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Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution

ANNUAL REPORT
OF THE NATIONAL PREVENTIVE
MECHANISM AGAINST
TORTURE
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Ombudsperson's Foreword

I am pleased to introduce the annual report of the National Preventive Mechanism against Torture (NPM). Law No. 05/L-019 on Ombudsperson provides for the establishment, within the Ombudsperson Institution, of a special mechanism that will carry out all functions of the National Preventative Mechanism against Torture.

This law defines the duties of this mechanism, such as: undertake regular and unannounced visits to places of deprivation of liberty, including police detention, detention on remand, stay at health institutions, customs detention, and detention at immigration centres.

In January 2016, I signed the decision on the establishment of the National Preventive Mechanism against Torture, pursuant to Article 17 of the Law on Ombudsperson. Immediately after this decision, the European Council began implementing the two-year project on strengthening NPM monitoring capacities. In addition to monitoring capacity building trainings, NPM was completed as a multidisciplinary team and now consists of legal consultants, psychologists, medical doctors and social workers, and is led by the Director and supervised by the Ombudsperson's Deputy.

During this reporting period, the NPM has conducted 60 visits to police stations, correctional centres, detention centres, Detention Centre for Foreigners, Asylum Seekers Centre, psychiatric institutions and social care institutions. The NPM, through the visiting reports, has forwarded 96 recommendations to the competent authorities in order to improve the situation with regards to human rights for persons deprived of liberty.

Also, I am pleased to inform the public and the authorities that Ombudsperson's NPM is now highly esteemed by the European Council experts and other credible international organizations for the work being done, the monitoring methodology, the recommendations delivered and, above all, for the constructive dialogue established with the competent authorities and the institutions where persons deprived of liberty are held.

On this occasion, I would like to thank all the institutions, international organizations, especially the European Council, and local non-governmental organizations with whom we have had meaningful cooperation during the reporting period.

Hilmi Jashari

Ombudsperson

1. National Preventive Mechanism against Torture (NPM)

The Republic of Kosovo is not a signatory party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since it is not yet a member of the United Nations. However, Article 22 of the Constitution of the Republic of Kosovo determines that human rights and fundamental freedoms guaranteed by international agreements and instruments are guaranteed by this Constitution. These international agreements and instruments are directly applicable in the Republic of Kosovo and, in case of conflict, have priority over the provisions of laws and other acts of public institutions. One of the conventions foreseen in this Article is also the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 10 December 1984 and entered into force on 26 June 1987.¹

On 18 December 2002, the United Nations General Assembly, at its fifty-seventh (57) session, with the Resolution A/RES/57/199, adopted the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. This protocol entered into force on 22 June 2006.² The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhumane or degrading treatment or punishment.³

Further, the Optional Protocol defines the obligation of each signatory state to establish one or more visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. The Protocol stipulates that these visiting bodies are designated as National Preventive Mechanisms.⁴

Law No. 05/L-019 on Ombudsperson, which entered into force on 26 June 2015, stipulates, in Article 17, paragraph 1, that the Ombudsperson acts as National Preventive Mechanism against Torture and other Cruel, Inhuman and Degrading Treatments or Punishments. The Law foresees that a specialized branch shall be set up at the Ombudsperson's Institution that will be tasked with functions of the National Preventive Mechanism against Torture (hereinafter '*NPM*').⁵ Further, this law stipulates that the staff of this branch, in addition to jurists, shall include a variety of professionals of different fields.

Regular and unannounced visits to places of deprivation of liberty, including police detention, detention on remand, stay at health institutions, customs detention, prohibition

¹ Office of the United Nations High Commissioner for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

² Office of the United Nations High Commissioner for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx>.

³ Article 1 of Optional Protocol to the Convention against Torture.

⁴ Article 3 of Optional Protocol to the Convention against Torture.

⁵ Law No. 05/L-019, Article 17, paragraph 2.2.

of emigration and every other place when it is suspected that there are violations of human rights and freedom are NPM tasks defined by the Law.⁶

Law on Ombudsperson gives NPM the right to visit places of deprivation of liberty and with the right to take pictures and make sound and video recording, guarantees protection against external interference in the work of its personnel, as well as the right of NPM staff not to give evidence and explanations on facts that were disclosed to them in the process of exercising their functions.⁷ When exercising functions of the National Preventive Mechanisms, the Ombudsperson and his/ her representatives shall have the right to access information about the health status of any person held in places of deprivation of liberty, including access to relevant medical records, as well as, with consent of the person, they shall be entitled to access to his/her personal data.⁸

NPM was officially established by the decision of the Ombudsperson, Hilmi Jashari, on 16 January 2016. Immediately after this decision, the European Council launched a project to strengthen NPM's monitoring capacities for monitoring all countries where persons deprived of liberty are held. The purpose of this project is to strengthen NPM's monitoring capacities. The project in question will last until April 2019.

2. NPM's methodology and organization during 2018

2.1 NPM's methodology

NPM has a visits' methodology consisting of: preparation of the visit, type of the visit (announced or unannounced visit), actions taken upon arrival at the institution being visited, division into groups upon arrival, conversations with the head of the institution, the monitoring team pays a visit to all premises of the institution, interviews with persons deprived of liberty, contacts with correctional officers, contacts with health personnel, a meeting of the monitoring team before the final meeting with the director, and the final conversation with the director.

Visit preparation phase means gathering relevant information for the institution being visited, the objective of the visit, determination of the number of NPM members which will be part of the visit, division into subgroups and concrete assignment of tasks. Article 17 of the Law on Ombudsperson stipulates that NPM conducts unannounced visits to places where persons deprived of their liberty are held.

Initial conversation with the head of the visited institution means presentation of NPM mandate in an effective and professional manner, presentation of the monitoring team members, the visit purpose etc. After the initial conversation with the director, the monitoring team conducts a visit to all premises of the institution.

After that, interviews are made with persons deprived of liberty and with institution officials. The monitoring team decides who to interview and where to conduct the

⁶ Law No. 05/L-019, Article 17, paragraph 2.

⁷ Law No. 05/L-019, Article 17, paragraph 3.

⁸ Law No. 05/L-019, Article 17, paragraph 4.

interview. The monitoring team assures the interviewee that the conversation will be confidential and without the presence of the officials of the institution interviewed.

Also, the monitoring team pays a visits to the health unit of any correctional or detention centre in order to verify whether prisoners receive initial health controls upon the admission, whether the correctional officers are present when providing medical services to prisoners, whether health unit protocols keep accurate records of all relevant aspects of providing medical services, especially the cases of bodily harm, attempted suicides, self-injuries etc.

Following these actions, monitoring team holds a meeting attended by the monitoring team members only and conducts a provisional assessment of the findings so far, takes decisions for further action if necessary, and decides which issues will be presented to the head of the institution.

The final conversation with the head of the institution focuses on the most important concerns, such as: relations between personnel and the prisoners, incidents amongst prisoners, poor accommodation conditions, inadequate health care, and failure to apply the procedural safeguards (access to an attorney, contacts with family, etc.). During the final conversation with the director, the monitoring team uses constructive language and respects the work of the institution's officials. The monitoring team requires a constructive dialogue and not a confrontation with the institution's officials.

2.2 NPM's composition

NPM's current composition in terms of the personnel has been completed pursuant to the Law on Ombudsperson and the Regulation No. 01/2016 on Internal Organization and Systematization of Job Positions in the Ombudsperson Institution, which include:

1. Deputy Ombudsperson, in charge of the NPM;
2. NMP Director;
3. Senior Legal Advisor on Prevention of Torture;
4. Advisor on Prevention of Torture;
5. Advisor-medical doctor;
6. Advisor-psychologist;
7. Advisor-social worker;

The European Council, in the framework of the NPM empowerment project, engaged a psychiatrist within the NPM team for the purpose of conducting monitoring visits to mental health institutions.

During the reporting year, NPM paid visits to places where persons deprived of liberty are held, as well as to other institutions where persons may be deprived of liberty or cannot leave these institutions by their own will, due to a decision of competent authorities. During the reporting year, the NPM has also visited a large number of police

stations, detention centres, correctional centres, mental health institutions, social care centres, the Asylum Seekers Centre and the Detention Centre for Foreigners.

2.3 Trainings for the NPM personnel

During the reporting period, within the framework of the European Council project, the trainings on strengthening NPM capacity continued. During this period, a combined training of theory and practical exercise was delivered at the High Security Prison, at the Correctional Centre in Dubrava and at the Educational-Correctional Centre in Lipjan. In addition to this, several trainings were organized combined with practical visits to police stations, mental health institutions and social care institutions. Also, the NPM personnel participated in the four-day training organized by the European Border and Coast Guard Agency FRONTEX, held in Belgrade. The current and previous experts of the European Committee for the Prevention of Torture lectured and closely supervised in all the trainings organized within the framework of the European Council project.



Visit to the High Security Prison - practical training, February 2018



Visit to the Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime (CIRCPP)



Visit to the Institute of Kosovo Forensic Psychiatry



Visit to the Psychiatric Clinic in Prishtina



Visit to police stations, practical training - October 2018

2.4 NPM's activities

In the framework of the EC project, the NPM, in cooperation with the EC Office in Prishtina, organized several activities such as one-day roundtables aimed at raising the awareness of the representatives of Kosovo institutions (justice, prison system, prosecutors) and of the OI personnel on the NPM's mandate; a one-day conference regarding the accomplished results during the project and regarding the modes of cooperation between the NPM and other Kosovo institutions.

Also, was held the Labour Forum on Inter-Institutional Cooperation with the topic "Prevention of Ill-treatment in Mental Health Services and Social Care". The Forum's purpose was the discussion of NPM findings, identified problems on the field and finding opportunities on problem solving by the participants themselves. As a result of the Forum, participants provided twenty valid recommendations to effectively address gaps and shortcomings jointly identified. Those recommendations have been integrated into the reports with recommendations compiled by NMP.



Joint picture from the Working Forum on Inter-Institutional Cooperation, Bëçit, 19 September 2018

In order to mark the World Mental Health Day (10 October), the NPM, in cooperation with the EC Office in Prishtina, organized a one-day regional Conference regarding the challenges of the functioning of NPM in the Western Balkans. The conference aimed the exchange of experiences and discussion of challenges facing national mechanisms on the prevention of torture in the regional countries, regarding monitoring of the treatment of persons with mental disorders in correctional institutions, psychiatric hospitals and social care institutions. The conference concluded with a series of recommendations on the manner of how to further strengthen cooperation between national preventive mechanisms, international monitoring bodies, civil society and relevant authorities, for a better protection of the rights of persons with mental disorders and intellectual disabilities, in places of deprivation of liberty. It is worth mentioning that the NPM constructive cooperation with other institutions in the country, as well as with NGOs was a good example for the regional countries.



Regional Conference of NPMs of Western Balkan Countries - "Prevention of ill-treatment of persons with mental disabilities deprived of liberty"

NPM has, in addition to organizing the activities in the framework of the European Council project, also participated in various activities organized by the Prison Health Department/Ministry of Health and Non-Governmental Organizations.

3. International cooperation

During the reporting period, NPM continued its international cooperation by attending the meetings organized by the South East Europe NPM Network, the working groups of the European Network of National Human Rights Institutions (ENNHRI) such as the Working Group on Migration and Asylum and the Working Group on the Role of the Ombudsperson in post-conflict situations. In the framework of the European Council project on NPM capacity-building, the NPM participated in the four-day study visit to Poland. In the framework of this visit, Kosovo's NPM and Poland's NPM conducted together several visits to places where persons deprived of liberty were held in Poland and also visited several non-governmental institutions and organizations such as ODIHR, the Helsinki Committee in Poland etc. During this year, FRONTEX and IOM organized

training for the Kosovo Police in Montenegro regarding the forced return of migrants. On this occasion, the NPM's representative held a lecture on the mandate of the Ombudsperson and of the NPM.

Also, NPM continued the cooperation with the relevant international organizations by responding to the questionnaires sent regarding the condition of persons deprived of liberty and issues related to asylum and migration.



Study visit to Poland, 24-29 June 2018

4. Fulfilment of the NPM's mandate during 2018

4.1 Visits conducted during 2018

During the reporting period, NPM has conducted 60 (comprehensive, ad-hoc and follow-up visits) visits to various institutions such as: Correctional Centre in Dubrava, Detention Centre for Foreigners, Asylum Seekers Centre, Detention Centre in Gjilan, Detention Centre in Peja, Detention Centre in Prizren, Educational-Correctional Centre in Lipjan, Correctional Centre for Women and Juveniles in Lipjan, Detention Centre in Lipjan, High Security Prison, "Adem Jashari" Prishtina International Airport, police stations in Lipjan, Podujeva, Mitrovica, Vushtrria, Prizren, Suhareka, Dragash, Klina, Istog, Deçan, Peja, Viti, Kaçanik, Shtërpca, Ferizaj, Gjilan, Novobërda, Kamenica, Graçanica, Ranilluk, Shtime, Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime, Psychiatric Clinic, the Institute of Kosovo Forensic Psychiatry, the Home of Children with Mental Disorders, the Special Institute in Shtime, the Home for Elderly People Without Family in Prishtina.

4.2 Reports with recommendations published during 2018

During the reporting period, NPM published a report with recommendations for the visits to the Detention Centre in Prizren, Correctional Centre in Dubrava⁹, Detention Centre in Gjilan, Detention Centre in Prizren, Detention Centre in Peja, the Asylum Seekers Centre, the Detention Centre for Foreigners in Vranidoll¹⁰.

During 2018, NPM published the report with recommendations for the visits to police stations in Mitrovica, Podujeva, Vushtrri, Dragash, Prizren, Suhareka, Regional Police Custody Centre in Prishtina; the report with recommendations for the visits to the police stations in Klina, Istog, Deçan, Peja; the report with recommendations for the visits to police stations in Viti, Gjilan, Graçanica, Kaçanik, Ferizaj, Novobërda, Kamenica, Shtërpca, Ranilluk and Shtime.

In addition, NPM also visited the mental health and social care institutions and published a report with recommendations for the visit to the Psychiatric Clinic in Prishtina, a report with recommendations for the visit to the Institute of Forensic Psychiatry, a report on the visit to the Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime, a report with recommendations for the visit to the Home for Elderly People Without Family in Prishtina.

During this year, NPM also published the *ex officio* report regarding the arrest and forced deportation from the territory of the Republic of Kosovo of six Turkish nationals.¹¹ The main purpose of this report is to draw the attention of the competent authorities of the Republic of Kosovo on respecting the rights of the detained persons and persons subject to forced deportation or extradition from the territory of the Republic of Kosovo pursuant to the Constitution of Kosovo, applicable laws, as well as international human rights standards.

The report refers to the arrest and forced deportation of six Turkish nationals from the territory of the Republic of Kosovo on 29 March 2018, based on the claims that they pose a threat to national security.

In addition, NPM also published the Report with recommendations regarding the right for university studies for minors deprived of liberty.¹²

⁹ Report with recommendations for the visit to the Correctional Centre in Dubrava, published on 24 August 2018. See at: <https://www.oik-rks.org/en/2018/08/27/ombudsperson-institution-report-with-recommendations-of-the-national-preventive-mechanism-against-torture-on-the-visit-conducted-to-the-dubrava-correctional-centre/>.

¹⁰ Report with recommendations for the visit to the Detention Centre for Foreigners in Vranidoll, published on 2 May 2018. See at: <https://www.oik-rks.org/en/2019/05/02/report-with-recommendations-the-detention-centre-for-foreigners-in-vranidoll-1/>.

¹¹ See at: <https://www.oik-rks.org/en/2018/04/27/report-with-recommendations-of-the-ombudsperson-of-the-republic-of-kosovo-related-to-the-arrest-and-forcible-removal-of-six-turkish-citizens-from-the-territory-of-republic-of-kosovo-ex-officio-no-214/>.

¹² <https://www.oik-rks.org/en/2018/11/23/recommendation-report-no-4932018-esat-beqiri-versus-ministry-of-education-science-and-technology-kosovo-correctional-service/> .

5. Cooperation of visited institutions with NPM

During NPM's visits to the institutions where persons deprived of liberty are held, officers of the institutions visited generally offered to the monitoring team full cooperation and immediate access, except in one case involving the Kosovo Police. The team immediately had access to all visited premises. The team was provided with all information necessary to carry out the task and was given the opportunity to have interviews with detained, detained on remand and convicted persons, without the presence of correctional officers, police officers or other personnel. In addition, NPM team, pursuant to the Law on Ombudsperson, was allowed to use the devices for taking photos as well as the devices for measuring spaces, temperature and humidity.

Nevertheless, the NPM team was denied access to the premises of the "Adem Jashari" Prishtina International Airport while investigating the case of forced deportation of six Turkish nationals from the territory of the Republic of Kosovo. Such actions of public authorities are in contradiction to the Constitution of the Republic of Kosovo, the Code of Criminal Procedure of the Republic of Kosovo and the Law on Ombudsperson.

In this regard, the Ombudsperson, through the *Ex Officio* report 214/2018 on the arrest and forced deportation of six Turkish nationals from the territory of the Republic of Kosovo, recommended, among others, the Ministry of Internal Affairs that they explicitly notify the personnel of this Ministry about the Ombudsperson's constitutional and legal competencies regarding unannounced access at any time and to any place where the persons deprived of liberty are held.

