



Republika e Kosovës • Republika Kosovo • Republic of Kosovo
Institucioni i Avokatit të Popullit • Institucija Ombudsmena • Ombudsperson Institution

REPORT WITH RECOMMENDATIONS
OF THE
NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

**Concerning the visit conducted to the
Institute of Kosovo Forensic Psychiatry**

For: **Mr. Uran Ismaili, Minister**
Ministry of Health

Mr. Basri Sejdiu, Director
Hospital and University Clinical Service of Kosovo

Mr. Gani Halilaj, Director
Institute of Forensic Psychiatry

Mr. Nehat Thaçi, Director
Kosovo Correctional Service

Mr. Milazim Gjocaj, Director
Prison Healthcare Ward

Pursuant with Article 135, paragraph 3 of Constitution of the Republic of Kosovo and Article 17 of the Law 05/L-019 on Ombudsperson, Ombudsperson's National Preventive Mechanism against Torture visited the Institute of Kosovo Forensic Psychiatry (hereinafter IKFP).

Prishtinë, 28 August 2018

Composition of the monitoring team

1. The following was the composition of the monitoring team: Deputy of the Ombudsperson (NPMT President), the Head of NPMT, a Legal Adviser, Medical Doctors, a Psychologist, a Psychiatrist (an expert engaged by the Council of Europe), as well as two other experts from Council of Europe.

Cooperation with NPMT during the visit

2. During NPMT visit to the IKFP the monitoring team has been provided with full cooperation by IKFP and Kosovo Correctional Service staff (hereinafter KCS). The team without any delay had access to all places of visit. The team was provided with all information needed to perform the task and interviews with patients without the presence of correctional officers or other personnel were enabled.

Institute of Kosovo Forensic Psychiatric

3. The Institute of Kosovo Forensic Psychiatry was opened in August 2014. It is currently under the management of HUCSK (Hospital and University Clinical Service of Kosovo). The capacity of this establishment is 36 beds (12 beds in each Unit). According to the Law on Mental Health, IKFP is HUCSK's organizational unit. Under applicable law, it provides tertiary services throughout the country (the only one in Kosovo).¹
4. Relevant legal bases is stipulated on the Criminal Code² of the Republic of Kosovo, Criminal Procedure Code³, Law on Execution of Penal Sanctions⁴ and the Law on Mental Health.
5. On 21 December 2015, the Regulation on Admission and Treatment of Persons with Mental Disorders in Public Health Establishments, including the Institute of Forensic Psychiatry.
6. IKFP accommodates persons who have committed a criminal offense in the state of mental disability or significantly diminished mental capacity who are subject to the mandate of the competent court for compulsory psychiatric treatment⁵, as well as persons who are subject to a court order for psychiatric assessment to be held in a health institution.⁶
7. IKFP is composed of Ward A (Admission / outpatient Service), Ward B (Compulsory Psychiatric Treatment), Ward C (Psychiatric Assessment), and Ward D (of Resocialization). The Ministry of Health respectively HUCSK is responsible for Ward A, B and D while Correctional Service is responsible for the management and security of Ward C. Ward A and B have 12 beds, and according to institution's management, the number of beds does not suffice for the whole country.

¹ Law No. 05/L-025 on Mental Health, Article 13 paragraph 1.2.

² Criminal Code of the Republic of Kosovo, Article 18 and Article 87-90.

³ Kosovo Criminal Procedure Code, Articles 506-508.

⁴ Law on Execution of Penal Sanctions, Articles 174-180.

⁵ Criminal Code of the Republic of Kosovo, Article 89.

⁶ Kosovo Criminal Procedure Code, Article 508 paragraph 4.

8. Ward B accommodates patients to whom the Court's measure of compulsory psychiatric treatment on custody in institution has been imposed. In Ward C patients brought by the Kosovo Correctional Service are placed, who are either pre-detainees (under investigation), when court requires assessment of their mental state (psychiatric expertise) or detainees (convicted) brought from prisons for treatment. Within the scope of IKFP there is also Ward D -of re-socialization, where according to information, persons with intellectual disability are placed as well.
9. As per the work volume, since this establishment has been put in function, there were 983 cases, 211 cases of expertise with hospitalization, 153 cases of forced treatment, treatment days 3624, while capacity use was 64.9%. At the time of the NPMT's visit, there were 11 patients in Ward B, one was female, 9 male patients in Ward C and 9 patients in Ward D, 2 of them were on weekend leave. There were three patients who were residing there approximately for three years. The management could not determine the average duration of the cases. Male and female patients stay in joint premises.
10. **According to management, the main obstacle for IKFP functionalization is the legal status of this establishment**, since it at least belongs to the HUČSK. For this reason, IKFP is not provided with the possibility to manage the budget and everything planned depends only on HUČSK management.
11. **During the visit, a close, warm and positive approach was noted from the staff towards the patients. NPMT conducted interviews with several patients and none of them complaint on any form of ill-treatment.** Based on information gained from the staff, there have been cases of violence between patients but were not of serious nature.
12. The NPMT reiterates establishment's liability to provide sufficient care and protection for persons under treatment. The NPMT considers of great importance training organizing for the entire staff as per management of violence between patients.

