



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

---

**REPORT**  
**OF OMBUDSPERSON'S NATIONAL PREVENTIVE MECHANISM**  
**OF TORTURE**  
**WITH REGARD TO THE VISITS CONDUCTED TO THE DETENTION**  
**CENTRE**  
**FOR FOREIGNERS IN VRANIDOLL**

**Addressed to: Mr. Xhelal Sveçla, Minister**  
**Ministry of Internal Affairs and Public Administration**

**Copy to: Mr. Ismet Krasniqi, Secretary General**  
**Assembly of Republic of Kosovo**

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

**Mr. Liridon Neziri, Acting Director**  
**Department for Health, Asylum and Migration**

**Mr. Selman Nimanaj, Director**  
**Detention Centre for Foreigners**

---

**Prishtinë, 25 July 2022**

1. NPMT, based on Article 17 of the Law No. 05/L-019 on Ombudsperson, may conduct unannounced visits and at any time to all places where people deprived of liberty are held, including therein places for foreigners deprived of liberty, and whose stay in the Republic of Kosovo contradicts applicable laws, and who are subject to forced removal from the Republic of Kosovo.
2. Based on this mandate, the NPMT, on 19 of May and 30 of June 2022, conducted a visit to the Detention Center for Foreigners (henceforth, *DCF*). The DCF functions within the Department for Citizenship, Asylum and Migration (henceforth: DCAM) of the Ministry of Internal Affairs (henceforward: MIA). According to Article 2 of Regulation (MIA) no. 04/2018 on Operation of the Detention Center for Foreigners (hereinafter: the Regulation), in this Center are placed foreigners who are subject to forced removal, as well as foreigners who are considered as breaching the public security, in order to verify their identity and for other reasons. The capacity of the DCF is for 70 people, while 3 foreigners were present during the visit made by the NPM team.

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

3. The purpose of this visit was to monitor the adherence of foreigners' right, who are held in DCF, as provided for by the Law No. 04/ L-209 on Foreigners, the Law on Asylum, as well as by the Regulation No. 04/2018 on the Operation of the Detention Centre for Foreigners and international human rights standards as well as their restrictions due to spread of pandemic COVID-19. Also, during the visit the issue of DCF staff and security personnel was addressed, their training and adequate preparation for working with this category of people, etc.

### **Composition of the monitoring team**

4. The Monitoring Team consisted of a Senior Legal Adviser for the Torture Prevention and a consultant, psychologist of the NPMT team, the staff of the United Nations High Commissioner for Refugees (henceforth UNHCR) and staff of the Civil Rights Program Kosovo (henceforth-CRPK). This joint visit was carried out based on the Cooperation Agreements between the aforementioned organizations and the Ombudsperson Institution.

### **Cooperation of DCF staff with members of Monitoring Team during the visit**

5. During the visit to the DCF, the Centre's personnel provided the Monitoring team with full cooperation. The team was granted, without delays, access to all premises of the Centre. Furthermore, all information necessary to perform its duties were provided to the team, and they were allowed to conduct interviews with the detained persons without the presence of security officials and other DCF officials.

### **Detention of foreigners as a last resort**

6. With respect to international human rights standards, detention (holding of the foreigner in detention) should be a measure of last resort taken by the authorities of a state to remove a foreigner, who is subject to forced removal, from their territory.

7. NPMT observes that the Law 04/L-2019 on Foreigners of Republic of Kosovo foresees that alternative measures have priority versus placement of foreigners in detention.<sup>1</sup> Furthermore, European Committee for the Prevention of Torture (henceforward “CPT”), in standards determined in 2017, stipulates that deprivation of liberty under aliens legislation should only be a measure of last resort and that alternative (non-custodial) measures should be given priority.<sup>2</sup>

