



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

RECOMMENDATION LETTER

OF THE OMBUDSPERSON'S

NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

Related to the visits conducted to the following Police Stations:

1. Police Station in Gjakovë/Đakovica
2. Police Station in Rahovec/Orahovc
3. Police Station in Deçan/Dečani
4. Police Station in Pejë /Peć
5. Police Station in Vushtrri/Vučitern
6. Police Station in Shtime/Štimlje
7. Police Station in Fushë Kosovë /Kosovo Polje
8. Police Station in Lipjan/Lipljan
9. Border Crossing Point “Vërmicë” /Vermica
10. Regional Detention Centre in Prishtinë/Priština

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

**Mr. Lulzim Ejupi, Secretary General
Ministry of Internal Affairs**

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

Prishtinë, 16 December 2019

Cooperation with the NPMT during the visit

During their visit to the aforementioned stations, the Kosovo Police provided the NPM with full cooperation. The team without delay had access to all spaces intended to visit. The team was provided with all the information needed to perform the task and access to all required documents, and was able to interview arrested persons without the presence of police officers.

Guarantees against ill-treatment

According to the legislation at force in the Republic of Kosovo, those suspected of committing a criminal offense may be detained by the police for up to 48 hours before being sent to a pre-trial judge. The police may receive and collect information from persons who are at the location where the offense was committed and who can provide relevant information (maximum period of time: six hours).

The European Committee for the Prevention of Torture (hereinafter referred to as "the CPT"), in its 2nd General Report published in 1992, emphasized the importance of the three fundamental rights of persons arrested by the police: the right to be informed on his/her rights; the right to notify the third person of his / her choice of his or her arrest (family member, friend, consulate of the country of origin if a foreign national), the right to have a legal representatives, the right to be examined by a doctor of his choice (except for a medical examination by a doctor appointed by the police authority).¹

These rights should apply not only in the case of detained persons but also in other cases where citizens are forced to stay in the police or with the police even for other reasons (for example, for identification purposes).

According to the CPT, these rights are fundamental guarantees against physical mistreatment and should be applied from the first moment of deprivation of liberty, no matter how it is described within the legal system.

These fundamental rights are also provided by the Constitution of the Republic of Kosovo, the Code of Criminal Procedure and the Law on Police.²

Article 13 of the Criminal Procedure Code determines that any person deprived of liberty shall be informed promptly, in a language which he or she understands on the right to legal assistance of his or her own choice, the right to notify or to have notified a family member or another appropriate person of his or her choice and that these rights apply throughout the period of deprivation of liberty.³

With regard to the notification of arrest, Article 168 of the Criminal Procedure Code further provides that the arrested person has the right to notify the family member or other person of his or her choice of arrest and place of detention immediately after the arrest; the notification of the family member or other person regarding the arrest may be delayed up to

¹ See: <https://rm.coe.int/16806cea2f>.

² Constitution of Republic of Kosovo, Article 29 and 30. Penal Code of Republic of Kosovo, Article 13. Law No. 04/L-076 on Kosovo Police,

³ See also Articles 29 and 30 of the Constitution.

24 hours at the latest when the state prosecutor considers that this is conditioned by the urgent need to investigate the case. This delay shall not apply in the case of minors.

Law on Police⁴ the right to notify the family or other person of the arrest also applies to persons who are in "*temporary police custody*" for the purpose of identification or for their own protection and the protection of others.

The NPMT during the visit to the aforementioned police stations did not receive any complaints regarding these rights. Also, based on the reviewed documents it appears that the Kosovo Police has respected these rights. During the visits, the NPMT noted that in each cell there was written information on the rights of the arrested persons. During the visits, NPMT did not find any arrested juvenile.

Apart this, the NPMT observed that at each police station there were concrete documents in which the police authorities have exactly recorded each detail related to the arrested person.

III-treatment

During their visits to these stations, the NPMT did not receive complaints from the detainees about physical abuse or the failure to respect their fundamental rights.

