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**RECOMMENDATION LETTER**  
related to the  
**VISIT OF NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE**  
**AT PRE-DETENTION CENTER IN PEJË**

**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. Jeton Mehmetaj, Director**  
                  **Pre-detention Centre in Pejë**

**Prishtinë, 16 December 2019**

## **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 Peja (hereinafter referred to as "PDCP"). The purpose of the visit was to assess the progress made by responsible authorities in implementing NPMT's recommendations sent through the Recommendation Report of 22 November 2018.<sup>1</sup>

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

During the visit made by NPMT to the PDCP, the staff of Kosovo Correctional Service (henceforth KCS) and the Prison's Health Department (PHD) provided the monitoring team with full cooperation. The team without delay had access to all premises of the PDCP. The team was provided with overall information needed to perform the task and was allowed to interview prisoners and detainees without the presence of correctional officers.

## **Ill-treatment**

During the visit in the PDCP, NPMT interviewed a considerable number of remand prisoners and inmates and did not receive any complaint regarding ill-treatment and excessive use of force by the correctional officers. Furthermore, the team did not receive any complaint regarding the demeanor of the prison authorities that would comprise treatment contrary with the respect of prisoner's dignity. During the visit friendly and interactive communication between detainees and correctional officers has been observed.

## **Accommodation conditions**

During its visit, the NPMT received complaints from pre-detainees and convicts regarding accommodation conditions which, in terms of space for prisoners, natural and artificial lighting, were not in accordance with the Law on Execution of Penal Sanctions (LEPS) and the European Committee for the Prevention of Torture (CPT) standards. NPMT was informed by the Management that during this year the PDCP has been painted.

## **Health care**

During the visit, the NPMT did not receive reliable complaints regarding the health care provided by the health unit in the PDCP. Health care services that cannot be provided at the PDCP are provided at other public health institutions. However, due to the infrastructure, the health unit operates in very difficult conditions.

## **Regime**

The NPMT observed that due to the infrastructure, regardless PDCP Management efforts, it is not in the position to engage the convicts and remand detainees with work, appropriate and resocialization activities as well as any trainings for them. The NPMT was informed that 8 prisoners were engaged in work. Activities for other inmates consist on taking walks in the yard twice per day in duration of one hour and a ping pong table set up in the yard of the PDCP as well as watching TV in their cells.

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<sup>1</sup> NPMT Report with recommendations for the visit to the Pre-Detention Center in Pejë, published on 22 November 2018. For more visit: <https://www.oik-rks.org/2018/11/22/raport-me-rekomandime-i-mekanizmit-kombetar-per-parandalimin-e-tortures-per-viziten-ne-qendren-e-paraburgimit-ne-peje/>

Engagement with work, activities or training generally remains a challenge for the PDCP as well, due to the infrastructure and the fact that pre-detainees' engagement in work or other activities is often subject to permission by the competent court. However, the NPMT encourages the competent authorities to make efforts to provide the detainees with a greater regime with work, training and other activities, as far as possible.

In this direction, NPMT notes that, with regard to their engagement at 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 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, Mandela 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 (CPT) for the visit in the Republic of Kosovo in 2015, published on 2016, CPT, as per the remand detainees regime, exposed concern that, apart from outdoor exercises (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.

### **Contacts with the outside world**

Contact with the outside world remains at a satisfactory level. On convicts and remand detainees disposal are family visits and telephone calls, as well as weekends for convicts who meet the criteria.

### **NPMT recommendations delivered through the Report published on 22 November 2018**

- 1. The Ministry of Justice to notify the Ombudsperson about the claims of the PDCP employees that this Center will be closed down.** NPMT received no response from the Ministry of Justice regarding this recommendation. However, during the visit, the NPMT was informed by the Directorate of PDCP that there is no official decision by the Ministry of Justice regarding PDCP closing.
- 2. To create appropriate conditions and working space for the medical staff.** During the visit, the NPMT noted that there had been no improvement and that medical staff continues to perform tasks in difficult conditions and with no space.
- 3. The number of detainees placed should be in accordance with the official capacity of the PDCP and to resolve as soon as possible the issue of overpopulation.** During the visit, the NPMT did not observe overcrowding and exceeding of the official capacity of the PDCP.
- 4. Accommodation conditions, as long as this center 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.**

The NPMT, during the visit, noted that the accommodation conditions in PDCP were not in line with the LEPS and international standards for the protection of prisoners' rights with regard to space, natural and artificial lighting. In certain cells (wing B), the NPMT has observed moisture. Recommendations Report of the NPMT, published on 22 November 2018, pointed out the same situation.

The PDCP was visited twice by the CPT in 2007 and 2015. As per accommodation conditions, the CPT in its 2007 Report on visit to Kosovo described these conditions as very poor and found that the size of the cells is not in accordance with the standards set by this Committee. In addition, the report states that the cells lack proper ventilation and lighting.

In addition, the CPT in its Report on visit to Kosovo in 2015 found that the accommodation conditions had not improved and generally remain as stated in the 2007 visit report.

Furthermore, CPT in its Report finds: *“For as long as this center is in use, efforts should be made to ensure that sanitary facilities are kept in appropriate condition with regard to physical conditions and that prisoners are provided with 4m2 of space per person in cells accommodating more than one remand detainee”*.

Based on ascertainties and findings obtained during the visit, in accordance with Article 135 paragraph 3 of the Constitution of the Republic of Kosovo and Article 16 paragraph 4 of the Law 05 / L019 on the Ombudsperson, the Ombudsperson recommends:

#### **Ministry of Justice:**

- **NPMT restates the need of providing appropriate working conditions and space for the medical staff.**
- **NPMT reiterates the recommendation that the conditions of accommodation, while this center is in use, comply with the minimum standards set by the Law on**

**Execution of Penal Sanctions; with CPT standards and other international standards for the protection of prisoners' rights.**

- **To make efforts to increase out-of-cell activities for remand detainees.**

In compliance with Article 132, paragraph 3, of the Constitution of Republic of Kosovo (*“Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law”*) and Article 28 of the Law No.05/L-019 on Ombudsperson, (*“Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, 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