### **Procedural guarantees during deprivation of liberty and introduction of rights**

8. Article 8 of the Regulation determines that admission in the Centre is done based on the order for detention of the foreigner to the Centre issued by the Directorate for Migration and Foreigners (DMF). When handing a foreigner to the Centre, the DMF must submit: the order for detention to the Centre, the order for Forced Removal, as well as the order for Voluntary Removal, if issued, the report of the police official including also the risk assessment, record for documents and sequestered belongings, as well as documents and personal belongings which has been sequestered.
9. Furthermore, according to the Regulation, the Centre confirms admission of the foreigner to the Centre through the admission letter.<sup>3</sup> Based on files of present foreigners, the NPMT has noticed that the authorities have respected the above-mentioned criteria set out in the Regulation.
10. NPMT has noted that standards determined by the European Committee for Prevention of Torture have expressively ascertained that detained irregular migrants should, from the very outset of their deprivation of liberty, enjoy three basic rights, in the same way as other categories of detained persons. These rights are: *to have access to a lawyer, to have access to a medical doctor, and to be able to inform a relative or third party of one’s choice about the detention measure.*<sup>4</sup>
11. Based on the provisions of the Law No. 04/L-219 on the Foreigners of the Republic of Kosovo, a detainee accommodated at the Detention Centre for Foreigners shall be notified in written form, in one of the official languages and in English, for his/her detainment at the Detention Centre, which shall contain the reasons for the detention, the detention period, the right to provide him/her with legal protection and the right to contact his/her relatives.<sup>5</sup>
12. According to the Regulation, the foreigner accommodated in this Centre has the following rights: *information concerning the right of appeal for the detention in the Center, the right to free legal aid, the right to an interpreter of his/her language or in a language he/she understands, the right to communicate with relevant local authorities and international and non-governmental organizations.*<sup>6</sup>

---

<sup>1</sup> Law No. 04/L-219 on Foreigners, Article 97, paragraph 2.

<sup>2</sup> CPT, Standards published on March 2017 on Detention of Foreigners. For more info please visit: <https://rm.coe.int/16806fbf12>.

<sup>3</sup> Article 8, paragraph 3 of the Regulation.

<sup>4</sup> European Committee for Prevention of Torture, Report 19 of the European Committee for Prevention of Torture, paragraph 81, available at: [http://hudoc.cpt.coe.int/eng#{%22CPTSectionID%22:\[%22p-standards-inf-2009-27-part-en-3%22\]](http://hudoc.cpt.coe.int/eng#{%22CPTSectionID%22:[%22p-standards-inf-2009-27-part-en-3%22]).

<sup>5</sup> Law No. 04/L-219 on Foreigners, Article 108.

<sup>6</sup> Article 11 of the Regulation, Standards of the European Committee on Torture Prevention, at: <https://rm.coe.int/16806fbf12>.

13. The NPM, during the visit, noticed that foreigners in DCF are informed on their rights, through brochures written in the most common languages as well as in Arabic language. In addition, they are notified of their rights by an Arabic translator hired by the International Organization for Migration (hereinafter, *IOM*). NPMT noticed the statement in foreigners' files (as an official document), which is written in three languages: Albanian, Serbian and English, where detained foreigners declare that they have been informed of their right.
14. With regard to the foreigner's right to contact the Consulate or the Embassy of the state, the NPM noted that the Law on Foreigners has determined the right of the foreigner to inform the diplomatic or consular representative for his/her detention.<sup>7</sup> Furthermore, CPT in the 19th General Report determines the right of the foreigner to contact the consulate of his/her country as a fundamental right.<sup>8</sup> NPM did not receive any complaint from foreigners regarding above given rights.

### **Treatment**

15. During the visit carried out by the NPM in the Center, 3 detained foreign persons were present. The NPM checked their files and conducted group interviews through a translator of Arabic language. The NPM did not receive any complaints from the interviewed persons about ill-treatment, excessive use of physical force or behavior by security officials and DCF officials, which would not be in accordance with the respect of their dignity. On the contrary, the foreigners in detention expressed themselves in favor of a very good treatment by the Kosovo Police and the officials of the Ministry of Internal Affairs.
16. In the visit made on 30 June 2022 to DCF, the NPM team visited the foreigner E.T, who was accommodated in DCF together with his son O.T. During the visit, NPM interviewed E.T, who had no complaints regarding the conditions and treatment at the DCF. In the course of the interview the complainant expressed concern that his son O.T was bullied by another resident of the Center, who was accommodated in the Asylum Center.
17. The complainant also claimed that his son was arrested by the KP and that during the arrest and detention he alleges that his son has been ill-treated by the KP and the correctional officers. He claims that during the time that his son was in custody for two weeks at the Correctional Center for Juvenile, he has not had the opportunity to visit him there nor to have any information regarding his health condition.<sup>9</sup>
18. NPM has reviewed the documents with regard to the case O.T., including health file, police report and court decisions. Based on documents reviewed, NPM did not observe any signs of physical abuse. In addition, the NPM also contacted the authorized attorney who represented the party in Court, who affirmed that during the entire defense in Court, the party did not express concern about ill-treatment and no signs of physical ill-treatment were observed.
19. Based on the Court's decision, the measure of Mandatory Psychiatric Treatment in Liberty has been imposed to the juvenile by the Basic Court in Prishtina - branch in

---

<sup>7</sup> Law 04 / L-219 on Foreigners, Article 114, paragraph 3.

