



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

---

## **NATIONAL PREVENTIVE MECHANISM'S REPORT**

### **REGARDING THE VISITS CONDUCTED TO THE PRE-DETENTION CENTRE IN PRISHTINË**

**Addressed to:** Mrs. Albulena Haxhiu, Minister  
Ministry of Justice

**Copy:** Mrs. Duda Balje, President  
Committee on Human Rights, Gender Equality, Missing Persons  
and Petitions

**Mr. Habit Hajredini, Director  
Office of Good Governance, Office of Prime Minister**

**Mr. Ali Gashi, Acting General Director  
Kosovo Correctional Service**

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

**Mr. Sami Gashi, Director  
Detention Centre in Prishtinë**

**Prishtinë, 1 December 2021**

## INTRODUCTION

Pursuant to Article 17 of the Law No. 05/L-019 on Ombudsperson, National Preventive Mechanism of Torture (henceforward NPMT) of the Ombudsperson, on 5 October 2021, visited Pre-Detention Centre in Prishtinë (henceforth: *PDCP*).

National Preventive Mechanism of Torture, based on Article 17 of the Law No. 05/L-019 on Ombudsperson, can conduct at any time and unannounced visits to all places where people deprived of their liberty are held, including police detention, remand detention establishments, prisons, places where detained foreigners are located as well as psychiatric and social care institutions.

Apart pre-detainees, a small number of convicts are accommodated in PDCP. Official capacity of the Centre is 300 persons. During the visit conducted by the NPMT to the PDCP, it found that 190 remand detainees as well as 52 convicted persons were placed in this establishment.

### **The purpose of the visit**

1. The purpose of this visit was to conduct a general assessment of the respect of human rights of incarcerated persons, rights guaranteed by the Constitution of Republic of Kosovo, applicable Laws in the Republic of Kosovo as well as international standards on the rights of persons deprived of liberty.

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

2. During the visit made by NPMT to the Pre-Detention Centre in Prishtine, the staff of Kosovo Correctional Centre (*hereinafter KCC*) and Prison's Health Department (*henceforward PHD*) provided the monitoring team with full cooperation. The team, without any delay, gained access to all places intended to visit. The team was provided with all necessary information to discharge their duty and conversations, without the presence of correctional officers as well as health medical personnel, have been enabled.

### **Information regarding prisoners' rights**

3. Administrative Instruction MoJ-No. 07/2015 on the House Rules in the Correctional Institutions (*hereinafter the House Rules*) sets the obligation of correctional establishments to immediately upon admission provide conditions whereby the convicted person is introduced, in written, with his/her rights and duties while serving the sentence.
4. Further, the *House Rules* and the Law on Execution of Penal Sanctions (*hereinafter LEPS*) are on prisoners' disposal all the time. Illiterate convicted person, who cannot read or write, will be informed verbally.<sup>1</sup> **However, NPMT in the course of the visit, noticed that the only document in prisoners' cells concerns the daily routine.**

### **Physical ill-treatment**

5. During the visit conducted to the PDCP, NPMT interviewed a considerable number of inmates and did not receive any complaint regarding ill-treatment and excessive use of force by the correctional officers or demeanor of the prison authorities that would comprise violation of prisoner's dignity. Apart this, NPMT observed that there is a

---

<sup>1</sup> Administrative Instruction MoJ-No. 07/2015 on the House Rules in the Correctional Institutions, Article 20.

positive spirit of relations and good interactive communication between detainees and correctional officers.

6. Additionally, the NPMT, during the visit to the PDCP, did not receive complaints from prisoners regarding the treatment and respect of their basic rights by the Kosovo Police.

### **Accommodation conditions**

7. LEPS explicitly stipulates that a convicted person has a right to accommodation which corresponds to contemporary hygienic conditions and local climatic circumstances.<sup>2</sup> Further the Law stipulates: *“The premises in which a convicted person lives and works must be of sufficient space for each convicted person to have at a minimum eight (8) square meters of space for single cells and four (4) square meters for the convicted persons in joint cells, and an adequate amount of natural and artificial lighting for work and reading, heating and ventilation”*.<sup>3</sup>
8. The NPM noted that the cells where prisoners are accommodated have sufficient natural light, a living space which goes beyond the standard set by LEPS and the standards set by the European Committee for the Prevention of Torture (henceforth *CPT*).<sup>4</sup> During the visit, the NPMT noticed that there were adequate cells available to disabled detainees, however, some cells lack adequate furniture to store belongings.
9. During the visit, the NPMT observed that some renovations were carried out, in order of avoiding damages into certain parts of this establishment, although a new building, it faced numerous infrastructural problems immediately after being put in function.

