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NATIONAL PREVENTIVE MECHANISM
REPORT ON VISITS TO THE DUBRAVA CORRECTIONAL CENTRE

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INTRODUCTION

Pursuant to 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 17 of the Law no.05/L-019 on Ombudsperson, Ombudsperson's National Preventive Mechanism of Torture visited Dubrava Correctional Centre.

Ombudsperson's National Preventive Mechanism of Torture (henceforth "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 centers, remand detention facilities, prisons, places where foreigners deprived of liberty are located, whose stay in the Republic of Kosovo collide with the Laws at force and are subject of forcible return from the Republic of Kosovo, as well as psychiatric and social care institutions.

Based on this mandate, NPMT, from 23 up to 26 February 2021, visited Dubrava Correctional Center (hereinafter: "DCC").

The purpose of this visit was to assess the respect of fundamental rights of detained persons, guaranteed by the Constitution of Republic of Kosovo, applicable Laws in the Republic of Kosovo as well as international standards on protection of human rights of persons deprived of liberty.

Cooperation with NPMT during the visit

1. During the visit made by NPMT at the DCC, the staff of Correctional Centre and Prison's Health Department (henceforward: PHD) provided the monitoring team with full cooperation. The team without any delay had access to all places intended to visit. The team was provided with all necessary information to discharge their duty and conversation with detainees and convicts without the presence of correctional officers and other personnel was enabled.

Information of convicts on their rights

2. Article 31 paragraph 2 of the Law on Execution of Penal Sanctions (henceforward: LEPS), explicitly stipulates: "*On the occasion of admission to a correctional facility, the convicted person shall be informed in written about the rights and obligations entitled to during the service of sentence. An illiterate convicted person shall be given this information orally*". NPM has noticed that various notices on prisoners' rights were placed on wards' wings. Further, in all DCC wards, the NPM has noticed that very simple notifications have been placed with regard to free legal aid, containing telephone numbers and other information, which can be very useful for prisoners.

Ill-treatment

3. During the visit conducted to this Centre, no credible complaints from detainees and convicts concerning ill-treatment and excessive use of force by the correctional officers of this Centre have been admitted by the NPMT. During the visit, NPMT observed that the level of interactive communication between convicts and correctional officers in on satisfactory level.

4. During the visit, the monitoring team interviewed remand detainees accommodated in the DCC, in order to obtain a clear picture of their treatment by the Kosovo Police and the respect for their basic rights, from the moment of arrest. All interviewed remand detainees pointed out that they have been treated correctly and professionally by the Kosovo Police and that their fundamental rights have been respected.

Complaints for corruption and preference

5. NPM has received allegations from prisoners about corruption and favors involving not only correctional staff but health staff as well. According to these allegations, by paying a certain amount of money or in any other way, prisoners can benefit from favorable treatment in terms of opportunities to work, family visits, temporary leave from the institution, medical treatment, etc. A number of allegations have been disclosed to NPM from prisoners claiming that certain prisoners of certain categories are treated with favoritism compared to other prisoners.
6. Regarding these allegations, the DCC Directorate has notified the NPM as follows: *“Our cooperation with Kosovo Police was ongoing with respect to several isolated cases in the course of which certain actions have been taken by us, up to dismissal from work. We have also some other suspect cases involving corruption, for which we are closely working with the Kosovo Police”*.
7. NPM through this Report also, without prejudice to whether such allegations are true or not, considers that DCC Directorate as well as responsible bodies of the Kosovo Correctional Service (KCS) should conduct comprehensive and independent investigations whenever allegations of corruption and favoritism in the DCC occur. Given authorities need to strengthen their efforts to combat these phenomena through preventive measures, education and the application of appropriate sanctions.

