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ANNUAL REPORT OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

No.6

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Ombudsperson's foreword

Dear all,

Recalling Article 3 of the European Convention on Human Rights, “*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*”¹, and in order to fulfil its constitutional and legal obligation² as a National Preventive Mechanism against Torture, the Ombudsperson Institution is also guided by principles and standards set forth by the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Protocol.

In view of fulfilling such obligation, aimed at supervising and protecting persons deprived of their liberty against torture and inhumane or degrading punishments or treatments, in 2022 we focused on monitoring adherence of the rights of persons with disabilities. We are mainly focused on monitoring institutions of social care and mental health, with the aim of observing the adherence of the rights and standards attached to this category, addressing recommendations with the aim of improving their conditions and treatment and ensuring maximum observance of human rights.

The Ombudsperson, as a National Preventive Mechanism, is guaranteed the exercise of his mandate by carrying out visits at any time, without restriction and unannounced, to all institutions of the country, including prisons, places where police or prosecution keep people who are detained or arrested, or detained on remand in wards or health institutions, in psychiatric hospitals, in asylums, at border points, at the airport, as well as in any other place where there is information and it is estimated

that there is a possibility of violation of rights and human freedoms.

This Report reflects the work of the National Preventive Mechanism against Torture and aims to inform public authorities and citizens about the level of compliance with the state's obligation to ensure that no one should be subjected to torture or other inhuman and degrading treatment. Similarly, the Report summarizes our findings during the supervision of compliance with the constitutional and legal obligation for 2022.

Through this Report, we express our gratitude to Kosovo's institutions for their level of cooperation. We would also like to express our gratitude and appreciation to the partners who have contributed to our work over the years. The role of partners such as the Council of Europe, the European Union, and civil society cooperation ensures the success of our work in fulfilling constitutional and legal obligations.

In 2023, we will focus on monitoring the state's obligations in relation to vulnerable groups of people who are detained involuntarily, such as those with mental disorders, those suffering from serious illnesses, and other vulnerable groups.

Naim Qelaj
Ombudsperson

1 https://www.echr.coe.int/documents/convention_sqi.pdf
2 <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922>

CHAPTER I

I. NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

Based on Article 17 of Law No. 05/L-019 on the Ombudsperson, the Ombudsperson's National Preventive Mechanism against Torture (NPM) conducts regular and unannounced visits to all places where persons deprived of liberty are kept, including those under police arrest, detention, staying in health institutions, customs detention, detention in immigration centres, and any other place there is suspicion of violations of human rights and freedoms.³

The NPM's mandate is based on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. This protocol entered into force on 22 June 2006.⁴ The General Assembly of the United Nations Organization, on 18 December 2002, at its fifty-seventh (57th) session, with Resolution A/RES/57/199, adopted the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. This protocol entered into force on 22 June 2006.⁵ The main goal of the protocol is to establish a system of regular visits by independent international and national bodies to countries where people are

detained in order to prevent torture and other cruel, inhuman, or degrading treatment or punishments.⁶

Given that the Republic of Kosovo is not yet a member of the United Nations, it is also not a signatory party to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and its Optional Protocol. However, Article 22 of the Constitution of the Republic of Kosovo states that human rights and fundamental freedoms guaranteed by international treaties and instruments are also guaranteed by the Constitution of the Republic of Kosovo. These international treaties and instruments are directly applicable in the Republic of Kosovo and, in the event of a conflict, take precedence over the provisions, laws, and other acts of public institutions. The United Nations Convention against Torture and Other Cruel Punishment is one of the conventions mentioned in this Article.⁷

According to the Ombudsperson Law, the Ombudsperson and his representatives have the right to access information on the health status of persons deprived of their liberty, including access to their medical files with their consent, as

³ Law no. 05/L-019 on Ombudsperson, Article 17, paragraph 2.

⁴ The Office of the High Commissioner of the United Nations Organization for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx>.

⁵ The Office of the High Commissioner of the United Nations Organization for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx>.

⁶ Article 1 of the Optional Protocol to the Convention against Torture.

⁷ The Office of the High Commissioner of the United Nations Organization for Human Rights, at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

well as personal data of these persons.⁸ The NPM was officially established by the Ombudsperson's decision on January 16, 2016.

Methodology of NPM visits

According to Article 17 of the Law on Ombudsperson, the NPM makes unannounced visits to places where people are detained. The NPM visits are carried out in accordance with the visit methodology. The methodology entails observing, documenting, and interviewing detainees, correctional and police officers, and health officials.

The NPM methodology envisions the preparation of the visit, the determination of the type of visit, and the actions taken upon arrival at the institution being visited.

Each NPM visit includes the following stages:

- • Conversation with the management of the institution;
- • Monitoring of all rooms where persons deprived of their liberty stay;
- • Individual and group conversations with those deprived of their liberty;
- • Conversation with the staff of the institution;
- • Review and analysis of relevant documents;
- • Final conversation with the head of the institution after the conclusion of the visit, which focuses on the most important concerns found during the monitoring visit to the respective institution. During the final meeting, the monitoring team uses constructive language and respects the work of the institution's officials.

NPM carries out the following types of visits:

General visits - in the field they are carried out according to the plan of activities, where a report with recommendations is drafted after each visit.

Ad-hoc visits - carried out as per the requests/information of family members, persons deprived of their liberty or other forms of information provided.

Follow-up visits - mean monitoring the implementation of recommendations and monitoring the situation of the rights of persons deprived of their liberty.

Thematic visit - where attention is paid to a certain topic, such as installing security cameras in observation rooms in correctional institutions, detention, involuntary treatment in mental health institutions, disciplinary measures, complaints mechanism, etc.

The composition of the NPM during 2022

The composition of the NPM is multidisciplinary and in compliance with the provisions of Law no. 05/L-019 on Ombudsperson, which foresees that NPM shall contain personnel of different professions, including law practitioners, doctors, psychologists and social workers with experience in this field. The current composition of the NPM is as follows:

- Deputy Ombudsperson, in charge of the NPM.
- Director of NPM.
- Senior Legal Adviser for Prevention of Torture.
- Legal adviser for Prevention of Torture.
- Advisor-doctor.
- Advisor-psychologist.
- Advisor-social worker.

⁸ Law no. 05/L-019 on Ombudsperson, Article 17, paragraph 4.

Visits conducted during 2022

During the reporting period, the NPM conducted a total of 62 visits. Out of these, 20 were general visits, 19 ad-hoc visits, 21 follow-up visits, 1 thematic visit and 1 visit to the Prishtina International Airport, in view of monitoring forced return operations from Switzerland, in the framework of cooperation with the Swiss National Commission for Prevention of Torture.

Reports with recommendations published during the reporting period

The NPM has published eight (8) reports with recommendations after visits to the monitored institutions. Through these reports, the NPM has addressed 38 recommendations to the competent authorities for the purpose of advancing the fundamental rights of persons deprived of their liberty.⁹

Competent authorities implemented 8 recommendations, 5 of them were partially implemented while 25 are pending implementation.