Physical conditions of the visited police stations

At Gjakova Police Station, the NPMT observed that refurbishment of the detention center were necessary as they did not meet national and international standards to accommodate detained persons in their current condition.

In the Police Station in Pejë, NPMT observed that the cells were in very bad condition, with no natural light and very poor lighting.

During the visit to the **Police Station in Fushë Kosovë**, the NPMT observed that police officers work in very difficult conditions. Even during the NPM visit, the police station was short of water for several days.

In the Police Station in Deçan the NPMT noted that cells, where the arrested persons are located, were in a very bad condition and immediate renovations need to be taken as soon as possible. There is no natural light while lighting is poor. The same situation has been found by NPMT and was disclosed in the Report with Recommendations, published on 16 October 2018. Such a situation was also noted in the Report of the European Committee for the Prevention of Torture for the visits to Kosovo in 2007 and 2015.

Detention premises at the “Vërmicë” Border Crossing Point, even though it is expected that very soon the police authorities will use the new premises together with the State Police of the Republic of Albania, they should meet the minimum standards to accommodate detainees while they are in use.

NPMT considers that as short as the period of police detention may be, however, conditions in the cell must meet some basic requirements. The NPMT notes that the CPT, in its Second General Report, published on 13 April 1992 in Strasbourg, has set the standard for

⁴ Law on Police, Article 20.

the conditions in the cells where detainees are held, which states that: “*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; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets*”.⁵

At all stations visited, NPMT observed that the detainees were not provided with personal hygiene products. NPMT considers that relevant authorities should take concrete steps to provide detention centers with hygienic items

Call system

None of the stations visited has a call system. The NPMT, also through reports with recommendations previously published has recommended competent authorities to install such systems. The NPM notes that the CPT Report on its visit to Kosovo in 2015 recommended to the competent authorities in Kosovo that cells in police stations are equipped with a call system which would allow detainees easier contact with police officers in case of need.⁶

Regime

In its 12th General Report published in 2002, the European Committee for the Prevention of Torture states that persons held in police custody for 24 hours or more should, as far as possible, be offered outdoor exercise every day.⁷ **The NPMT was informed by police officials at the stations visited that the detainees were not provided with outdoor exercises, even when they stay there for more than 24 hours due to lack of physical conditions.** The NPMT considers that, in line with the CPT's recommendation, the competent authorities should, whenever possible, provide detainees with out-of-cell and outdoor activities.

Health Care

Medical services are fundamental right of people arrested by the police. NPMT was notified that at the Police Station in Istog, every arrested person initially undergoes medical checkup and then is placed in the cell. Medical services are provided by public institutions such as the nearest Family Medical Centers and the University Clinical Center, depending on the treatment needs. **The NPMT did not receive complaints from the interviewed persons regarding this right. Also, from the documents reviewed NPMT observed that the notification on the right to have medical services was recorded by Police in their personal files.**

NPMT observed that all information related to the medical services provided to the arrested persons is written in personal file of the same.

⁵ European Committee of Torture Prevention, 2nd General Report paragraph 42. For more info see: <https://rm.coe.int/1680696a3f>.

⁶ CPT Report on its visit to Kosovo in 2015, authorities' response. See at: <https://www.coe.int/en/web/cpt/kosovo>.

⁷ General 12th CPT Report, paragraph 47, at: <https://rm.coe.int/16806cd1ed>.

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 Internal Affairs:

- **NPMT reiterates the recommendation of conducting necessary renovations at police stations in Deçan as soon as possible.**
- **NPMT reiterates the recommendation of accomplishing necessary refurbishments in the Detention Center of the Police Station in Pejë.**
- **NPMT reiterates the recommendation of setting call systems, where necessary, in all cells in police stations where on hold premises are located.**
- **On hold persons to be provided with hygienic items.**
- **To refurbish or find another solution for the Police Station in Fushë Kosovë.**

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.

Warmly submitted,

Hilmi Jashari

Ombudsperson