### **Nutrition**

10. The Law on Execution of Penal Sanctions determines the right of a convicted person on food suitable for him or her to maintain good health and strength in three (3) meals each day, which must be varied and nutritious. The food provided to a convicted person shall take into account his or her age and health, the nature of his or her work, the season and climatic conditions and, as far as possible, his or her religious and cultural requirements.<sup>5</sup>
11. Furthermore, the Law stipulates that the convicted person who works in heavier duties, a sick person, a pregnant woman or a woman who has given a birth to a child has the right to food ordered by a physician.<sup>6</sup> **The NPMT did not receive any complaints from prisoners regarding the quality and quantity of food.** Also, dietary food is available to prisoners, as recommended by the physician.

### **Regime**

12. Very small number of remand detainees are employed in the PDCP, while the number of convicts engaged in work is higher. In the case of remand detainees, their engagement in work depends on Court’s permission.

---

<sup>2</sup> Law No. 04/L-149 on Execution of Penal Sanctions, Article 36, paragraph 1.

<sup>3</sup> Law no. 05/L0-129, Article 3 of the Law on Amending and Supplementing the Law no. 04/l-149 on the Execution of Penal Sanctions.

<sup>4</sup> European Committee for the Prevention of Torture, Living space per prisoner in prison establishment, for more info visit: <https://rm.coe.int/16806cc449/>

<sup>5</sup> Law on Execution of Penal Sanctions, Article 39, paragraph 1.

<sup>6</sup> Law on Execution of Penal Sanctions, Article, par.39, par. 2.

13. Prisoners are entitled to two hours of going out for a walk during the day, as provided by the LEPS.<sup>7</sup> PDCP has four walking paths and two sports fields, which are not in use. Remand detainees spend most of their time, respectively 22 hours, in their cells due to lack of engagement in work or activities, such as sports, education, training, etc.
14. NPMT notes that with regard to engagement at work of remand detainees, 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.”*
15. 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”*.
16. The NPMT considers that, based on the legislation in force, the Mandela Rules and the CPT recommendations,<sup>8</sup> the competent authorities should make efforts to increase out-of-cell engagements for detainees, not only in the PDCP, but also in other detention centers, as far as possible.

### **Incidents among the detainees**

17. Prison authorities have positive obligations to prevent violence between prisoners for whom they are responsible. Based on the relevant documents, as well as directorate and the prisoners' claims, no serious incidents were registered between the prisoners during this year in the PDCP.

### **Health care**

18. Article 43 of Law no. 05 / I-129 on Amending and Supplementing of the Law no. 04 / L-149 on the Execution of Penal Sanctions stipulates that the convict shall enjoy the same standards of health care, which are available in the community. The LEPS further stipulates that these medical services are provided free of charge to prisoners. The health unit in PDCP consists of two full-time doctors and seven nurses.
19. While the dentist and psychiatrist are available once a week. The psychologist is engaged on a regular schedule of 8 hours a day. The methadone program is also available to prisoners. In the laboratory of the health unit, biochemical and CBC tests can be done.
20. Other specialist services are performed in health institutions: in regional hospitals and in those of the University Clinical Center of Kosovo (UCCK). The NPMT did not receive any complaints from prisoners regarding the medical services provided to them at the PDCP.

---

<sup>7</sup> Law No. 04/L-149 on Execution of Penal Sanctions, Article 37.

<sup>8</sup> CPT Report on the visit to Kosovo, published on September 2016, paragraph 46. For more information please visit: <https://rm.coe.int/16806a1efc>

21. During the visit, the NPMT encountered a case, where despite doctor's recommendation, the prisoner had not yet been sent to the competent health institution. Regarding this case, in the presence of the NPMT team, the director reacted immediately in accordance with the recommendation of the doctor of the health unit of the PDCP.
22. Based on the health unit data, during 2021, 22 self-injuries, 4 suicide attempts, 1 case of death have been registered.
23. In general, the prisoners spoke in favor of a very good treatment by the medical staff, both in terms of medical services provided, as well as in terms of interactive communication and respect for their human dignity.