Regarding visits, the NPM has published reports with recommendations, as follows:

Report with recommendations for the visit to:	Publication date
1. Ex-officio report no. 95/2022 with regard to security cameras installed in some prisoners' cells in the Correctional Centre for Women in Lipjan	24 February 2022
2. Correctional Centre in Dubrava	14 April 2022
3. Correctional Educational Centre for Juveniles and the Correctional Centre for Juveniles in Lipjan	20 July 2022
4. Detention Centre for Foreigners - Vranidoll	25 July 2022
5. Detention Centre in Peja	16 November 2022
6. The Home for the Elderly and without Family Care in Pristina	18 November 2022
7. Correctional Centre for Women in Lipjan	23 November 2022
8. Institute of Forensic Psychiatry	30 November 2022

Cooperation with the visited institutions

During the NPM's visits to the institutions where persons deprived of their liberty are held, to institutions of social care and mental health, the officials of the visited institutions provided full cooperation to the NPM team, except for the Forensic Psychiatry Institute (KFPI).

⁹ All reports of the NPM are available on the website of the Ombudsperson <https://oik-rks.org/en/national-mechanism-for-prevention-of-torture-nmpt/reports-nmpt/>

At the Forensic Psychiatry Institute, the NPM, in the first *ad-hoc* visit carried out at the beginning of 2022 in relation to interviewing some individual cases, whereby the NPM doctor and lawyer were part of the team, they were unable to come an understanding with KPFI the personnel, who did not grant access without the approval of the KFPI director, who was not at the institution that day. On 26 July 2022, the NPM team consisting of the Deputy Ombudsperson, the psychologist and the social worker made a general visit to KFPI. The team first met with an KFPI psychiatrist, who was substituting for the director. The team had access to all spaces of the institution without any obstacles. On 28 September 2022, in the follow-up visit, the NPM team started visiting Ward B to interview some patients, while the director was not present in the institution. After the director of the KFPI was informed by his staff that the NPM team was conducting interviews, the director of the KFPI, acting against the law and the mandate of the NPM, i.e., the right to carry out unannounced visits to all places where persons deprived of their liberty are held, prevented the visit by requesting from the NPM team to urgently meet in his office and did not allow the visit to continue. He also denied the team's request for access to the file of the female person (V.K.).¹⁰

Regarding this unannounced visit of the Ombudsperson to KFPI, the Ministry of Health, specifically the director of KFPI, among other things, responded as follows: *"Finally, it should be emphasized to all actors that Law No. 05/L- 019 on Ombudsperson entered into force on 26.06.2015 a few months after the establishment of the KFPI, therefore, the issue of such a special institution as the KFPI has not been planned or elaborated, therefore we think that European institutions and practices have evolved and this law, as far as our*

*institution is concerned, should have a special instruction-regulation."*¹¹

The Ombudsperson reminds the institutions of Article 132, paragraph 3, of the Constitution of the Republic of Kosovo, where it is emphasized: *"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."* Article 17 of Law no. 05/L-019 on Ombudsperson emphasizes: *"The Ombudsperson acts as National Preventive Mechanism against torture and other cruel, inhuman and degrading treatments and punishments (further in the text NPM)."* Paragraph 2.1 of this Article clearly states that the Ombudsperson's NPM is obliged to *"undertake regular and unannounced visits to places of deprivation of liberty, including police detention, detention on remand, stay at health institutions, customs detention, prohibition of emigration and every other place when it is suspected that there are violations of human rights and freedom."*

Article 25, paragraph 2, of the Law on Ombudsperson, regarding the obligation to cooperate and the consequences of refusal, clearly states: *"Refusal to cooperate with the Ombudsperson by a civil officer, a functionary or public authority is a reason that the Ombudsperson requires from the competent body initiation of administrative proceedings, including disciplinary measures, up to dismissal from work or from civil service."* Whereas paragraph 3 emphasizes: *"In case when the institution refuses to cooperate or interferes in the investigation process, the Ombudsperson shall have the right to require from the competent prosecution office to initiate the legal procedure, on obstruction of performance of official duty."*

10 <https://oik-rks.org/en/2022/11/30/ombudspersons-national-preventive-mechanism-against-torture-report-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatric/>

11 Recorded answer with no. 518/2022, dated 29.12.22.

It is also worth mentioning Article 30 of Law no. 05/L-025 on Mental Health, which states: “Ombudsperson, through his mechanisms, regularly observes through periodic inspections, the respect for human rights and standards provided to persons with mental disorders in the areas of mental health service.”¹² Therefore, the response of the director of the KFPI was in complete contradiction with the constitutional and legal provisions.

12 Law no. 05/L-025 on Mental Health, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11229>

CHAPTER II

II. KOSOVO POLICE

Physical abuse

During the reporting period, the NPM team visited several police stations with the aim of assessing adherence to fundamental rights of those arrested, guaranteed by the Constitution of the Republic of Kosovo, by the Law No. 04/L-076 on Police, by the Criminal Procedure Code and international standards for protection of fundamental rights of persons deprived of their liberty.

During the visits, in the detention centres of the Kosovo Police, the NPM did not receive any complaints from detainees in terms of physical ill-treatment or failure to observe the fundamental rights guaranteed by local and international legal acts.

Furthermore, during visits to the detention and correctional centres, the NPM interviewed a significant number of detainees to understand more about their treatment by members of the Kosovo Police. Most of the interviewed detainees asserted that they were treated in a correct and professional manner by members of the Kosovo Police and that their fundamental rights were respected. However, there were also some of those who claimed that they were not treated decently during their arrest by the Kosovo Police.

During this year, the NPM has paid special attention to juveniles arrested by the Kosovo Police. During

visits to the places of deprivation of liberty, managed by the Kosovo Police, the NPM did not come across any arrested juveniles. However, in order to understand more about the treatment of juveniles by members of the Kosovo Police and the observation of their fundamental rights from the moment of arrest, the NPM visited the Juvenile Correctional Centre in Lipjan and interviewed detainees accommodated in the centre. All juvenile detainees interviewed maintained that they were treated in a correct and professional manner by members of the Kosovo Police and that their fundamental rights were observed.¹³ Similarly, the juveniles interviewed by the NPM team have maintained that they were not kept in police detention for more than 24 hours.

During 2022, the Ombudsperson Institution (OIK) registered 6 cases for investigation against the Kosovo Police upon receiving allegations of citizens that they were physically ill-treated. Out of these 6 complaints, 3 of them were opened for further investigation by the OIK, while 3 complaints have been found inadmissible. Regarding the cases against police officials, the NPM has contacted the Kosovo Police Inspectorate (KPI) to get information about their investigations and findings. However, the NPM was informed by the PIK for all three cases that after the investigation cases were referred for disciplinary proceedings to the Directorate for Internal Investigation and Background Verification

13 <https://oik-rks.org/en/2022/07/26/report-of-the-ombudspersons-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-educational-correctional-centre-for-juveniles-and-correctional-centre-for-juve/>

in the Kosovo Police, since during the investigation the KPI did not find elements of a criminal offense.

The NPM has requested information from KPI regarding the number of police officers who have been investigated by KPI for the criminal offense: “*Ill-treatment during official duty or public authorizations*”, during this year, as well as the number of suspension cases recommended for police officers and the number of criminal charges filed.

The NPM was informed by KPI that during this year were registered a total of seven cases related to the criminal offense: “*Ill-treatment during the exercise of official duties or public authorizations*”, whereby three cases were sent to the competent prosecutor's offices with criminal charges, one case with separate report and three cases are still under investigation. Three police officers have been suspended on the suspicion of having committed the criminal offense: “*Ill-treatment during the exercise of official duties or public authorizations*”.

Procedural guarantees against physical abuse

The Constitution of the Republic of Kosovo, the Criminal Procedure Code, the Law on Police and the international instruments included in the Constitution of the Republic of Kosovo, determine procedural guarantees against ill-treatment of persons arrested by the Kosovo Police.

