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**REPORT WITH RECOMMENDATIONS
OF THE
NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE
REGARDING THE VISIT TO THE BORDER CROSSING POINT OF
PRISHTINA INTERNATIONAL AIRPORT “ADEM JASHARI”**

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

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

**Mr. Shaban Guda, Director
The Border Department, Kosovo Police**

Prishtinë, May 07. 2019

Introduction

Pursuant to Article 135, paragraph 3, of the Constitution of Republic of Kosovo and Article 17 of the Law No. 05/L-019 on Ombudsperson, National Preventive Mechanism against Torture (NPMT) of the Ombudsperson visited the border crossing point at Prishtina International Airport “Adem Jashari”.

NPMT, based on Article 17 of the Law No. 05/L-019 on Ombudsperson, can conduct regular and unannounced visits to all places where people deprived of their liberty are held, including police detention, detention on remand stations, prisons, places where detained foreigners are located as well as psychiatric and social care institutions. Apart this, NPMT can conduct visits to all places where there is a restriction of freedom. Based on this mandate, NPMT on 13 February 2019 visited the border crossing point at Prishtina International Airport (PIA) “Adem Jashari”.

Purpose of the visit

The purpose of this visit was general assessment of respect of foreigners’ rights, who, based on the Law on Foreigners in the Republic of Kosovo as well as on other relevant laws, cannot enter the territory of the Republic of Kosovo, are subject of return to the places from where they have come or are temporary hold in facilities of the border crossing point at the PIA.

Composition of the monitoring team

The monitoring team comprised of Head of the NPMT, Legal advisor engaged on torture prevention, a doctor-advisor, a psychologist- advisor, a social worker- advisor as well as two experts of the Council of Europe, in capacity of observers.

Cooperation with the NPMT during the visit

1. During the visit at this border point of entry, cooperation of police officers, those on-duty, with the NPMT was inclusive. The team had unhindered access to all places intended to visit and were provided with all the information needed to carry out the task.

Point of entry holding facilities at the PIA

2. Foreigners who want to cross the border of the Republic of Kosovo and do not meet the legal criteria for that, as well as if the Air –company is unable to make their immediate return; they are placed on holding facilities at PIA up to 72 hours. These facilities are also known as retention facilities at the airport entrance point. During the visit by the NPMT at the PIA there were no foreigners accommodated in these premises.
3. The NPMT considers that responsible authorities should notify the Mechanism whenever there are foreigners in these facilities, who cannot cross the state border line. This would serve to strengthen safeguarding of their fundamental rights. Therefore, through this Report, the NPMT calls upon responsible authorities to inform the Mechanism whenever such cases happen as well as when foreigners are expelled from the territory of the Republic of Kosovo.

Accommodation in the separate premises at PIA

Accommodation conditions

4. Standards of European Committee on Prevention of Torture (henceforth SPT), for those kept on hold, based on the Law on Foreigners, published on 1997 ¹, stipulates that those kept on hold on this base should be provided with suitable means for sleeping, granted access to their luggage and to suitably-equipped sanitary and washing facilities, and allowed to exercise in the open air on a daily basis. Further, these standards determine that the foreigners in these facilities should have access to food and, if necessary, medical care should be guaranteed.
5. During the visit, NPMT observed that these facilities provide good accommodation conditions with sufficient furnishings for placement of personal belongings, the cleanliness on satisfactory level, toilets appropriately supplied with hygienic items, showers in a very good conditions as well as sufficient artificial lighting. Based on allegations of border police officials, foreigners who are kept in these premises are allowed to exercise in the open air on a daily bases. NPMT deems that these premises meet standards determined by CPT for persons kept on hold, to who the entrance in a territory of a certain country is rejected.

Contact with outside world

6. NPMT deems of great importance that the foreigners kept in these premises have contact with the outside world. In order to maintain their contacts with outside world, the foreigners are provided with access to internet through Wi-Fi.

Health services

7. The health unit, which operates within the PIA, is not a part of Republic of Kosovo Healthcare System, but is a service that is organized by PIA. The PIA's medical staff consists of three general practitioners and six nurses. Medical services are provided 24 hours for staff of the airport as well as for detained persons. During the visit to the premises of the health service, the NPMT has observed that this medical center is equipped with all necessary equipment: three beds, drugs, medical hygiene products and two ambulances with supporting equipment.
8. According to border police officers, if a foreigner detained in these facilities needs further specialized service in other public health institutions outside the PIA, he is accompanied to these institutions always escorted by police officers.
9. NPMT did not have the opportunity to have a look at relevant medical documents, since health service has removed all hard copies of medical files and per the moment they have been transferred to electronical copies.

Information on legal status and their rights

10. The CPT in its Report for the visit conducted to the International Airport of a country in the region in 2015, published in 2016, recommended state's authorities to take the necessary steps that all detained foreigners are offered at least one hour's outdoor exercises per day, if

¹ European Committee for the Prevention of Torture, part from 7th General Report, published on 1997. For more information visit: <https://rm.coe.int/16806ce90e>.

they stay in point of entry holding facilities to receive an information notice setting out their legal position and rights, this notice should be available in an appropriate range of languages and have access to a health-care professional should they so require².

11. During the visit, NPMT observed that facilities accommodating foreigners who cannot cross the border of Republic of Kosovo, lack notices containing information who to address in case they have complaints as per the treatment by police officers or in case they want to acquire information about their legal status and their rights.
12. According to border police officials, foreigners who are accommodated in these facilities are informed about their legal status as well as for their rights, through leaflets in different languages.

Based on findings and ascertainments acquired during the visit in PIA, pursuant to Article 135, paragraph 3, of the Constitution of Republic of Kosovo and Article 16, paragraph 4 of the Law No. 05/L-019 on Ombudsperson, the Ombudsperson recommends:

The Ministry of Internal Affairs:

- Holding facilities at PIA's point of entry to be provided with relevant information in different languages through which foreigners are to be informed on their rights, their legal status, and the right to contact with Mechanisms for Protection of Human Rights.
- NPMT to be informed whenever foreigners are accommodated at PIA's point of entry holding facilities as well as on cases of their expulsion from the territory of Republic of Kosovo.

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

Warmly submitted,

Hilmi Jashari

Ombudsperson

² For more information, visit: <https://rm.coe.int/1680697c94>.