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**REPORT  
OF THE  
NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE**

*on visits conducted to police stations*

To: **Mr. Ekrem Mustafa, Minister**  
**Ministry of Internal Affairs**

**Mr. Rashit Qalaj, Director General**  
**Kosovo Police**

Prishtina, on 26 November 2018

Pursuant to Article 135, paragraph 3 of the Constitution of the Republic of Kosovo and Article 17 of the Law 05/L-019 on Ombudsperson, Ombudsperson's National Preventive Mechanism against Torture (hereinafter the NPMT) visited the police stations.

### **Dates of visits and composition of the monitoring group**

1. Police stations mentioned below have been visited by NMPT on the following dates:
  - **Police Station in Shtime, on 30 October 2018**
  - **Police Station in Ferizaj, on 30 October 2018**
  - **Police Station in Gracanica, on 30 October 2018**
  - **Police Station in Gjilan, on 31 October 2018**
  - **Police Station in Ranillug, on 31 October 2018**
  - **Police Station in Kacanik, on 30 October 2018**
  - **Police Station in Shterpce, on 30 October 2018**
  - **Police Station in Viti, on 30 October 2018**
  - **Police Station in Kamenica, on 31 October 2018**
  - **Police Station in Novoberda, on 31 October 2018**
2. The monitoring group was composed of the Head of NMPT, two legal advisors for prevention of torture, one psychologist – advisor, one doctor – advisor, one social worker - advisor, and two experts of the Council of Europe (in the capacity of observers).

### **Cooperation with NMPT during the visit**

3. During the visit in abovementioned stations, Kosovo Police provided full cooperation to NMPT. The team had access to all facilities without delays. The team was provided with all information necessary to discharge the duty and access to all requested documents, as well as enabled interviewing arrested persons without the presence of police officers.

### **Guarantees against ill-treatment**

4. According to the legislation in force of the Republic of Kosovo, persons suspected of having committed a criminal offence may be detained by the police up to 48 hours before being brought before the pre-trial judge. Police may detain and collect information from persons found at the scene of the criminal offence and who may provide relevant information (maximum time period of six hours)<sup>1</sup>.
5. Article 13 of the Criminal Procedure Code sets out that any person deprived of liberty shall be informed promptly in a language which he/she understands, of the right to legal assistance of his or her own choice, the right to notify a family member or another appropriate person of his or her choice about the arrest and that these rights and that these rights apply throughout the time period of the deprivation of liberty.

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<sup>1</sup> Articles 162, 163 and 164 of the Criminal Procedure Code of the Republic of Kosovo

6. As to notification of arrest, Article 168 of the Criminal Procedure Code further sets out that the arrested person has the right to notify a family member or another appropriate person of his or her choice about the arrest and the place of detention, immediately after the arrest; the notification of a family member or another appropriate person may be delayed for up to 24 hours when the state prosecutor determines that the delay is required by the exceptional needs of the investigation of the case. This delay is not applied in the case of juveniles.
7. Pursuant to the Law on Police<sup>2</sup>, even the persons in “*temporary police custody*” for the purpose of identification or protection of them and others, enjoy the right to notify the family or another person of the arrest.
8. European Committee for the Prevention of Torture (hereinafter referred to as “CPT”), in the 2<sup>nd</sup> General Report, attached particular importance to three rights for persons arrested by the police: the right to be informed of his/her rights; the right to notify a third party of his/her choice (family member, friend, consulate of the state of origin in case of a foreign citizen); the right of access to a lawyer; the right to be examined by a doctor of his/her choice (in addition to any medical examination carried out by a doctor called by the police authorities).<sup>3</sup>
9. According to CPT, these are three fundamental safeguards against the ill-treatment and should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system.
10. With regards to the basic right of the arrested person to notify a third party (family member, friend... etc.) of the fact of his/her arrest, NMPT observed during the visit that the fact that the arrested person has been informed of this right or has exercised this right is recorded in the administrative file of the arrested person, but the time of this is not recorded. Therefore, NMPT, during the visit, recommended heads of police stations to record the time when the arrested person exercised his/her right to notify the third party of the arrest.
11. These fundamental rights are provided for even in the Constitution of the Republic of Kosovo, Criminal Procedure Code and Law on Police.<sup>4</sup>
12. During the visit of NMPT in police stations in Shtime, Ferizaj, Gracanica, Ranillug, Kacanik, Shterpce, Novoberda and Kamenica, there were no arrested persons. NMPT encountered arrested persons in the police station in Gjilan and Viti, interviewed them and received no complaints in relation to these rights. Also, based on the reviewed documentation, the Kosovo Police respected these rights. During these visits, NMPT observed that each prison cell had written information in relation to the rights of arrested persons in three languages (Albanian, English and Serbian). During these visits, NMPT encountered no arrested juvenile.