<sup>8</sup> For more info see: [http://hudoc.cpt.coe.int/eng#{%22CPTSectionID%22:\[%22p-standards-inf-2009-27-part-en-3%22\]}](http://hudoc.cpt.coe.int/eng#{%22CPTSectionID%22:[%22p-standards-inf-2009-27-part-en-3%22]}).

<sup>9</sup> Case A.nr.362/2022, O.T versus MIA, under investigations by NPMT.

Lipjan. The DCF staff has placed the juvenile O.T. at the Mental Health Center in Prishtina in compliance with the Court Decision.

20. Regarding the case, the Head of the DCF has expressed the concern that in the absence of the nurse at the Center, psychiatric therapy has been provided to the juveniles by DCF staff. As for the medical file, it is noted that all health services were provided by Prishtina Emergency Health Center. Also, the decision has been enclosed in documents of the case which points out that the complainant, on his free will, shall returned to the country of origin through IOM organization.

### **Incidents in the DCF**

21. In Recommendation Report published in 2019<sup>10</sup>, NPMT has recommended: “*Detention Center for Foreigners should maintain protocols as follows: Protocols for on solitude, bodily injury, self-harm, attempted suicide, sexual abuse and deaths.*” During the visit by the NPM, it was observed that the given recommendation has been implemented, the Head had established the registers according to NPMT recommendation. In the register of attempted suicides, from January 2022 until the time of the visit, no incident or case of self-injury was observed. NPM has also observed that during 2022 one case of death has occurred in the hospital due to COVID 19.

### **Free Legal Aid**

22. According to Article 29 of the Regulation, a foreigner is provided with counseling, legal representation and, where necessary, judicial assistance. The NPM has noticed that foreigners in custody are offered free legal aid by the Non-Governmental Organization CRPK.

### **Material conditions**

23. NPM considers that accommodation conditions in the Centre are at very satisfactory level. All rooms provided dignified accommodation, heating and sufficient natural lightening as well as showers which were in a very good conditions. Foreigners accommodated in the Centre can have access to shower whenever they want.
24. NPMT has noticed that corridors of the DCF are subject to security cameras surveillance, which comprise an additional guarantee against physical abuse, as well as personnel protection from false accusations. However, during the visit to the DCF, the NPM was informed by the security police officer in the Center that the camera, located at the main entrance does not provide clear picture on the entrance, especially at night when the signal is very poor. The NPM considers that the competent authorities should take concrete actions to avoid shortcomings regarding cameras in general.

### **Food**

25. All foreigners are provided with three daily meals. The Regulation stipulates that foreigners in DCF are served special food for persons having health problems and to those with special needs. Also, according to the Regulation, foreigners are served food according to the doctor's recommendation.

---

<sup>10</sup> Report with recommendation regarding DCH, see the link: <https://www.oik-rks.org/2019/05/03/raport-lidhur-me-viziten-e-mkpt-ne-vranidoll/>.

26. If religion of the foreigner foresees rules in regard to food, the head of the Center ensures their respect. <sup>11</sup> According to the management, the MIA has contracted a company, which supplies DCF with food. During the last visit, the NPMT did not receive any complaint from the management of the Center nor from present foreigners regarding served food in Centre.

### **Regime**

27. Article 24, paragraph 1 of the Regulation stipulates that each detained foreigner in the Centre has the right on walk at least two (2) hours a day in the outdoors environments of the Centre. For health purposes, the Head of the Centre may extend the time of staying outdoors.

28. The CPT, in the standards determined in March 2017 regarding detention of foreigners due to migration, emphasizes the importance of a regime that contains activities as much as possible. According to CPT, the longer the period for which persons are held there, the more developed activities offered to them should be.

29. NPMT during the visit noticed that the IOM is supporting the DCF with a sports coach three times a week, sports equipment such as: soccer and basketball balls, tables and ping-pong nets, sports shirts and this is having a positive effect on emotional state of present foreigners.

### **Personnel of the Detention Centre for Foreigners**

30. The Monitoring team has noticed that the DCF continues to face a shortage of personnel. The DCF had at its disposal only the Director of the Center and a Migration Officer.