The legislation in force recognizes three main rights for persons arrested by the Kosovo Police: the right of the person to notify a relative or third party; the right to a lawyer; the right to a doctor.

Article 13 of Criminal Procedure Code stipulates that any person deprived of liberty shall be notified promptly, in a language which he or she understands about the right to legal assistance of his or her choice, the right to notify a family member or another appropriate person about the arrest, and that these rights apply throughout the time of deprivation of liberty. Whereas Article 168 stipulates that an arrested person has the right to notify a family member or another appropriate person of his or her choice about the arrest and the place of detention, immediately after arrest; the notification of a family member or other person regarding the arrest may be delayed for up to twenty-four (24) hours where the state prosecutor determines that the delay is required by the exceptional needs of the investigation of the case. This delay does not apply in the case of minors.

According to the Law on Police,¹⁴ the right to notify the family or other person of the arrest also applies to persons who are in “*temporary police custody*”, for the purpose of identification or for their own protection and the protection of others.

According to the Criminal Procedure Code, persons detained by the Kosovo Police in detention centres should not spend more than forty-eight hours (48) from the time of arrest, unless the pre-trial judge orders otherwise. Whereas according to the Juvenile Justice Code, the detention of a juvenile cannot exceed the period of twenty-four (24) hours, and after the expiration of this period, the juvenile must be released, unless a juvenile judge has ordered detention.¹⁵

Whereas, in terms of the right to an attorney, the detained/arrested person, based on Article 166 of the Code of Criminal Procedure, is entitled to assistance by a defence attorney of his/her

¹⁴ Law on Police, Article 20.

¹⁵ Juvenile Justice Code, Article 60, paragraph 4.

choosing immediately after his arrest.¹⁶ However, when the arrested person does not hire a defence attorney, he is provided with a defence attorney at public expense.¹⁷

With regard to this right, the NPM notes that the European Committee for Prevention of Torture (hereinafter: CPT), in its report on the visit to the Republic of Kosovo, published on September 23, 2021¹⁸, expressed concern that the Law on Police does not explicitly provide for the right to an attorney for persons held in temporary police detention.

For this matter, the CPT reiterated its recommendation to have relevant authorities take steps to ensure that the right to have a lawyer is guaranteed by legislation for all persons deprived of their liberty by the police (regardless of their exact legal status), since the beginning of the deprivation of liberty.¹⁹

Regarding the right to medical examination of persons arrested/detained, the Criminal Procedure Code, Article 169, determines that a person arrested/detained has the right to a medical examination, at his request, by a doctor or a dentist, of his choice.²⁰ In addition, when the arrested person shows signs of mental illness, the police shall immediately order an examination by a psychiatrist.²¹ Persons detained by the Kosovo Police are offered medical services by public institutions, such as: Family Medicine Centres and University Clinical Centres, depending on the needs for treatment.

In addition to the aforementioned legal acts, which guarantee rights of persons detained by Kosovo

Police, it should be noted that on October 1, 2020, the Kosovo Police approved the Standard Operating Procedures, whose purpose is to create a basic document that sets the rules and procedures of police work in accordance with the Constitution of the Republic of Kosovo and the applicable laws in order to respect human rights of persons detained and held in detention centres.²² During the reporting period, and during visits to police stations, the NPM did not receive any complaints from arrested and detained persons who were interviewed with regard to adherence of basic rights guaranteed by the Constitution of the Republic of Kosovo, the Law no. 04/L-076 on Police, the Criminal Procedure Code and international standards for protection of the fundamental rights of persons deprived of their liberty.

Physical conditions of police stations visited

The Detention Centres in the Kosovo Police, according to the Standard Operating Procedures must be in compliance with the European Convention for the Protection of Human Rights and Freedoms (hereinafter: ECHR) and the recommendations of the CPT, based on the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.²³

With regard to physical conditions of the police stations, the NPM finds that the material conditions are generally acceptable in terms of space, natural and artificial lighting and hygiene,

16 Criminal Procedure Code, article 166, paragraph 1.

17 Criminal Procedure Code, article 166, paragraph 2.

18 See the published Report of the CPT, <https://rm.coe.int/1680a3eb76>

19 See the Report of the CPT, paragraph 24, on the visit to the Republic of Kosovo, <https://rm.coe.int/1680a3ea32V>

20 Criminal Procedure Code, article 169, paragraph 1.

21 Criminal Procedure Code, article 169, paragraph 4.

22 Kosovo Police, Standard Operating Procedures for Detention Centers, Ref: DDO-04-23 /2020, dated 1.10.2020.

23 Kosovo Police, Standard Operating Procedures for Detention Centers, Ref: DDO-04-23 /2020, dated 1.10.2020.

and fulfil necessary conditions for accommodation of detained persons.

However, the Regional Detention Centre in Prishtina (as in previous visits made to this centre), the NPM finds that the working conditions of the police officers are not good, as the building is very old and there is lack of natural light, whereas during the winter it is very cold and humid. The detainees' conditions at this centre are not in compliance with legal acts or international standards.

While the Police Station "SOUTH" in Prishtina, which is still located in the former "Hotel Victory" building, does not fulfil the conditions to be a proper police station. The interview rooms at this station do not offer confidentiality, as the interview can also be heard in other rooms. The security cameras at this station cover only the exterior spaces of the facility and the lobby of the ground floor, while other parts are not covered by cameras. Persons arrested/detained at this station are only held for up to six hours, then sent to other stations equipped with detention centres.

However, during the NPM visit to the Police Station "NORTH" in Prishtina, carried out on 25th of August 2022, it was noticed that this station continues to work in containers with minimal working conditions. During this visit, the NPM was informed by police officials that the construction of a new police station in the "Kodra e Trimave" neighbourhood in Prishtina is expected to start soon, and until then the Municipality of Prishtina will give them use of a facility located in the "Arbëria" neighbourhood, and the relocation of the staff is expected soon.

On 30th of August 2022, the NPM visited the Police Station in Fushë Kosovë, where it was observed that this station faces severe infrastructural conditions and minimal working conditions for police officers.

During this year, the NPM team, in addition to aforementioned stations, also visited the Police Station of Prizren, South Mitrovica, Drenas, Hani Elezit and Gjilan and identified that persons under detention are not regularly supplied with hygienic items. Also, not all detention centres provide detainees with clean bed sheets.

With regard to this right, the NPM notes that the European Committee for Prevention of Torture, in the report on the visit to the Republic of Kosovo, published in September 2021, recommends that relevant authorities continue their efforts to improve conditions of police detention, recommending in particular that all detained persons have access to soap and toilet paper.²⁴

On 7th of December 2022, the NPM contacted the Kosovo Police through an official letter requesting to be informed about implementation of Ombudsperson's recommendations to the Kosovo Police regarding the renovations of detention centres and police stations.

On 9th of December 2022, the Kosovo Police notified the Ombudsperson through an official letter that according to the contract for renovation of the detention centres signed in 2021, which continued in 2022, the renovation has been completed and the detention centres have been operationalized in these police facilities: Deçan, Gjakovë, Rahovec, Lipjan, Drenas, Gjilan, Peja, South Mitrovica and North Mitrovica.