Material conditions

Nutrition

8. The NPMT notes that the Law on Execution of Penal Sanctions stipulates that the convicted person has the right to adequate nutrition in order to maintain health and power, that is on three daily meals, which must be various and nutritious. The food provided to a convicted person must be adjusted to the age and health condition, the nature of work, the season and the climatic conditions and, to the extent possible, adjustable to religious and cultural requirements of the detainees. Further, the Law determines the obligation that the convicted person is provided with food prescribed by the doctor.¹
9. NPM observes that Mandela Rules also determine authorities’ liabilities to ensure appropriate nutrition to prisoners in order to maintain their health as well as drinking water all the time.² In this direction, European Prison Rules determine the liabilities of authorities to provide the prisoners with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work. The food shall be prepared and served hygienically, while clean drinking water shall be available to

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

² Mandela Rules, Rule 22.

prisoners at all times.³ The NPM received a significant number of complaints regarding the quality and quantity of food.

10. Food control is conducted by the health service by taking samples which are monitored for 72 hours, as well as it takes care for the quality of the food based on the daily-weekly menu as well as the diet food. On 24 March 2021, the NPM requested PHD's comments regarding prisoners' complaints with respect to the quality and quantity of the food served.
11. PHD, on 25 March 2021, informed the NPM that the kitchen is inspected by a doctor and food samples are taken daily and stored in a safe place. The announcement further states: *"With regard to food quality, there have been cases when the doctor has made a report and improvement of food quality is requested, but of great importance remain conditions of food storage, hygiene, serving and storage of food samples, which are continuously monitored and we can say that so far we have not had mass food poisoning in the Centre."*
12. The NPM has noticed that 9 prisoners should receive dietary food based on the doctor's recommendation. The NPM, through document control, observed that prisoners are provided with dietary food according to doctor's recommendation.

Kitchen in DCC

13. During the visit to the kitchen, the NPM noticed that 2 cooks and 15-20 prisoners were engaged in work. Those engaged in the kitchen, including prisoners, are not provided with sanitary booklets, which for NPM presents a serious concern. NPM has noticed that kitchen appliances are very old; in use maybe more than 20 years and that due to it they often have technical problems or are out of order. Another NPM concern during the visit in the kitchen was lack of sufficient disinfectants and gloves there. The kitchen staff estimates that given that 1000 meals are prepared in this kitchen during the day, increase of staff's number is a must.
14. The NPM has noticed that the warehouse where long-term food is kept was in good condition and possesses the conditions needed for food storage and there is no moisture. No expired products were found. During the visit to the warehouse, the NPM noticed that the way how the lift is used poses a risk from electricity. As per state of lift and the way how it is used, on 9 March 2021, NPM requested comments of the DCC Directorate. According to the Directorate, this type of elevator is an old model and spare parts for this model cannot be found in the market. The maintenance office is trying to modify it so as not to endanger staff and convicts. Moreover, according to the Directorate, the system is equipped with a device which converts 220 volts to 12 volts and thus does not pose a risk to human life.
15. The NPM observed that in the space used for laundry there is water leaking from the ceiling. According to the prisoner who was engaged in work, the leaking water comes from the bathrooms. The NPM was informed that only 2 washing machines are functional, the others were out of order. In general, NPM was informed by the staff that, technical conditions are not good, washing machines often are out of function and as a result, sometimes clothes are washed with cold water. Also, the NPM was informed that

³ European Prison Rules, Rule 22.1 up to 22.6.

there are not enough disinfectants and gloves. The NPM considers that the competent authorities should increase their efforts to avoid these shortcomings, especially given that the COVID-19 pandemic is still present in the country.

16. In connection with above, on 23 March 2021, the NPM, through an official letter, requested from the Food and Veterinary Agency submission of the final inspection report to the DCC. The given Agency, on 31 March 2021, forwarded to NPM the inspection Report to the DCC. This Report is from 2019.
17. Findings in the Report are of serious concern regarding the technical condition of the equipment, lack of disinfectants, various technical adjustments that must be done, which must be avoided in order to implement recommendations provided by Food and Veterinary Agency. The NPM encourages responsible authorities to take concrete actions to avoid shortcomings observed by the NPM during the visit and to implement recommendations provided by Veterinary and Food Agency.