### **The presence of prisoners with mental illness**

24. The presence of prisoners with mental illness continues to be a challenge for pre-detention establishments and correctional facilities, due to the lack of capacity to accommodate prisoners of this category in relevant health institutions. The NPMT, during the visit to the PDCP, was informed that due to the limited capacities in the Institute of Forensic Psychiatry, there are prisoners in the PDCP, who, due to their health condition, should not be placed in the PDCP.
25. In view of the above, the NPMT observes that Article 43 of the Law No. 05/I-129 on Amending and Supplementing of the Law no. 04 / L-149 on the Execution of Penal Sanctions defines: *“A convicted person who cannot be offered appropriate medical treatment in the correctional facility shall be sent to a hospital of the Correctional Establishment, appropriate psychiatric institution or another health care institution.”*
26. The NPMT, with compassion observed that on 19 August 2021, a prisoner with mental health problems committed suicide in the PDCP. On 3 July 2021, the Basic Court in Prishtina decided that the prisoner (now deceased) is remanded in custody and that detention is held at the Institute of Kosovo Forensic Psychiatry (*hereinafter- IKFP*). Due to no vacant bed in the IKFP, the prisoner was accommodated in the PDCP, where he underwent a psychological assessment and was given psychiatric therapy as recommended.
27. The NPMT considers that any prisoner’s death should be subject to a thorough investigation by authorities in order to determine, inter alia, the cause of death, including factors that have contributed to such deed, and whether the death could have been avoided. The NPMT welcomes the fact that during the visit to the PDCP upon notification on prisoner’s death, it observed that each competent authorities immediately initiated investigations based on their mandate. **Additionally, the NPMT, through this Report, requests that competent authorities, which undertook investigations on the case, submit their investigation report to NPMT on the findings found.**
28. Also, the NPMT, in cooperation with the Council of Europe, organized roundtables and conferences where, together with the authorities, the challenges of treating prisoners with mental health problems, as well as the challenges of involuntary treatment were discussed.

29. During these meetings, the participants agreed that the competent authorities should take adequate action to treat prisoners of this category in accordance with domestic legislation and international standards for the fundamental rights of prisoners. The competent Ministries, during these meetings, presented their plans to find adequate solutions for this category of prisoners.
30. **The NPMT considers that the competent authorities should make a continuous effort to keep these persons in relevant institutions, whether in a separate psychiatric unit within the prison or in a hospital or civilian psychiatric institution.**

#### **Importance of medical examinations of newly-admitted prisoners**

31. Law No. 04/L-149 on Execution of Penal Sanctions<sup>9</sup> and Standard Operating Procedure<sup>10</sup> of the PHD determine the liability that the newly –admitted convicted person is subject to medical examination within 24 hours, from the moment he/she has been admitted.
32. Such obligations are determined also by international acts for protection of rights of convicted persons such as: Mandela Rules<sup>11</sup>, European Prison Rules<sup>12</sup> and CPT standards.<sup>13</sup>
33. Based on allegations of detainees as well as relevant medical documents, the newly – admitted detained persons are subject to medical examination within 24 hours, in conformity with the LEPS and the Standard Operating Procedure of the PHD.

#### **Confidentiality of medical services**

34. Regarding the confidentiality of medical services, the NPMT, based on interviews with prisoners and health personnel, finds that these services are provided under conditions that respect confidentiality, actually are provided without the presence of correctional officers, unless their presence is required by the doctor. Only the medical personnel have access to the prisoner's medical file.
35. Confidentiality of medical services is foreseen by Standard Operating Procedure<sup>14</sup> adopted by the Ministry of Health, the Law on Execution of Penal Sanctions<sup>15</sup>, CPT Standards,<sup>16</sup> as well as with international acts such as: Mandela Rules<sup>17</sup> and United Nations Rules for the Protection of Juveniles Deprived of Liberty.<sup>18</sup>

---

<sup>9</sup> Law No. 04/L-149 on Execution of Penal Sanctions, Article 31.

<sup>10</sup> Standard Operating Procedure, point 1. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standarde-te-Veprimit-n%C3%AB-DShB.pdf>.

<sup>11</sup> Mandela Rules, Rule 34. See at: [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf).

<sup>12</sup> 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=09000016804c22Id>.

<sup>13</sup> European Committee on Torture Prevention, Report for the visit to Sweden, 2015, paragraph 81. See at: <https://hudoc.cpt.coe.int/eng#%7B%22sort%22:%5B%22CPTDocumentDate%20Descending,CPTDocumentID%20Ascending,CPTSectionNumber%20Ascending%22,%22CPTSectionID%22:%5B%22p-swe-20150518-en-25%22%5D%7D>

<sup>14</sup> Standard Operating Procedure, point: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standarde-te-Veprimit-n%C3%AB-DShB.pdf>.

<sup>14</sup> Law No. 04/L-149 on Execution of Penal Sanctions, Article 49.

<sup>16</sup> CPT Standards, published in 2018, paragraphs 50 and 51. For more info visit: <https://rm.coe.int/16806ce943>.



## Disciplinary measures

36. 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.<sup>19</sup> While in the case of remand 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.
37. During the visit, based on the relevant medical documents, NPMT noted that the disciplinary measure of solitary confinement was imposed in 7 cases. The NPMT did not receive any complaints from prisoners regarding the observance of their rights during solitary confinement.