Also, Article 25 of the Law on Ombudsperson clearly defines the obligations of all authorities to respond to the Ombudsperson requests as well as to provide adequate support according to his/her request. On the other hand, Article 25, paragraph 3 of the Law on Ombudsperson explicitly defines that: *"In case when the institution refuses to cooperate or interferes in the investigation process, the Ombudsperson shall have the right to require from the competent prosecution office to initiate the legal procedure, on obstruction of performance of official duty."*

6. Findings during visits and recommendations sent to competent authorities

6.1 Police stations

Physical ill-treatment

During the reporting period, the NPM visited 22 police stations and published 3 reports with recommendations. In general, the NPM has sent 13 recommendations to the competent authorities.

During visits, the NPM did not receive complaints from detained persons for experiencing physical ill-treatment while they were in police custody, except during the visit to the police station in Peja, where the NPM interviewed detainees who claimed to have been physically ill-treated at the time of arrest. NPM reviewed the files of the

detained persons, where it was evidenced that the detainees were visited by a doctor who wrote in the medical report the measurement of vital signs, with only one case of a person being prescribed therapy against pains.

Through the Report with recommendations, published on 17 October 2018¹³, the NPM recommended that it should be made clear to all Kosovo Police officers that all forms of physical ill-treatment against detained persons are unacceptable and that officials who undertake such actions will be subjected to legal sanctions.

During visits to detention centres and correctional centres, the NPM received 4 complaints for physical ill-treatment during the arrest, stay at police custody, and interrogation by Kosovo Police officers.

During the NPM's visit to the Correctional Centre in Dubrava, the NPM received 2 complaints from two prisoners, claiming that they were physically ill-treated by Kosovo Police officers at the time they were arrested and transported to the police stations where they were questioned. In the case of the complainant B.D, he claimed that he was physically ill-treated by being punched by police officers while being questioned and transported to the police station in Prizren. According to complainant's claims, he informed the pre-trial judge of this, but no actions were taken. Also, the complainant claimed that he never filed a complaint with the Kosovo Police or Kosovo Police Inspectorate (KPI). The prisoner was informed by NPM of the competent bodies he may file a complaint with. Meanwhile, in the other case, the complainant R.S. claimed that he was physically ill-treated in the police station in Ferizaj and that for this he filed a complaint with the Kosovo Police Inspectorate a month ago. As far as this claim is concerned, the NPM addressed KPI via official e-mail and required them information about the complainant's complaint. KPI informed the NPM that the Kosovo Police Inspectorate, namely the Department for Review and Management of Complaints, on 13 February 2018, received a complaint filed by the citizen R.S from the Prison of Dubrava. After analysing his complaint, the case was forwarded to the Department of Investigation (KPI) for criminal investigation.

During the visit to the Detention Centre in Peja, the NPM received a complaint filed by the detainee E.A.¹⁴, who claimed to have been physically ill-treated by the Kosovo Police at the time of arrest. According to the complainant's claim, he was detained on 13 September 2018 and then transported to police station in Prizren. The complainant claimed that he was tied to the radiator, punched and kicked. On 14 November 2018, after preliminary analysis of medical documentation and complainant's claims, the NPM informed, via official e-mail, the Kosovo Police Inspectorate (KPI) regarding these

¹³ Report with recommendations on the visits to the police stations in Klina, Istog, Deçan, Peja. For more information, see: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

¹⁴ Registered case in the Ombudsperson Institution, as case A. no. 770/2018.

claims and required the KPI to investigate and inform the NPM of the investigation results. The NPM is awaiting the finalization of investigations by KPI.

During the visit to the Detention Centre in Lipjan (DCL), the NPM received a complaint filed by K.B., who complained that he was physically ill-treated while being arrested by Kosovo Police on 7 October 2018. According to the complainant's claim, this occurred during the phase of arrest and interview by police investigators in the police station "Centre". Regarding these claims, the NPM visited the Regional Police Custody Centre in Prishtina, where the complainant's file and medical report were checked. In addition, Prison Health Department sent to the NPM the complainant's medical file, which is opened upon each admission to the detention centre or correctional centre. After analysing relevant documentation and complainant's claims, the NPM requested the KPI to investigate the case in accordance with its mandate and inform the NPM of the investigation results.

During the reporting period, 36 complaints were received for physical ill-treatment by Kosovo Police officers. After the preliminary assessment, 19 cases were opened for investigation, while 3 cases were opened for *ex officio* investigation. In some cases, the NPM requested relevant Kosovo Police and KPI bodies to conduct effective investigations regarding these complaints and notify the NPM about the results of the investigations in question. The NPM had full cooperation with KPI and other Kosovo Police authorities during the investigation of the above-mentioned complaints.

During visits to various police stations conducted this year, the NPM noted a practice which it considers inappropriate and which should be avoided immediately. More specifically, during a visit to the police stations in Shtërpca, three hard objects inside an interviewing room were found, while such objects were, according to police officers, seized from persons arrested at the scene and are kept there as evidence. However, the NPM noticed that no case number was labelled on these objects.¹⁵ After submitting a report with recommendations, NPM was informed that the Kosovo Police has established a team consisting of police officers, who will visit all police stations and will require that these objects be kept in the right place and not in the interviewing rooms.

Even during visits to the police stations in Kaçanik and Kamenica, the NPM noticed wooden sticks inside the interviewing rooms, but they were labelled with the case number. According to police officials, these objects have been seized from the detainees and are kept there as evidence for cases under investigation. The NPM recommended police officers that such objects should be immediately removed from the rooms where the detainees are questioned.

In addition, the CPT, in the report on the visit to Spain, published in 2011, states that the delegation found unlabelled wooden sticks and baseball bats inside interviewing rooms in

¹⁵ The objects found can be described as follows: three sticks, two of these sticks appear to be electric cable wrapped out-and-out with insulating tape and another stick longer and wrapped only on the top, good enough to be grabbed by hand.

some police stations. CPT further states in the report that such a situation, apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to police officers themselves but also to criminal suspects. Such items or belongings seized during criminal investigations must be entered in a separate register, properly labelled (also identifying the case to which they refer) and stored in a dedicated location for storing such items. Through this report, CPT recommended the Spanish authorities that all such unauthorized items be removed from the premises where persons may be held or questioned.¹⁶

Based on the visits conducted this year and earlier visits, the reviewing of complaints received, as well as ex-officio investigations, the NPM considers that there is no systematic physical ill-treatment or physical ill-treatment widely spread by the Kosovo Police.

Safeguards against ill-treatment

The European Committee for the Prevention of Torture (hereinafter referred to as '*CPT*'), in its 2nd general report, published in 1992, attaches the importance to three rights for persons detained by the police, such as: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer, and the right to request a medical examination by a doctor of his choice (in addition to any medical examination carried out by a doctor called by the police authorities).¹⁷

These rights should be enforced not only in the case of detained persons but also in other cases when citizens are obliged to stay in the police stations or with the police even for other reasons (for instance: for identification purposes).

According to CPT, these rights are a fundamental safeguard against physical ill-treatment and shall be implemented from the first moment of deprivation of liberty, no matter how they are described in the legal system. Also, these fundamental rights are foreseen with the Constitution of the Republic of Kosovo, the Criminal Procedure Code and the Law on Kosovo Police.¹⁸

Article 13 of the Criminal Procedure Code: “Any person deprived of liberty shall be informed promptly, in a language which he or she understands, of the right to legal assistance of his or her own choice, of the right to notify or to have notified a family member or another appropriate person of his or her choice about the arrest.”¹⁹

Having regard to the notification of arrest, Article 168 of the Code of Criminal Procedure further defines that, an arrested person has the right to notify a family member or another

¹⁶ CPT report on the visit to Spain, published in 2011, paragraph 34, on: <https://rm.coe.int/16806cb01c>.

¹⁷ See: <https://rm.coe.int/16806cea2f>.

¹⁸ 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 the Kosovo Police.

¹⁹ See also Articles 29 and 30 of the Constitution.

appropriate person of his or her choice about the arrest and the place of detention, immediately after the arrest; notification of a family member or another appropriate person regarding his arrest may be delayed for up to twenty-four (24) hours where the state prosecutor determines that the delay is required by the exceptional needs of the investigation of the case. There shall be no delay in case of minors.²⁰

According to the Law on Police,²¹ the right to notify the family member or other person about the arrest also applies to persons who are in "temporary police custody" for the purposes of identification or because of their protection and protection of others.

During the visits, NPM was informed by police officers that no audio and video recording of interviews is practised while interviewing the detainees. NPM considers that audio and video recording of interviews of detainees would be an additional safeguard against physical ill-treatment. The NPM notes that the CPT also considers that electronic recording (audio and/or video) of police interviews constitutes an important additional safeguard against the ill-treatment of detainees²². NPM notes that the possibility of making audio and video recording of interviews of detainees is also left open by the Criminal Procedure Code.²³

During the visits, NPM concludes that Kosovo Police respects three fundamental rights of the detainees. Kosovo Police has standard forms through which the detainees are informed of their rights and by signing them they confirm that they have been notified of these rights. NPM has also noticed that Kosovo Police generally keeps sufficient evidence and documentation for each case related to persons in police custody. These standard forms are compiled in Albanian, Serbian and English.

In addition, NPM has noticed that, in each cell where detained persons are held, there is information regarding their rights in Albanian, Serbian and English. During the visits and interviewing of the detainees, NPM did not receive complaints regarding the fulfilment of these rights.

Physical condition of the police stations visited

NPM considers that, despite the duration in police custody, the conditions in the cell must meet some basic requirements regarding accommodation conditions anyway. The CPT, in its 2nd General Report, published on 13 April 1992 in Strasbourg, has defined the standard regarding the conditions in the cells where the detainees are held: "*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 and be equipped with a fixed chair or bench). Further, persons*

²⁰ Criminal Procedure Code of the Republic of Kosovo, Article 168, paragraphs 1, 2, 3, 4.

²¹ Law on Kosovo Police, Article 20.

²² European Committee for the Prevention of Torture, Extract from the 12th General Report, paragraph 36. For more information, see: <https://rm.coe.int/16806cd1ed>.

²³ Criminal Procedure Code, Article 205, paragraph 5.

*obliged to stay overnight in custody should be provided with a clean mattress and blankets.”*²⁴

Having regard to the accommodation conditions in the places where detained persons are held, NPM has noticed that most of the visited police stations meet the necessary conditions for accommodation of detainees, except the police stations in Deçan, Peja, Ferizaj and Shtime.

Regional Police Custody Centre in Prishtina²⁵

During the visit to this centre, NPM has noticed that the cells were clean, the space per person in cells was in accordance with the standards established by CPT,²⁶ each cell had mattresses and clean sheets, but cells had little natural light and were not equipped with a call system. The ventilation system was functional inside the Centre. The toilets and showers were in good condition and there was warm water. The Centre was renovated during 2016.

Working conditions of police officers who were working at the Centre are not good and have undergone no change since previous visits. Through the report with recommendations after the visit to this centre, the NPM recommended the MIA to take the necessary steps to provide more natural light. In its response sent on 31 November 2018, MIA underlined that there is no possibility of changing window dimensions to the existing facility, given the fact that the detention facilities are located in the basement. According to them, this year's planning foresees that the grills of the existing windows will be changed, and that the project is undergoing procurement procedures.

Police Station in Prizren

During the visit, NPM noticed that the cells accommodating the detainees are in poor condition and should be lime-plastered (coloured) and supplied with clean sheets and blankets, since the existing ones are old and do not meet the conditions for accommodating detainees in accordance with international standards at all. Through the report with recommendations, published on 25 January 2018, NPM recommended the competent authorities to take the necessary actions so that necessary renovations and supplies are made at this station. In its response to this recommendation, the Ministry of Internal Affairs (MIA) informed NPM that *"during this year (2018), the entire detention centres in Prizren were plastered and coloured. Also, the project that was initiated for this year has foreseen the replacement of mattresses."*

²⁴ European Committee for the Prevention of Torture, 2nd General Report, paragraph 42. For more information, see: <https://rm.coe.int/1680696a3f>.

²⁵ All reports with recommendations for visits to police stations can be found at: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

²⁶ See: <https://rm.coe.int/16806cea2f>.

Police Station in Peja

NPM has noticed that cells were in a very bad condition, there were no natural light, and artificial light was poor. NPM also noted that the building has humidity and mouldy odour, hygiene was not at the right level. In the cells where the detained persons are held there is a lack of sheets, pillows, and hygienic means. This station needs renovations in the premises where the detainees are held and in the premises where the police officers work. The CPT, in the report on the visit to Kosovo in 2015, published in 2016, regarding the Police Station in Peja, concluded that artificial lighting in the detention zone at this station was not sufficient.²⁷

Police Station in Deçan

NPM has noticed that the cells where the detainees are held are in a very bad condition and need immediate renovation since they have no natural or artificial light. As a result of this, NPM interviewed a detainee in full dark. The monitoring team has also noticed, during the visit to the cells where the detainees are held, the presence of insects. Such a situation at the Police Station in Deçan can be compared to degrading, humiliating and inhuman treatment. The CPT, in its report on the visit to Kosovo in 2007, published in 2009, expresses particular concern regarding the accommodation conditions at the Police Station in Deçan.²⁸

Police Station in Ferizaj

Accommodation conditions are in poor condition, cells did not have enough natural light, while artificial light was weak. Also, NPM noticed that the building has humidity and mouldy odour, the hygiene was not at the right level. In the cells where the detained persons are held there is a lack of sheets, pillows and hygienic items. On the other hand, NPM noticed that the minor interviewing room is a comfortable room. NPM considers that the station in question needs renovation in the premises where the detainees are held and in the premises where the police officers work.

NPM noticed that physical conditions and accommodation at the police stations in Gracanica, Gjilan, Ranilug, Viti, Klina, Istog, Lipjan, Mitrovica, Podujeva, Suhareka and Dragash generally meet the standards for accommodation of detainees.

Having regard of food, the Criminal Procedure Code of the Republic of Kosovo defines that a person detained for more than 12 hours shall be provided with three meals daily.²⁹ Arrested persons, who are sent to custody, are provided three portions of food within 24 hours. NPM has not received complaints from detainees regarding this right.

²⁷ CPT Report on its visit to Kosovo, paragraph 25. For more information, see: <https://rm.coe.int/16806a1efc>.

²⁸ CPT report on its visit to Kosovo in 2007, published in 2009, paragraph 35. For more information see in: <https://rm.coe.int/168069727c>.

²⁹ Criminal Procedure Code of the Republic of Kosovo, Article 170, paragraph 3.

In all the stations visited, NPM noticed that the detainees are not supplied with personal hygienic items. NPM considers that the relevant authorities should take concrete steps to equip the hygiene maintenance centres. None of the stations visited has a call system. The CPT, in its report on the visit to Kosovo in 2015, has recommended the competent authorities in Kosovo that the cells at the police stations be equipped with a call system, which would enable the detainees to make easier contact with police officers when needed.

With regard to the regime, in the 12th general report published in 2002, the European Committee for the Prevention of Torture stresses that persons who are detained in police custody for more than 24 hours must be provided with daily fresh air.³⁰

NPM has noticed that most of the police stations visited do not provide the detainees who stay more than 24 hours in detention with the opportunity to go out and take some fresh air (going outside, going outside in the yard), as they do not have adequate space. An exception is the Police Station in Vitia, where the detainee is allowed to spend time outdoors in the presence of police officers. However, none of the stations visited have special fresh air areas.

With regard to medical services, as a fundamental right of persons detained by the police, these services are provided by public institutions such as the Family Medicine Centre and the University Clinical Centre, depending on the treatment needs. NPM did not receive complaints from the persons interviewed regarding this right. Also, the reviewed documentation shows that the police have recorded in their personal files the notice of the right to have medical services.

With regard to the right to file a complaint regarding their treatment by the Kosovo Police, the detainees have the right to file a complaint with the police station where they are being held as well as with the Kosovo Police Inspectorate. In addition, the detainees can file a complaint with the Ombudsperson. In order to provide easier access to the services of this institution and to enable the detainees to file a complaint in confidence, the Ombudsperson has installed complaint boxes at police stations where there are detention cells.

The Ombudsperson has regional offices in each city of Kosovo and regional officials visit police stations, open complaint boxes and handle individual complaints. If regional officials accept claims of ill-treatment, they shall promptly notify NPM.

Also, NPM noticed that the Kosovo Police Inspectorate has placed a complaint box at the entrance of the Police Station in Kaçanik. NPM considers that this is a good practice, which provides citizens with direct access to the competent body for filing a complaint regarding the treatment done by police officers.

³⁰ 12th General Report of the CPT, paragraph 47, at: <https://rm.coe.int/16806cd1ed>.

During the visit to the Police Station in Kamenica, the NPM noted that the station maintains a comprehensive book (register) of data on citizens' complaints, wherein all complaints of citizens are recorded and accordingly forwarded to the competent authorities within the Kosovo Police or the Kosovo Police Inspectorate. The NPM considers that this is a very good practice satisfying the requirements of international standards for the protection of the rights of persons deprived of liberty.

