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

**ON THE VISIT TO CHILDREN'S HOME WITH MENTAL DISABILITIES IN  
SHTIME**

**For: Mr. Skënder Reçica, Minister  
Ministry of Labour and Social Welfare**

**Copy: Duda Balje, President  
Committee on Human Rights, Gender Equality, Missing Persons and Petitions**

**Mr. Qazim Gashi, Head  
Division for Limited abilities in the Ministry of Labour and Social Welfare**

Prishtinë, April 23, 2019

Pursuant to Article 135, paragraph 3, of the Constitution of the Republic of Kosovo and Article 17 of Law No. 05 / L-019 on the Ombudsperson, the National Preventive Mechanism of Torture (NPMT) visited the Children's Home with Mental Disabilities in Shtime (hereinafter referred to as "Children's Home in Shtime")

### **Dates of visits and composition of team**

1. This Report refers to the findings of NPMT based on the visits conducted on 9 August 2018 and 31 January 2019 at the Children's Home in Shtime. During the visit on August 9, 2018, the NPMT team was composed of two experts of Council of Europe (henceforth referred to as "CE") in the capacity of observers. While the visit on January 31, 2019 was a follow-up visit, which was accomplished by the NPMT monitoring team.

### **General description of the institution**

2. Children's Home in Shtime is managed by the Ministry of Labour and Social Welfare (MLSW) and is managed by Home's manager. This institution is the only one of this type in Kosovo, which was opened in 2002, with a capacity of up to ten beds. It provides 24-hour services such as: food, clothing, healthcare as well as social care. The institution lacks certain budget, allocated, planned and managed by the head of the House, but is based on requests approved by MLSW budget.
3. The Children's Home in Shtime is an open-type institution, where residents are diagnosed with General Learning Disability (*Intellectual disability-delay in mental development*). During the visit, the NPMT found that 10 persons of different ages (as much as its capacity is) are accommodated there: four under the age of 18, two have just reached the age of 18, two are about 20, and two others are close to 30s. Seven of the residents of this Home have families. The staff of the Children's Home in Shtime consists of ten persons, one of them a Home Manager, four nurses and five medical assistants.
4. For NPMT, presence of adult persons in this institution, which in fact is dedicated to accommodate and shelter children, is not appropriate.

### **Relevant legislation**

5. Law No. 05/L-025 on Mental Health, which has entered into force in December 2015, aims to protect and promote mental health, prevention of problems related to it, guaranteeing the rights and improvement of quality of life of persons with disabilities. Article 18 of this Law foresees promulgation of sub-legal act for treatment of residents who reside in the institutions of social care<sup>1</sup>. Until now no sub-legal act has been promulgated.
6. Children's Home in Shtime lacks a specific Regulation for category of children with special needs. According to the Head of the Division for Disabilities of the MLSW,

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<sup>1</sup> Article 18, paragraph 1, of the Law No. 05/L-025 on Mental Health, reads: "*Persons who are in residential social care institutions are offered counseling, treatment, rehabilitation and mental health care equally and according to health standards, approved by the Ministry of Health.*" Paragraph 2 of this Article stipulates: "*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.*"

Children's Home in Shtime continues to function based on two Administrative Instructions: *AI (MLSW) No.11/2014 for work and placement of residents, persons with mental disabilities- delay in mental development in the Special Institute and in homes with community based*; as well as with *AI with No.13/2010 for providing of services in the community –homes for persons with mental disabilities- delay in mental development*.

7. Based on *AI (MLSW) No.11/2014*, treatment of persons, to whom the ability to act has been abolished by the Basic Court is foreseen. The NPMT has analyzed all cases at the Children's Home in Shtime and found that six of them are of an adult age; to three of them the ability to act has been abolished while two others are in the process.

### **Cooperation with the NPMT during the visit**

8. During the visit of NPMT, the staff of the Children's Home in Shtime provided the Monitoring Team with full cooperation. The team, without delay, had access to all facilities and conversations with residents were enabled, and they were allowed to talk with residents without the presence of the staff of the Home.