In addition, the Kosovo Police, through this letter notified the Ombudsperson that the Police Station "North" in Prishtina, as of 8th of November 2022 has been temporarily relocated to the new facility in "Arbëria" neighbourhood in Prishtina (a facility used by Municipality of Prishtina), since the request for construction of the new facility is under

²⁴ See the Report of the CPT on the visit to the Republic of Kosovo, paragraph 36, published in September 2021, <https://rm.coe.int/1680a3ea32V>

procurement procedures. While the Gorazhdec Sub-Station, has started work in the new facility since 2021. A space has been added to the Police Station in Fushë Kosovë where the Investigation Unit is located. The project for installation of central heating has been initiated for the Police Station "South" in Prishtina, which is under procurement procedures. While during 2022, the works were carried out and the Detention Centre at the Police Station in Ferizaj, Shterpce Police Station, was renovated and the works are continuing at the Police Station in Graçanica.

With regard to the right to file a complaint in relation to treatment by the Kosovo Police, the detainees have the right to submit a complaint to the police station where they are held, as well as to the Kosovo Police Inspectorate (KPI). In addition, the detainees can file a complaint to the Ombudsperson. In order to provide easier access to this institution's services and to enable those arrested and detained to file complaints confidentially, the Ombudsperson has placed complaint boxes in police stations where there are detention centres.

During 2022, in addition to the NPM, the legal advisers of the Ombudsperson from the regional offices, such as: Gjilan, Prizren, Gjakova, Malisheva and Rahovec, also visited the police detention centres. During these visits, complaint boxes were opened and individual detainees' complaints were handled by the Kosovo police.

Detention centres and police stations visited during the year 2022

Institution visited	No. of visits
Regional Maintenance Centre in Prishtina	2
"North" Police Station in Prishtina	1
"South" Police Station in Prishtina	1
Police Station Fushe Kosova	1
Police Station in Mitrovica-South	1
Police Station in Gjilan	1
Police Station in Prizren	1
Police Station in Drenas	1
Police Station in Han i Elezit	1
Border Crossing Point in Hani i Elezit	1
Border Surveillance Police Station (BSPS), Green Line	1

CHAPTER III

III. CORRECTIONAL AND DETENTION CENTERS

Treatment

The NPM team, during visits to correctional and detention centres in 2022, generally did not receive complaints of physical abuse or excessive use of physical force by correctional officers. During visits to correctional institutions, the NPM generally observed good communication between prisoners and correctional officers.

However, during the NPM visit to the Dubrava Correctional Centre (DCC), carried out on 21 to 23 February 2021, received only one complaint alleging mistreatment by correctional officials.

Regarding these claims, NPM after the visit talked with the director of the DCC regarding the matter, whereby it was announced that an investigative commission was established for this matter and the internal report of the investigation will be sent to the DCC.

The Director of the DCC, on 28th of February 2022, notified the NPM in an official letter, as follows: *“Regarding this case, the commission did not find any evidence or testimony, through which the claims of prisoner NN, for the use of force against him by the supervisor or other staff who were on duty would be confirmed. This was fully proven by*

*the statements of the staff and inmates in the room, who deny any such thing.”*²⁵

On 25th of May 2022, the Ombudsperson institution, through the toll-free line, received the complaint of the detainee F.R., from the Correctional Centre in Dubrava, for improper treatment by the Prison Health Unit (PHU) and by the correctional officers.

Regarding this case, the NPM visited the DCC, examined relevant documentation and interviewed the prisoner. Based on medical documentation, it was noted that F.R. was provided with all medical services by the PHU in Dubrava. Regarding allegations of ill-treatment, the NPM was informed by the DCC directorate that they conducted an internal investigation and came to the conclusion that there was no excess of force by the correctional officers against the detainee F.R.

In addition, during visits to correctional and detention centres, the NPM received several statements from a significant number of prisoners that in certain cases they are verbally insulted by correctional officers. The NPM addressed these prisoner claims to the responsible authorities.

NPM notices that the European Committee for the Prevention of Torture, in the report on the visit to the Republic of Kosovo, published in September

²⁵ Report of the National Torture Prevention Mechanism and the Ombudsperson, regarding the visit to the Correctional Center in Dubrava <https://oik-rks.org/en/2022/04/15/npm-report-regarding-the-visit-conducted-to-the-dubrava-correctional-centre/>

2021, has recommended to the management of Dubrava Prison and High Security Prison, as well as the management of detention centres in Mitrovica and Prishtina, to inform the correctional staff that all forms of ill-treatment, including verbal abuse, are illegal and will be punished in accordance with the law.²⁶

The Ombudsperson, based on the written and electronic media, published on February 7, 2022, notified that in the Correctional Centre for Women in Lipjan, in some prisoner cells who suffer from serious mental health problems, the authorities of the centre correctional facilities installed security cameras.

Regarding this matter, the NPM team, on 8th of February 2022, visited the centre in question to be informed about the situation. During the visit, the NPM team noticed that security cameras have been installed in some cells where prisoners with serious mental health conditions are placed, who should, in principle, be treated in adequate health institutions. In the case in question, the NPM team noticed that the security cameras only covered the beds and windows of the cells, they did not cover the toilets, showers and sinks. The NPM was informed that the reason for installation of security cameras in these cells was to protect prisoners who pose a risk of self-harm or suicide due to their health condition. During the visit, the NPM team was informed that two officials of the Correctional Centre for Women have been suspended in relation to this issue.

On 9th of February 2022, through an official letter, the representative of the Ombudsperson requested information from the Ministry of Justice on whether there was a written decision to install security

cameras in prisoners' cells and what is the legal basis of such a decision.

On 14 February 2022, the representative of the Ministry of Justice informed the Ombudsperson: *"There is no decision from the Director of the CC in Lipjan and the SCK does not have or is not aware of the existence of any special decision or procedure/bylaw, etc., that regulates these actions"*. Further in this notice it is emphasized that: *"The Correctional Service of Kosovo, on 14.02.2022, issued a decision to allow installation of security cameras in correctional institutions for security reasons and specific circumstances - for cases with mental problems, based on the Law on Personal Data Protection."*

The Ombudsperson, for the case in question, has concluded that there is no concrete normative act that would regulate placement of security cameras in prisoners' cell and that would provide appropriate procedural guarantees against arbitrary intervention by the authorities.

Therefore, in relation to this issue, the Ombudsperson has published a report with a recommendation, directed to the Ministry of Justice: *"Approve a sub-legal act which would include all procedural guarantees, against arbitrary interference in the privacy of prisoners who are subject to surveillance with security cameras in their cells, foreseen by the legislation applicable in the Republic of Kosovo, the decisions of the ECHR and the standards of the CPT, mentioned above."*²⁷

On 27 October 2022, the Ombudsperson was notified by the Ministry of Justice that the Kosovo Correctional Service has formed a working group for the drafting of internal regulation for procedures and security measures for personal

26 The report of the European Committee on the visit to the Republic of Kosovo, published in October 2021, paragraph 67. <https://rm.coe.int/1680a3ea32V>

27 <https://oik-rks.org/en/2022/02/25/ombudsperson-report-ex-officio-no-952022-with-regard-to-security-cameras-installed-in-some-prisoners-cells-in-the-correctional-center-for-women-in-lipjan/>

data protection, according to the recommendation of the Ombudsperson, this regulation was approved by the general director of the Kosovo Correctional Service.

Inter-detainee incidents

Several incidents occurred in correctional and detention facilities this year, primarily at the Correctional Centre in Dubrava. This information was provided to the Ombudsperson via phone calls and reports from the Health Directorate of Prisons. During visits and official communication with the competent authorities, the NPM discovered that these incidents had been recorded in the relevant forms, other administrative documents, and the appropriate protocols of the health units.