Recommendations of the Ombudsperson's NPM to the authorities responsible for visits in police stations during 2018:

- Take the necessary steps to provide more natural light to the Regional Detention Centre in Prishtina. (Pending implementation)
- Create better working conditions for police officers in the Regional Detention Centre in Prishtina. (Implemented)
- Conduct renovations and supplies at the Detention Centre in Prizren. (Implemented)
- Install the call system in all cells of police stations with detention rooms. (Not implemented)
- Functionalize security cameras at the Police Station in Lipjan (Implemented).
- Make the necessary renovation at the Detention Centre in Deçan as soon as possible. (Pending implementation)
- Make necessary renovations at the Detention Centre in Peja and supply the station with necessary materials. (Pending implementation)
- Make necessary renovations at the Detention Centre in Ferizaj. (Pending implementation).
- In all the detention centres of police stations visited, the toilets of the cells where the detainees are kept must be provided with a compartment that respects privacy. (Pending implementation).
- Remove hard objects from the offices where the arrested or detained persons are interviewed or detained in all police stations, which are alleged to be seized in evidence. (Pending implementation).
- Inform the NPM of the date of functionalization of the Police Station in Shtime. (Pending implementation)
- Provide detainees with personal hygiene items (Pending implementation).

6.2 Correctional and detention centres

During the reporting period, the NPM, together with two Council of Europe experts (in the capacity of observers) and the Chief Inspector of the Ministry of Justice (as an observer), visited the Correctional Centre in Dubrava (hereinafter 'CCD'). The purpose of this visit was to conduct a general assessment of the respect of prisoners' rights. During this period, the NPM also visited the High Security Prison (hereinafter HSP), the

Correctional Centre for Women and Juveniles in Lipjan, the Correctional Centre in Lipjan, the Detention Centre in Lipjan, the Detention Centre in Prizren, the Detention Centre in Mitrovica and the Detention Centre in Peja. Most of these visits were of an *ad-hoc* and follow-up nature.

Ill-treatment

During the visit at the CCD, the NPM did not receive any complaints from prisoners on physical abuse or excessive use of physical force by correctional officers. During the reporting period, the NPM received two complaints from two prisoners serving their sentence at the HSP claiming they were physically abused, one at the HSP and the other while serving the sentence at the CCD. Regarding these complaints, in addition to the complainants' allegations, the NPM also analysed relevant medical documentation and requested from the Kosovo Correctional Service (KCS) to investigate the allegations of the complainants and to notify the NPM of the outcome of the investigation. KCS has conducted internal investigations upon the request of the NPM and has notified the latter that it has not found any breaches of procedure or violations of prisoners' rights by its officials.

During the visit to the Detention Centre in Lipjan (DCL), the NPM received a complaint by detainee S. H. against the correctional officers of this Centre. According to the complainant, he was physically abused by correctional officers in the premises of the Basic Court in Ferizaj, as well as during transport to the DCL. The NPM, in addition to the complainant's allegations, also reviewed the relevant medical documentation and protocols of bodily injuries. The Directorate provided the relevant documentation regarding the investigation of the case by the Internal Commission established by the Directorate to investigate this allegation. The Internal Investigation Commission did not find evidence supporting the complainant's allegation.

The NPM requested from the Directorate General of KCS to establish an Investigation Commission independent from the DCL Directorate. The KCS implemented this recommendation of the NPM, establishing the Investigation Commission and thereafter notifying the NPM that it had not found any evidence in support of the complainant's allegation. In general, the NPM has received assertions in favour of good and dignified treatment by correctional officers at the visited correctional and detention centres. Moreover, it has been noted that generally correctional and prison officials have correct communication.

Inter-prisoner violence

During the reporting period, no serious or considerable incidents between prisoners have been reported (except at the HSP). During the visits, the NPM noted that any such incidents were recorded in the relevant forms as well as in adequate protocols of the healthcare units. In general, the NPM during the visit noted that the relations between the prisoners are good and there is no negative climate between them in any of the blocks.

However, at the end of the year, two incidents between prisoners were recorded at the High Security Prison, in which prisoners also suffered serious bodily injury. The NPM, through this report as well, reminds the relevant authorities of the obligation to prevent violence between the prisoners under their responsibility. This responsibility includes the obligation to take care and to adopt preventive measures to reduce the risk of violence, as well as to protect the most vulnerable prisoners.

Staff of correctional and detention centres

As far as staff is concerned, during the reporting period, the NPM received concerns by the CCD Directorate related to the lack of correctional staff, social workers and psychologists. According to the Directorate, the CCD is short of approximately 100 correctional officers, as currently CCD has engaged about 60 correctional officers in the care of persons with chronic diseases hospitalized in healthcare institutions and a number of correctional officers are in training at the Academy for Public Safety in Vushtri. Further, the Directorate has expressed concern over the average age of correctional staff, which is 49 years old. According to the Directorate, it plans to increase the number of correctional staff for 50 officials.

The NPM has received complaints about the lack of correctional staff and social workers in other correctional and detention centres as well. Through recommendation reports, the NPM has recommended to the competent authorities to employ additional correctional personnel, psychologists and social workers as needed. The KCS is in the process of testing and recruiting 120 new correctional officers who will be assigned to DCGj and HSP. According to the latest announcement of the Director of the CCD, they also plan to hire 5 social workers. The NPM will follow up the implementation of these recommendations.

Accommodation conditions in correctional and detention centres

During the visit to the Correctional Centre in Dubrava (20-22 March 2018), the NPM noted that the accommodation conditions differ across blocks. The NPM noted that block 1 was renovated, toilets and showers were in good condition, the cells had no moisture and were whitewashed and clean. The cells were generally warm with sufficient lighting and ventilation.

During the visit, the NPM paid particular attention to prisoners who had been subjected to solitary confinement because of disciplinary violations and were held in separate cells. In the case of prisoner R. B., in the cell where the detainee was placed, the toilet was blocked, the mattress on the bed where the prisoner slept had no sheets at all, but the cell had sufficient light and no moisture. The same conditions of accommodation were also found in the case of prisoner G. A., who was also punished with the disciplinary measure of solitary confinement.

The NPM considers that such cells must meet the criteria foreseen by the Law on Execution of Criminal Sanctions, which stipulates that the room for the execution of the

disciplinary measure of solitary confinement should have a space of at least ten (10) cubic meters, sanitary facilities, natural light, drinking water, bedding with sheets, table, chair and heating.

Likewise, regarding the accommodation conditions in prison cells where the disciplinary measure of solitary confinement is imposed, the CPT states that such cells must meet the same minimum standards as those applicable to the accommodation of other prisoners. They should be of adequate size and have natural light, adequate heating and ventilation. The CPT further states that such cells should be at least equipped with a table, adequate chairs, and adequate bedding and sheets.³¹

During the visit, the NPM noted that renovations were needed in block 2, as there were cells and dining halls that contained moisture, while showers and toilets were also in poor condition. During the visit it was noted that prisoners use improvised electrical appliances for water heating, which could seriously risk their lives.

The NPM visited block 8 in which new prisoners are accommodated and undergo a basic regime, which lasts up to 28 days. During the visit it was noted that the accommodation conditions in this block were very bad and could be easily compared with degrading, humiliating and inhuman treatment. The NPM expresses serious concern over the fact that part of the block 8 is used as a hospital wing and does not meet the minimum accommodation standards foreseen by the Law on Execution of Penal Sanctions, the Law on Mental Health, the standards set by the Committee European Convention for the Prevention of Torture and other international conventions for the protection of the rights of persons deprived of liberty.

At the High Security Prison (HSP), accommodation conditions are very good, prisoners are placed in cells by themselves, each cell has TV, cells have sufficient natural and artificial light, there is no moisture, and they are equipped with bed, sheet, desk, chair and call system. During the visits of the reporting period, the NPM noticed that floor damages in blocks 1, 2 and at the HSP stationary have not been repaired yet.³²

During the visit to Correctional Educational Centre in Lipjan, the NPM concluded that this centre meets all conditions for the accommodation of juveniles. The NPM noted that the rooms where the juveniles stay are large and have sufficient lighting, TV and personal closets. Each room had toilets which were in regular condition, convenient and had warm water without interruption. Moreover, rooms and toilets that were dedicated to people with special needs satisfied the accommodation conditions.

At the Correctional Centre for Women and Juveniles, the NPM during ad-hoc visits noted that there were no renovations in the area where the juveniles are accommodated in order

³¹ European Committee for the Prevention of Torture, excerpts from 21st General Report published in 2011, for more see: <https://rm.coe.int/16806cccc6>.

³² Report with recommendation on the visit to the High Security Prison, published on 19 June 2017. For more, see: <https://www.oik-rks.org/en/2017/06/09/report-of-npm-related-to-the-visit-in-high-security-prison/>

to improve the accommodation conditions. The NPM has recommended to the competent authorities to take action to improve the accommodation conditions at this centre, in the part where juveniles are accommodated.³³ During December 2018, the NPM received responses from the competent authorities regarding the improvement of conditions at the Correctional Centre for Women and Juveniles in Lipjan. During the *ad-hoc* visits conducted during November-December 2018, these improvements were also noticed by the NPM team. Blocks A and B now had solar water and were both painted.

The NPM has conducted a general visit (full assessment) at the Detention Centre in Gjilan (DCGj), while the report with recommendations regarding this visit was published on 27 March 2018. The official capacity of the DCGj is 300 persons, but due to technical conditions, lack of inventory and correctional staff, the current operational capacity is 80 people. On the day of the visit, 49 detainees and 25 convicts were accommodated at the DCGj.

During the visit, the NPM noted that part of the road to the DCGj, namely the road to the main gate, is unpaved and in bad condition and can present serious difficulties in the development of the daily activities of this institution. The NPM visited a number of cells and verified whether the accommodation space is in compliance with the standards set by the European Committee for the Prevention of Torture.³⁴ Also, Law No. 04/L-149 on the Execution of Penal Sanctions provides that each prisoner should have 4m² of living space per person in every multi-occupancy cell.³⁵ During the visit, the NPM noted that the cells in which detainees and prisoners are accommodated, in terms of size, go beyond the minimum standard and are in compliance with the standards established by the European Committee for the Prevention of Torture.

The cells accommodating prisoners have sufficient lighting, no moisture, and also have adequate heat and cleanliness. Each cell accommodates one or two prisoners. Each cell is equipped with TV.

During the reporting period, the NPM published the report with recommendations on the visit to the Detention Centre in Prizren. The official capacity of this institution is 92 persons, while during the NPM's visit there were 100 prisoners, of whom 22 were convicted. During the visit to the Detention Centre in Prizren (DCP), the monitoring team was informed that the construction of a new detention centre in Prizren is planned, but the procedures have stagnated and no progress has been made in this regard. Concerning this, the NPM was officially informed by the Ministry of Justice on 27 February 2018 that it has applied for the construction of detention centres in Prizren and Peja under the

³³ Report with recommendations on the visit to the Correctional Centre for Women and Juveniles, published on 20 December 2016, see: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>

³⁴ European Committee for the Prevention of Torture, Living space per prisoner, see: <https://rm.coe.int/16806cc449>.

³⁵ Law No. 05/L-129, Article 3 of Law on Amending and Supplementing Law No. 04/L-149 on Execution of Criminal Sanctions.

Western Balkans Investment Framework in the social sector. According to this announcement, the Ministry of Justice will continue to seek funds from the Government or donors for the implementation of this project.

The NPM visited a number of cells to verify whether the accommodation space is in accordance with the standards set by the European Committee for the Prevention of Torture³⁶ and the Law on Execution of Criminal Sanctions.³⁷ During the visit, the NPM noted that in some cells, due to lack of space, some detainees and convicts slept on the floor in old mattresses and without adequate sheets.

On this occasion, the NPM concluded that the DCP faces overcrowding, which should be addressed as soon as possible so that it can provide accommodation space in accordance with the standards set by the European Committee for the Prevention of Torture and by Law No. 04/L-149 on Execution of Criminal Sanctions. Regarding this situation, the NPM recommended to the Ministry of Justice that actions be taken so that the number of prisoners is in accordance with the official capacity of the DCP.

The Ministry of Justice informed the Ombudsperson that the Kosovo Correctional Service (KCS) has accepted the new facility of the Detention Centre in Prishtina, which will soon begin to function and will affect the reduction of overcrowding and will provide accommodation space to the prisoners in accordance with the standards outlined above. However, the NPM notes that until now the Detention Centre in Prishtina has not yet been functionalized.

In addition, in the two cells where the detainees were accommodated at the DCP, the toilets had no door and thus the privacy of detainees was not respected at all.³⁸ Rule 15 of the Mandela Rules, adopted by the General Assembly of the United Nations on 29 September 2015, stipulates: “*The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner*”. Regarding this issue, the People's Advocate recommended that appropriate measures be taken to respect the detainees. On 30 December 2018, the DCP Directorate informed the NPM that there was no overcrowding and that the two cells described above are designed for only one person. They now accommodate only one prisoner.

While the cells were generally warm, they had sufficient lighting, there was generally no moisture, and the showers were in good shape. In addition, the rooms accommodating the prisoners were clean, had natural light and ventilation. However, the NPM concluded that cells generally need to be whitewashed. The DCP Directorate informed the NPM that this recommendation was implemented and that the whitewashing of the cells is almost complete. The NPM, through follow-up visits, will verify the implementation of the

³⁶ European Committee for the Prevention of Torture, Living space per prisoner, see: <https://rm.coe.int/16806cc449>.

³⁷ Law No. 05/L-129, Article 3 of Law on Amending and Supplementing Law No. 04/L-149 on Execution of Penal Sanctions.

³⁸ European Prison Rules, Article 18.1.

recommendations. During the visits to the correctional and detention centres, the NPM noted that the detainees lack space for the storage of necessary personal items. The NPM, through recommendations reports, recommended to the competent authorities to improve this gap and provide prisoners with adequate space to store their personal belongings. So far, the NPM has not seen any improvements in this regard.

At the Detention Centre in Lipjan, the NPM noted that block B was completely renovated, while in other parts of the Centre, regarding accommodation conditions, the situation remains the same as noted in the NPM's report on the visit to Detention Centre in Lipjan, published on 21 December 2016.³⁹ The NPM considers that the competent authorities have partially implemented the recommendation regarding the accommodation conditions. However, it should be noted that the closure of this centre is expected for a long time and the detainees will be transferred to the Detention Centre in Prishtina.

Regarding the accommodation conditions at the Detention Centre in Peja, the NPM visited a number of cells and found that the accommodation, lighting and ventilation areas were not in compliance with the standards set by the CPT and with the Law on Execution of Penal Sanctions. The NPM noted that in Block B, shared baths are damaged, walls have moisture, smell of mold, sanitary facilities are damaged. During the visit, the NPM noted that in some cells, due to lack of space, some detainees and convicted persons slept on the floor in an out-dated and moldy mattress without adequate cover. The DCP was visited twice by the CPT. As far as accommodation conditions are concerned, the CPT, in the report on Kosovo's visit in 2007, describes these conditions as very bad and concludes that the size of the cells is not in line with the standards set by this committee. In addition, the report states that cells do not have proper ventilation and illumination.⁴⁰

Further, the CPT in the report on Kosovo's visit in 2015 found that accommodation conditions did not improve and generally remain as noted in the 2007 visit report. Moreover, during this visit, CPT was announced by the relevant authorities of the Republic of Kosovo that the closure of this centre is planned. The CPT, in the report in question, encouraged the authorities of the Republic of Kosovo to close the Detention Centre in Peja as soon as possible.

The CPT emphasizes in the report: *“For as long as the existing premises remain in use, efforts should be made to ensure that sanitary facilities are kept in an acceptable state of repair and that prisoners are offered at least 4 m2 of living space per person in all multi-occupancy cells.”*⁴¹

³⁹ Report with recommendation on the visit to the Detention Centre in Lipjan published on 21 December 2016, for more, see: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

⁴⁰ CPT Report on its visit to Kosovo in 2007, published in 2009, at: <https://rm.coe.int/168069727c>.

⁴¹ CPT Report on its visit to Kosovo in 2015, paragraph 41. For more, see: <https://rm.coe.int/16806a1efc>.

The European Prison Rules 18.1 and 18.2 require authorities to provide to prisoners accommodation conditions which respect human dignity, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and to floor space, cubic content of air, lighting, heating and ventilation.

In addition, Rule 13 of the Mandela Rules endorsed by the United Nations, requires that: *“All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”*

The Detention Centre in Mitrovica (DCM), in addition to a detention centre, also serves to accommodate long-term prisoners. During the reporting period, the new facility was functional and used as office space, for free activities in printing, woodworking and machinist workshops, and for visits. The printing shop is new and functional, used for printing shirts and other items.

The accommodation conditions in the DCM are generally good; the facility has been renovated during the previous years, so there are no significant shortcomings regarding accommodation conditions. Showers are allowed to prisoners every other day, while in special situations they can shower even more often, hot water supply is regular and prisoners' rooms have cable TV.

Food

Regarding the quality and quantity of food, the NPM has received complaints from prisoners at CCD. Complaints related to this matter refer in many cases to the quality and quantity of food served to prisoners at breakfast and dinner. During the visit to Correctional Educational Centre Lipjan, the NPM received complaints from minors regarding the quality and quantity of food. The UN Standards for the Protection of Juveniles Deprived of their Liberty stress that every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

The NPM notes that Law No. 04/L-149 on Execution of Criminal Sanctions stipulates that a convicted person has the right to food suitable for him or her to maintain good health and strength in three (3) meals each day, which must be varied and nutritious.