Accommodation conditions of patients

13. Material conditions in IKFP are generally good, rooms have two beds, access to natural light, ventilation, alarm, small tables, metal bases on windows, mattresses, wooden beds, hygienic tools and accessories. There are closets in patients' rooms but are damaged and due to that they mainly remain unlocked. Patients have pajamas, but they usually wear personal clothes, while they change their underwear 1-2 times a week. There are patients' pictures or writings on the walls. There is also a living room equipped with chairs, television, performing of various activities such as playing with chess puzzles, as well as suitable room for the kitchen.
14. The NPMT observed that patients' rooms have bathroom, but lacks curtains, that would ensure patients' privacy. The NPMT considers that in such circumstances patient's privacy is violated and that the IKFP **should consider the issue of patients' privacy.**

Treatment and activities

15. Apart (testing) assessment, medication and psychosocial treatment is provided in IKFP. From some medical records examined it appears that the use of antipsychotic, antidepressant and anxiolytic medications is reasonable and evidence-based. Medication supplying does not suffice; members of their families are often forced to buy them. Patients' medication intake is subject to regular control by the staff. During the visit the NPMT found that the Institute was supplied with haloperidol, clozapine, carbamazepine, diazepam, olanzapine, fluoxetine. According to evidence-based recommendations there is no evidence that white blood cells were examined in cases of use of Clozapine. The Institute is in a possession of an anti-shock, blood pressure monitor, glucometer, oxygen and Erythrocyte Sedimentation Rate. Consultations and other diagnostic examinations are made at HUCSK Clinics.
16. **The NPMT considers that the competent authorities are obliged to guarantee the regular supply of IKFP with medicaments.** It is Institution's responsibility to provide certain medicines according to the known evidence, but also monitoring of their possible side effects according to the accepted clinical practices (following examination in case of Clozapine application).
17. Patients' folders are located in an open space which serves as a living room as well. Patients' anamneses are completed, but usually do not contain comprehensive description. There is also a therapy book, a book of injuries / incidents, form of seclusion monitoring as well as incident review form.
18. Psycho-social treatment consists in activities such as games, TV watching, drawing, daily going out within the institution (IKFP walking path), individual sessions with a psychologist, etc. Program of daily activities is located in visible place, but this schedule is unique and there are no individual plans of activities listed for patients.
19. Therapeutic weekends are determined by the multidisciplinary committee and usually are accomplished during the weekends. Going out for a walk all day long within the premises of the establishment is permitted at Ward B while at Ward D - twice a day, in the morning and in the evening.
20. **Despite noting the existence of several psycho-social activities, the MKPT expresses its concern that they are routine and fail to be interesting.** As highlighted in the Report of the European Committee for the Prevention of Torture on the Visit to Kosovo in 2015 in IKFP there is no individualized treatment plan with patient involvement, no involvement in a more optimum range of therapeutic, rehabilitative and recreational activities.⁷
21. The NPMT has noted a friendly and warm approach by the staff as well as of patients towards the staff, which creates the impression of a therapeutic support environment.

⁷ Report of the European Committee for the Prevention of Torture on the Visit to Kosovo in 2015, published in September 2016. See at: <https://rm.coe.int/16806a1efc>, (4.7.2018)

Suicide Prevention

22. According to the directorate's claims, no suicide attempts have been recorded, but there were cases of self-injuries. IKFP does not have any specific prevention plan related to suicides. The NPMT considers that despite the fact that they did not have suicide cases, it is necessary to draft a clear guideline that will effectively help identify cases with suicidal tendencies as well as to draft a special observation scheme with immediate psychological / psychiatric support. No deaths have been reported as well.

IKFP staff

23. IKFP currently has 43 employees, apart the director (neuropsychiatrist), there are also 4 other general psychiatrists, 2 forensic psychiatrists, 1 social worker, 2 psychologists and 23 nurses (15 female and 8 male) and 3 administrative staff, 2 cooks and a warehouse worker. According to management this staff does not suffice, especially there is a need for additional 1 or 2 psychiatrists.
24. Nurses work on shifts of 12 hours (usually are two nurses during the night). When the doctor is on a duty, he works 24 hours. Private security comprises of one person in each ward and works 24 hours. The staff deems that is overburden with the work, is stressed by specifications of the job and is not adequately remunerated for the nature of work (not receiving hazard payment).
25. The NPMT considers that the number of staff in the establishment is sufficient. Further, the NPMT considers of great importance provision of professional trainings outside the institution, as well as an adequate remuneration based on job specifications.