Based on official notices and documentation received from the authorities, the Ombudsperson's Institution notes that in relation to incidents involving prisoners, internal investigations and investigations by the Kosovo Police have been conducted in certain cases, and disciplinary measures have been imposed in some cases based on the findings of the disciplinary commissions. Furthermore, prison authorities have taken steps to ensure the physical safety of inmates in the event of an incident.

Accommodation conditions in correctional and detention centres

Law no. 08/L-132 on the Execution of Penal Sanctions (LEPS), in article 35, paragraph 2, expressly defines: "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."²⁸

Furthermore, according to the LEPS, premises for prisoners should be free of moisture and shall have adequate sanitary facilities and other personal hygiene items.²⁹

While according to the minimum standards of the CPT³⁰, the personal living space for those deprived of liberty in prison institutions, is:

- 6m² of living space for a single-occupancy cell with sanitary facilities;
- 4m² of living space per prisoner in a multiple occupancy cell + fully-partitioned sanitary facility;
- at least 2 meters between cell walls;
- at least 2.5 meters between the floor and the ceiling of the cell.

During the visit to the **Correctional Centre in Dubrava**,³¹ The NPM noticed that the accommodation conditions in general can be considered to be in accordance with the LESP and international standards for the rights of prisoners.

However, in certain cases, the NPM received several statements from the prisoners that there was a lack of hot water and that the water pressure during the summer is low (wards 1, 3, 4 and 5). According to them, warm water is not sufficient for cleaning and maintaining hygiene. The NPM notes that Article 37 of the LESP stipulates: "In order to ensure the hygiene of convicted persons and the

28 Law no. 08/L-132 on the Execution of Penal Sanctions, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

29 Law no. 08/L-132 on the Execution of Penal Sanctions, article 35, paragraph 3, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

30 <https://rm.coe.int/16807824b2>

31 <https://oik-rks.org/en/2022/04/15/npm-report-regarding-the-visit-conducted-to-the-dubrava-correctional-centre/>

hygiene of premises, convicted persons shall be provided with a sufficient amount of cold and warm water as well as, adequate items for cleaning and toilets. Personal hygiene equipment and tools ensure sufficient privacy and they are properly maintained and cleaned."³²

Also, during the visit, the NPM again noticed that prisoners use improvised electrical equipment for heating water, which can seriously endanger their lives. According to the prisoners, in absence of hot water, they are forced to use such improvised devices. In this regard, the NPM immediately expressed concern to competent officials, who informed the monitoring team that they are making continuous efforts to prevent these devices from being allowed.

During the monitoring in this centre, the NPM has also received several complaints from the convicts that there is a lack of quality mattresses and pillows (wards 1, 3, 5 and the Semi-Open Ward (SOW)). The NPM immediately expressed its concern to the competent officials.

Regarding these allegations, in the report on the visit to the Correctional Centre in Dubrava, published on April 14, 2022, the ombudsperson recommended to the Ministry of Justice: *"The convicts should be supplied with enough warm water and quality mattresses."*³³

In response to the Ombudsperson's recommendation, the Ministry of Justice stated that they were informed by the CCD for this matter that they are regularly supplied with hot water twice a week, whereas the workshops and the Semi-Open Pavilion (SOP) are supplied with warm water every day. In terms of bedding supplies, there was a large supply of mattresses and new blankets available

to correctional institutions in 2021. In addition, the Kosovo Correctional Service intends to replace the mattresses in the SOP and some rooms in other institutions during 2022.

With regard to accommodation conditions at the Dubrava Correctional Centre Hospital, the CCD noticed that the facility in general does not meet the conditions for those hospitalized or for the health staff, despite the renovations that have been made. It should be noted that the CCD hospital has two floors and only stairs, which causes difficulties for patients, particularly those with disabilities.

Regarding this matter, in the Report with recommendations for the Correctional Centre in Dubrava, the Ombudsperson has recommended to the Ministry of Justice: *"To create adequate conditions for people hospitalized in the prison hospital."*³⁴

The Ministry of Justice, regarding this recommendation, responded as follows: *The Ministry of Justice previously agreed, in collaboration with the Prison Health Department (PHD) of the Ministry of Health, to adapt the facilities in Pavilion D to accommodate prisoners with mental problems, including the creation of all conditions in terms of infrastructure and personnel adequate for their treatment in accordance with specific needs and international standards in this field. The SKK and the PHD are in the final stages of planning for the placement of approximately 60 convicts in these spaces, which is expected to be completed by the end of this year, while additional spaces will be created in ward 7 for the placement of a greater number of convicts with special needs."*

During NPM's follow-up visit to the CCD carried out on 6 December 2022, the NPM team was informed

32 Law no. 04/L-149 on the Execution of Penal Sanctions, Article 37, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

33 <https://oik-rks.org/en/2022/04/15/npm-report-regarding-the-visit-conducted-to-the-dubrava-correctional-centre/>

34 <https://oik-rks.org/en/2022/04/15/npm-report-regarding-the-visit-conducted-to-the-dubrava-correctional-centre/>

by the management of the centre that they are finalizing the adaptation of Pavilion D, where prisoners with mental problems are expected to be placed. Also, the Prisons Health Department has opened a vacancy for the recruitment of health staff dedicated to this ward.

During the visit to the **Correctional Centre for Women (CCW)**³⁵ carried out on 13 October 2022, the NPM noticed that the cells where the prisoners are accommodated have sufficient natural and artificial lighting, and there is no humidity. With regard to living premises for female prisoners, the NPM noted that the available space is in accordance with the provisions of the LESP and standards set by the European Committee for the Prevention of Torture (CPT).³⁶ Similarly, the NPM did not notice overcrowding in the CCW during the visit, and the majority of the prisoners were only placed in rooms based on their requests.

Even during this year's visit, the NPM received complaints from prisoners that the showers and laundry machines are inoperable due to technical issues.

In this regard, through the report with recommendations, published on 23 November 2022³⁷, the Ombudsperson has repeated the recommendations to the Ministry of Justice, to make technical repairs to the showers and machines in the laundry room.

During this year, the NPM paid special attention to the functioning of the **Mothers House in the**

Correctional Centre for Women in Lipjan.³⁸ The NPM conducted a visit on 7 July 2022, where it interviewed prisoner M.I., who had been placed together with her eight-month-old child, and it was identified that the Mothers House does fulfil the basic conditions for accommodation in accordance with the Law on the Execution of Criminal Sanctions, nor international standards for the protection of the rights of prisoners with children.

Regarding this matter, the NPM on 15 July 2022 addressed an official letter to the director of the Kosovo Correctional Service and on the same day it was announced that the Correctional Service has been allocated budget for constructing a new premise for Mother with Children in 2023. However, until the implementation of this project, according to the director, the KCS will urgently undertake necessary actions for the functionalization and renovation of the Mothers House. The NPM noticed the renovations made during the visit that was carried out in October this year.

In this regard, through the report with recommendations, published on 23 November 2022³⁹, the NPM recommended to the Ministry of Justice that the House of Mothers be equipped with new inventory, for the duration that this house is in use.