## Contacts with the outside world

38. The NPMT considers that contacts with the outside world, especially visits from family or other relatives, are of crucial importance in the context of social rehabilitation of prisoners.
39. Legislation at effect<sup>20</sup>, 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. According to the director of the PDCP, remand detainees can have one visit in two weeks, while convicts can have four visits per month, in a duration of an hour.
40. As per telephone calls, Article 60 of the LEPS determines that the convicted person has the right to make telephone calls. In the case of remand detainees, these calls are authorized by the competent court. Based on the information provided by the PDCP management as well as remand detainees' allegations, they are allowed to one call per week, subject to the permission of the competent court. Whereas, in the case of convicts there are no restrictions.
41. Due to the COVID-19 pandemic, contacts with the outside world were banned and the number of visitors was reduced from time to time. During these stops, the PDCP directorate offered the prisoners more phone calls and communication through SKYPE.
42. The NPMT also visited the Family Visiting Room, which offers satisfactory conditions for receiving family visits. The Family Visiting Room for the convicts offers the possibility of direct contact between the convict and the persons visiting him. Whereas, in the case of remand detainees, the situation is different, there are barriers between remand detainees and visitors that prevent direct contact between remand detainees and visitors.

---

<sup>17</sup> Mandala Rules, Rule 26, point 2, at: [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf).

<sup>18</sup> 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](https://www.ohchr.org/Documents/ProfessionalInterest/res45_113.pdf).

<sup>19</sup> Paragraphs from 101 to 113 of Law on Execution of Penal Sanctions.

<sup>20</sup> Law on Execution of Penal Sanctions, Article 62-65.

43. The NPMT received complaints from inmates who stated that due to barriers they could not have physical contact with their families, especially their children who were unable to understand such circumstances. This issue was raised by the NPM through the report with recommendations for the visit to the CPC in 2019.<sup>21</sup>
44. In this direction, NPMT observes that the CPT in its Report for Ukraine<sup>22</sup> addresses the issue of close type visits which makes the physical separation between the prisoner and persons who visit him/her through the Plexiglas. On this occasion, the CPT recommends Ukrainian authorities that relevant regulation is amended so that all prisoners, including remand detainees, could receive visits in reasonable and open conditions, while the use of closed premises for visits should be more of an exception than a rule.
45. Further, the CPT pointed out that any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the certain prisoner.
46. Therefore, NPMT encourages the competent authorities, in the spirit of this recommendation, to consider the possibility of enabling such visits in more open circumstances and on the basis of the individual risk assessment of the particular prisoner.

### **The procedure of complaint filing**

47. 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.<sup>23</sup>
48. The NPMT has noted that complaint boxes are available to prisoners at the PDCP, placed by the KCS and the PHD. They can also file a complaint to the Ombudsperson through the free of charge telephone line (telephone line information is posted in the complaints box), by regular mail, which, according to the LESP, is not subject to scrutiny if is addressed to the Ombudsperson of the Republic of Kosovo, as well as through their family members.
49. The NPMT observed that inmates at the PDCP were provided with an adequate opportunity to lodge complaints and requests, the Directorate reviewed them and sent responses to prisoners in accordance with the LEPS. The NPMT received no complaints from prisoners regarding their right to appeal.

---

<sup>21</sup> Report with Recommendations on the visit to the Pre-detention Centre in Prishtinë, published on 22 November 2019. For more info visit: <https://www.oik-rks.org/wp-content/uploads/2019/11/Raport-me-rekomandimi-MKPT-s%C3%AB-lidhur-me-vizit%C3%ABn-n%C3%AB-Qendr%C3%ABn-e-Paraburgimit-n%C3%AB-Prishtin%C3%AB.pdf>

<sup>22</sup> CPT, Report with Recommendations on the visit conducted to Ukraine, on December 2017, published on 6 September 2018, paragraph 102. For more info visit: <https://rm.coe.int/16808d2c2a>.

<sup>23</sup> 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.



## 50. PDCP staff and security related issues

During the visit, the NPMT was informed that there is a significant lack of correctional staff and social officials, while prisoners' number has increased significantly since the unit for prisoners' assessment functions within the PDCP. NPMT encourages the competent authorities to increase the number of correctional officers and other staff, given the increase in the number of prisoners accommodated in the PDCP.

Based on findings and ascertainties that NPMT gained in the course of the visit, pursuant to Article 135, paragraph 3 of the Constitution of Republic of Kosovo as well as with Article 17, paragraph 7 of the Law 05/L019 on Ombudsperson, the Ombudsperson

### RECOMMENDS

#### To the Ministry of Justice:

- **To inform prisoners of their rights in accordance with the LEPS and the House Rules.**
- **The NPMT reiterates the recommendation of increasing out-of-cell activities for the remand detainees in the PDCP, in conformity with Criminal Procedure Code and the Law of Execution of Penal Sanctions, insofar as such issue is possible.**
- **To provide prisoners' cells with the furniture needed to store their belongings.**
- **To increase the number of correctional staff and other staff according to the assessment and need, given the increased number of prisoners and liabilities in the PDCP.**

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