The food provided to a convicted person shall take into account his or her age and health, the nature of his or her work, the season and climatic conditions and, as far as possible, his or her religious and cultural requirements. Likewise, this law stipulates the obligation to provide a convicted person with food ordered by a physician.⁴² During the visits to

⁴² Law on Execution of Penal Sanctions, Article 39, paragraphs 1 and 2.

other correctional and detention centres, the NPM did not receive complaints from prisoners regarding the quality and quantity of food. During its visits, the NPM has noted that from time to time they lack dietary food ordered by the competent physician for certain prisoners.

Through reports with recommendations, the NPM reminded the competent authorities of the obligation to provide dietary packages for prisoners and detainees for whom this is necessary for health reasons⁴³. In their reply, the competent authorities have noted that from time to time they lack adequate food due to tendering and contract award procedures with the economic operator.

Regime

Regarding the regime, the NPM has noted that in the CCD, according to the Directorate, there are about 350 convicts engaged at work. The engagement at work is greater during the summer season. Convicted persons are usually engaged at work in the kitchen, cleaning and the centre's farms. The convicted persons may move freely within the establishments where they are accommodated and are entitled to 3 hours of walking per day during summer season, while 2 hours per day during winter season⁴⁴. In addition, within the correctional centre, function 3 workplaces, which in fact are also vocational training centres, where training on welding, construction, machinery, carpeting, technical maintenance, water and electricity installation are organised. Courses whose duration is 3 months are organised in these workshops.

There is a gym, basketball and football court within CCD establishment. The basketball court at the moment is not used since it needs changing damaged windows and install window meshes, which would prevent damaging the windows caused as a result of thrown balls. A part of the hall, such as toilets and showers were renovated and are in very good condition, while in the other part, works were stopped since the work executor did not comply with technical conditions. The sports hall is dysfunctional. Therefore, the situation in these facilities remains the same as during the visit in November 2016.

Moreover, the NPM considers that the establishment of the economic units would increase the activities and engagements of a larger number of prisoners. The establishment of economic units is also foreseen by the Law on Execution of Penal Sanctions⁴⁵. Despite the efforts of the CCD's Directorate, the NPM thinks that in order to achieve the proper re-socialization and rehabilitation of prisoners, genuine activities should be stepped up and as many rehabilitation programs as possible available to a large number of prisoners.

⁴³ Mandela Rules, Article 22. European Prison Rules, Article 22.2. Law on Execution of Penal Sanctions, Article 39.1.

⁴⁴ According to Article 37 of the Law on Execution of Penal Sanctions, the convicts are entitled to at least two hours daily outside closed premises.

⁴⁵ Law on Execution of Penal Sanctions, Articles 212-214.

In the HSP, the prisoners can move freely within the blocks where they are located during the specified time, e.g. the door is left open until 16:00 in the afternoon to prisoners under basic and standard regime, until 18:00 to prisoners under advanced regime, and economic units until 19:00 to protected witnesses. Prisoners also go out for a walk 2 hours a day. For the development of sports activities and walks, walls and terrains for sporting and walking activities, which are constructed of white-coloured concrete, remain a concern and cause a blinding reflection of the sun, especially during the summer season. The competent authorities have claimed that such a situation is a problem for the development of sports activities and hiking, but no solution has yet been found. Regarding physical exercise, the NPM visited the facility where prisoners can exercise fitness three times a week. The facility provides good conditions and sufficient equipment for physical exercise. Fitness equipment is also available in every block.

Prisoners engage in work related to maintenance of premises and work in the kitchen. Engagement at work is greater during the summer season. During the NPM's visit in March 2017, 80 prisoners were employed, while during the NPM's visit on 14 February 2018, there were 68 prisoners employed, two workshops were still inoperative. Workshops and professional training could be organized in these workshops.

Regarding the regime for detainees, it remains poor because the detainees' activities are subject to permission from the competent court. Even through this report, the NPM encourages competent authorities to increase out-of-cell activities at the HSP for detainees to the extent possible. The CPT, in the reports on visits to different states, considers that the longer the period of detention, the more developed the regime should be.⁴⁶

During the visit to the Correctional Educational Centre for Juveniles in Lipjan (CECJL), the NPM was informed by juveniles that they moved freely in the premises of the facility and were allowed at least 3 hours of walking, which is in accordance with Article 139 of the Juvenile Justice Code.⁴⁷ The NPM has not received any complaints regarding observance of this right. The CECJL possesses a computerized computer cabinet, a library that is enriched with various titles, the novel, the printing house's cabinet, and also equipped with appropriate printing machines for shirts, t-shirts; the dressmaking and hairdresser salon, which are also equipped with adequate working tools. All machinery and equipment are donations from various donors, such as: German HELP, UNICEF, etc.

⁴⁶ Report of the European Committee for the Prevention of Torture on its visit to Kosovo from 15 to 22 April 2015, published in 2016, see: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a1efc>. Report of the European Committee for the Prevention of Torture on its visit to Georgia in 2014, published in 2015 at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806961f8>.

⁴⁷Article 139, paragraph 1, of the Juvenile Justice Code emphasizes that a minor has the right to spend at least three (3) hours daily in open environment within the institution.

The NPM was informed that the information cabinet was functional. An instructor for vocational training, who is licensed, is engaged. Juveniles attending the course are provided with certificates from the National Centre for Vocational Training. The monitoring team was informed by CECJL's managers that the courses started in April 2018, totalling 6 application-level levels, while the course lasts 5 to 6 months. In December 2018, the deputy director of the CECJL announced to the NPM that the hairdressing course has started, where they have engaged the competent person to take a course once a week for the juveniles.

The CECJL has a sports hall and fitness room, which is also equipped with all the necessary tools. The NPM, during the visit, found that sports and fitness halls are used by juveniles, but they do not have a coach engaged in these sports activities. Also, the tailoring and printing cabinet are not in place, as they do not have engaged instructors in these areas. The NPM encourages the authorities to enable CECJL to engage professional and adequate instructors for tailoring, printing, and fitness. The NPM was informed that 12 juveniles attended secondary school at the Correctional Centre in Lipjan (CCL).

According to the announcement of social workers, the majority of juveniles at the CECJL are engaged in paid work. From the controlled documentation, it emerges that out of the 20 juveniles accommodated at the CECJL, 19 of them are engaged in cleaning and kitchen work.

In the Correctional Centre for Women and Juveniles in Lipjan, high schools and lower secondary schools operate within the public education system. In 2016, the NPM conducted a full evaluation visit and, on 20 December 2016, published the report with recommendations. In the past, the school in this centre faced difficulties in ensuring the progress of teaching in the absence of teachers. In addition, there were difficulties in providing adequate MEST certificates for education completion.

As regards the educational problems of the juveniles and teaching progress at this Centre, the Ombudsperson published a recommendation report which emphasised the importance of respecting the right to education, provided by the Constitution of the Republic of Kosovo and other international conventions on protecting the rights of prisoners. During the visits carried out in 2018, NPM was informed that education is developed normally and certificates for completion of education are issued regularly.

As regards the prisoners' right to education, during the reporting period, NPM published a recommendation report on the prisoners' right to university education.⁴⁸ Pursuant to the concerned report, NPM recommended the competent authorities to issue a sub-legal act in line with the Law on Pre-University Education and Law on Execution of Penal Sanctions, which would specify the method of enforcing the right to university education for minor and adult persons serving a sentence. All categories of convicted and detained

⁴⁸ Report with recommendations, C.no. 493/2018 E.B against the Ministry of Education, Science and Technology and Kosovo Correctional Service, published on 23 November 2018. See at: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

persons in this Centre shall enjoy the right to walk twice a day for a period of one hour, while juveniles are entitled to such right three times a day.

This Centre provides vocational training sessions on hydro-installers, electric-installers, and construction services. From the statistics submitted by the directorate, it is indicated that programs, courses, and various training sessions such as EQUIP program, and sport and cultural activities are organized. While, in the case of accommodated women, NPM has noted that they are mostly engaged in cooking and cleaning.

Juveniles may engage at work only under the permission of the competent court, therefore activities for detained juveniles are limited. Similar to previous reports, NPM encourages authorities to perform more activities, as far as this is possible, outside the cell also for detainees. Furthermore, the longer the detention period is, the richer the regime should be. During this year, a theatre therapy through painting was organized in the Centre in cooperation with CARITAS Kosovo, and such activities are organized once a week. CARITAS Kosovo at CCL has organized vocational training sessions on tailoring and hairdressing, for which has also granted certificates.

During the visit to the Detention Centre in Prizren (DCP), NPM noted that detainees can go on open space (for a walk) twice a day for a period of one hour.⁴⁹ The convicted persons can go on an open space all the time. According to the Directorate, 4 detainees are engaged at work. The detainees, besides going on an open space, spend the rest of the day in their cells, which are equipped with TV. There are no halls and equipment for sports and gym activities. The prisoners' ability to move is limited, as space in the DCP does not provide such an environment. Within the DCP there is also a library, which needs more books with scientific and novel titles.

During the concerned visit, NPM noted that the detainees' regime remains poor, despite the effort of the Directorate to provide more activities for the detainees. The NPM considers that the longer the period of detention is, the richer the regime should be.

At the Detention Centre in Gjilan (DCGj), the NPM was informed that around 16 prisoners were engaged in work at the time of the visit. The detained and convicted persons can go on an open space (for a walk) twice a day for a period of an hour. Generally, the prisoners may engage at works such as cleaning, cooking, laundry and carry out certain temporary duties. Otherwise, for NPM remains concerning the fact that DCGj has no recreational, cultural, sports or rehabilitation and re-socialization program for the prisoners. NPM has also noted that sport areas are not equipped with the necessary equipment for exercising sports and recreational activities. Law No. 04/L-149 on Execution of Penal Sanctions and other international acts relevant to the protection of the

⁴⁹ Mandela Rules, Article 23. European Prison Rules, Article 27.1. Standards of the European Committee for the Prevention of Torture, paragraph 48, published in 2015. According to Article 37 of the Law on Execution of Criminal Sanctions, the convicted persons are entitled to spend two hours daily outside.

rights of prisoners determine the obligations of the authorities to provide genuine activities and rehabilitation programs for prisoners.⁵⁰

The DCGj also possesses a library with different books in Albanian and Serbian but, according to the Directorate, it was not equipped with new book titles and those available belong to the pre-war period.

In Detention Centre in Lipjan (DCL), the detainees are engaged in cleaning works for maintaining the facility and in kitchen works. They are allowed an hour walk in the morning and in the afternoon during summer, whereas in winter this schedule is reduced to 45 minutes. During this period, the detained and convicted persons are allowed to engage in sports activities, such as basketball, football, and jogging, while the gym hall is active only in winter. However, the engagement of the detainees in other activities may depend on the permission of the competent court. Article 199 of the Criminal Procedure Code stipulates: “*Detainees on remand may perform work that is necessary to maintain order and cleanliness in their area. To the extent that the institution has the facilities and on condition that it is not harmful to the conduct of criminal proceedings, detainees on remand shall be allowed to work in activities which suit their mental and physical abilities. The pre-trial judge, single trial judge or presiding trial judge shall decide on this in agreement with the management of the detention facility.*”

DCL’s Directorate informed the NPM that 10 convicted persons and 5 detained persons are currently engaged in work.

As regards the detainees' activities and engagement in work in the Detention Centre in Peja, during its general visit on 4 October 2018, the NPM noted that 8 detainees and 3 convicted persons are currently engaged in work in this Centre. The detainees may go on an open space (walking) twice a day for a period of 1 hour. Detention Centre in Peja has a small space for walking, where the only thing placed there is a table tennis table. DCP cannot provide the detained and convicted persons with other activities besides walking and watching TV in the cell. Thus, the detained and convicted persons spend most of the time in their cells. Furthermore, in the case of detainees, the permission of the competent court is often needed in order to engage them in work or in another specific activity.

Regarding the regime at the Detention Centre in Mitrovica (DCM), the prisoners are engaged in kitchen and laundry works. As for activities, the gym hall is available to prisoners, while gym tools and football accessories are located in the yard. During this

⁵⁰ Article 88.1 of the Law on Execution of Penal Sanctions: “*Cultural, recreational and sport activities, as well as other activities aimed at the development of the convicted person’s personality, shall be organized inside correctional facilities with the assistance of public and private entities interested in reintegrating convicted persons in the community.*” Mandela Rules, Rule 104. European Committee for the Prevention of Torture, 11th General Report, paragraph 32, published in 2000: “*The activities provided to the prisoners should be as diverse as possible (education, sport, work of vocational value, etc.).*” European Committee for the Prevention of Torture, part of the 3rd General Report, paragraph 43 [CPT / Inf (93) 12]. European Prison Rules, 25.1: “*The regime provided for all prisoners shall offer balanced programme rehabilitation activities.*”

period, there was an activity of external psychologist support in DCM, led by the Council of Europe. Nevertheless, there were no courses or trainings in the DCM during this reporting period.

Contact with the outside world

Applicable legislation⁵¹, in the case of convicted persons, stipulates that convicted prisoners have unlimited right of correspondence (subject to certain exceptions), are entitled to a visit per month, which lasts for at least one hour, as well as a visit from children and their spouses at least once every three (3) months, for minimum of three (3) hours. In addition, they have the right to place telephone calls.

Regarding phone calls, the Administrative Instruction on House Rules in Correctional Institutions⁵² stipulates that the convicted persons may place phone calls to close family members and other persons. Under this Instruction, convicted person's or detainee's phone call may not last be more than fifteen (15) minutes. During the visits in correctional and detention centres, NPM has not received complaints by the detained and convicted persons with regard to this right.

In the case of detainees, Article 200 of the Criminal Procedure Code of Kosovo stipulates that the detainees may receive visits "*within the limits of the detention centre rules,*" based on the permission of the pre-trial judge and upon his/her supervision. Further, the Code stipulates that the correspondence and other visits shall be subject to the decision of the pre-trial judge.

The Ombudsperson or his/her representative may visit detainees on remand and may correspond with them without prior notification and without the supervision of the pre-trial judge, single trial judge or presiding trial judge or other persons appointed by such judge. Letters from detainees on remand to the Institution of the Ombudsperson of Kosovo may not be examined. The Ombudsperson and his/her representative may communicate confidentially with detainees on remand orally and in writing.

In the case of a foreign national, he/she shall be provided with the opportunity to contact a representative of the liaison office or diplomatic mission of his/her State of nationality in writing or by telephone.⁵³ During the reporting period, NPM did not receive complaints from the convicted and detained persons regarding the right to contact with the outside world.

Health care in correctional and detention centres

Health services in correctional and detention centres are provided by the Ministry of Health, namely Prison Health Department (PHD). Since 2003, this service has been divided from the Ministry of Justice (MoJ), fulfilling an important international standard on the rights of the prisoners, which requires that health services in prisons be part of

⁵¹ Law on Execution of Penal Sanctions, Articles 62-65.

⁵² Administrative Instruction on House Rules in Correctional Institutions, Article 54.

⁵³ Law on Execution of Penal Sanctions, Article 33, paragraph 1.

public health services. In addition to this, PHD, in a close cooperation with Council of Europe experts, drafted the Standard Operating Procedure approved by the Ministry of Health. This document is a concrete guideline for health workers upon the admission of the prisoner.

Health services in prisons and detention centres remain at a good level and meet the minimum international standards on the rights of prisoners. Certain health units of PHD encounter difficulties due to the lack of adequate working conditions, and due to the lack of infrastructure at some correctional and detention centres.

During the visit at the Detention Centre in Prizren, NPM noted that there is a lack of space for health services, which does not meet even the minimum needs. There is a room available, which can be used for primary health care by the prison physician, nurses, and psychologist whenever there are cases to be treated, as there is a permanent space for the health workers to stay there.

Lack of a particular space for the psychologist, who provides psychological services in cases with various problems such as: suicide attempt, self-injuries, emotional problems, and tobacco, alcohol and drug users, makes it difficult for the psychologist to work as well as does not provide a comfort environment for the prisoners in need for psychological services.

In the Correctional Centre in Dubrava, there is a functional prison hospital which provides health services to prisoners. The NPM, in report to CCD⁵⁴, published on 26 January 2017, recommended the Ministry of Health (MoH) to engage one more psychologist, since it is impossible to cover the entire centre with just one psychologist, and also to engage a regular dentist and psychiatrist. During the last monitoring visit, it was ascertained that CCD has engaged only one full-time psychologist. Recommendations on engaging a regular dentist and psychiatrist have been implemented since a dentist and psychiatrist started a full-time job in CCD during December 2018.

NPM is concerned regarding the fact that in the Correctional Centre in Dubrava, a part of the block number 8 is used as annex to the hospital. NPM ascertains that the block number 8 does not meet the minimum accommodation standards foreseen by Law on Execution of Penal Sanctions, Law on Mental Health, standards determined by the European Committee for the Prevention of Torture and other international Conventions on protecting the rights of persons deprived of liberty.