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<sup>2</sup> Law on Police, Article 20

<sup>3</sup> See: <https://rm.coe.int/16806cea2f> (02.11.2015).

<sup>4</sup> Constitution of the Republic of Kosovo, Articles 29 and 30. Criminal Code of the Republic of Kosovo, Article 13. Law No. 04/L-076 on Kosovo Police,

13. During these visits, NMPT has been informed by police officers that interrogation of arrested persons is not audio-video recorded. NMPT observes that the European Committee for the Prevention of Torture (CPT) in relation to this issue considers that:

*“The electronic (i.e. audio and/or video) recording of police interviews represents an important additional safeguard against the ill-treatment of detainees. The CPT is pleased to note that the introduction of such systems is under consideration in an increasing number of countries. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions”.*<sup>5</sup>

14. In the report on the visit to Ireland in 2006, CPT states:

*“The findings during the 2006 visit suggest that audio-video recording in the interrogation rooms of Garda stations may have been a significant contributing factor to reducing the amount of ill-treatment alleged by persons detained under the above-mentioned legislation”.*

15. NMPT within the Ombudsperson Institution, as in the report with recommendations to the Kosovo Police on 25 January 2015, encourages the Kosovo Police to look for the opportunity of implementing such a system of audio and video recording, in compliance with the conclusions of CPT and inform the Ombudsperson of this.

### **Registers (files of arrested persons)**

16. NMPT observed that all police stations they have visited have the standard document (file of the arrested person), whereby recording all data related to the arrested person, in compliance with Article 172 of the Criminal Code of the Republic of Kosovo.

17. In addition, NMPT observed that every police station had concrete additional documents where police authorities accurately recorded every occurrence related to the arrested person. Also, NMPT encountered cases when police officers responsible for detention cells developed, at their own initiative, a computer program for storing data on arrested persons.

### **Physical ill-treatment**

18. During the visits in the abovementioned police stations, NMPT encountered one arrested person in Gjilan and two arrested persons in Vitia, who were interviewed by the team of NMPT. During the interviewing, they received no allegations of physical ill-treatment or excessive use of physical force by police officers during the arrest.

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<sup>5</sup> European Committee for the Prevention of Torture, extract from the 12<sup>th</sup> General Report, paragraph 36. For more information, see: <https://rm.coe.int/16806cd1ed> (02.11.2018).

## Physical conditions in these police stations

19. NMPT considers that, howsoever short the period of stay in detention, the conditions in the cell should meet some basic requirements. NMPT observes that CPT, in the 2<sup>nd</sup> General Report, published on 13 April 1992 in Strasbourg, determined the standard related to the conditions in the cells where the arrested persons are kept, as follows: “*All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets*”.<sup>6</sup>
20. **Police Station in Shtime** operates within the Regional Police Directorate of Ferizaj. NMPT observed that the working conditions in this station are very bad, with one interrogation room that is located outside the police building where the interrogations are to be conducted, and where the arrest files are kept and the arrested person is detained up to 6 hours. Police Station of Shtime has no detention centre; arrested persons are sent to Detention Centre in Ferizaj.
21. This station has only one security camera at the entrance, whereas the remaining part of the building has no security cameras. NMPT was also informed that a building for the Police Station in Shtime has been built and is expected to become operational in December of this year or in January of the next year. NMPT will request updated information in relation to this notification.
22. **Police Station in Ferizaj** operates within the Regional Directorate of Ferizaj. Physical and accommodation conditions were not in a good condition, with cells not sufficiently naturally enlightened, whereas the artificial light was poor.
23. NMPT also observed that the building retains moisture and mould smell, and the hygiene was not at the right level. Cells where arrested persons are held lack sheets, pillows and toiletries. NMPT observed that the interview room for juveniles is comfortable and pleasant; it also observed that the concerned station has no toilet for the police staff, thus making the discharge of the police officer duty difficult. NMPT considers that the concerned station needs renovations in the spaces where arrested persons are kept and spaces where police officers work.
24. **Police Station in Gracanica** operates within the Regional Police Directorate of Prishtina. As to the physical conditions in this station, NMPT observed that they are good. Within the Police Station operates one interrogation room, where arrested persons are detained up to 6 hours.
25. Police Station in Gracanica has no detention centre, and arrested persons are sent to the Regional Detention Centre in Prishtina. This station has two non-functional cells.

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<sup>6</sup> European Committee for the Prevention of Torture, 2<sup>nd</sup> General Report, paragraph 42. For more information, visit: <https://rm.coe.int/1680696a3f>, (05.11.2018).

