic visits are conducted at least once in 6 months. Flu immunization is done regularly every year. **Medical service does not have special protocols for self-hurt, bodily injuries, hunger strikes, sexual abuse, suicide, and deaths in the institution.** During the visit, the NPMT in detail manner informed the medical service regarding the importance of these protocols. Therapy is placed by the

⁴ Article 11 of the Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care.

⁵ Article 11, para. 2 of the Regulation No. 09/2008 on Internal Organization of Work in Elderly and People without family care.

nurse jointly with the pharmacist in the plastic boxes (no name of the drug is indicated) for one week / not on daily basis.

29. NPMT was informed that during this year 13 residents have died, 2 of them have passed away in the University Clinical Centre of Kosovo. The death ceremony for 7 deceased persons was conducted by their families while for 5 others the ceremony was organized by EPWFCH.
30. During the visit it was noticed that health care premises do not meet even the minimum conditions to provide medical services. There is a couch in medical practitioner's room, a working table, very old pre-war computer that is out of function, very old and out of use cabinet, an old Cardiac Ultrasound Equipment but still functional, for which no one has been trained in using it. They have no defibrillator. The EKG machine is still functional even though is very old but sometimes has technical problems.
31. Within these spaces there is also a room where visits as needed are conducted, with an outdated stabilizer and a bed. The other room belongs to head nurse where is a computer containing all documents and health service records of the residents. Within the medical services there is also a pharmacist room where drugs, properly recorded, are located. They do not have an essential list of medications, but possess only medications delivered by the MLSW. If the medication prescribed by the doctor is missing, then the patient is obliged to buy it. **Physiotherapy room is in a very bad condition due to damages but still functional.** Here residents who are unattended perform their daily exercises while those who are immovable, these exercises are accomplished into their rooms.
32. In Dentistry works full-time dentist and an assistant - (8-16). **The premises where dental services are provided are highly damaged.** The same space is also used as an office / place for recording of persons who have been treated. This space is also very often used as a reception area for dental treatment. **This service lacks a computer for taking notes, documents or patient follow up.** There is no printer for provision of documents concerning the work accomplished as well as instructions on further health treatment.
33. The service is in possession of a small place for prostheses preparation, which is in a very bad condition and entirely in humidity. To this service belongs also another premise where main boilers, in a very bad condition, are placed. Corridors are very damaged and cold. There are two separated toilets, one for women and the other for men, which are in bad conditions. NPMT has observed that the hygiene lacks in halls, in premises where health services are provided as well as in toilets.
34. Generally EPWFCH staff is composed of 56 officials, including the medical staff. While, apart medical staff, the EPWFCH comprises also from administrative, social, food and technical service. Within administrative service 3 officials are engaged while within social services there are 6 officials engaged, 3 of them are occupational therapists and one health therapist.

Trainings for health services

35. According to allegations of health service officials, MLSW has never organized trainings for the service of medical staff.

The contact with outside world

36. Article 16 paragraph 1 of the Regulation stipulates that: *“Users’ may leave the EPWFCH with a request from their families, but with the permit issued by the social service employee in consultation with doctor within a period of time up to 30 consequent days”*. While, Article 16 paragraph 2 of the Regulation determines that: *“Users addicted to alcohol, gambling and other problems may go out in the town with a written permit issued by social service employee but only with a companion to control his/her behavior”*.
37. In cases when specialist examinations are required, or when having a duty in state’s institutions, user may leave only accompanied by the nurse, respectively social service employee.⁶

Violation of house rules and disciplinary measures

38. According to Article 21 of the Regulation for users that permanently violate the house rules, even after they have been warned did not show signs of improvement on his/her behavior, the issue will be discussed with EPWFCH collegiums which will take decision of further measures up to disciplinary commission. According to the management, the only measure taken towards them is verbal reprimand. **For NPMT is unclear which are the measures that this Commission undertakes towards the residents who breaches the house order, since the Institution does not possess a written procedure where specific measures are pointed out clearly which are undertaken towards the residents in cases of infringement of house rules.**
39. Further, Article 55 of the Regulation foresees establishment of first instance disciplinary commission composed of 3 members, which is responsible for dealing with house order violation cases. The Commission is selected by EPWFCH Director. The Commission is responsible for dealing with users who have committed abuse or ill-treatment whether against staff or other residents.
40. Article 56 of the Regulation foresees that if measures imposed by the first instance commission are not observed or the user is not satisfied with the measure imposed, the responsible body for dealing with claims is the second grade commission. Second grade commission is composed of 3 members, one from SWC meaning user’s custodian, one from the Aged Persons Sector within ICD and the third member is selected by the EPWFCH Director depending on the case.

The procedure of lodging a complaint

41. Residents, whose health condition allows this, can submit complaints with the respective department of the MLSW and the Institution Directorate. Residents also can lodge their complaints versus the institution where they are accommodated as well as public institutions of Republic of Kosovo to the Ombudsperson Institution by phone, posts, mail as well as coming in person to this Institution. Institution from time to time is visited by

⁶ Ibid, Article 16.3.

different NGOs who apart development of activities with residents, admit residents' complaints.

Based on findings and ascertainments achieved during the visit, in compliance with Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 16, paragraph 4 of the Law 05/L019 on Ombudsperson, the Ombudsperson:

RECOMMENDS

The Ministry of Labour and Social Welfare to:

- **Undertake urgent improvements according to assessment of needs in the old building and the premises where health and dentistry service functions;**
- **Supply the residents with appropriate inventory in their rooms;**
- **Equip the Institution with an auto-ambulance;**
- **Apply protocols for self-hurt, bodily injuries, hunger strikes, sexual abuse, suicide, and deaths in the institution by medical service;**
- **Organize specific trainings for the staff in accordance with residents' treatment needs;**
- **Increase staff number based on assessment of needs from the health service.**

In conformity with Article 132, paragraph 3 of Constitution of the Republic of Kosovo (*"Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law"*) and Article 28 of Law no. 05/L-019 on Ombudsperson (*"Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, ... must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question"*), You are kindly asked to inform us on actions to be taken by you about this issue.

Sincerely,

Hilmi Jashari
Ombudsperson