Means of restraint

26. In the Compulsory Treatment Ward (B) there are two seclusion rooms, the walls of which are of hard surface and a mattress in the room. The staff has direct visual access to patients.
27. The NPMT considers that padded cells should be arranged in terms of providing the possibility of exclusion of suicide and hurting themselves (e.g. rubber room) as the institution is responsible for adequate care, supervision and protection of patients.
28. The Ward has a mechanical restraint straitjacket which has never been used. The seclusion room is the main tool and seems to be the only restraint mechanism. From the documentation we came to the conclusion that there was a case that has stayed in seclusion for 3 days, while another interviewed patient told us that he has stayed secluded for 6 days. According to patients' and staff's claims the reason of 6 day stay in seclusion room was deteriorated health situation as well as threats towards the staff. IKFP has a seclusion monitoring form which is signed by the staff every 15 - 30 minutes. The staff undergone a basic training – capture/control for severe case management
29. **The NPMT has observed that the use of seclusion room is excessive and with time period which cannot be justified.** The European Committee for the Prevention of Torture points out clearly its stand that the use of seclusion room is unacceptable neither

as a punishment nor as self-defense. The use of seclusion should be as shorter as reasonable. During document checkup, the NPMT found that the decision and reasoning for patient's placement in the seclusion room was not recorded by the doctor in the patient's file but only in the book as well as seclusion form.

30. Furthermore, the CPT recommends that each element of any type of restraint should be clearly marked in the specific register but also in the patient's file. Such records include the time of initiation and termination of the restraint, the circumstances, the reasons, the name of the medical doctor, the injury suffered, etc. Seclusion is described as a very bad experience claimed by another patient, especially the smell coming from toilet. While as far as staff is concerned, he claimed that force has not been used towards him.
31. The NPMT has noticed that the IKFP has a basic guideline for placement in seclusion rooms (Rules of work organizing and functioning in Ward B). This document is very simple and contains only one paragraph. There is no guideline for other restraint methods. **The NPMT notes that the CPT in its Report on Kosovo visit in 2015 in the section related to the visit conducted to IKFP has provided concrete recommendations as to what this guideline should contain.**⁸

Review of decisions by competent courts

32. The NPMT notes that Article 89 paragraph 2 of the Criminal Code of Kosovo explicitly stipulates that the Court will cease the measure of compulsory psychiatric treatment after it has established that the need for treatment in the healthcare institution has ceased.
33. While Article 176 of the Law on Execution of Penal Sanctions, determines that at least once in six months, each involuntary admission should be revised by the court based on the report compiled by the management of health institution and the opinion of the independent expert that is not employed at the health care institution.
34. From review of relevant documents, NPMT has found that IKFP on regular bases and pursuant with above mentioned legal provisions has delivered relevant medical reports which contained detailed evaluation of admitted patient's state of health, based on competent court's requests.
35. According to claims of IKFP management there are problems of involuntary placement of patients with court orders due to mental disorder, since despite the fact the patient's state of health is reevaluated by medial staff and the court is notified on writing that the metal state of the patient has been improved, and that accordingly the measure rendered by the court should be terminated, courts are not punctual and do not respond.
36. As far as the right of treatment is concerned, it is obvious that in most cases patients are provided with information, without giving them the opportunity to give written consent

⁸ European Committee for the Prevention of Torture for Kosovo's Visit in 2015, published on 2016, Part C, paragraphs 96-98, For additional information click: <https://rm.coe.int/16806a1efc>

or the right to refuse treatment. The same situation was also found in the report of the European Committee for the Prevention of Torture for Kosovo's Visit in 2015.⁹

37. The NPMT observes that the European Committee for the Prevention of Torture in the report under review states that admission of a person to a psychiatric establishment on an involuntary basis, including admission based on a court order for "*compulsory psychiatric treatment in custody*" should not preclude seeking informed consent to treatment. Every patient should be informed about the intended treatment and should be given the opportunity to refuse or withdraw his/her consent to treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.
38. There is also no evidence whether a written explanation of the reasons for involuntary treatment were provided as foreseen with Article 21 paragraph 1.4 of the Law on Mental Health which explicitly stipulates that the patient treated involuntary, inter alia, should be provided with written reasoning within 48 hours on the reasons for involuntary treatment. **The NPMT recommends that this situation ought to be fixed immediately by the institution.**
39. Patient rights' card is located on the walls of premises serving as living room within the wards.