During this visit, NPM also noticed that the hospital still has no elevator through which the convicted persons would have access to the second floor. NPM noticed that the hygiene in the hospital rooms, in the part where patients are being held for psychiatric treatment, was not at a proper level. Likewise, the beds in the hospital rooms and the

⁵⁴ <https://www.oik-rks.org/en/2017/08/15/first-annual-report-of-national-preventive-mechanism-against-torture/>; <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

blankets are out-dated and unclean. On 29 May 2018, the Prison Health Department informed the NPM that they were equipped with a new ambulance.

Although the prison hospital was earlier renovated, the NPM noted that the infrastructure was significantly damaged (floor tiles and inventory in the hallway where the patients eat), while the space designated as a kitchen for feeding patients hospitalized is not used. The NPM considers that the renovations of the prison hospital are necessary.

The hospital is equipped with modern equipment and can provide adequate medical services for prisoners. In general, NPM finds that the staff and equipment available at the prison hospital meets the standards for providing adequate medical services, but space where persons with mental health problems as well as those with organic illnesses are accommodated is not suitable.

During the visit to Detention Centre in Gjilan, the NPM has ascertained that the premises visited where medical services are provided are in general of a high standard. The available health care personnel are sufficient. During the visit, the NPM did not receive any complaints from prisoners regarding the health treatment at this detention centre.

During the visit to the Detention Centre in Peja (DCP), the NPM did not receive complaints from detained and convicted persons related to health care. The NPM has noted that medical services in the Detention Centre in Peja are provided in accordance with the requirements and the needs of the detainees. However, the infrastructure where the medical services are provided does not meet the minimum requirements; there is no natural light, no special room for patient visit or application of therapy. Hygiene was maintained by the nurses themselves. The transport of prisoners to receive medical services to other health institutions outside the DCP is carried out by Correction Service vehicle.

With regard to medical services in Detention Centre in Mitrovica (DCM), two nurses are available 24 hours for the prisoners, while general physicians, psychiatrists, and psychologists are available twice a week and ready as the call may be. DCM is encountering difficulties when it comes to the hospitalization of prisoners. In such cases, Serbian and non-Albanian prisoners do not welcome the hospitalization at UCCK and are therefore hospitalized at the North Mitrovica Clinical Centre. In such cases, there is a constant issue regarding the formal part of their accommodation related to health insurance, cost payment, etc. This problem has been overcome since the North Mitrovica hospital expressed an understanding in the interest of prisoners' health protection. So far, this hospital has not rejected the hospitalization of prisoners and the provision of treatment.

The importance of medical examinations upon the admission of prisoners

The European Committee for the Prevention of Torture, in the report on its visit to Kosovo in 2015, emphasized the essential importance of medical examinations, especially in cases of newly-arrived prisoners or detainees not only for identifying

communicable diseases and preventing suicides but also for the contribution that is given in terms of preventing torture through proper identification of injuries.

The newly-arrived prisoner shall, in accordance with the Standard Operating Procedure of the PHD, be initially examined by the nurse and then by the physician of the correctional or detention centre, within 24 hours upon the admission. Moreover, Law No. 04/L-149 on Execution of Penal Sanctions stipulates the obligation to provide newly-received prisoners with a medical examination within 24 hours upon the admission.

Medical confidentiality

In general, the NPM has noted that health services in the correctional and detention centres are provided without the presence of correctional officers, except in cases where the physician considers that the presence of correctional officers is necessary. The European Committee for the Prevention of Torture constantly stresses out the importance of the non-presence of custodial officers when prisoners receive medical services, as this would undermine the physician-patient relationship.⁵⁵ The medical service confidentiality is also foreseen in Article 25 of the Administrative Instruction on House Rules in Correctional Institutions and Standard Operating Procedure.

Mental health at correctional and detention centres

During the visits to the correctional and detention centres, the NPM team encountered some prisoners with chronic psychiatric disorders. They interviewed several prisoners at CCD in the block 8, where two of them were with chronic psychiatric disorders and one of them was in solitary confinement for a period of three years. This situation is in violation of Article 6, paragraph 1.10 of Law No. 05/L-025 on Mental Health⁵⁶.

Article 43, paragraph 2 of the Law No. 04/L-149 on Execution of Penal Sanctions states “*a convicted person who cannot be offered appropriate medical treatment in the correctional facility shall be sent to a prison hospital, psychiatric institution or another health care institution.*”

Article 174, paragraph 1 of the Law on Execution of Penal Sanctions determines: “*The measure of mandatory psychiatric treatment upon detention is executed in the health institution or in another special institution, that is located in the permanent residence or temporary location of the defendant, or if such a location is not located in that place, in the closest one with the place where the defendant has his permanent residence or his/her temporary location or in the place where the criminal proceedings took place.*”

Article 175, paragraph 1 of the Law on Execution of Criminal Sanctions states: “*If the person towards whom the measure of mandatory psychiatric treatment in detention is rendered, is in freedom, the court orders its transfer in the institution of health care,*”

⁵⁵ European Committee for the Prevention of Torture, report on its visit to Kosovo in 2015, published in September 2016, paragraph 65. For more, see: <https://rm.coe.int/16806a1efc>.

⁵⁶ Article 6, paragraph 1.10 of Law No. 05/L-025 on Mental Health stipulates “the right to provide appropriate living, hygienic, nutritional and security conditions.”

while paragraph 3 of the same article states that the person towards him this measure is applied has the same rights and obligations as the person that is serving an imprisonment sentence, unless the treatment needs foresee differently.⁵⁷

Also, Article 509, paragraph 3 of the Criminal Procedure Code stipulates that: *“If the defendant is already in detention on remand and is subsequently determined to have been in a state of mental incompetence at the time of the commission of the criminal offence, the court shall order the defendant to serve the detention on remand in a health care institution if he or she currently has a mental disorder.”*

Pursuant to the Law on Mental Health, the Institute of Forensic Psychiatry is an organizational unit of the Hospital and University Clinical Service in Kosovo (HUCSK). Under the applicable law, it provides tertiary services throughout the country (the only one in Kosovo)⁵⁸. The KIFP accommodates perpetrators who have committed a criminal offense while in a state of mental incompetence or substantially diminished mental capacity, who are subject of a competent court's order for a mandatory psychiatric treatment⁵⁹, as well as persons who are subject to a court order for psychiatric assessment for a ruling on custody in a health care institution.⁶⁰ NPM ascertains that the number of beds in KIFP is not sufficient, while the C Department with 12 beds is not sufficient for the treatment of prisoners. Such a concern has been expressed also by the PHD and KIFP Director.

During the visits to the Correctional Centre for Women and Juveniles, the NPM has also encountered cases of mental disorders, where, according to the medical staff, it is difficult to manage the acute phase cases. This poses a problem as there is no space for the treatment of juveniles with mental disorders. KIFP has no specific spaces for the treatment of women and juveniles.

CPT emphasizes that a mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system⁶¹.

According to the PHD director, safe rooms in the Psychiatry Clinic should be functionalized to treat cases with mental disorders and, according to them, they are working on this. During the visit to the Psychiatric Clinic⁶², the NPM ascertained that there is no specific department on treating the elderly, children and adolescents. However, treatment of juveniles and elderly people is a common practice as they are somehow forced to do that due to the fact that juveniles are not accepted in the paediatric

⁵⁷ Law No. 04/L-149 on Execution of Penal Sanctions, Article 175, paragraphs 1 and 3.

⁵⁸ Law No. 05/L-025 on Mental Health, Article 13, paragraph 1.2.

⁵⁹ Criminal Code of Kosovo, Article 89.

⁶⁰ Criminal Procedure Code of Kosovo, Article 508, paragraph 4.

⁶¹ CPT norms, part from the 3rd General Report. [CPT/Inf (93) 12], paragraph 43.

⁶² <https://www.oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>.

department and the elderly do not have any other hospitalization spaces. Regulation No. 127/2015, dated 21.12.2015, on the admission and treatment of persons with mental disorders at HUCSK (Article 11), allows the hospitalization of a 16-year-old person.

Law No. 05/L-025 on Mental Health entered into force in December 2015 and 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. This law defines the obligation of competent ministries to issue relevant sub-legal acts. Pursuant to Article 28, paragraph 4 of the Law on Mental Health: *“The Ministry of Health in cooperation with the Ministry of Justice shall propose to the Government for adoption the sub-legal act, where they define the rules of organization and functioning of mental health services in institutions for the execution of penal decisions.”* The lack of sub-legal acts is another problem to the treatment of cases. During the reporting period, the Ombudsperson’s NPM recommended the competent authorities to issue sub-legal acts as foreseen by the Law on Mental Health.

Complaint procedures in the correctional and detention centres

The effective complaint filing system is a fundamental safeguard against mistreatment in prisons and detention centres. Persons placed in such centres must have the opportunity to file a complaint within the prison or detention centre where they are accommodated and confidentially access the relevant authority.

Article 91 of Law No. 04/L-149 on Execution of Penal Sanctions specifies in detail the procedure according to which the detained and convicted persons shall be entitled to address a complaint or petition to the director of a certain institution of KCS. The procedure includes the deadlines for receiving a response by the director and the opportunity to address a complaint to a higher authority, which is the General Directorate of KCS and the Minister of Justice.⁶³

NPM has noted that the complaint boxes placed by Kosovo Correctional Service and boxes placed by Prison Health Department are available to the prisoners. Each institution has also placed the complaint boxes of the Ombudsperson Institution, which can be opened only by the staff of this institution, thus ensuring confidentiality in filing a complaint.

During the reporting period, the European Council and KCS held joint workshops on drafting the procedures and forms for filing a complaint, which will be drafted under the direct supervision of Council of Europe experts.

During the reporting period, the NPM has received complaints filed by the prisoners of CCD, claiming that the Directorate does not respond to their complaints and requests.

⁶³Article 91, paragraph 4 of the Law on Execution of Penal Sanctions stipulates that: The director of the correctional facility will respond to the complaint filed in a time period of fifteen (15) days, whereas the Head Office of the Correctional Service in a time period of thirty (30) days. In a written complaint a response in the written form will be issued.

These claims were rejected by the Directorate. NPM has not received complaints by the detained and convicted persons in other correctional and detention centres regarding the issue of filing a complaint or delays to review their complaints within the legal deadline. Through the recommendation report on the visit to CCD and the direct contacts, NPM reminded the competent authorities of their obligation to respond to the complaints and requests of prisoners. It is important to respond to the filed complaints of prisoners regardless of the nature of the request. This obligation of authorities is determined by Law No. 04/L-149.

6.3 Recommendations issued to the competent authorities after visits to correctional and detention centres

Recommendations for the Correctional Centre in Dubrava addressed to the Ministry of Justice:

- Notify Ombudsperson's NPM if the secondary legislation on fighting corruption has been adopted (Not implemented).
- Improve food quality and quantity (Implemented).
- Provide dietary food to the prisoners under the competent physician recommendation (Implemented).
- Every cell in which prisoners are placed, against whom the solitary confinement as a disciplinary measure has been imposed, shall be in accordance with the Law on Execution of Penal Sanctions and the recommendations of the European Committee for the Prevention of Torture. (Implemented).
- Conduct the necessary renovations based on conclusions of this report, in particular, at block 8 (Implemented).
- Provide kitchen with adequate equipment, according to the relevant assessment (Implemented).
- Undertake specific steps in order to stop using the improvised electrical equipment (Pending implementation).
- NPM reiterates the recommendation that the prisoners be supplied with lockers for placing their items (see report with recommendations, 26 January 2017) (Pending implementation).
- NPM reiterates the recommendation that the sports hall be functionalized. (see report with recommendations, 26 January 2017) (Pending implementation).
- Functionalize the economic unit (Pending implementation).
- NPM reiterates the recommendation that an elevator is installed in the prison hospital, which would enable prisoners with disabilities the access to its second floor (see report with recommendations, 26 January 2017) (Not implemented).
- Make necessary renovations at the hospital (see paragraph 40 of this report) (Pending implementation).
- Engage the necessary correctional staff according to needs assessment (Pending implementation).

- NPM reiterates the recommendation to install the missing security cameras, and the technical possibility of storing data for a longer period (report with recommendations, 26 January 2017) (Pending implementation).
- NPM reiterates the recommendation to amend/supplement the LEPS and Administrative Instruction on House Rules in Correctional Institutions, where it is foreseen the request for a written opinion of the physician, prior to imposing the disciplinary measure to a person (see report with recommendations, 26 January 2017) (Pending implementation).
- Increase the number of social workers based on the number of prisoners in CCD (Pending implementation).
- Provide CCD with all equipment and materials necessary for everyday work (Pending implementation).
- Address the needs of correctional officers as regards work conditions and equipment (Pending implementation).
- Notify NPM regarding the issue of using pepper spray and its expiry date (see paragraph 67 of this report) (Implemented).

Recommendations for the Correctional Centre in Dubrava addressed to the Ministry of Health:

- NPM reiterates the recommendation to the Ministry of Health to hire a dentist on regular basis (see report with recommendations, 26 January 2017). (Implemented).
- NPM reiterates the recommendation to the Ministry of Health to hire a psychologist on regular basis (see report with recommendations, 26 January 2017). (Implemented).

Recommendations for the Educational-Correctional Centre in Lipjan addressed to the Ministry of Justice and Kosovo Correctional Service:

- Provide ample and appropriate food to juveniles in accordance with calories required for juveniles' growth and development (Pending implementation).
- Conduct mandatory renovations in the kitchen as well as equip it with necessary kitchen appliances (Pending implementation).
- Increase activities for juveniles as well as functionalize existing cabinets and engage appropriate instructors. (Partially implemented).

Recommendations for the Detention Centre in Prizren addressed to the Ministry of Justice:

- The Ministry of Justice shall notify the Ombudsperson about the planning for the construction of the new Detention Centre in Prizren (Implemented).

- Provide adequate working conditions for medical personnel (Pending implementation).
- The number of detainees accommodated should be in accordance with the official capacity of the DCP, and the issue of overcrowding should be resolved as soon as possible (Implemented).
- Take appropriate measures to ensure that the privacy of detainees is observed (Implemented).
- Paint the cells as needed (Implemented).
- Improve the working conditions of correctional officers (Partially implemented).

Recommendations for the Detention Centre in Gjilan addressed to the Ministry of Justice:

- The Ministry of Justice shall notify the Ombudsperson's NPM regarding the planning for the use of non-residential space in DCGj (Pending implementation).
- Notify the Ombudsperson about the delays in creating a dental chair fitting space (Pending implementation).
- Provide cultural, sport and recreational activities for rehabilitation and re-socialization of prisoners (Pending implementation).
- Pave the unpaved road, which can present serious difficulties to the DCGj to perform its work, in accordance with LEPS, during the winter and precipitation (Pending implementation).
- Supply the DCGj with necessary materials for work (Pending implementation).
- Install security cameras covering the outside part of blocks and the DCGj yard (Pending implementation).
- Functionalize the elevator in the part where the medical services are provided (Pending implementation).

Recommendations for the Detention Centre in Peja addressed to the Ministry of Justice:

- The Ministry of Justice shall notify the Ombudsperson about the claims of the DCP employees that this Centre will be closed down.⁶⁴ (Pending implementation).
- Create adequate conditions and working space for the medical staff (Not implemented).
- The number of detainees accommodated should be in accordance with the official capacity of the DCP and resolve as soon as possible the issue of overpopulation. (Pending implementation).
- Accommodation conditions, as long as this Centre is in use, shall be in compliance with the minimum standards provided for by the Law on Execution of Penal Sanctions; with the CPT standards and other international standards for the protection of prisoners' rights. (Pending implementation).

⁶⁴ On October 2018, the Ombudsperson received a complaint from the staff working at the Detention Centre in Peja, claiming that this Centre will be closed down, and staff will be transferred to the Correctional Centre in Dubrava.

7. Asylum Seekers Centre and Detention Centre for Foreigners

During the reporting period, the NPM visited the Asylum Seekers Centre and Detention Centre for Foreigners and published reports with recommendations. During the visits in these centres, the NPM did not receive any complaints about physical ill-treatment or behaviour of centre officials, including security staff, that would be against the respect of the dignity of asylum seekers and foreigners in detention.

Safeguards against ill-treatment

Article 5 of the Regulation on the Functioning of Asylum Centre⁶⁵ (hereinafter referred to as the *Regulation*) determines: “*It is prohibited for the Centre staff to discriminate or offend the dignity of asylum seekers based on their race, religion, sex, nationality, membership in a particular social group or political affiliation.*”

Also Article 5, paragraph 2 of the Regulation determines: “*Asylum seekers shall not be subjected to torture and inhuman or degrading treatment*”. Article 6.3 of the Regulation sets out the obligation of the Centre official to inform the asylum seeker about his/her rights and obligations, as well as the asylum procedure, including the possibility of obtaining free legal aid, and the possibility of contacting representatives of UNHCR, or other organizations that deal with the protection of refugee rights, in their language or in a language that they understand.

NPM noted that asylum seekers are informed of their rights in different languages, through leaflets and brochures. Available for the Centre is also the list of MIA translators. Free legal aid, and in many cases the translation is provided by CRPK, a non-governmental organization (Civil Rights Program Kosovo). NPM did not receive any complaints regarding the disrespect of the abovementioned rights. Also, NPM noticed that in all hallways of the Centre are installed security cameras, which constitutes an additional safeguard against ill-treatment.