31. During the visits of the NPM, it was observed that the security duties in the Center were carried out by the security unit of the Kosovo Police, who are not trained to work with foreign persons deprived of their liberty.

32. In this regard, the NPM notes that the CPT standards stipulate that security personnel in Detention Centers for Foreigners should be carefully selected and has to undergo appropriate training in order to work with this category.<sup>12</sup>

33. Through the Report with Recommendations for the visit to the DCF published on 13 April 2021, the NPMT of the Ombudsperson provided recommendation to the MIA that the security personnel in the DCF should undergo appropriate training in order to work with this category of persons.

### **Use of force from Security Service**

34. According to the Regulation, security service may use force only as a last resort if it is necessary for self-defense, safety and security of the foreigner or for protection of general order and security within the DCF. The use of force shall be legitimate, proportional and reasonable for required purposes.<sup>13</sup> Further, the Regulation determines that any use of force shall be reported to the Head of the Center.<sup>14</sup>

---

<sup>11</sup> Article 37 of the Regulation.

<sup>12</sup> CPT Standards on Detention of Foreigners, published on 2017, see at : <https://rm.coe.int/16806fbf12>.

<sup>13</sup> Article 21, paragraph 1, of the Regulation.

<sup>14</sup> Article 21, paragraph 2, of the Regulation.

35. During the visit, the NPM observed that the police officers performed security duties in the DCF, and for any case that requires intervention, they invite the North Police Station in Prishtina. From January 2022 until the day of the last visit, NPMT has not observed any case where physical force was used by the security service.

### **Healthcare**

36. As far as health services is concerned, the Law 04/L-219 on Foreigners determines that the Detention Centre must meet all conditions of human treatment as well as respect for human rights guaranteed by the Constitution of Kosovo and to enable the provision of health services.<sup>15</sup>

37. Further, the Regulation determines that the foreigner during his/her stay in the Center shall have the right to medical assistance. Based on Regulation, medical staff shall perform a general medical examination of the foreigner detained at the Detention Center for Foreigners.<sup>16</sup>

38. Medical services to foreigners held in the DCF are provided by Emergency Healthcare Centre in Prishtine, as needed, are transferred for secondary hospital services in the region or at the University Clinical Center (UCCK), where tertiary health services are also provided, since DCF still does not have medical personnel, although the NPMT, through previous Recommendation Reports has recommended to have at least one available nurse in DCF. During the last visit, the Monitoring team noticed in the case file that they were assisted once by IOM with a nurse in managing a very hard case.

39. With regard to the psychological services, which are foreseen by Article 41 of the Regulation, the NPM has noticed that they are provided by the psychologist contracted by the IOM.

### **The importance of initial medical screening**

40. Regarding the importance of medical screening, the CPT determines: *“At a minimum, a person with a recognized nursing qualification must be present on a daily basis at all centers for detained irregular migrants. Such a person should, in particular, perform the initial medical screening of new arrivals (in particular for transmissible diseases, including tuberculosis), receive requests to see a doctor, ensure the provision and distribution of prescribed medicines, keep the medical documentation and supervise the general conditions of hygiene.”*<sup>17</sup>

41. The Regulation stipulates that, after placement of the foreigners in the Centre, within 24 hours’ deadline, the foreigner is transferred for the medical examination in the University Clinical Centre (or any other medical institution) under Police escort. NPMT has observed that these initial medical screening of foreigners in detention are done by emergency services.

---

<sup>15</sup> Law 04/L-219 on Foreigners, Article 107, paragraph 2.

<sup>16</sup> Article 13 of the Regulation.

<sup>17</sup> Ibid.

## Confidentiality of medical services in the DCF

42. The Regulation foresees that all medical findings shall be recorded in the foreigner's file and in the Data Management System. The medical card shall be kept confidential in accordance with the provisions of Law No. 03/L-172 on the Protection of Personal Data.
43. CPT in the standards set for detention due to immigration, stipulates: "*Medical confidentiality should be observed in the same way as in the outside community; in particular, irregular migrants' medical files should not be accessible to non-medical staff but, on the contrary, should be kept under lock and key by the nurse or doctor. Moreover, all medical examinations should be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case.*"<sup>18</sup> The Monitoring team has noticed that medical reports, due to the lack of qualified staff, are kept together with foreigner's general file. The file is kept in electronic and hard copy.