26. European Committee for the Prevention of Torture (CPT) visited the Police Station in Gracanica in 2015<sup>7</sup> and concluded that there have been significant improvements in relation to the accommodation conditions and most of the deficiencies observed during previous visits have been remedied.
27. **Police Station in Gjilan** operates within the Regional Police Directorate in Gjilan. NMPT observed that this station generally meets the minimum standards for accommodation of arrested persons. Cells where the arrested persons are held provide good accommodation conditions, including natural light, cleanliness and ventilation. Also, the size of cells complies with CPT standards<sup>8</sup>.
28. NMPT observed that the interview room for juveniles was quite comfortable and pleasant. This station had a special interview room for victims of the domestic violence.
29. As to interrogation rooms, CPT, in standards set for proper treatment of arrested persons, states that during its visits in certain states, discovered interrogation rooms of highly intimidating nature, entirely decorated in black, etc. Moreover, CPT states that facilities of this kind have no place in a police service.<sup>9</sup>
30. **Police Station in Ranillug** operates within the Regional Police Directorate of Gjilan. Physical and accommodation conditions in this station are very good, exciding minimum standards. Cells where arrested persons are held have sufficient natural and artificial light; hygienic conditions are good and comply with CPT standards. However, police officers complained about the water supply due to frequent water supply interruptions and problems with heating.
31. **Police Station in Vitia** operates within the Regional Police Directorate of Gjilan. NMPT observed that spaces where arrested persons are held for 48 hours are in a very good condition. Cells where the arrested persons hare held provide very good accommodation conditions, including natural light, cleanliness and ventilation. Also, the size of cells complies with CPT standards<sup>10</sup>.
32. **Police Station in Kacanik** operates within the Regional Police Directorate of Ferizaj. NMPT observed that the Detention Centre in Kacanik has not been functional in the last 5 years. This centre has been closed as it does not meet the hygiene conditions. The arrested persons are held in the interrogation room up to 6 hours. In cases when the placement in detention is ordered, the arrested persons are sent to the Detention Centre in Ferizaj. NMPT was informed that the spaces where the arrested persons are held and spaces where police officers work in the Police Station in Kacanik are expected to be renovated. NMPT will request updated information in relation to this notification.
33. **Police Station in Shterpce** operates within the Regional Police Directorate of Gjilan. This police station has no detention cells. Arrested persons are held in the interrogation

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<sup>7</sup> See: <https://rm.coe.int/16806a1efc>.

<sup>8</sup> See: <https://rm.coe.int/16806cea2f>.

<sup>9</sup> For more information, see: <https://rm.coe.int/16806cd1ed>, paragraph 37.

<sup>10</sup> See: <https://rm.coe.int/16806cea2f>.

rooms up to 6 hours, whereas for further detention, according to the prosecutor order, the arrested persons are sent to the Detention Centre in Gjilan.

34. However, the fact that NMPT team, during the visit in this station, found three tough objects, which, according to the police officers, were objects confiscated from arrested persons at the crime scene and are kept as evidence is a concern.<sup>11</sup> NMPT recommended police officers that such objects should be removed immediately from the room in which the arrested persons are interviewed.
35. NMPT, during the visits in the Police Station in Kacanik and Kamenica, observed that wooden sticks were discovered in interrogation rooms, but labelled with case number. According to the police officers, these objects have been confiscated from the arrested persons and are kept as evidence for cases.
36. Moreover, NMPT observes that CPT, in the report on the visit conducted in Spain, published in 2011, states that the delegation found unlabelled sticks and baseball bats in interrogation rooms of several certain police stations. Moreover, CPT states in the report that such a situation, apart from inviting speculations about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike.
37. Such objects or property seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and stored in a dedicated property store. With the concerned report, CPT recommended all Spanish authorities that all unauthorized items be removed from the premises where persons may be held or questioned.<sup>12</sup>
38. **Police Station in Novoberda** operates within the Regional Police Directorate of Gjilan. NMPT observed that the building of this station has been renovated. According to police officers, the room where evidences are stored has been severely damaged. This police station has no detention centre; arrested persons, under the prosecutor order, are sent for further detention in the Detention Centre in Gjilan. Arrested persons are interrogated in this station in the interrogation room and are held up to 6 hours.
39. **Police Station in Kamenica** operates within the Regional Police Directorate of Gjilan. The detention centre in this station has not been functional for four years now. Arrested persons are sent to the Detention Centre in Gjilan or Vitia, or another detention centre. Arrested persons are interrogated and held up to 6 hours in the interrogation room within the police station.
40. In all visited police stations, NMPT observed that arrested persons are not supplied with personal hygiene products. NMPT considers that relevant authorities should take concrete steps to equip detention centres with hygiene products.

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<sup>11</sup> Objects found may be described as in following: three sticks, where two of these sticks seem to be electric cables entirely wrapped with insulating tape and another longer stick wrapped only at the begging to the size of the hand.