Accommodation conditions

18. Accommodation conditions differ from Ward to Ward. The NPM has noted that the number of prisoners was significantly reduced due to the COVID-19 pandemic. Thus, 572 prisoners were present during the visit, while the official capacity of the DCC is 1030. The NPM salutes such actions of responsible authorities to reduce the number of prisoners. Such actions are in line with Ombudsperson's recommendations and credible international organizations such as the CPT⁴ and the UN Subcommittee on Prevention of Torture.⁵
19. Generally, accommodation conditions can be considered to be in accordance with LEPS and international standards for prisoners' rights, except in Wards 2, 3 and 5 where NPM has noticed that certain renovations are needed, while in some cells humidity is present, while in ward 1 there were cells whose toilets lack water, therefore prisoners were forced to use collective toilet, which means that whenever they want to go to the collective toilet they have to call the correctional officers to open the door for them. NPM considers that these shortcomings should be addressed immediately by responsible authorities.
20. Further, NPM received in certain cases some allegations from prisoners with regard to the lack of hot water (wards 1, 2, 3, and 5). But NPM has also received allegations from other prisoners that there is hot water and that they can take showers according to the set routine.
21. During the visit NPMT paid specific attention to prisoners, to whom the measure of solitary confinement is imposed due to breach of the discipline. The NPMT notes that the Law on Execution of Penal Sanctions stipulates that the room for the execution of solitary

⁴ Council of Europe anti-torture Committee, "Statement of principles relating to the treatment of persons deprived of their liberty at the time of COVID -19" published on 20 March 2020, Strasbourg. For more info visit: <https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty->

⁵ UN Subcommittee on Torture Prevention, Advisory to the Signatory Parties to the Optional Protocol and National Preventive Mechanisms on the COVID-19 Pandemic, adopted on 25 March 2020. See at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Advice%20of%20the%20Subcommittee%20on%20Prevention%20of%20Torture%20to%20States%20Parties%20and%20National%20Preventive%20Mechanisms%20relating%20to%20the%20Coronavirus%20Pandemic%20%28adopted%20on%2025th%20March%202020%29.pdf>

confinement should have a space of at least ten (10) cubic meters, sanitary equipment, natural light, drinking water, bedding with sheets, table, chair and heating.⁶

22. Further, European Committee for the Prevention of Torture (hereinafter “CPT”), as per the accommodation conditions in cell where a prisoner, to whom the measure of solitary confinement is imposed, points out that such cells used for solitary confinement should meet the same minimum standards as those applicable to other prisoner accommodation. Thus they should be of an adequate size, enjoy access to natural light and be equipped with adequate heating and ventilation. CPT further stresses that such cells should be equipped, as a minimum, with a table, adequate seating for the daytime, and a proper bed and bedding.⁷
23. NPMT has observed that accommodation conditions in these cells are in full compliance with standards set by the Law on Execution of Penal Sanctions and standards set by the European Committee for the Prevention of Torture.⁸
24. During the visit, it was again observed that the prisoners use self-invented electrical appliances for heating the water, which can seriously endanger their lives. According to the prisoners, in the absence of hot water, they are forced to use such self-invented appliances.
25. The NPM noted that prisoners were generally supplied with new mattresses and blankets, as well as sheets, which in the past posed a serious problem as previous mattresses were of poor quality and moisture. However, there were cases when the NPM observed that prisoners have not yet been supplied with mattresses, sheets and blankets. In this regard, the NPM immediately expressed its concern to responsible officials, who informed the NPM that there is no shortage of supplies in this regard and that this shortcoming will be avoided as soon as possible.

Regime

26. As per Regime is concerned, based on the relevant documents, the NPM has noticed that there are about 262 prisoners engaged in work. Such engagement is greater during the summer. Convicts are usually engaged with work in the kitchen, cleaning and on DCC farms. High school is running within the DCC, in which 35 students attend their lessons. Convicts can move freely inside the wards where they are located and are entitled to 3 hours of walking per day during the summer and up to 2 hours per day during the winter.⁹
27. Additionally, there are three workshops within the DCC, which in fact are also centers for professional training, where trainings are organized for welding, construction, adjuster, carpentry, technical maintenance, water and electric installation. Courses are organized in these workshops, in the duration of three months. In general, during the visit conducted, the NPM has noticed that prisoners’ engagement in work, in different activities, in

⁶ Law on Execution of Criminal Sanctions, Article 111, paragraph 2.