In the report on the visit to the **Detention Centre in Peja**⁴⁰ (DCP), during this year the NPM also discovered this year that the conditions of accommodation in this centre, in terms of lighting

35 <https://oik-rks.org/en/2022/11/25/ombudspersons-national-preventive-mechanism-against-torture-report-regarding-the-visit-conducted-to-the-correctional-centre-for-women-in-lipjan/>

36 European Committee for the Prevention of Torture, Living Space for a Prisoner, see: <https://rm.coe.int/16806cc449/>

37 <https://oik-rks.org/en/2022/11/25/ombudspersons-national-preventive-mechanism-against-torture-report-regarding-the-visit-conducted-to-the-correctional-centre-for-women-in-lipjan/>

38 <https://oik-rks.org/en/2022/11/25/ombudspersons-national-preventive-mechanism-against-torture-report-regarding-the-visit-conducted-to-the-correctional-centre-for-women-in-lipjan/>

39 <https://oik-rks.org/en/2022/11/25/ombudspersons-national-preventive-mechanism-against-torture-report-regarding-the-visit-conducted-to-the-correctional-centre-for-women-in-lipjan/>

40 <https://oik-rks.org/en/2022/11/17/report-of-the-national-preventive-mechanism-against-torture-with-regard-to-the-visit-conducted-to-the-pre-detention-centre-in-peje/>

and ventilation, are not in accordance with the LECS⁴¹ or the CPT standards.

The NPM received numerous complaints from detainees and convicts about the conditions of accommodation in the DCP during its visit to this facility on 7 July 2022. The interviewed prisoners claimed that there is a lot of humidity in the rooms where they are accommodated. In order to prove their assertions, NPM has visited the rooms in wing B in the DCP and observed that their assertions stand. The NPM team has also received numerous complaints from prisoners about the lack of space in the DCP and about natural and artificial lighting.

The NPM, through this report, reiterated its recommendation that the accommodation conditions in the DCP, as long as this centre is in use, should be in accordance with the standards defined in the LECS; with the standards of the CPT and with other international standards for protection of prisoners' rights.⁴²

During the visit to the **High Security Prison**, carried out on 8 August 2022, the NPM emphasized that in general the accommodation conditions are at a satisfactory level in most of the wards and other spaces, in terms of space, cleanliness, as well as access to natural and artificial light.

Regarding the accommodation conditions in the **Detention Centre in Pristina**, the NPM has observed that the cells where the prisoners are accommodated have sufficient natural light, living space, which goes beyond the standard set by the LECS and standards set by the CPT. Also, the NPM

observed that there are appropriate cells available for prisoners with disabilities.

Concerning the **Detention Centres in Mitrovica and Prizren**, the NPM stated that the accommodation conditions were generally acceptable, with the exception of certain cases, in terms of living space per prisoner, where the accommodation conditions are neither in accordance with the LECS, international standards for the protection of prisoners' rights, nor with the standards of the CPT.

While during the visit to the **Detention Centre in Gjilan**, the NPM again noticed that the cells where prisoners are accommodated are in accordance with the LECS and the standards of the CPT, having sufficient lighting, no humidity and also adequate heating and cleanliness.

In the report on the **Educational Centre for Juveniles in Lipjan**, the NPM noted that the conditions where male juveniles were kept in the ECJ were very good, the rooms were clean and well-lit, the juveniles' beds had sheets, blankets, except for mattresses that were worn and of poor quality. The rooms where the juveniles were accommodated were large and had sufficient lighting, having TVs and personal closets. Each room had toilets which were in good condition, adequate and had uninterrupted hot water. Also, the rooms and toilets, which were dedicated to persons with disabilities, met the conditions for this category. The NPM considers that the ECJ meets all the conditions for the accommodation of juveniles.⁴³

In this regard, the NPM recommended to the Ministry of Justice, via the report with recommendations

41 Law no. 08/L-132 on the Execution of Criminal Sanctions, article 35, paragraph 3, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

42 Report of the NMPT for the Detention Center in Peja: <https://oik-rks.org/en/2022/11/17/report-of-the-national-preventive-mechanism-against-torture-with-regard-to-the-visit-conducted-to-the-pre-detention-centre-in-peje/>

43 The report of the NMPT on the visit to the Educational Centre for juveniles and the Correctional Centre for Juveniles in Lipjan, dated Jul 26, 2022 <https://oik-rks.org/en/2022/07/26/report-of-the-ombudspersons-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-educational-correctional-centre-for-juveniles-and-correctional-centre-for-juve/>

for the visit to this centre, that the minors in the Lipjan Educational Centre be provided with quality mattresses.

The NPM was notified by the Ministry of Justice, within the legal deadline, that the Kosovo Correctional Service (KCS) announced that there are currently only 4 unused mattresses (in pavilion B, which is planned to be renovated in the future) in the stocks of the Correctional Education Centre (CEC) (CEC). The KCS has assured that the same will be distributed immediately to the Correctional Education Centre's needs. Also, the CEC staff is assessing the needs and condition of mattresses in order to see the possibility of using some that are not damaged for an additional period of time. Likewise, the KCS plans to have a wide supply of correctional institutions by the end of 2022, including the CEC for Minors in Lipjan.

Also, during this visit, the NPM noted that the accommodation conditions in Unit B, the part designated for female minors, the accommodation conditions are very good. The rooms had sufficient lighting and each room had a toilet, which was in very good condition. The NPM has noted that article 30, paragraph 1, of the Internal Regulation of the ECJ states: "*Female minors enjoy all the rights that are guaranteed to male minors in the Educational-Correctional Centre.*" Furthermore, in Article 30, paragraph 3, it is determined: "*Female minors are placed in a special ward of the ECJ, separated from male minors and kept under the supervision and care of female staff.*"

Also, the European Committee for Prevention of Torture (CPT) emphasizes that under no

circumstances should female minors receive less care, protection, assistance and treatment than male minors, despite the fact that their number is much smaller and that the centres are almost always designed to convict men. If necessary, additional measures should be taken to ensure equal treatment.⁴⁴

As for the accommodation conditions in the **Juvenile Correctional Centre**⁴⁵, the NPM noticed that there was sufficient natural and artificial light in the rooms. Overall, the NPM considers that the Juvenile Correctional Centre fulfils the adequate conditions for accommodation of imprisoned minors.

Regime for convicts

In cooperation with all partners and in continuous compliance with the applicable laws in Kosovo, the Correctional Service of Kosovo aims to correct and re-socialize convicts, by respecting fundamental rights regardless of race, language, religion, and to ensure safe environment for the staff, convicts and society.⁴⁶

Also, the LECS and the Criminal Procedure Code⁴⁷, as well as international standards on the rights of prisoners, expressly define the obligation of competent authorities to engage prisoners in work, in cultural, educational and sports activities, which would contribute to their resocialization.⁴⁸

According to the Correctional Service of Kosovo's internal regulation on treatment aimed at socialization and rehabilitation of convicts, the implementation of four types of treatment is

44 [CPTInf-2015-1-part-alb.docx.pdf](#)

45 The report of the NMPT on the visit to the Educational Centre for juveniles and the Correctional Centre for Juveniles in Lipjan, dated July 26, 2022. <https://oik-rks.org/en/2022/07/26/report-of-the-ombudspersons-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-educational-correctional-centre-for-juveniles-and-correctional-centre-for-juve/>

46 Internal regulation for treatment, article 2, Mission of the Correctional Service of Kosovo. <https://shkk.rks-gov.net/assets/cms/uploads/files/Rregullorja%20e%20brendhsme%20per%20tretman.pdf>

47 Criminal Procedure Code, article 199, paragraph 2, and article 200.

48 Law on the Execution of Criminal Sanctions, article 55, as well as article 200, paragraph 1.

foreseen: admission treatment, basic, standard and advanced treatment.⁴⁹

During the visit to the **Correctional Centre in Dubrava**, the NPM noticed that three workshops are operational, which are actually also centres for vocational training where trainings are organized for welding, construction, machinists, carpentry, technical maintenance, plumber and electrician. Courses lasting three months are organized in these workshops. Also, the NPM has noticed that there are about 260-300 prisoners engaged in work at this centre. Convicts can move freely within the wards where they are placed and have the right to 3 hours of walking per day during the summer season, and up to 2 hours per day during the winter season.