<sup>12</sup> CPT Report on the visit to Spain, published in 2011, paragraph 34, in: <https://rm.coe.int/16806cb01c>.

41. Also, in all visited police stations, NMPT observed that toilets are separated from the other part of the cell with an inadequate wall (low-sized) to guarantee the respect of detainees' privacy. NMPT considers that responsible authorities should undertake necessary actions to guarantee the detainees' privacy.

### **Call system**

42. None of the visited police stations had call system. NMPT observes that CPT, in the report on the visit to Kosovo in 2015, recommended competent authorities in Kosovo to equip cells in police stations with call systems, thus making the contact between arrested persons and police officers easier in case of need.<sup>13</sup>

### **Regime**

43. In the 12<sup>th</sup> General Report, published in 2002, the European Committee for the Prevention of Torture states that persons held in police custody for 24 hours or more should, as far as possible, be offered outdoor exercise every day.<sup>14</sup> NMPT was informed by the police officers in visited stations that arrested persons are not offered outdoor exercise even when they stay there for more than 24 hours, as they lack physical conditions.

44. Article 170, paragraph 4 of the Criminal Procedure Code of the Republic of Kosovo expressly determines: *"In any period of twenty-four (24) hours, an arrested person shall have the right to at least eight (8) hours of uninterrupted rest, during which he or she shall not be examined and shall not be disturbed by the police in connection with the investigation"*.

45. In the police station in Vitia, NMPT was informed that arrested persons are offered short outdoor exercise in the yard of this station, under the direct monitoring of police officers. This police station, however, has no space destined precisely for this issue. NMPT considers that, in compliance with the CPT recommendation, competent authorities, whenever possible, should offer detainees outdoor exercise even in other police stations where arrested persons are held more than 24 hours.

### **Health care**

46. Medical services are a fundamental right of persons arrested by the police. NMPT was informed that medical services for arrested persons, at all visited police stations, are provided at the nearest family medicine centres and other public institutions, as necessary. NMPT observed that all data related to the provided medical services are kept in his/her personal file.

### **Food**

47. Criminal Procedure Code of the Republic of Kosovo sets out the obligation that a person detained for more than 12 hours shall be provided with three meals daily.<sup>15</sup> Arrested persons placed in detention shall be provided with three meals within 24 hours according

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<sup>13</sup> CPT Report on the visit to Kosovo in 2015, response of authorities. See: <https://www.coe.int/en/web/cpt/kosovo> (05.11.2018).

<sup>14</sup> CPT 12<sup>th</sup> General Report, paragraph 47, at: <https://rm.coe.int/16806cd1ed> (05.11.2018).

<sup>15</sup> Criminal Procedure Code of the Republic of Kosovo, Article 170, paragraph 3.



to the contract of the police with the contracting company. In the case of the Police Station in Ferizaj, the food for persons in detention is provided from the Kosovo Security Force barrack. In other visited police stations the food is provided directly by the contracting company.

### **Submission of complaints by arrested persons**

48. As to the treatment by the Kosovo Police, arrested persons enjoy the right to submit a complaint to the police station where being detained and Kosovo Police Inspector. In addition, arrested persons may submit a complaint even to the Ombudsperson. In view of providing easier access to the services of this institution and to enable arrested persons to submit a complaint confidentially, the Ombudsperson installed the complaint boxes in police stations that have cells for detention of arrested persons. These complaint boxes may be opened only by the certain staff of the Ombudsperson.
49. Also, NMPT observed that Kosovo Police Inspectorate placed a complaint box at the entrance of the Police Station in Kacanik. NMPT considers that this is a good practice that enables citizens to directly address the competent body with a complaint in relation to the treatment by the police officers.
50. NMPT, during the visit in the Police Station in Kamenica, observed that the station has a book (register) containing comprehensive data on citizens' complaints, where all citizens' complaints are recorded and then forwarded to competent bodies within Kosovo Police or Kosovo Police Inspectorate. NMPT considers that this is a very good practice and in compliance with international standards for the protection of the rights of persons deprived of liberty.

Therefore, based on the findings of the visit, NMPT recommends Kosovo Police:

- **Perform the necessary renovations on the Detention Centre in the Police Station in Ferizaj.**
- **Equip all toilets of cells of detention centres in visited police stations with a separation wall in view of privacy.**
- **Remove tough objects - alleged to have been seized as evidence - from rooms where arrested or detained persons are interrogated or held in all police stations.**
- **Inform NMPT of the date when the Police Station in Shtime is to be functionalized.**
- **Provide detainees with personal hygiene products.**

Pursuant to the Article 132, paragraph 3 of the 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 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.”*), we kindly ask you to inform us on the actions taken as to the concerned issue.

Respectfully,

Hilmi Jashari  
Ombudsperson