⁷ European Committee for the Prevention of Torture, Part from the 21 General Report, published on 2011, for additional information visit : <https://rm.coe.int/16806cccc6>, (21.5.2018)

⁸ CPT Standards concerning accommodation conditions for the prisoners to whom the measure of solitary confinement is imposed are determined throughout 21st General Report. For more info visit: <https://rm.coe.int/16806cccc6>.

⁹ According to Article 37 of the Law on Execution of Penal Sanctions, the convicts are entitled to at least two hours walking outside on a fresh air.

vocational training, etc., is greater compared to the previous period and that progress has been made in this regard..

28. The fitness room and football court are available to prisoners within the DCC. Due to COVID-19 sports hall cannot be used, until another decision is issued.
29. Due to COVID-19, prisoners who enjoy the right to weekends or other benefits which mean leaving the DCC, upon returning to the DCC are subject to quarantine for 7 days.

Health care

30. Prison hospital functions within Dubrava Correctional Centre, which provides medical services to prisoners, in which six full-time general practitioners are engaged, 26 nurses, 4 of them are engaged only in night shift (12 hours), while 4 others in day shift (12 hours), others are engaged on a regular basis from 08:00 to 16:00, a full-time psychologist, a physiotherapist, who at the moment is on maternity leave and is replaced by a part-time physiotherapist (4 hours).
31. Depending on needs and assessment, the prison hospital is supported by other public health institutions, such as Peja Regional Hospital, the Emergency and the Kosovo University and Clinical Hospital Service (HUČSK) in general. There are 11 different specialists who are part of counseling which are provided. Additionally, in the availability of the prison hospital there is a Pulmonologist, Radiologist, General Surgeon, Physiatrist, Physical Therapy Technician, Neurologist, Urologist, ORL, Ophthalmologist, Dermatologist, as well as Radiologic Technologist.
32. Prisoners' transport to other health institutions and vice versa is done by an ambulance of health service which is equipped with all necessary equipment and staff.
33. The NPM has noticed that the most common diseases are of loco motor system 172, gastrointestinal system 139, neurotic syndromes 129, psychotic syndromes 105, cardiovascular diseases, skin and respiratory system diseases 116, etc. With regard to LGBT groups, NPM has observed that no one has been identified by the authorities, actually no prisoner was declared to belong to this category.
34. During the visit to the Psychiatric ward of the DCC hospital NPM has noticed that 8 persons were under permanent care, while two in ward 7 who were under control and do not need hospitalization. Based on health service statistics, 41% of inmates use psychiatric therapy. Psychiatric treatment generally consists of therapy prescribed by a psychiatrist, but not psycho-social activities.
35. During the visit, NPM has noticed that in the Organic ward a patient with disabilities is placed, alone in the room, which does not meet the conditions for such a person. Based on this finding, during the visit, NPM has recommended that the given person is transferred to another room which meets the conditions for accommodation of such person as well as placement of other person in the room is requested.
36. NPM has observed that patient U.K. is accommodated in the Psychiatric ward, who during 2020 was self-injured several times, while during 2021 two times. During the interview conducted, the team noticed that different objects were present in the room of given person, such as canned food, which can be used for self-harm or injury of another person. Based on this situation, the NPM immediately recommended that shaving

elements as well as food is served to him without any of elements which can pose risk for him or others.

37. From medical files it is noticed that psychiatric services are being provided, but also the increased use of psychotic therapies was noticed. As per provision of psychological services, the NPM considers that the number of prisoners in the DCC is too large to be covered with psychological services of only one psychologist. The NPM encourages the PHD to make arrangements for engagement of another psychologist at the DCC.
38. With regard to deaths in DCC, NPM has noticed that in 2020 there were 8 such cases: two (2) self-hanging and six (6) from chronic diseases, of which two were confirmed with COVID-19, while one suspected but not a confirmed case by COVID-19. While in 2021, so far there is one (1) case with COVID-19.
39. Autopsy is done only in suspected cases and those that occur within 24 hours and which are sudden. A copy of autopsy report is not submitted to the health service for placement in the patient file.

