



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

---

## RECOMMENDATION LETTER

### REGARDING THE VISIT OF NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE IN THE PRE-DETENTION CENTER IN GJILAN

**For:**            **Mr. Abelard Tahiri, Minister**  
                      **Ministry of Justice**

**Mr. Qemajl Marmullakaj, Secretary General**  
                      **Ministry of Justice**

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

**Mr. Naim Bardiqi, Secretary General**  
                      **Ministry of Health**

**Mr. Milazim Gjocaj,**  
                      **Director of Prison Health Department**

**Mr. Nehat Thaçi, General Director**  
                      **Kosovo Correctional Service**

**Mr. Shefik Sylejmani, Director**  
                      **Detention Centre in Gjilan**

**Prishtinë, 16 December 2019**

## **The purpose of the visit**

Pursuant to Article 17 of Law 05/L-019 on Ombudsperson, The National Preventive Mechanism of Torture (hereinafter “NPMT”) of the Ombudsperson, on 13 November 2019 visited the Pre-Detention Center in Gjilan (hereinafter “PDCG”). The purpose of the visit was to assess the progress of the competent authorities in implementing the NPMT recommendations delivered through Recommendation Report of 27 March 2018.<sup>1</sup>

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

During the NPMT visit to the PDCG, the staff of the Correctional Service and the personnel of Prison Health Department provided the monitoring team with full cooperation. The team without any delay had access to all places of PDCG. The team was provided with all necessary information to discharge their duty and was able to talk to sentenced and remand prisoners without the presence of correctional officers or other personnel.

## **Ill-Treatment**

NPMT during the visits to the PDCG interviewed a considerable number of sentenced and remand prisoners and did not receive any complaints of ill-treatment or excessive use of physical force by correctional officers. Also, no complaints were admitted as per the conduct of the correctional officials which would comprise a treatment that is opposite to the respect of human dignity of the prisoners.

During the visit an interactive and friendly communication has been noticed among staff working in this center and the inmates. It is worth mentioning that NPM received no allegations on corruption. In addition, prisoners of other ethnicities are also accommodated in this center. The NPMT noted that there were no incidents between prisoners of different ethnic backgrounds.

## **NPMT recommendations delivered through the report published on 19 March, 2018**

- 1. Ministry of Justice to provide information to the Ombudsperson’s NPMT regarding arrangements for making the use of unoccupied space in the PDCG.** In this regard, the NPMT received an official letter from the Minister of Justice explaining plans for the future. During this visit, the NPMT observed that the number of prisoners had increased; the PDCG was equipped with inventory as well as correctional personnel, in line with the increase in the number of prisoners.
- 2. To inform the Ombudsperson regarding the delays in finding appropriate place for placement of dental chair.** During the visit, the NPMT observed that dental services were now available to prisoners and this shortcoming has been avoided.
- 3. To provide cultural and sports activities as well as rehabilitation and resocialization programs for sentenced and remand prisoners.** The NPMT noted that despite the efforts of the competent authorities, appropriate activities that would serve the proper resocialization of prisoners, however, remain insufficient. The NPMT observes that, with regard to engagement of remand prisoners with work, Article 199, paragraph 2, of the Code of Criminal Procedure provides as follows: *“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*

---

<sup>1</sup> NPMT, Report with Recommendations on the visit to the Pre-detention Centre in Gjilan, published on 19 March 2018.

*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.”*

While Article 200, paragraph 1 of the LEPS, as per engagement of remand detainees on work stipulates as follows: *“The detainees on remand may be engaged at work in the warehouses, economic unit warehouses which are close to the area of relevant correctional facility after obtaining the consent of the competent court.”*

Further, Mandala Rules determine the right of remand detainee to be engaged at work. In Rule 116 of Mandela Rules is explicitly stipulated: *“An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.”*

In the Report of European Committee for the Prevention of Torture for the visit in the Republic of Kosovo in 2015, published on 2016, CPT, regarding the remand detainees regime, exposed concern that, apart from outdoor exercise (for two to three hours per day), most remand prisoners still remained locked in their cells for most of the day, with very little to do besides watching TV, reading and playing board games.

Through this Report the CPT has recommended responsible authorities in the republic of Kosovo, as follows: *“CPT, reiterates the recommendation that the authorities commit to increase out-of-cell activities for remand detainees and convicted persons in all institutions the CPT visited, and in all other institutions of the Kosovo Correctional Service where appropriate.”*

Further CPT points out: *“The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. To this end, steps should also be taken to ensure that staffing levels are, where required, increased accordingly.”*

The NPMT considers that based on the legislation at force, the Mandela Rules and the CPT recommendations, the competent authorities should make efforts to increase out-of-cell engagements for detainees on remand, not only in the PDCP but also in other Detention Centers, insofar as much as such thing is possible.

**4. To asphalt the part of the road which is not asphalted and which can present serious difficulties during the winter season as well as raining periods for performance of PDCG activities in accordance with LEPS.**

It is obvious for NPMT that it is not the responsibility of the Ministry of Justice and the Kosovo Correctional Service to asphalt the road, but it is the responsibility of these two institutions to address this issue to the competent authorities. The land, in which the PDCP is located, during periods of rain and the winter season, can make institution’s functioning harder. Moreover, this part of the road to the PDCG may also pose a risk for lives of prisoners and correctional personnel who transport them outside the institution. During its last visit, the NPMT observed that despite the efforts of the Directorate of PDCG, there was no progress in enforcement of this NPM recommendation.

**5. To supply the PDCG with materials needed for work.** During the last visit, the NPMT was informed that correctional officers as well as the rest of the PDCG staff were supplies with working materials.

**6. To install security cameras that cover outside of the Ward and the PDCG yard.**

During the last follow-up visit, the NPMT was informed that security cameras were installed where they were missing, but there are many technical omissions in their proper functioning. The NPMT considers that these technical shortcomings should be avoided as security cameras according to international standards on prisoners' rights are considered as additional safeguards against physical mistreatment and at the same time a guarantee that security personnel will not be deceitfully accused of physical mistreatment.

**7. To put in function the elevator in the area where medical services are provided.**

During the visit, the NPMT was informed that the elevator was still out of function. The NPMT considers that the operationalization of the elevator would facilitate the access of prisoners with disabilities and would also facilitate the work of medical staff.

During this visit, the NPMT admitted the concerns of the Management due to the small number of social workers (only one social worker at the moment) based on increased number of prisoners. According to the directorate, recruitment procedures have failed. **The NPMT considers that increase of the number of social workers is necessary to provide adequate services to prisoners.**

Based on findings during the visit, pursuant to the Article 135 paragraph 3 of the Constitution of the Republic of Kosovo, and Article 16 paragraph 4 of Law No. 05 / L019 on Ombudsperson, the Ombudsperson recommends to the:

**Ministry of Justice:**

- **NPMT reiterates the recommendation of providing more cultural and sports activities as well as rehabilitation and resocialization programs for sentenced and remand prisoners.**
- **NPMT reiterates the recommendation that the part of road which is not asphalted and which can pose serious problems during the winter and raining periods for accomplishing PDCG activities in compliance with the LEPS.**
- **To increase the number of social workers based on the number of prisoners.**
- **To avoid technical shortcomings in the operation of security cameras.**
- **NPMT reiterates the recommendation to make functional the elevator in premises where medical services are provided.**

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

Sincerely,

Hilmi Jashari  
Ombudsperson