Confidentiality of medical services

40. During the visit NPMT noted that the medical services to patients in IKFP are provided without the presence of security officers, unless the medical staff expressly requests such a thing in certain cases.

Security staff at IKFP

41. Security staff (including KCS security staff) in IKFP did not undergo adequate training for work with this category of patients. This was noted during conversations with private security officials and KCS.
42. The NPMT notes that the European Committee for the Prevention of Torture in the report on the visit in Kosovo in 2015 has recommended to the competent authorities the following:

"The CPT considers it to be of crucial importance that staff assigned to security-related tasks in a psychiatric establishment be carefully selected and that they receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by – and subject to the authority of – qualified health-care staff". **The NPMT considers that the IKFP should act in accordance with the aforementioned recommendation.**

Other issues

⁹ European Committee for the Prevention of Torture for Kosovo's Visit in 2015, published on 2016, paragraph 101. For additional information click: <https://rm.coe.int/16806a1efc>. (4.7.2018)

43. Patients in Ward B maintain contact by phone with their family members, as well as they can have visits by family members every day, 1-2 times a week, for 30 minutes. In Ward B there is a family visit facility, on daily bases, 1-2 times a week, for 30 minutes.
44. This is determined by the treating medical doctor and during this visit the nurse stands on the distance which respects the privacy of communication between the patient and the visitor. This practice is considered as positive and is in accordance with Article 21, paragraph 1.6. of the Law on Mental Health which considers the right to respect the private and family life, including also, the privacy of communication and correspondence.
45. Performing security-related tasks such as body and room searches continue to be accomplished by nursing staff although they have not been specifically trained for this. **This violates relationship between patients and medical personnel.** The NPMT considers that IKFP should put an immediate end to such a practice as medical staff, among other things, is not trained to perform such tasks. Such recommendation was also made by the European Committee for the Prevention of Torture in the report on the visit to Kosovo.¹⁰

Complaint procedure

46. Effective complaint filing is a fundamental safeguard against ill-treatment in psychiatric institutions. There should be specific arrangements to enable patients' formal complaint lodging and be able to communicate with the appropriate authority outside the institution in a confidential manner.
47. The NPMT has noted that IKFP has placed a complaint box which is opened by a certain authority within the Ministry of Health. However, **the NPMT considers that patients should be enabled submission of complaints to the IKFP management in a confidential manner by setting a complaint box which will be opened only by certain staff.**
48. The Ombudsperson or representatives of the Ombudsperson may visit the persons accommodated in the IKFP and maintain communication with them without prior notification and without the supervision of the pre-trial judge, single trial judge or presiding judge or other persons appointed by the judge. Letters sent to the Ombudsperson Institution cannot be checked up. The Ombudsperson and his representatives may communicate verbally or in writing confidentially with persons accommodated in IKFP. Similarly, the detainees can also address the Ombudsperson's NPMT through the telephone. Apart this, the Ombudsperson has set a complaint box at IKFP, which can be opened only by Ombudsperson Institution staff.
49. Additionally, the IKFP can also be visited by non-governmental organizations which monitor institutions where the persons deprived of their liberty are held or can be held.

¹⁰ For further information see the Report of European Committee for the Prevention of Torture for Kosovo's Visit in 2015: <https://rm.coe.int/16806a1efc>. (4.7.2018)

Based on the findings and ascertainments made during the visit, in accordance with Article 135 paragraph 3 of the Constitution of the Republic of Kosovo and Article 16 paragraph 4 of Law No. 05 / L019 on Ombudsperson, the Ombudsman recommends:

The Ministry of Health:

- **To notify Ombudsperson’s NPMT related to the IKFP legal status**

Hospital and University Clinical Service of Kosovo:

- **To provide the IKFP regularly with drugs and other equipment which are mandatory for work accomplishment in this establishment.**
- **To implement recommendations of the European Committee for the Prevention of Torture with regard to the content of the Guidelines for the use of means of restraint.**
- **To increase psycho-social activities.**
- **To set within IKFP the system (complaint box) that will enable patients’ confidential complaint lodging addressed to management and granting access solely to a certain staff.**
- **Medical staff not to perform security-related tasks (see paragraph 44 of this report).**
- **Security staff to be carefully selected and undertake appropriate training prior starting security-related tasks.**

Pursuant to Article 132, paragraph 3 of the Constitution of 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 the Law No.05/L-019 on Ombudsperson, (“*Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, including disciplinary measures, 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 steps to be undertaken in the future by You regarding this issue.

Warmly submitted,

Hilmi Jashari

Ombudsperson