Prevention of suicide and self-harm

40. The NPM notes that the LEPS states that one of the purposes of early medical examinations is to prevent suicide and self-harm. The LEPS further stipulates that if a convicted person attempts to harm him or herself or to commit suicide, a professional multidisciplinary team shall initiate the action necessary to assist him or her to address whatever is causing him or her to be inclined to attempt such action.¹⁰
41. During the visit, the NPM noticed that in order to prevent suicides and self-injuries, health service undertakes actions through medical examinations immediately upon prisoner's admission, which are based on the assessment of the health condition and later with psychological assessment, as well as provision of sports activities and engagement in work by the DCC directorate. The NPM, from reviewed documents has noticed that in 2020, there were 43 self-injuries, 55 bodily injuries, 8 suicide attempts. Two of these suicide attempts have ended with death.

Transmissible diseases

42. CPT Standards determines that: "*A prison health care service should ensure that information about transmittable diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. Where appropriate, medical control of those with whom a particular prisoner has regular contact (fellow prisoners, prison staff, frequent visitors) should be carried out*".¹¹
43. CPT further stipulates: "*As regards more particularly AIDS, appropriate counseling should be provided both before and, if necessary, after any screening test. Prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality*".¹²

¹⁰ Law on Execution of Penal Sanctions, Article 47.

¹¹ European Committee for the Prevention of Torture, Excerpts from the 3rd General Report, published in 1993. See at: <https://rm.coe.int/16806ce91b> (11.3.2021)

¹² Ibid.

44. During the visit to the DCC, the NPM noticed that one case was registered with STD (AIDS) and 3 cases of Hepatitis C positive which are managed by staff trained in cooperation with the Clinic of Infectious Diseases. With regard to this disease, immunization of medical staff and revaccination of those vaccinated has been done in the National Institute of Public Health (hereinafter, NIPHK), while all new employees are obliged to be vaccinated in the NIPHK.
45. Additionally, in respect of treatment and prevention of TB and HBV & HCV, PHD has entered into agreements with the NGO "KEA" for monitoring, training, treatment and comprehensive professional support. The NPM has also noted that condoms are placed in health care facilities in places that provide confidentiality to prisoners who take them.

Systematic control of drugs, alcohol and tobacco abusers/ users

46. Systematic control of abusers and users of drugs, alcohol and tobacco is done through their identification upon admission, continuing further through their monitoring which means providing them with information on the consequences of use, treatment with appropriate therapy which should be used continuously and through training of personnel to work with this category of persons. Also, through cooperation with other institutions which deal with treatment of this category of persons.
47. Based on documents reviewed, the NPM notes that in 2020, 494 prisoners were registered as tobacco users, while in January 2021 were registered 38 of them. In 2020, 226 alcohol abusers were identified, while in January 2021, 16 of them. With regard to drug abuse, in 2020, there were 153 persons registered, while in January 2021, 19 drug abusers were registered.
48. NPM has noticed that at prisoners' disposal is the program with methadone which is accomplished according to the protocol defined by Standard Operation Procedure (hereinafter, SOP), as well as trainings and support which is provided by Center for Counseling and Treatment of Addiction "Labyrinth" for drugs and treatment of users in accordance with national protocols for newly admitted prisoners who are identified as such, as well as for treatment of those released from prison and continuing with a methadone program.
49. As per the supply with drugs is concerned, the NPM has noticed that there is a sufficient drug supply. While in the early stages of the COVID-19 pandemic, there were rare and temporary shortages of certain drugs. No expired drugs were found during the visit. All expired drugs are removed and packed for destruction and placed in storage. The distribution of medicines is done by nursing staff and is done in a way that provides confidentiality.
50. With regard to convicts with imposed disciplinary measure of solitary confinement, the NPM has noticed that the medical staff does not participate in the decision-making when imposing a disciplinary measure on the prisoner, but only reports on the health condition of given prisoner. Based on the relevant documents, every 2-3 days the prisoner punished with the disciplinary measure of solitary confinement is visited by the doctor, while the nurse visits him at least once a day in the course of which vital parameters are measured.
51. Monitoring and inspection of enforcement of provisions in the field of health is done by the bodies of the Ministry of Health - Inspectorate, NPM, NGOs which sign agreements

with competent bodies, as well as international monitoring mechanisms, such as the CPT, International Red Cross, etc. With respect to registers, the NPM has observed that hard copies as well as electronic registers are used by health service.