Whereas, in the case of foreign detainees who are accommodated in the Detention Centre for Foreigners (DCF), the NPM notes that the standards established by the CPT stipulate that detained irregular migrants should, from the very outset of their deprivation of liberty, enjoy three basic rights, in the same way as other categories of detained persons. These rights are: (1) to have access to a lawyer, (2) to have access to a medical doctor, and (3) to be able to inform a relative or third party of one’s choice about the detention measure.⁶⁶ Based on the provisions of Law No. 04/L-219 on Foreigners of the Republic of Kosovo, a foreigner shall be notified in written form, in one of the official languages

⁶⁵ Regulation (MIA) No. 03/2018 on the Functioning of Asylum Centre. Official Gazette of the Republic of Kosovo. See at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18328>.

⁶⁶ European Committee for the Prevention of Torture, 19th General Report of the European Committee for the Prevention of Torture, paragraph 81, at: <http://hudoc.cpt.coe.int/eng#%7B%22CPTSectionID%22:%5B%22standards-inf-2009-27-part-en-3%22%5D%7D>.

and in English, for his/her detention at the DCF, which shall contain the reasons for the detention, the detention period, the right to provide him/her with legal protection, as well as to contact his/her relatives.⁶⁷

According to the Regulation and the Law on Foreigners, the foreigner placed in the DCF has the following rights: information concerning the right of filing a complaint for the detention in the DCF; the right to free legal aid; the right to an interpreter of his/her language or in a language he/she understands; the right to communicate with relevant local authorities and international and non-governmental organizations.⁶⁸ NPM noticed that in all hallways of the DCF are installed security cameras, which are continuously functional. According to officials, security camera footages are saved for up to two months. In the report of the visit to Ireland in 2010, the CPT considered the existence of security cameras as one of the safeguards against physical ill-treatment in the where persons deprived of their liberty are being held.⁶⁹

Regarding the right to be informed in their own language or in the language in which they understand and the right to have the services of an interpreter, NPM was informed by DCF that the MIA, besides services in English, possess a list of interpreters who provide translation services in other languages of foreigners. During the visit, NPM noticed that foreigners in the DCF are informed on their rights through printed brochures in most frequent languages, but the DCF does not possess any document in which these rights are written and in which detained foreigners prove that they have been informed on their rights in a language they understand.

Regarding free legal aid, UNHCR and NGO CRPK provide free legal aid only to foreigners in detention who are potential asylum seekers, and not to others. According to the Law on Free Legal Aid, the Agency may provide free legal aid to all persons with provisional residence in the Republic of Kosovo, but so far there have been no cases of providing legal aid to foreigners in detention. NPM notes that Article 9, paragraph 1.2 of the Regulation foresees the right to free legal aid to foreigners who are in detention in DCF. In the case of asylum seekers, free legal aid, and in many cases translation services, are provided by the non-governmental organization CRPK (Civil Rights Program Kosovo). NPM did not receive any complaint from the complainants regarding the disrespect of the abovementioned rights.

Accommodation conditions

In both centres, accommodation conditions are very good and in line with international standards. During the visit to the Asylum Centre, the NPM noted that all rooms provided good accommodation, heating, cleanliness, and sufficient natural lighting. The Centre

⁶⁷ Law No. 04/L-219 on Foreigners, Article 108.

⁶⁸ Article 9 of the Regulation (MIA) No. 03/2014 on Operation of the Detention Centre for Foreigners. Standards of the European Committee for the Prevention of Torture in: <https://rm.coe.int/16806fbf12>.

⁶⁹ CPT Report on the visit to Ireland in 2010, paragraph 18, published in 2011, at: <https://rm.coe.int/1680696c98>.

provides convenient baths and uninterrupted hot water, where accommodated asylum seekers can take a shower whenever they want. Also in the courtyard of the Centre is located a playground for children. In general, the NPM considers that the Centre meets all conditions for accommodation of asylum seekers.

During the visit to DCF, the MPMT visited two facilities where foreigners were held, including all spaces such as interview rooms, isolation rooms, bedrooms, family rooms, adult activity rooms, which were equipped with TV, cards for games, chessboard, and a library with a small number of books. Also, DCF possesses children playrooms, which are equipped with toys and are designed according to standards, a room where the religious activities are carried out, which was completed with furnishings, as well as an equipped lavatory sufficient for the Centre's capacity. All rooms provided good accommodation, warmth and ample natural lighting. The NPM considers that the Centre meets all conditions for accommodation of foreign persons.

Article 24, paragraph 1 of the Regulation stipulates that each detained foreigner in the Centre has the right to walk at least (2) hours a day in the outdoors environments of the Centre. For health purposes, the Head of the Centre may extend the time of airing. Further, Article 24, paragraph 3 that during the airing time cultural and sports activities can be developed by detained foreigners. The NPM noted that the Centre has a small sports field, which is not equipped with the accompanying elements where foreigners could be engaged in specific sports activities. The NPM, in the Recommendation Report, published after the visit to the DCF in 2017⁷⁰, encourages relevant authorities to increase their efforts to provide opportunities for specific sports activities and other activities for foreigners in this Centre.

CPT, in the standards set forth in March 2017 on detention of foreigners due to immigration, emphasizes the importance of a regime that contains as many activities as possible. According to the CPT, the longer the period for which persons are held, the more developed should be the activities which are offered to them.⁷¹ During the meeting with the director of DCAI, the NPM was informed that tendering procedures for supplying accompanying equipment have been opened, so that more activities are offered to foreigners detained in DCF. The NPM, during the next visits, will request up-to-date information on these plans.

Regarding the DCF staff, NPM was informed that security staff is well trained to carry out physical and property defence tasks but are not trained to work with foreign persons deprived of their liberty, who, according to the Law on Foreigners, are subject to forced return. In this regard, the NPM, on 23 March 2018, held an official meeting with the Director of the Department of Citizenship, Asylum and Immigration, where it was

⁷⁰ Report with recommendations for the visit to the Detention Centre for Foreigners, published on 17 February 2017. For more, see at: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

⁷¹ For more, see at: <https://rm.coe.int/16806fbf12>.

announced that security staff did not attend adequate training to work with this category. NPM recommended to the Ministry of Internal Affairs that the security staff at the DCF shall undergo adequate training to work with this category.

Healthcare

Medical services to foreigners in both centres are provided by the Family Medicine Centre and the University Clinical Centre of Kosovo. The NPM, through the report with recommendations, published during the reporting period, has recommended competent authorities that DCF shall have at least one nurse available to carry out medical examinations of newly-arrived detainees, distribute the therapy and take care of medical files of foreigners in the DCF; and a psychologist as provided for in the Regulation.

Regarding the importance of medical screenings, the CPT⁷² emphasizes that all newly-arrived detainees should benefit from comprehensive medical screening (including screening for transmissible diseases) by a doctor or a fully-qualified nurse reporting to a doctor as soon as possible after their admission. Moreover, the DCF in the reports on visits to member states and the general reports has repeatedly paid particular attention to the medical screening, especially in cases of newly-arrived prisoners not only for detecting transmissible diseases and preventing suicides, but also for contributing to the prevention of ill-treatment through the proper recording of injuries.⁷³

NPM, during the last visit on 7 March 2018, was informed that newly-arrived prisoners in this Centre are not subject to general medical screenings unless they require, although this is expressly provided for in Article 10 of the Regulation. In cases where a foreign person is prescribed a medication therapy, the therapy is provided by incompetent officials (security staff and other officials) as there are no medical staff at the Centre.

The NPM has noted that all data related to the provided medical services to a foreigner are kept in his/her personal file, in which Centre officials have access. CPT⁷⁴ emphasizes that medical confidentiality should be observed in the same way as in the outside community; in particular, irregular migrants' medical files should not be accessible to non-medical staff but, on the contrary, should be kept under lock and key by the nurse or doctor.

Therefore, the NPM considers that DCF shall have at least one qualified nurse who will conduct the initial medical examination of the newly-arrived prisoners, receive the necessary requirements for a visit from the doctor, distribute therapy, supervises medical files and supervises the general hygiene conditions. Foreign detained persons should also be provided with psychological assistance and psychiatric care in case of need.

⁷² CPT, Immigration Detention [CPT/Inf(2017)3], paragraph 9, at: <https://rm.coe.int/16806fbf12>.

⁷³ European Committee for the Prevention of Torture, report on the visit to Kosovo in 2015, published in 2016, paragraph 62, at: <https://rm.coe.int/16806a1efc>. European Committee for the Prevention of Torture, 26th overall report, paragraph 72, at: <https://rm.coe.int/168070d0c8>.

⁷⁴ CPT, Immigration Detention [CPT/Inf(2017)3], see link <http://hudoc.cpt.coe.int/eng?i=p-standards-inf-2009-27-part-en-5>, (13.3.2018)

Regarding disciplinary measures, according to the Regulation, the disciplinary measures that can be imposed on a foreigner are: verbal or written warning; obligation for maintaining and cleaning the Centre, deprivation of the right to free activity, recreation, TV, internet, sports or cultural in duration of 5 days; isolation up to 48 hours.

The NPM notes that the Regulation does not contain provisions obliging the DCF to hand over a copy of the decision on the disciplinary measure of isolation to the foreigner in detention, but only foresees that the decision shall be attached to the foreigner's file. The NPM, in accordance with CPT recommendations for its visit to Ukraine, Bulgaria and France⁷⁵, recommended to the competent authorities that the Regulation on Operation of DCF shall contain a special provision, which provides that a foreigner to whom a disciplinary measure is imposed, shall receive a copy of the decision in a language he/she understands. This NPM recommendation was implemented with the amendment of the Regulation which entered into force on 28 December 2018.

Complaint procedures

The effective complaint filing system is a fundamental safeguard against ill-treatment in places where persons deprived of their liberty are held. Persons accommodated in these centres should have the opportunity to file a complaint within the centres and have confidential access to the appropriate authority.

Foreigners in both centres have the right to file a complaint with the head of the centre regarding the terms of admission to the centre and the staff behaviour. The complaint is submitted to the Department for Citizenship, Asylum and immigration (DCAI) within 7 days. Further, the Regulation stipulates that inside the Centre shall be located a complaint box which shall be administered by the Centre. A complaint box shall also be placed and administered by the Ombudsperson Institution⁷⁶. The NPM noted that a complaint box is available to foreigners at both centres, i.e. the Asylum Centre and the Detention Centre for Foreigners.

Contact with the outside world

The CPT considers that detained irregular migrants should have every opportunity to remain in meaningful contact with the outside world (including access to a telephone or accept visits) and their freedom of movement as little as possible.⁷⁷ Regulation on Operation of DCF stipulates that a foreigner in this centre has the right to hold correspondence, accept packages and other items.

⁷⁵ For more details, see the 19th CPT General Report, paragraph 88, at: <http://hudoc.cpt.coe.int/eng#%7B%22CPTSectionID%22:%5B%22p-standards-inf-2009-27-part-en-4%22%5D%7D>, CPT Report on the visit to Ukraine in 2009, paragraph 71, at: <http://hudoc.cpt.coe.int/eng#%7B%22CPTSectionID%22:%5B%22p-ukr-20090909-en-17%22%5D%7D>, CPT Report on the visit to Bulgaria in 2008, paragraph 44, at <http://hudoc.cpt.coe.int/eng#%7B%22CPTSectionID%22:%5B%22p-bgr-20081215-en-12%22%5D%7D>, CPT Report on the visit to France in 2006, paragraph 76, at: <http://hudoc.cpt.coe.int/eng#%7B%22CPTSectionID%22:%5B%22p-fra-20060927-fr-14%22%5D%7D>.

⁷⁶ Article 19, paragraphs 2 and 3 of the Regulation on Operation of the Detention Centre for Foreigners.

⁷⁷ European Committee for the Prevention of Torture, see at: <https://rm.coe.int/16806fbf12>.

Also, the Regulation stipulates that the foreigner has the right to make calls as needed, for a period of 5 minutes, starting from 09:00 until 16:00. According to the Regulation, foreigners are allowed to receive calls from abroad. Also, visits for foreigners detained in the Centre are allowed. During the visit, the NPM did not receive complaints regarding the right to contacts with the outside world.

Regime

The CPT, in the standards set forth in March 2017, for the detention of foreigners due to immigration, emphasizes the importance of a regime that contains as many activities as possible. According to the CPT, the longer the period for which persons are held, the more developed should be the activities which are offered to them.⁷⁸

During the visit to the Asylum Centre, the NPM received complaints from an asylum seeker regarding the stagnation in keeping the Albanian language course as part of the integration into Kosovo society.

Recommendations for the Asylum Centre addressed to the Ministry of Internal Affairs:

- Adjust the food timetable according to the needs of asylum seekers, especially the time when dinners are served. (Implemented).
- Notify the Ombudsperson's NPM of the situation regarding the provision of social assistance, in accordance with the Law on Asylum. (Implemented).
- Notify the Ombudsperson's NPM of the progress of the Albanian language course and other aspects of integration into society in the Republic of Kosovo. (Implemented).

Recommendations for the Detention Centre for Foreigners addressed to the Ministry of Internal Affairs:

- The DCF shall have available at least one nurse who would carry out the newly-arrived prisoners medical screenings, distribute therapy, and take care of the medical files of the foreigners in the DCF; and also a psychologist as provided for in the Regulation (Pending Implementation).
- The Centre shall maintain protocols as follows: Protocols for loneliness, body injury, self-injury, attempted suicide, sexual abuse, and deaths. (Pending Implementation).
- Security staff shall undergo adequate training to work with this category (Pending Implementation).
- For all their rights and obligations, foreigners shall be notified through a special document in the language they understand and in which they prove that they have understood their rights and obligations. (Implemented).

⁷⁸ For more, see at: <https://rm.coe.int/16806fbf12>.

- The Regulation shall contain a special provision, which provides that a foreigner, against whom a disciplinary measure is imposed, shall receive a copy of the decision in a language he/she understands. (Implemented).
- Foreigners detained shall be provided with free legal aid in accordance with Regulation. (Implemented).

8. Mental Health Institutions

During the visits to mental health institutions, the NPM did not receive any complaints and did not encounter ill-treatment of patients by the staff of the institutions concerned. In all the institutions visited, the general atmosphere was relaxed, while the relations between staff and patients were good.

8.1 Forensic Psychiatric Institute of Kosovo

The relevant legal basis is contained in the Criminal Code⁷⁹ of the Republic of Kosovo, the Criminal Procedure Code⁸⁰, the Law on Execution of Criminal Sanctions⁸¹ and the Law on Mental Health. The Regulation on the Admission and Treatment of Persons with Mental Disorders in Public Health Institutions, including the Institute of Forensic Psychiatry, was adopted on 21 December 2015. For the IKFP staff, the issue seems to be the non-definition of the IKFP legal status.

IKFP accommodates persons who have committed a criminal offence in a state of mental disability or substantially reduced mental capacity, subject to the mandate of a competent court for mandatory psychiatric treatment⁸², as well as persons who are subject to a court order for psychiatric assessment and custody in a health care institution.⁸³ Patients brought by the Kosovo Correctional Service who, when the court asks for mental state assessment (psychiatric expertise) are either detained, or sentenced person brought by the prison for treatment, are accommodated in ward C of the IKFP.

Patients' accommodation conditions at IKFP are generally very good. The rooms contain two beds, patients have access to natural light, ventilation. The rooms have alarms, small desks, mattress beds, hygienic tools and accessories. Patients' rooms also have lockers, but are damaged and cannot be closed.

Rooms' walls contain pictures or writings of patients. There is also room for day-care equipped with chairs, television, games (chess) as well as suitable kitchen space. IKFP has noticed that bathrooms are located inside the rooms, but they have no curtains, which would provide privacy to patients. IKFP considers that in such a situation, the privacy of the patient is violated and that IKFP shall consider the privacy issues of patients.

⁷⁹ Criminal Code of the Republic of Kosovo, Article 18 and Articles 87-90.

⁸⁰ Criminal Procedure Code of Kosovo, Articles 506-508.

⁸¹ Law on Execution of Criminal Sanctions, Articles 174-180.

⁸² Criminal Code of Kosovo, Article 89.

⁸³ Criminal Procedure Code of Kosovo, Article 508, paragraph 4.

IKFP, in addition to assessment, provides treatment with medication and psychosocial treatment. Supply with medication is not good and family members are often obliged to buy them by their own. Patient dossiers are located in an open space, in the day-care room. Patient histories are completed, but not so detailed with accompanying health records. There is also a book of therapies, a book of injuries/incidents, a form of isolation monitoring and a form of incident review.

Psychosocial treatment consists of activities such as games, watching television, drawings, daily going out of the institution (in the IKFP promenade), individual sessions with a psychologist, etc. Schedule of daily activities is placed in visible locations, and it is a uniform one, and there are no individual plans of listed activities for patients.

The decision for a therapeutic weekend is taken by the Multidisciplinary committee. Daily going out (in the promenade) within the institutions, for patients of ward B is possible all day, while for patients of ward D - twice a day, in morning and evening.