Also, a secondary school, which 37 students attend, operates within the Correctional Centre in Dubrava. This is a satellite school of the "Mithat Frasheri" Technical High School in Gurrakoc - Istog, with machinery as a major. However, during the visit, the NPM team was informed by interviewing convicts that some of them do not know how to read and write. This was confirmed by the head of programs and education.

In this regard, Article 83, paragraph 1, of the LECS defines *"The convicted person has the right to primary and secondary education in accordance with the law on primary and secondary education. The law also emphasizes that the competent ministry for education is responsible for primary and secondary education in the correctional institution. Article 83, paragraph 4, defines: "Special courses should be organized for convicted persons who cannot read and write."*

In this regard, through the report to the Correctional Centre in Dubrava, the NPM recommended to the Ministry of Justice: *"To organize special courses for prisoners who do not know how to read and write."*⁵⁰

As for the regime in the **High Security Prison**, during the visits carried out in 2022, the NPM again noticed that most of the prisoners are engaged in different jobs, such as maintenance, cleaning the wards, working in the kitchen, in the workshop for production of toilet paper and plastic bags, which also supplies other institutions of the KCS. Also, convicts can move freely within the wards where they were placed, except for those under detention on remand. Prisoners are entitled to 3 hours of walking per day during the summer season, and up to 2 hours per day during the winter season.

As for the regime of the female prisoners in the **Correctional Centre for Women**, during the visit carried out on 13 October 2022, the NPM was informed by female convicts that most of them work in the bakery, kitchen, tailoring and cleaning, while during the summer season they work in the gardens and the centre's greenhouse. Whereas females under detention on remand are hardly engaged in work and other activities, as their engagement is subject to the permission by the competent court.

The NPM team was informed that the training for production of filigree jewellery is now being held, which is supported by "HELP Kosova". Five female convicts are engaged in this training. The training lasts one year and is held by specialized instructors of the program. Female convicts are provided with a certificate at the end of the training. Also, the NPM was informed by convicts that they are allowed to walk outside the cell twice a day for one

49 Internal regulation for treatments, article 10, Types of Treatments. <https://shkk.rks-gov.net/assets/cms/uploads/files/Rregulloria%20e%20brendhsme%20per%20tretman.pdf>

50 <https://oik-rks.org/en/2022/04/15/npm-report-regarding-the-visit-conducted-to-the-dubrava-correctional-centre/>

hour, which is in accordance with Article 36 of the Law on the Execution of Criminal Sanctions.

However, the NPM again received complaints from convicts, especially from those with long-term imprisonment, who claim that the number of activities and engagements in the CCW is not sufficient. The Ombudsperson highlighted the same complaints in the Report with recommendations for the Correctional Centre for Women and the Correctional Centre for Juveniles⁵¹, which was published on 23 December 2021, wherein it was recommended: *“To increase activities outside the cell for female prisoners (including pre-trial detainees), when such a thing is possible. Special attention should be paid to prisoners sentenced to long-term sentences.”* Therefore, the NPM, in the report published on 25 November 2022, has reiterated this recommendation to the Ministry of Justice⁵².

Regarding the regime for juveniles deprived of liberty, the NPM has noticed that in addition to daily airing, they are offered a comprehensive regimen including schooling, training for various fields, work, as well as sports and recreational activities. The NPM has described the regime of minors in the Report with recommendations for minors in the Correctional Centre for Juveniles and the Educational Centre for Juveniles in Lipjan.⁵³

Regime for detainees on remand

Even during this year’s visits, the NPM noticed a poor regime for the detainees on remand. The NPM again concludes that it has noticed that most of the detainees, despite efforts by the detention centres’

authorities, spend most of their time locked in their cells, due to the infrastructure (Detention Centre in Prizren and the one in Peja and partly the one in Mitrovica) and because their engagement in activities outside the cell is subject to the permission of the competent court.

The NPM notes that Article 199, paragraph 2, of the Criminal Procedure Code defines the detainee’s commitment to work and other activities outside the cell, 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.”* Whereas Article 200, paragraph 1 of the LEPS, regarding the engagement of the detainee at work, stipulates the following: *“A detainee may work in the workshop, workshops of the economic units within the respective correctional institution only with the approval of the competent court.”*

Regarding the regime of prisoners, the NPM notes that the European Committee for the Prevention of Torture, in the latest report on the visit to the Republic of Kosovo, published in October 2021, reiterates the recommendation to relevant authorities that all prisoners be provided a comprehensive regimen of activities outside prison cells. In order to ensure that all prisoners (including those in detention on remand) are able to spend part of the day outside their cells, to engage

51 See the Report published on 23 December 2021: <https://oik-rks.org/en/2021/12/24/report-of-the-npm-concerning-the-visit-to-the-correctional-centre-for-women-and-correctional-centre-for-juveniles-in-lipjan/>

52 NMP Report on the Correctional Center for Women: <https://oik-rks.org/en/2022/11/25/ombudspersons-national-preventive-mechanism-against-torture-report-regarding-the-visit-conducted-to-the-correctional-centre-for-women-in-lipjan/>

53 <https://oik-rks.org/en/2022/07/26/report-of-the-ombudspersons-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-educational-correctional-centre-for-juveniles-and-correctional-centre-for-juve/>

in activities of a different nature: work, preferably of professional value, education, sports, recreation/association.⁵⁴

Contacts with the outside world

According to the Law on the Execution of Criminal Sanctions, convicted persons have an unlimited right to correspondence (subject to certain exceptions), are entitled to family visits, which last at least one hour, as well as to visits by children and their spouses, at least once every 3 months, with a minimum duration of three hours. In addition, they have the right to make phone calls. For prisoners who have family members abroad, communication is enabled through the Skype platform.

In the case of detainees, Article 200 of the Criminal Procedure Code of Kosovo stipulates that detainees may receive visits “*within the limits of the rules of the detention center*”, based on the permission of the pre-trial judge and under his/her supervision. The Code further stipulates that correspondence and other visits are subject to the decision of the pre-trial judge.

As for imprisoned foreign nationals, they are offered the opportunity to contact the diplomatic mission or the relevant office of the country of which he/she is a citizen to, in writing or orally.⁵⁵

Likewise, the convict or detainee has the right to correspond with his/her defence counsel, who represents him/her in legal proceedings. The convict has the right to confidential communication

with his/her representative, without the presence of correctional personnel.⁵⁶

The Ombudsperson or his representatives may visit convicts and detainees and correspond with them, without prior warning and without supervision. The letters of detainees and of convicts, which are sent to the Ombudsperson Institution, cannot be checked. The Ombudsperson and his representatives can communicate orally or in writing in a confidential manner with the convict and the detainee.

For the reporting period, the NMP, during visits to correctional centres and detention centres, did not receive any complaints from detainees or convicts regarding the right to contact the outside world.