52. Even during this visit, the NPM has noticed that the hospital, even though it underwent some floor renovations of the premises where the patients reside, still fail to meet conditions for appropriate treatment of hospitalized persons. The hospital is divided into two wards: the psychiatric ward and the organic diseases ward.
53. NPM has observed that ward 7 is a part of the health service where prisoners with various problems are accommodated, the state of which can be easily managed, but they need health care. At the time of the visit, 15 people were placed there and all of them were receiving the therapy which responds to the diagnosis they have.

Importance of medical examinations of newly-arrived prisoners

54. CPT as well as other international legal acts repeatedly point out the importance of medical screening of the newly-arrived prisoners, specifically in institutions which constitute access points to the prison system. Such screening is crucial, especially to prevent suicides and spread of transmissible diseases (such as tuberculosis, hepatitis B/C, HIV).
55. According to CPT, prison health-care services can also make a significant contribution to the prevention of ill-treatment during the period immediately prior to imprisonment, namely when persons are in the custody of law enforcement agencies, through the systematic and timely recording of injuries and, when appropriate, the provision of information to the relevant authorities.¹³
56. Law No. 04/L-149 on Execution of Penal Sanctions¹⁴ and Standard Operating Procedure¹⁵ of the PHD determine the liability that the newly –arrived convicted person is subject to medical examination within 24 hours, from the moment he/she has been admitted.
57. Such obligations are determined also by international acts for protection of rights of convicted persons such as: Mandela Rules¹⁶, European Prison Rules¹⁷ and United Nations Rules for the Protection of Juveniles Deprived of Liberty.¹⁸
58. Based on allegations of detainees as well as relevant medical documents, the newly – admitted detained persons are subject to medical examination within 24 hours, from the moment of arriving in the DCC. These controls mean a general search according to the Standard Operating Procedure of the Prison Health Department (PHD).

¹³ European Committee for the Prevention of Torture, 26 General Report, paragraph 72, at: <https://rm.coe.int/168070d0c8>.

¹⁴ Law No. 04/L-149 on Execution of Penal Sanctions, Article 31.

¹⁵ Standard Operating Procedure, point 1. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standard-te-Veprimit-n%C3%AB-DShB.pdf>.

¹⁶ Mandela Rules, Rule 34. See at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

¹⁷ Council of Europe, Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules, point 42.1, see at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c221d>.

¹⁸ United Nations Rules for the Protection of Juveniles Deprived of Liberty, point 27, at: https://www.ohchr.org/Documents/ProfessionalInterest/res45_113.pdf.

Confidentiality of medical services

59. Based on information obtained from health service staff and interviews with prisoners, health services generally are provided without the presence of correctional officers.
60. Confidentiality of medical services is foreseen by Standard Operating Procedure¹⁹ adopted by the Ministry of Health, the Law on Execution of Penal Sanctions²⁰, CPT Standards,²¹ as well as with international acts such as: Mandela Rules²² and United Nations Rules for the Protection of Juveniles Deprived of Liberty.²³
61. Moreover, the CPT standards also stipulate that all medical examinations of prisoners must be carried out so that they are not seen and heard by correctional officers, except in cases where the doctor asks for such a thing.
62. Additionally, Article 25 paragraph 3 of Administrative Instruction concerning House Rules in Correctional Institutions determines explicitly: *“The doctor makes the medical visit in terms of confidentiality and in professional ethical norms”*.

Personnel of Dubrava Correctional Centre

63. Even during this visit, the NPM has noticed insufficient number of correctional staff, social workers and psychologists. During the visit, the NPMT received also many complaints from correctional staff regarding the insufficient number of correctional officers in relation to prisoners and other working conditions. One of many complaints addressed is also the failure to supply with uniforms and other necessary equipment to carry out their work.