The NPM, despite the finding of the existence of some psycho-social activities, expresses concern that they are faint and routine. As stated in the CPT report on Kosovo's visit in 2015, IKFP does not have an individualized patient treatment plan, and no wide range of therapeutic, rehabilitative and recreational activities.⁸⁴

The IKFP does not have any specific preventive plan related to suicides. The NPM considers that, despite the fact that there have been no cases of suicide, it is necessary to draw up a clear guide that will effectively help identify cases with suicidal tendencies and draft a special observation scheme with the immediate support of psychological/psychiatric.

Through the report with recommendations,⁸⁵ after the visit of the IKFP, the NPM expressed concern that security personnel (including KCS security personnel), did not have adequate training to work with this category of patients. This was noted during the interviews with private security officials and KCS in the report of Kosovo's visits in 2015 to the competent authorities has recommended the following:

"The European Committee for the Prevention of Torture considers it of crucial importance that staff assigned to security-related tasks in psychiatric institutions be carefully selected and that before being assigned to such duties, they undergo appropriate training. Moreover, in the course of their tasks, they should be supervised closely and under the authority of qualified medical personnel." The NPM considers that the IKFP shall act in accordance with the aforementioned recommendation.

⁸⁴ Report of the European Committee for the Prevention of Torture on the Kosovo Visit in 2015, published in September 2016. See at: <https://rm.coe.int/16806a1efc>.

⁸⁵ Report with Recommendations on Visit to the Institute of Forensic Psychiatry, published on August 28, 2018, see: <https://www.oik-rks.org/en/2018/08/28/report-with-recommendations-of-the-npm-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatry/>.

In addition, performing security-related tasks, such as body and cell searches continue to be performed by nursing staff, although they had received no training for such activities. This violates the relationship between patients and medical staff. The NPM considers that the IKFP must put an end to such a practice, as medical staff, among others, is not trained to perform such tasks. Such a recommendation was also provided by the CPT in the report on the visit to Kosovo.⁸⁶

Contact with the outside world

Patients in the Ward B have phone contact with their family members, as well, they may have visits by family members 1-2 times a week for 30 minutes.

Regarding the right to file a complaint, the NPM noted that IKFP has placed a complaint box which is opened by a certain authority within the Ministry of Health. However, the NPM considers that patients shall be allowed to file a complaint to the IKFP management in a confidential manner by placing a complaint box which may be opened only by the certain staff. The Ombudsperson or his/ her representatives may visit the accommodated persons at IKFP and correspond to them without prior notice. Likewise, patients can also address the NPM through the phone. In addition, the Ombudsperson has placed a complaint box which is opened only by him/her.

Means of restraint

In the mandatory treatment ward (B), there are two isolation rooms which are of solid walls and have only one bed. Staff has direct visual access to the patients. The unit has a shirt for mechanical fastening, but it has never been used. According to the documentation, the NPM found that one patient stayed 3 days in isolation, while one another stated in the interview that he/she stayed 6 days in isolation. According to patient and staff statements, the reason for the six-day isolation was the deteriorating health situation and the threats to the staff. The IKFP possesses the monitoring form, where, after monitoring, the staff signs the form in question every 15 to 30 minutes.

The NPM noted that the use of isolation rooms is excessive and of a non-justified duration. CPT standards stipulate that means of restraint should never be used as a punishment⁸⁷. Use of means of restraint shall be as short and as reasonable. The NPM, during the check of the documentation, noted that the decision and reasoning for placement in the isolation room were not given by the doctor in the patient's file but only in the book and in the isolation form.

Further, the CPT recommends that every element of any kind of restraint shall be clearly recorded in the specific register, but also in the patient's file. Such records include the time of initiation and termination of the restraint, circumstances, reasons, the name of the doctor, injury, etc.

⁸⁶ For more see the European Committee on the Prevention of Torture in Kosovo in 2015 at: <https://rm.coe.int/16806a1efc>.

⁸⁷ CPT Standards, published on March 21, 2017, see in: <https://rm.coe.int/16807001c3>.

The NPM noted that the IKFP has a basic guide for placing in isolation rooms (Rules of Work Organization and Functioning in Ward B). This document is very simple and contains only one paragraph. There is no guideline for other restriction methods. The NPM noted that the CPT in its report on the visit to Kosovo in 2015, in the section mentioning the visit in KFIP, has given specific recommendations as to what this guide shall contain.⁸⁸

Review of decisions by competent courts

The NPM notes that Article 89, paragraph 2 of the Criminal Code of the Republic of Kosovo expressly stipulates that the court will cease the measure of mandatory psychiatric treatment after it has confirmed that the need for treatment in the health care institution has ceased.

Whereas Article 176 of the Law No. 04/L-149 on Execution of Criminal Sanctions, stipulates that at least once every six month, each involuntary admission must be reviewed by the court, based on a report drawn up by the management of the health institution and the opinion of an independent expert, who is not employed in the health institution.

Based on the analysis of the relevant documentation, the NPM found that the IKFP, on regular basis and in compliance with the provision of the aforementioned legislation, has sent relevant medical reports on which the patient's health status was assessed based on the requirements of the competent court. According to the IKFP management assertions, there are problems with involuntary placement of patients by court orders due to mental disorder, despite the fact that the medical condition of the patient is reviewed by the medical staff and the court is notified in writing that the mental state of patients has improved and that measures need to be amended appropriately, in some cases the courts are not up to date and do not respond.

Regarding the right of treatment, it is evident that in most cases patients are informed, but not given the possibility of giving written consent or the right to refuse treatment. The same situation was also noted in the CPT report on Kosovo's visit in 2015.⁸⁹

In the report in question, the CPT states that the admission of a person to a psychiatric establishment on an involuntary basis, including under a court-ordered “*measure of mandatory psychiatric treatment in custody*”, should not preclude seeking informed consent to treatment. Every patient should be informed about the intended treatment. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

⁸⁸ European Committee for the Prevention of Torture, report on the visit to Kosovo in 2015, published in 2016, part C, paragraphs 96-98, for more see in: <https://rm.coe.int/16806a1efc>.

⁸⁹European Committee for the Prevention of Torture, report on the visit to Kosovo in 2015, published in 2016, paragraph 101. For more: <https://rm.coe.int/16806a1efc>.

Also, there is no evidence that a written explanation of the reasons for involuntary treatment was provided, as foreseen in Article 21, paragraph 1.4 of the Law on Mental Health, which expressly states that a patient, who is subject to involuntary treatment, is entitled to explain in writing within 48 hours reasons for involuntary treatment. Also the NPM recommends that this situation shall be urgently regulated by the institution.

Medical confidentiality

The NPM, during the visit, has noted that 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.

Recommendation regarding the IKFP visit addressed to the Ministry of Health:

- Notify Ombudsperson's NPM related to the IKFP legal status (Pending implementation).

Recommendation regarding the visit to IKFP addressed to Hospital and University Clinical Service of Kosovo:

- Regularly supply the IKPF with medicines and other necessary things for carrying out the work (Pending implementation).
- Implement the recommendation of the European Committee for the Prevention of Torture, as regards the content of the Guide to the use of means of restraint (Pending implementation).
- Increase psycho-social activities (Pending implementation).
- Install the IKPF system (a complaint box) which makes it possible for the complaints of patients to be addressed by the management in a confidential manner, and only the assigned staff should have access to the complaint box (Pending implementation).
- Medical staff should not perform security-related tasks (see paragraph 45 of this Report) (Pending implementation).
- IKFP security staff shall be assigned carefully and shall undergo adequate training before undertaking such security-related tasks (Pending implementation).

8.2 Psychiatric Clinic

Pursuant to the Law on Health, Article 13 of the Law on Mental Health of the Republic of Kosovo and Article 6 of the Statute of HUCSK, the Psychiatric Clinic is the organizational unit of HUCSK. According to the law in force, it provides tertiary services throughout the country (the only clinic in Kosovo) but is also obliged to provide secondary level services to the region of Prishtina in the absence of a general hospital. All wards (except the Emergency and Psychiatric Intensive Care Ward) are open and treat patients in their own will, and in certain cases without their will, based on the decision of the competent court.

During the visit, the NPM noted that patient rooms were generally large, with two and three beds, with enough light, while the windows can be open and are breakable. Furnishings (lockers for clothes) were all almost damaged, while walls were painted but out-dated because there was no renovation for almost 6 years, whereas, hot water was occasionally available. The NPM noted that there are no paintings on walls, no side tables for personal stuff, and the toilet door cannot be closed.

The NPM considers that measures shall be undertaken to create a family and therapeutic environment. Painting, repairing damaged furniture, decorating, placing personal side tables, shall be a priority. The NPM notes that the European Committee for the Prevention of Torture (CPT) during its visit to Kosovo in 2010 also visited the Psychiatric Clinic. Concerning the living conditions of patients, the CPT, in the report on the visit to Kosovo, describes the living conditions of the patients in this clinic as bad and severe, in which the creation of a therapeutic environment cannot be expected.⁹⁰ Therefore, the NPM considers that renovations should be made in the Psychiatric Clinic as soon as possible.

Emergency and Psychiatric Intensive Care Ward

Emergency and Psychiatric Intensive Care Ward (hereinafter referred to as *EPICW*) is a closed unit and operates within the Psychiatric Clinic. Cases of various psychotic disorders, bipolar disorders and personality disorders that cannot be treated in other wards are treated in this ward. This ward is the only one in the entire territory of Kosovo. Special rooms for dealing with urgent cases are not functional in psychiatric wards of other regional hospitals. Such cases, from all over Kosovo, are brought to the *EPICW* within the Psychiatric Clinic in Prishtina.

NPM considers that psychiatric wards in other regional hospitals need to activate special rooms for dealing with urgent cases. Such a conclusion came from the conference organized by the Ombudsperson and the Council of Europe, regarding the involuntary treatment of cases in mental health institutions, held in Budva (Montenegro) on 19 September 2018. The NPM has not received complaints from patients interviewed for ill-treatment or violence, as well as behaviours by the personnel of this department that would insult the dignity of patients. During the interviews, the NPM has not received complaints or reports from patients about the violence between the patients accommodated in this department.

The NPM was informed that the patients in general are brought here by their family or the police and they are accommodated here without their will. There are also cases when patients are brought here by a court decision. According to the Directorate, after receiving the patient, his/her health condition will be assessed the next day by the relevant medical commission.

⁹⁰CPT Report on visit to Kosovo, 2010, paragraph 79, see on: <https://rm.coe.int/16806972c7>.

The NPM noticed that the competent court is not informed about the admission of patients for involuntary treatment. The NPM notices that the Articles of the Law on Mental Health fix the issue of admission of involuntary patients, without the decision of the competent court. Article 22, paragraph 4 defines: *“The doctor in the service of mental health care specialized with beds, who decides on involuntary treatment, describes in detail in the medical card all procedures followed and provides notification of the chief of the service for involuntary hospitalization, within twenty-four (24) hours.”*

The NMP notices that this requirement is respected by the head of the EPICW and the relevant information is sent to the director of the clinic. According to the Directorate, the notice for admission of the patient for involuntary treatment is then sent to the legal office of HUCSK, but not to the competent court, as provided in the Law on Mental Health. According to the Directorate, this happens due to the lack of inter-institutional communication, respectively the communication between the HUCSK and the competent court.

However, the NPM notices that Article 23, paragraph 4 of the Law on Mental Health defines: *“If, after reassessment, the head of service determines that there are reasons to hold the person under conditions of involuntary treatment, the same person continues to receive involuntary treatment in the service. Following this decision, within forty-eight (48) hours, the head of the institution where the service is provided by mental health services specialized with beds, referred by the chief of service addresses to the basic court to assess the performed procedure. A copy of the application is available to patient, a close family member and/or his legal representative.”* The NPM notices that this provision clearly obliges the health institution to inform the competent court on further proceedings in cases of admission of the patient for involuntary treatment.

Regarding the issue on involuntary treatment and other aspects related to this, all the relevant stakeholders from competent courts, prosecution offices and mental health institutions, were invited by the NPM of Ombudsperson and the Council of Europe to the workshop held in Budva, Montenegro. All participants agreed that in order to achieve effective implementation of the laws in force and to respect the human rights of this category guaranteed by local legislation and international conventions for the protection of human rights, the level of inter-institutional communication needs to be increased.

Living conditions in the EPICW

The NPM assesses that the living conditions, in general, are good. The building is new, warm and has natural light. The rooms consist of two beds; they have adequate space and ventilation. The NPM noticed that the walls have not been painted for a while, some windows are cracked and they have iron railings, and the bathrooms have moisture. Small tables and locker keys are removed because they have been broken and damaged by the patients. The rooms are not decorated; some pictures hang in the walls of the living rooms and in the dining room.

Treatment and activities in the EPICW

Psycho-pharmacological treatment is the main treatment in this ward. The supply with medicines occasionally is not adequate, there are times when there are no needles and syringes and the family members of patients are obliged to buy them. But there are also times when supplies are regular and at a satisfactory level. The NPM considers that it is the responsibility of the competent authorities to uninterruptedly supply this ward with the necessary medicines for the treatment of patients.

The NMP noticed that there are not enough psycho-social activities. Also, there is a lack of multidisciplinary team such as: psychologist, social worker, occupational therapist, and there is no individual treatment plan. The NPM considers that authorities and institutions should provide a necessary diversity of psycho-social professionals, as a precondition for adequate treatment of patients. As for the security personnel in this department, they should have adequate training to work with this category of patients.

Regime in the ward

During a random day, patients in the ward are subject to a daily routine, which consists of activities, such as: taking a break for some fresh air (two hours a day, but they may stay longer), watching TV, eating, going out in the garden.

Contacts with the outside world

Family visits are carried out at the entrance of the ward, where a table and some chairs are placed. They have the right to accept visits daily from 12:00 to 15:00. The duration of the visit is 30 minutes, which is carried out with the permission of the doctor. No phone communication is allowed. And the family members from outside can call the doctor of the ward, but they cannot call the patient.

Concerning involuntary treatment, European Committee for the Prevention of Torture points out that the maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, have access to the telephone, and receive visits from their family and friends.⁹¹

Means of restraint

There is no mechanical restraint in the ward, however, there is a pharmacological one. The EPICW has four isolation rooms, there are a mattress and a blanket, there are no toilets, there is enough space, and the rooms are dim, while the monitoring team noticed moisture in one of them. The NPM noticed that these rooms are far from health personnel, while the ring for calling the medical personnel is out of function.

The NPM considers that, while the ward uses the measure of isolation, this means of restraint should be subject to a detailed policy for patients accommodated in isolation

⁹¹See: <https://rm.coe.int/16806cd43e>.

rooms, which should contain information on situations when isolation can be used, the intended objectives, the duration and the need for regular review of the decision for isolation, the existence of genuine human contacts, the need for the personnel to be particularly vigilant.

Any case of using physical restraint of the patient (the use of physical restraint instruments, isolation) must be registered in a specific register created on this purpose (as well as in the patient's file). The data should contain the time when the measure started and ended, the circumstances, the reasons for the application of this measure, the name of the physician who approves such measure, as well as records of any injury caused to the patient or the personnel. The NPM noticed that the department does not have a special register for persons who are held in isolation.

Complaint procedures

NPM considers that as in any other place of deprivation of liberty, an effective complaint is a fundamental safeguard against physical ill-treatment in psychiatric institutions. Therefore, specific arrangements should be made to enable patients to file complaints with the competent body established for this purpose and to communicate confidentially with the appropriate authority outside the psychiatric institution.

In the ward, there is a complaint box of the Psychiatric Clinic, which, according to the Directorate, is opened by a responsible office within UCCK. However, the procedure for submitting a patient's complaint remained unclear to the NPM. Therefore, a written notice on this issue was requested from HUCSK through the report with recommendations.

Recommendations regarding the Psychiatric Clinic addressed to the Hospital and University Clinical Service in Kosovo (HUCSK):

- Make the necessary renovations at the Psychiatric Clinic (Pending implementation).
- Increase the number of genuine psycho-social activities (Pending implementation).
- Functionalize the multidisciplinary team in the Psychiatric Clinic wards (Pending implementation).
- Provide uninterrupted supply of medicine to the Psychiatric Clinic (Pending implementation).
- Compile Guidelines for the Prevention of Suicide (Pending implementation).
- Provide adequate training for personnel (Pending implementation).
- Increase the number of personnel according to assessment and need (Pending implementation).
- Obtain informed approval for treatment from the patient in accordance with the Law on Mental Health (Pending implementation).
- Inform patients about their rights in written form (Pending implementation).

- Compile and use a special register for patients who are subject to isolation measures (Pending implementation).
- Psychiatric Departments in other regional hospitals should activate special rooms for the treatment of urgent psychiatric cases (Pending implementation).

8.3 Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime

Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime (CIRCPP) operates within the Hospital and University Clinical Service in Kosovo (HUCSK) and provides services 24 hours a day. CIRCPP is an open-type institution; residents of this centre are mainly diagnosed with psychotic disorders such as *Schizophrenia*. During the visit of NPM, there were 61 residents in this institution, out of which 32 were men, 29 women; the average age was around 54. The official capacity of the institution is 65 people.

Conditions of accommodation

NPM assesses that living conditions in CIRCPP are average. However, renovations such as painting, regulating toilets elements, putting paintings on the walls and personal cupboards are needed. NPM considers that there is a lack of privacy in toilets that have no curtains and this issue needs to be solved urgently.