### **Ill-treatment**

9. During the visit, the NPMT has noticed a positive climate and good relations between residents and staff, close relation, warm and friendly approaches by staff towards residents. The NPMT did not notice any sign of body injuries at any of residents. From the interviews conducted with residents, the NPMT did not receive any complaints about any form of mistreatment. As per self-inflicted harms, the NPMT has observed that one resident very often hurts himself while others rarely. There were no cases of injuries / violence between each other.
10. Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, is stated that : *“any measures of control and discipline which may be used in residential institutions, including those with the aim of preventing self-inflicted harm or injury to others, should be based on public regulations and approved standards.”*<sup>2</sup>

### **Living Conditions and treatment**

#### **Living conditions**

11. During the visit conducted on 9 August 2018, together with EC experts (as observers), the NPMT noted that the material conditions for the residents in general were very poor. Rooms where residents reside had enough space and were not overcrowded but were damaged and in very bad condition. Apart this fact, residents were poorly dressed and there were not sufficient and adequate beddings. During the visit the NPMT has find that the House needed renovation inside and outside as soon as possible. The NPMT was informed by the House Manager that the entire facility will undergo major repairs, which

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<sup>2</sup> Council of Europe: Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, March 16, 2005, Rec (2005) 5, available at: <https://www.refworld.org/docid/43f5c53d4.html>.

will cover approximately 90% of the House. The NPMT, immediately after the visit in August 2018, met representatives of the MLSW, expressing concerns about the findings encounter.

12. During the follow-up visit on January 31, 2019, the NPMT found that the given facility has been thoroughly repaired, it noted that all area outside the House was cleaned, the windows were replaced, insulation of the building from outside has been done, old doors, tiles, radiators as well as bathroom elements have been replaced with new ones, a special space for receiving health services and therapy has been created and the situation regarding conditions of accommodation generally were improved to a great extent. However, the NPMT has noticed that kitchen needs to be repaired in order to make it adequate and safe for use.
13. According to the principles of United Nations Convention on the Rights of the Child, all children who are placed outside their families, and specifically those placed in institutions, should be raised with dignity, in the best possible conditions, without being marginalized either in childhood or in adulthood.
14. Creation of positive therapeutic environment involves providing sufficient living space to patients such as: lighting, heating, adequate ventilation and cleanliness at a satisfactory level. During the visit, the NPMT noted that in the rooms where the residents were accommodated, there were mainly two beds in one room, there was natural lighting, the rooms were warm and clean, and were in accordance with Article 6, paragraph 1.10 of the Law No. 05 / L-025 on Mental Health.<sup>3</sup>
15. According to Standards of European Committee for the Prevention of Torture<sup>4</sup>, attention should be given also to the decoration of patients' rooms as well as recreational facilities in order to give them visual stimulation. Also, provision of bedside cabinets and wardrobes would be very desirable.
16. During the visit, the NPMT observed that there were closets in residents' rooms for placement of personal belongings, but residents did not have enough personal clothing, as well as there were no decorations for visual stimulation. According to the Home Manager, provision of clothing depends mostly on donations, adding that they very frequently face with difficulties in providing them.

### **Psycho- social activities**

17. Residents usually listen to music, go out for a walk and sometimes, rarely, visit the city. Eight of the residents attended special school classes. The NPMT finds that the number and the quality of psycho-social and recreational activities is poor and there is no individualized treatment plan according to residents' needs and capacities.
18. NPMT also finds that House's staff level is insufficient to provide the required multidisciplinary care to residents. The NPMT considers as very important provision of

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

<sup>4</sup> Standards of European Committee for the Prevention of Torture, published on March 2017, at: <https://rm.coe.int/16806cd43e>.

professional training for staff within and outside the institution as well as adequate remuneration based on job specifications.