Social service in DCC

64. During the visit to the DCC, the NPM received complaints about ineffective social services from social workers. In this regard, the NPM has requested comments of the DCC directorate. According to the directorate, from 8 March 2021, all officials of social work will be present throughout the week in the wards. The NPM welcomes this decision of the DCC Directorate. However, the number of social workers remains very low compared with the number of prisoners and their overburdening with administrative work.

Disciplinary measures

65. According to the applicable legislation, prisoners may be subjected to the following disciplinary measures: reprimand, deprivation of an assigned privilege, order for restitution and solitary confinement.²⁴ While in the case of pre-detainees they can be subjected to the following sanctions: prohibition or restriction of visits or correspondence, apart contacts with defense counsel, the Ombudsperson and diplomatic missions. During the visit, as per analyzing the situation in this regard, the NPMT reviewed several

¹⁹ Standard Operating Procedure, point: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standarde-te-Veprimit-n%C3%AB-DShB.pdf>.

Law No. 04/L-149 on Execution of Penal Sanctions, Article 49.

²¹ CPT Standards, published in 2018, paragraphs 50 and 51. For more info visit: <https://rm.coe.int/16806ce943>.

²² Mandela Rules, Rule 26, point 2, at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

²³ United Nations Rules for the Protection of Juveniles Deprived of Liberty, point A, Rule 19, at: https://www.ohchr.org/Documents/ProfessionalInterest/res45_113.pdf.

²⁴ Paragraphs from 101 to 113 of Law on Execution of Penal Sanctions.

decisions of DCC directorate by which the detainees have been imposed several disciplinary measures, including the measure of solitary confinement.

66. Based on DCC statistics, the disciplinary measure of solitary confinement so far (in January and February 2021) was imposed in 34 cases. The NPM has noticed that the DCC maintains a register of imposed disciplinary measures, which records data regarding the measure imposed, the reason, the time of imposition and the time of termination.
67. Also, these disciplinary decisions are submitted to the prisoners and through them they are informed on available legal remedies, if they are dissatisfied with the disciplinary measure imposed.

Contacts with the outside world

68. Legislation at effect²⁵, in the case of convicted persons determines that imprisoned detainees shall have the unlimited right of correspondence (subjected to specific exceptions), shall have the right to receive a visit at least once each month for a minimum of one hour as well as are entitled to a visit by the spouse and children at least once in three months for a minimum of three hours.
69. Apart this, they have the right to make telephone calls. Based on interviews conducted with the confined persons, they are entitled to family visits, weekends as well as contacts with their families through SKYPE. The NPM has noticed that communication with SKYPE has been welcomed by prisoners, especially foreign prisoners. Therefore, the NPM encourages the DCC to continue with this type of communication.
70. Regarding phone calls, Administrative Instruction on House Rules in the Correctional Institutions²⁶ determines that convicted persons may have phone calls to close family members and other persons. According to this Instruction, phone calls of convicts and remand detainees shall not last more than 15 (fifteen minutes).
71. Convicts enjoy the right to phone calls depending on the regime, while in certain wards calls are unlimited. In the case of the remand detainees, Article 200 of Criminal Procedure Code of Kosovo determines that the detainee on remand may receive visits “*within the limits of the rules of the detention facility*”, based on the permission of the pre-trial judge and under his/her supervision.
72. Further the Code determines that correspondence and other visits are subject to the decision of the pre-trial procedures. Based on interviews with remand prisoners it derives that they are entitled two visits per month according to the permission from the Court as well as one additional visit, based on remand detained person’s request submitted in certain circumstances.
73. Ombudsperson or his representatives may visit the detained persons and contact with him without prior notification and without the supervision of the pre-trial judge, single trial judge or presiding trial judge or other persons appointed from such judge. Letters of the detained person sent to the Ombudsperson Institution cannot be controlled. The Ombudsperson and his representatives may communicate verbally or in writing in a

²⁵ Law on Execution of Penal Sanctions, Article 62-65.

²⁶ Administrative Instruction on House Rules in the Correctional Institutions, Article 54.

confidential manner with the detained person. Further, the detainees can address Ombudsperson's NPMT by phone.