The kitchen was renovated and was put into use in July 2018 and is equipped with all modern equipment. Through the report with recommendations, published on March 6, 2017, the NPM of Ombudsperson recommended taking measures for the renovation of the kitchen. Through this report, the NPM of Ombudsperson welcomes the implementation of this recommendation.

Health care

NPM was informed that regular psychiatric services are provided in CIRCPP, and these services are carried out by the Director of the Centre, as he is a psychiatrist by profession, while in case of need, other health and specialist services are provided by Family Medicine Centre in Shtime, Regional Hospital in Ferizaj and University Clinical Centre in Prishtina.

By examining several medical files, the use of antipsychotic, antidepressant and anxiolytic medicines appears to be reasonable and evidence-based. According to staff, the use of medicines is much reduced and they are more rational in prescribing them. They usually have the preparations from the essential list such as: haloperidol, fluphenazine, risperidone, olanzapine etc. (10 patients were being treated with haloperidol deaconate, and 15 others with fluphenazine deaconate. According to the information received, there are cases when CIRCPP faces lack of medicines. NPM considers that it is a responsibility of the competent authorities to regularly supply this institution with the necessary medicines.

Treatment and activities

During the visit, NPM noticed a close and friendly approach by the personnel towards the patients; therefore, a positive climate within the institution was noticed. Patients look good in terms of dressing and hygiene. NPM has not encountered signs of injury. No complaints for any form of ill-treatment or personnel behaviour that violates the dignity of residents were received during the interviews with patients.

The psycho-social activities usually performed are: painting, music, excursions. The institution has a desk for activities, TV in A2 department did not work, and there are no games or books since they were damaged. Family visits are allowed whenever they want. The CPT emphasized that keeping in contact with the outside world is essential not only for preventing ill-treatment but also from a therapeutic point of view.⁹² NPM notices that the activity plan is not written, nor individual plans exist, while the budget for psycho-social activities is low. Therapeutic weekends are very rare because families do not express interest.

NPM expresses concern about the fact that the number and quality of psycho-social and recreational activities is very deficient. Also, there is no individualized treatment plan with patient involvement. NPM, in its report of recommendations published on 26 October 2018⁹³, has recommended focusing on planning the construction of a vocational unit, but this has not been done so far. The institution should prioritize the increase of psycho-social activities and the involvement of all patients in an optimal manner in these activities.

According to the CPT, psychiatric treatment should be based on an individualised approach, which implies compiling a treatment plan for each patient, which involves a wide range of rehabilitative and therapeutic activities, including access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Patients should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise.⁹⁴

NPM highlighted 4 persons against whom the court has imposed the measure of compulsory psychiatric treatment with detention in CIRCPP, despite the fact that the institution cannot manage them. NPM considers that CIRCPP has neither legal base nor capacity to continue handling such cases. NPM encourages CIRCPP staff to regularly inform the courts about the health condition of these patients.

⁹² European Committee for the Prevention of Torture, 8th General Report, paragraph 54.

⁹³ Report with recommendations for visiting the Centre for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime, published on 26 October 2018. See: <https://www.oik-rks.org/en/2018/10/26/-1report-with-recommendations-on-the-visit-to-center-for-integration-and-rehabilitation-of-the-chronic-psychiatric-patients-in-shtime/>.

⁹⁴ Standards of the European Committee for the Prevention of Torture, Part of the 8th General Report [CPT/Inf (98) 12].

Concerning the issue of effective review of such cases, cases of compulsory psychiatric treatment and other treatments in mental health institutions by competent courts and other institutions, which at a certain stage may face people with mental disorders, the Ombudsperson Institution, in cooperation with the Council of Europe Office in Prishtina, held a workshop where all representatives of relevant institutions, including psychiatrists, judges, prosecutors were invited in order to discuss and improve the situation in this regard.

During this workshop, it was concluded that the Ministry of Health should compile the list of mental health institutions where the mandatory psychiatric treatment should be provided. Handling of cases that are not in the capacity of an institution constitutes a prerequisite for ill-treatment or neglect.

Preventing suicides

According to the Directorate, there two suicides committed after the war, while attempts for committing suicide are frequent. During 2018, there were two cases of death in this institution. CIRCPP does not have any specific plan for preventing suicide. NPM considers it necessary to draw up a clear guide which will effectively help identify cases with suicidal tendencies, drawing up a special observation scheme with immediate psychological/psychiatric support.

CIRCPP staff

The CIRCPP staff consists of 39 employees, 1 psychiatrist, who is also the director of the institution, 9 nurses, 16 medical assistants, 7 administrative workers and 7 technical service workers. The NPM considers that the number of the staff is not adequate. There is also a lack of professionals such as: psychologists, occupational therapists etc. In the report with recommendations published on 6 March 2017, NPM has recommended hiring an additional clinical psychologist and social worker. During ad-hoc visits, the NPM was informed that the institution has begun recruiting procedures for the clinical psychologist and the social worker. The NPM will monitor the implementation of the recommendations during the follow-up visits.

Means of restraint

Regarding the means of restraint, Article 27 of Law No. 05/L-025 on Mental Health, defines that the physical limitation of persons with mental disorders applies to specialized mental health institutions with beds and according to the relevant protocol, includes the following elements: keeping the person with force, forceful use of medicines, immobilization, insulation.

Based on the statements of the Directorate of CIRCPP and resident files, mechanical means of physical isolation are not used in this institution, but only chemical ones, psychotherapy, and pharmaco-therapeutic interventions, while isolation measures are not used because there are no conditions to apply such a measure.

Regarding the consent for treatment and residence, the consent is given by the resident's family member or legal guardian, in cases where the competent body abolishes resident's ability to act.

In the ward, no card of patients' rights or flyers is placed for this purpose; the card for the patients' right is placed only in the ambulanta. The NPM considers that information regarding patients' rights should be placed appropriately, visible, supported by flyers, and be explained to the patients in the best possible way. Family visits are allowed at any time. According to the CIRCPP staff, there are some cases where the legal guardian who is appointed by a decision of the competent body does not fulfil his duties towards the resident.

The CIRCPP and other social care institutions (MLSW, Centres for Social Work) should review and utilize all the mechanisms and legal possibilities to improve this issue, as defined in Article 16, paragraph 3 of the Law on Mental Health. The Ministry of Health shall issue sub-legal acts, as defined in Article 9, paragraph 4 of the Law on Mental Health.

The Ombudsperson Institution has placed complaint boxes in the CIRCPP, which can only be opened by the staff of this institution, as this provides confidentiality to the complainants in submitting the complaints. The NPM has never received any complaint from residents or their family members. The NPM encourages staff to inform residents' family members about the possibility of submitting complaints through the complaint box placed at CIRCPP.

Deinstitutionalization has stagnated, which is one of the preoccupations and duties foreseen for CIRCPP. According to staff's information, there are only 3 cases of residents returning to their community. The NPM considers that the Ministry of Health should develop a clear deinstitutionalization policy by building effective community services. MLSW and Centres for Social Work should be involved in providing the necessary effective resources to support such a policy.

Recommendations regarding the CIRCPP addressed to the Ministry of Health:

- The Ombudsperson's NPM reiterates the recommendation for issuing sub-legal acts in accordance with the Law on Mental Health (Pending implementation).
- The Ministry of Health should take a decision announcing the list of mental health institutions where the measure of compulsory psychiatric treatment must be provided (Pending implementation).

Recommendations regarding the CIRCPP addressed to the Hospital and University Clinical Service in Kosovo (HUCSK):

- The NPM reiterates the recommendation for building vocational unit within CIRCPP (Pending implementation).

- Ensure adequate number of medical staff as a prerequisite for an adequate treatment, such as: psychiatrists, clinical psychologists, occupational therapists (Implemented)
- Provide adequate training for staff (Implemented)
- Regularly supply CIRCPP with the necessary medicines (Implemented)
- Functionalize the computerized identification system (database) (Not implemented).
- Develop a Suicide Prevention Guide (Strategy) (Pending implementation).

9. Social care institutions

During the reporting period, the NPM visited the following social care institutions: Home for Elderly People Without Family⁹⁵, Special Institute in Shtime⁹⁶ and Home of Children with Mental Disorders.

9.1 Home for Elderly People without Family Care (HEPWFC)

HEPWFC is a socially-owned institution and operates within the Ministry of Labour and Social Welfare (MLSW). 110 persons is the official capacity of this institution. At the time the NPT visited it was 63 residents, of whom 27 men and 36 women, where 3 persons were under 65.

During the visit, the NPM interviewed a number of residents and did not receive any complaints about physical or verbal abuse or behaviours that would violate the human dignity of residents in the HEPWFC. Regarding accommodation conditions, the NPM noticed, during the visit, that the building needs a lot of investments, especially in the part where the medical services are placed because water penetration often causes serious inventory damages.

The NPM, regarding this situation, has recommended the MLSW, through a report with recommendations on a visit to the HEPWFC, to urgently make investments according to needs assessment in the old building and premises where the medical and dental service operate. According to the latest announcement by MLSW, investments have been made in the building, the facility has been insulated, and also dental services are no longer in the ground floor. The NPM will, through follow-up and ad hoc visits, verify the implementation of the recommendation in question.

Recommendations regarding the CIRCPP addressed to the MLSW:

- Urgently make investment according to needs assessment in the old building and premises where the medical and the dental service operate (Implemented).

⁹⁵ Report with recommendations on the visit to the Home for Elderly People Without Family Care, published in: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

⁹⁶ Report on the visit to the Special Institute in Shtime, in: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

- Supply the residents with adequate inventory in their rooms (Implemented).
- Provide the facility with an ambulance (Pending implementation).
- Medical service should use protocols for self-restraint, bodily injuries, hunger strikes, sexual abuse, suicide, and deaths in the institution (Implemented).
- Organize specific staff training, in accordance with the needs for treatment of residents (Implemented).
- Increase the number of staff according to needs assessment by the health service (Implemented).

9.2 Special Institute in Shtime (SISH)

The NPM, during August 2018, has conducted a general visit to the SISH with experts from the Council of Europe (as observers). This institution is managed by the Ministry of Labour and Social Welfare (MLSW) and is an open-type institution that provides 24-hour services such as: food, footwear, health care, educational and training work therapy, and social treatment.

The official capacity of the institution is 65 beds. During the visit, it was found that there are 67 accommodated residents (43 men and 24 women) aged over 18, while the average age is about 46.5 years of age. Categorization of residents is done according to gender and health status. All persons accommodated are diagnosed with Intellectual Disability (mental retardation).

The Administrative Instruction No. 11/2014 for Works and Placement of Residents, persons with mental disabilities - delay in mental development at the Special Institute in Shtime and in homes with community based foresees the treatment of persons whose ability to act was abolished by the basic court. During ad-hoc visits to the SISH, the NPM was informed that in 98% of cases, the ability to act was abolished and a legal guardian was appointed.

During the visit, the NPM noticed a friendly approach of staff towards residents. Residents looked good in terms of clothing and hygiene, and their relation with the staff was friendly. The NPM has not seen signs of bodily injury on residents.

Residence conditions

Residence conditions in general are very good. Residents moved to newer buildings and were placed in smaller dormitories. Residential premises have enough natural lighting, heating, ventilation as well as cleanliness is at a satisfactory level. The accommodating resident rooms mostly are with two to three beds in one room, there are commodities for putting clothes and personal belongings, also there are decorations for visual stimulation, for example: various paintings, which were painted by some residents in cooperation with the instructors. During the visit to the SISH, the NPM team has also visited the kitchen, where the food is prepared and served. The kitchen had proper lighting and ventilation, cleanliness was at proper level, and the food was adequate.

Medical treatment and activities

SISH, at the time of the NPM's visit, did not have a general physician. Dentistry services are provided by the Home for Elderly People in Prishtina. Other health and specialist services are provided when needed by Family Medicine Centre in Shtime, the Regional Hospital in Ferizaj and the University Clinical Centre in Prishtina. Ambulanta where the healthcare staff stands does not meet the conditions, and due to the small and inadequate spaces, there is not enough lighting. This situation was also highlighted in the report with recommendations on the visit to this institution in 2016.⁹⁷

The psychiatric service is provided by a contracted psychiatrist, who visits the patients once a week, four hours and whenever there is a call, which means that sometimes he/she is obliged to prescribe the therapy without visiting the patient. The NPM noticed that patients who suffer from epilepsy do not undergo regular neurological checks and the psychiatrist in most cases manages the neurological therapy. By examining some medical files, the use of antipsychotic, antidepressant and anxiolytic medicaments seems reasonable and evidence-based. Medicaments are provided by MLSW and there were no complaints since the supplies were delivered on time. The NPM has noticed that there is no evidence that white blood cells of the residents who use Clozapina have been measured according to recommendations based on evidence.

The psycho-social activities that are usually performed are various. The institution has three treatment rooms: the art, carpentry and handicrafts workshop. Everyone who is capable of these activities can participate. There is also a hall for other recreational sports activities (table tennis, chess, dominoes, cards etc.). Other activities include engagement in greenhouse work and activities outside the institution (outdoor camping, food preparation, various games). Residents get to walk in small towns and cities and they even visit the coffee shops in the town of Shtime.

The activity plan is not written and no individual plans exist. Residents are allowed on family weekends for 3-5 days, when families express an interest to get them home. The NPM considers that the number and quality of psycho-social and recreational activities is solid but there is no individualized treatment plan according to residents' needs and abilities.

Means of restraint

According to the Directorate, SISH does not have insulation rooms and no forms of physical limitation are used except in a case where a resident is permanently fixed (24 hours), his hands are tied back with a tie, loosely, to prevent self-injury. The personnel has expressed ruth for the management of this case this way but, according to personnel assertions, they have tried all possible forms to manage this case without using means of restraint, but without success.

⁹⁷ See more at: <https://www.oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>.

The NPM finds that the managing, psychiatric and medical staff should address this case to other specialized psychiatric institutions (Psychiatric Clinic, etc.) to find ways and approaches of a more appropriate and dignified treatment, creating an external evaluation committee.

9.3 Home for Children with Mental Disability

During the reporting period, the NPM together with the CoE experts (as observers), in August 2018, conducted a general visit to the Children's Home in Shtime. This institution is managed by MLSW and is the only open-type institution that accommodates children with special need (intellectual disability-mental retardation) and provides 24-hour services such as: food, clothing, healthcare, therapies of education and training, social treatment.

During the visit, the NPM noticed that there are persons of different ages (as much as the institution's capacity is): four of them are under the age of 18, two have just reached the age of 18, two are around the twenties and two around the thirties.

Based on the fact that this institution is designated as a Home for Children, it is unacceptable to accommodate adult residents in the home. They should be placed in the existing adult facilities in our country.

The NPM noticed a close, warm and friendly approach by staff towards residents. The NPM did not encounter persons with signs of injury and has not received complaints from residents of this institution for physical ill-treatment or staff behaviour that would violate their dignity.

Accommodation conditions

During the visit, the NPM noticed that the material conditions for the residents in general were very poor. The rooms of the residents had enough space and were not overcrowded, but they were damaged. In addition, the institution faces shortage of suitable clothing and coverings. The NPM has ascertained that urgent renovation is needed inside and outside the Home. The Head of the Home informed the NPM that the entire facility will undergo a major renovation that will include for about 90% of the Home. The NPM, immediately after the visit in August 2018, met with representatives from MLSW where they expressed concern about the findings.

During the follow-up visit in January 2019, the NPM found that the facility in question was greatly renovated and that the situation regarding accommodation conditions has changed significantly in a positive direction.

Health Services

The health and psychiatric service is within the Special Institute in Shtime. Psychiatrist pays a visit once a week, and sometimes, some cases are sent to the ambulanta of the Special Institute in Shtime. If needed, other health and specialist services are provided by the Family Medicine Centre in Shtime, the Regional Hospital in Ferizaj and the

University Clinical Centre in Prishtina. Laboratory analyses are conducted at the Family Medicine Centre in Shtime every 6 months on a regular basis.

The health personnel have a TA measuring device but do not have an oxygen device. The physiotherapy room is damaged.

The supply of medicaments is done by MLSW and is regular. The NPM has noticed that there is no evidence that white blood cells of the residents who use Clozapina have been measured according to recommendations based on evidence. The NPM emphasizes that it is the responsibility of the institution to provide certain medicaments according to the known evidence, including the application of monitoring their possible side effects according to accepted clinical practices (follow-up analysis of Clozapine's application).

Regarding the means of restraint, there are no rooms for insulation in the Children's Home and no means of restraint are used. The NMP noticed that there was a register for the use of means of restraint.

Regarding psycho-social activities, the NPM was informed that residents usually listen to music and go out in nature and in the city, though rarely. In addition, eight of the residents attend the special school. The NPM finds that the number and quality of psycho-social and recreational activities is very poor and there is no individualized treatment plan according to the needs and capacities of residents.

The staff consists of nine employees and the head of the Home (4 nurses and 5 medical assistants). Services are provided 24 hours a day. The personnel of the Home were insufficient to provide the required multidisciplinary care. Personnel feel overloaded, stressed by job specifications and insufficiently remunerated for the nature of the work they do. There is no adequate training for Home's personnel. *The NPM considers it very important to provide professional training for staff within and outside the institution as well as adequate remuneration based on job specifications.*