## Disciplinary measures

44. According to Regulation, disciplinary measures which can be imposed on a foreigner are: verbal or written warning, forcing to do maintaining and cleaning work in the Center, deprivation of the right to free activity, recreation, TV, internet, sports or cultural activities in duration of five (5) days, and isolation up to 48 hours.<sup>19</sup>
45. NPMT has observed that the present Regulation, contrary to the previous one, foresees that the decision for imposition of disciplinary measure is submitted to the foreigner as well, to whom the measure is imposed.<sup>20</sup> Based on this, during previous visits, the NPM has recommended to DCF to register the fact of submission of the copy of decision for disciplinary measure of detained foreigner. During the last visit, the NPM has noticed that DCF owns a special protocol in which data related to this disciplinary measure are recorded and during the last visit, NPMT did not observe any case where any disciplinary measures have been imposed on any person accommodate there. Also, the NPMT has noted that from January to 30 June 2022, the disciplinary measure of placement in separate rooms for a period of 48 hours was not imposed.

## Monitoring and complaint mechanism

46. Efficient complaint filing system is a fundamental guarantee against ill-treatment in places where persons deprived of their liberty are held. The NPMT considers that people placed in these centers should have the opportunity to lodge a complaint within the DCF and, in a confidential manner, be given access to the appropriate authority.
47. Article 19 of the Regulation determines that the foreigners shall have the right to complain to the Head of the Center regarding the conditions of admission in the Center and personnel behavior. The complaint shall be reviewed by DCAM. Further, the Regulation foresees that a complaint box shall be placed in the Center, which will be administered by DCAM. According to the management, the foreigners through leaflets in different languages are immediately informed on their right to lodge a complaint.
48. As per monitoring, apart NPMT, foreigners at the Center can be visited at any time by UNHCR, IOM, the European Committee for the Prevention of Torture, the International

---

<sup>18</sup> See at <https://rm.coe.int/16806fbf12>.

<sup>19</sup> Article 44 of the Regulation.

<sup>20</sup> Article 44, paragraph 3, of Regulation.



Committee of the Red Cross. The Regulation stipulates that the Head of the Center may grant access to the Center to other relevant institutions or organizations.<sup>21</sup> Also, foreigners in detention can direct their complaints to the Ombudsperson. During the visit, the NPM distributed to foreigners placed in the Centre booklets in English, Serbian, Turkish and Arabic, which contain details on how they can contact the Ombudsperson and file their complaints with this Institution.

### **Contact with the outside world**

49. According to CPT Standards, foreign detainees should have every opportunity to be in contact with the outside world (including opportunities to make phone calls and receive visits) and their freedom of movement within the Detention Center should be limited as little as possible.<sup>22</sup> According to Article 25 of the Regulation, foreigner in this Centre has the right to keep correspondence, receive packages and other items. Additionally, detained foreigners are entitled to be visited.<sup>23</sup>
50. The Regulation stipulates that the foreigner has the right to make calls as needed in the duration of 5 minutes, starting from 9:00 to 16:00, every working day.<sup>24</sup> Under the Regulation, foreigners are also allowed to make calls from abroad. During the visit, the Monitoring Group noticed that foreigners could make phone calls to their families. The Monitoring Group considers that since it is about administrative detention and detention in the sense of the provisions of the Code of Criminal Procedure of Kosovo, persons kept there should be provided with other opportunities for communication with the outside world, such as online communications through SKYPE or even other communication systems.
51. The NPMT considers that other rights should be added to the foreigners in the DCF, since this is an administrative detention and not a classic detention according to the provisions of the Code of Criminal Procedure. In this regard, it is important to provide them with more rights in terms of contacts with the outside world and access to the Internet, but also in other activities outside their rooms.
52. Therefore, based on the findings during the visit conducted, Ombudsperson's National Preventive Mechanism of Torture

## **RECOMMENDS**

### **The Ministry of Internal Affairs and Public Administration:**

- **The NPMT reiterates the recommendation that DCF must have at disposal one nurse at least, who will be in title to provide medical therapy to foreign detainees and take care of their medical files at the DCF.**
- **To increase the number of personnel according to needs assessment.**
- **To avoid deficiencies with regard to security cameras operation.**
- **To enable online communicate to detained foreigners with their families.**

---

<sup>21</sup> Article 27 of the Regulation

<sup>22</sup> European Committee on Prevention of Torture, see at : <https://rm.coe.int/16806fbf12>.

<sup>23</sup> Article 27 of the Regulation.

<sup>24</sup> Article 26 of the Regulation.

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 ... 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