74. In the case of foreign nationals, they shall be provided with the opportunity to contact a diplomatic representation in writing or verbally or the relevant office of his or her State of nationality.²⁷ During the visit, NPMT interviewed several foreign nationals, who did not complain as per treatment by correctional officers as well as relation with other incarcerated persons accommodated in this Centre. On the contrary, they spoke in the favor of very positive relations, whether towards officers as well as to other detainees.

Facilities where visitors are admitted

75. During the visit, NPMT visited also the premises where family visits occur. Conditions in these facilities remain at satisfying level and there are no obstacles that might hinder the direct contact between family members and the detainees. Moreover, the halls where family visits take place were decorated with various paintings by the prisoners, which now have a beautiful visual look.

Security-interrelated issues

76. The NPM, during the visit, observed that the control room is generally well equipped with security cameras, even though some of them were out of function. But in some Wards security cameras with HD resolution have been installed and were of rotational type, which provide view of high quality.
77. NPMT salutes this progress. NPMT again encourages DCC authorities to equip all corridors of wards and external areas with security cameras, which according to CPT comprise one of guarantees for protection from ill-treatment but also a guarantee for the correctional officials when they are falsely accused.²⁸

Incidents between the detainees

78. Based on the relevant documents, the NPM has noticed that during this year, actually within period January-February 2021, 16 incidents occurred between prisoners were registered. During the visit, the NPM witnessed an incident between two detainees. The NPM noticed that correctional staff's reaction was prompt and professional and that physical confrontation was terminated within a few seconds.
79. Further, adequate measures were also taken immediately to prevent further contact and re-confrontation between two inmates. The NPM has noticed that these incidents have been identified in the relevant forms, medical assistance has been provided as needed and the actions foreseen by the LEPS have been taken.

Complaint procedure

80. Effective system of complaint filing is a basic guarantee against the ill-treatment in prison and pre-detention centers. Persons accommodated in these centers should have the opportunity to file complaints within the prison or detention center where they are located and that access to relevant authorities is done in confidential manner.

²⁷ Law on Execution of Penal Sanctions, Article 33 paragraph 1.

²⁸ CPT, Report on the visit to Ireland in 2010, paragraph 18.

81. Article 91 of the Law on Execution of Penal Sanctions determines in details the procedure according to which the remand detainees and the convicts can address with complaints or request to the director of a certain institution of the Kosovo Correctional Centre. The procedure involves also the deadlines for provision of response by the director as well as the opportunity to address another authority that in the given case is the General Directory of the Correctional Service and the Ministry of Justice.²⁹
82. NPMT observed that complaint boxes, placed by the Correctional Service as well as those placed by the Prison Health Department and the Ombudsperson Institution are on disposal to the convicts. Complaint boxes placed by the Ombudsperson Institution can be open solely by the staff of this institution, which provides the convicted person with confidentiality in lodging a complaint.
83. During the visit, the NPM received complaints from some detainees for the failure to obtain response from DCC and KCS Directorates on their requests and complaints. In this regard, the NPM has requested comments of the Directorate of the DCC. According to the Directorate, maximum efforts are being made to meet this legal obligation and that competent officials again will be provided with clear instructions in order to fulfill this legal obligation without delay. The NPM will monitor this issue through follow-up visits.
84. Based on findings and ascertainments achieved in the course of the visit, pursuant to Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 17, paragraph 7 of the Law 05/L019 on Ombudsperson, the Ombudsperson

RECOMMENDS

The Ministry of Justice:

- **To provide all staff and prisoners engaged in kitchen work with sanitary booklets.**
- **To supply the kitchen with sufficient hygienic materials (disinfectants, gloves, etc.).**
- **To avoid inadequacies in technical equipment in the kitchen and laundry.**
- **To carry out renovations according to needs and assessment in the designated wards (see paragraph 19 of this Report).**
- **To increase the number of correctional staff, social workers and other staff as needed and evaluated.**

²⁹ Article 91, paragraph 4 of the Law No. 04/L-149 on Execution of Penal Sanctions, stipulates: The director of the correctional facility will respond in the appeal 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 appeal a response in the written form will be issued.

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,

Naim Qelaj

Ombudsperson