### **Healthcare services**

19. Health and psychiatric service is common with the Special Institute in Shtime. The psychiatrist conducts a visit once a week, but residents residing at Home sometimes are brought to the ambulance of Special Institute of Shtime. In case of needs, other health and specialist services are provided by the Family Medicine Center in Shtime, by Regional Hospital in Ferizaj and the University Clinical Center in Prishtinë.
20. During the visit conducted, the NPMT noted that there is a room at Children's Home in Shtime for provision of medical services, in which files and medications are stored as well. They had a TA measuring device but do not have an oxygen device. There is no physiotherapy room, since presently that premises has been adjusted for the office of Home Manager as well as for administrative services. The NPMT considers that a special space for physiotherapy should be established as well as a physiotherapist should be hired.
21. Supply with medicines is done by MLSW and is done on regular bases. The NPMT noted that for residents using Clozapine, there is no proof that examination as per white blood cell measurement was done, based on evidence-based recommendations. The NPMT emphasizes that it is the responsibility of the institution to provide certain medications according to evidence known, but also application of monitoring possible side effects, according to well-known clinical practices (supplementary examinations in application of Clozapine).
22. Children's Home in Shtime does not have a register for recording body injuries, those caused by self-harming, of deaths, neither had register of staff injuries caused by residents or incident register. Based on information provided by the staff, in the last three years there were no cases of death and serious illnesses. NPMT encourages the personnel to keep such records, and record in detail indicants and different situations at Home.

### **Means of restraint**

23. As per means of restraint is concerned, there are no segregation rooms in Children's Home in Shtime, and based on claims of the staff, there are no means of physical restraints.
24. According to European Committee for the Prevention of Torture<sup>5</sup>, it should be make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. During the NPMT visit, staff was interviewed as well regarding the issue of means of restraint in cases of crisis, where according to them, no mean of restraint is used, except holding them by hands when any of the resident becomes aggressive. In those cases, night-guardians seek help from the

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<sup>5</sup> Standards of European Committee for the Prevention of Torture, published on March 2017, at: <https://rm.coe.int/16806cd43e>.

psychiatrist, or call for an emergency. The NPMT, during the visit, didn't find any physical restraint or isolation instruments.

### **The contact with outside world**

25. Some of specific rights of children living in residential institutions is the right to maintain regular contact with the child's family and other significant people; such contact may be restricted or excluded only where necessary in the best interests of the child; the right for siblings, whenever possible, to stay together or maintain regular contact.<sup>6</sup>
26. European Committee for the Prevention of Torture points out that maintaining of regular contacts with outside world is crucial not only on prevention of ill-treatment but also from therapeutic point of view<sup>7</sup>. During the visit, NPMT was notified that lately, families of some of residents of the Home have expressed their interest for their children, they come for a visit and phone very often. NPMT salutes staff engagement as per respect of children's right to maintenance contacts with families.

Based on findings and ascertainments achieved during the visit, pursuant 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 supply the residents with suitable clothing and wearing for all seasons of the year.
- To set up a separate special space for physiotherapy treatment.
- To provide special services such as occupational therapy.
- To supply Children's Home in Shtime with working material for development of different activities as well as to foster psyche-social activities.
- To repair kitchen according to the needs.
- To set individual plans of residents' treatment.
- Residents who take Clozapine, on regular bases to undergo blood examinations.

In compliance with 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 ... must respond within thirty (30) days. The answer should contain written reasoning regarding*

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<sup>6</sup> Council of Europe: Recommendation Rec (2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, March 16, 2005, Rec (2005) 5, available at: <https://www.refworld.org/docid/43f5c53d4.html>.

<sup>7</sup> Ibid, *Guarantees during placement*, paragraph 54

*actions undertaken about the issue in question*”), You are kindly asked to inform us on steps to be undertaken regarding this issue.

Warmly submitted,

Hilmi Jashari

Ombudsperson