The complaint submission procedure in correctional and detention centres

According to the Law on the Execution of Criminal Sanctions, the convicted person has the right to appeal the procedure and the decision against the employees in the correctional institutions. The complaint is submitted orally, or in writing through the director of the correctional institution, to the Central Office of the Correctional Service. The written complaint, addressed to the Central Office, is sent in an envelope which the directorate of the correctional institution must not open.⁵⁷

During the reporting period, the NMP has received several complaints from prisoners about non-response from the competent bodies of the KCS

54 The report of the European Committee for the Prevention of Torture, in the report on the visit to the Republic of Kosovo, <https://rm.coe.int/1680a3ea32>

55 The Law on the Execution of Criminal Sanctions, Article 63, paragraphs 1 and 2. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

56 The Law on the Execution of Criminal Sanctions, Article 62, paragraphs 1 and 2. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

57 The Law on the Execution of Criminal Sanctions, Article 90, paragraph 2. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

to their complaints and requests. The NMP has followed up with these complaints/requests by contacting the Kosovo Correctional Service, which told that all the convicts have been notified through a written response.

Health care in correctional centres and detention centres

According to Article 42, paragraph 1, of the Law on the Execution of Criminal Sanctions, the convicted person must enjoy the same standards of health care that are available in the community.

The facilities in which medical services are provided in correctional and detention centres are generally at a satisfactory level, except in the Detention Centres in Peja, Prizren and Mitrovica. The NMP notes that the spaces where medical services are provided in these centres are not adequate and do not protect the confidentiality of medical services. The NMP also notes during this year that the facilities for medical services in these centres remain the same despite the recommendations of the NMP.

Likewise, according to the LECS, the convicted person who cannot be provided adequate medical treatment in the correctional institution is sent to the hospital of the correctional institution, to the appropriate psychiatric institution, or to any other health care institution.⁵⁸

Medical examinations for newly arrived prisoners

Standard Operating Procedures⁵⁹ of PHD and the Law on the Execution of Criminal Sanctions⁶⁰ determine the obligation for the newly-admitted prisoner to undergo a medical examination within 24 hours from the moment of admission. Such obligations are also defined by international acts for the protection of prisoners' rights, such as: Mandela Rules⁶¹, European Prison Rules, etc.⁶² During the reporting period, based on the visits carried out and the reports sent by the PHD, the NMP has observed that all newly-admitted prisoners undergo medical examinations within 24 hours of admission. In this regard, during this year, the NMP has not received any complaints from the convicted or from the admitted detainees.

Confidentiality of medical services

Even during this reporting period, the NMP, based on the interviews conducted with the prisoners and the health personnel, has noticed that in general these services are provided under conditions that comply with confidentiality, i.e., they are provided without the presence of correctional officers, except in cases where their presence is required by the doctor. While only health personnel have access to the prisoner's medical file.

58 The Law on the Execution of Criminal Sanctions, Article 22, paragraph 6. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867>

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

60 <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8867bn>

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

62 Council of Europe, Recommendation (2006) 2 of the Council of Ministers to Member States on the European Prison Rules, point 42.1. See at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c221d>

Complaints related to medical treatment

During this year, the NMP has received complaints from prisoners regarding medical treatment in correctional and detention centres, either during field visits, from phone calls received, from family members, social workers, complaint boxes, etc. Some of these complaints have been registered for further investigation in the database of the Ombudsperson and will continue to be dealt with in the future. For all these cases, the NMP has obtained information from viewing the files in the field as well as additional information provided by HDP. The Prison Healthcare Directorate has continuously notified the NMP of health reports of persons deprived of liberty with injuries received or suffered while serving the sentence, forwarding 63 health reports to the Ombudsperson based on Standard Operating Procedures of PHD.

The presence of prisoners with mental problems in correctional centres and detention centres

During this year's visits to the detention and correctional centres, the NMP notes that the presence of persons with mental problems remains a challenge, due to the lack of capacity to accommodate prisoners of this category in relevant health institutions. The NMP has noticed that even throughout this year, due to the impossibility of accommodating them in relevant institutions, according to the recommendation of the doctor in charge, prisoners with serious mental problems continue to be kept in detention centres and in correctional ones.

NMP notes that Article 43 of Law No. 05/I-129 on Amending and Supplementing the Law No. 04/L-149 on the Execution of Criminal Sanctions defines: *"The convicted person who cannot*

be offered adequate medical treatment in the correctional institution shall be sent to the hospital of the correctional institution, to the appropriate psychiatric institution, or to any other health care institution."

Regarding this issue, the NMP has informed the Ministry of Justice that the opening of Ward D at the Correctional Centre in Dubrava is being planned for the reception and treatment of persons with special needs, a project which is in the final stage. The correctional staff has been recruited and has undergone basic training at the Kosovo Academy for Public Safety and the implementation of the Council of Europe project is expected to begin, which will include the staff of the Forensic Psychiatry Institute.

The NMP will continue with regular visits during 2023, as it will closely follow the actions of the authorities and the implementation of the recommendations of the Ombudsperson regarding the treatment of persons with mental problems.

Personnel of correctional centres and detention centres

Even during this year, the NPM received numerous complaints from the correctional personnel regarding the working conditions as well as the small number of correctional officers in relation to the number of prisoners. One of the many complaints is the non-supply of uniforms and other necessary equipment to perform their work.

Regarding these concerns of the correctional officers, on 11 March 2022, the NPM addressed the Kosovo Correctional Service with an official letter.

On 21 March 2022, the Kosovo Correctional Service notified the NPM that, being the contracting authority, the Kosovo Correctional Service (KCS), on 8.3.2021, has tendered in an open procedure in medium value the procurement activity entitled:

“Supply of uniforms for the correctional staff”, however, after the evaluation commission has made the evaluation, comparison and examination of the bids, it has been concluded that Economic Operators have submitted technically irresponsible bids, thus cancelling the tender. Regarding this, the Economic Operator has filed a complaint with the Procurement Review Body (PRB). Since PRB did not have a board, it was not possible to continue with this procurement process. The situation will be monitored by NPM even during 2023.

As for the increase in the number of correctional staff, the NPM was informed by the KCS that this institution is in the process of recruiting 30 new officers for the Correctional Centre in Dubrava and that the procedure is now in the complaints phase.

During the follow-up visit to the Correctional Centre in Dubrava, the NPM was informed that 30 new correctional officers have started working in this centre. However, regarding the uniforms, the correctional staff has not yet been supplied with new uniforms. Also, the new correctional staff has been hired to the High Security Prison and the Detention Centre in Prishtina.

The Ombudsperson has recommended to the Ministry of Justice to increase the number of social workers and legal officers according to the assessment and as needed, a situation that continues to remain the same.

The NPM's visits to the correctional and detention centres

Correctional and detention centres visited during 2022

The institution visited	No. of visits
1. Correctional Centre in Dubrava	3
2. Correctional Centre in Smrekonica	2
3. Correctional Centre for Women-Lipjan	4
4. Correctional Centre for Juveniles-Lipjan	3
5. Educational Correctional Centre for Juveniles in Lipjan	1
6. Detention Centre in Peja	2
7. Detention Centre in Mitrovica	1
8. Detention Centre in Gjilan	1
9. Detention Centre in Prishtina	4
10. Detention Centre in Prizren	1
11. High Security Prison	3

CHAPTER IV

IV. CENTRES FOR ASYLUM SEEKERS

The NPM team, in cooperation with representatives of the United Nations High Commissioner for Refugees and representatives of the Civil Rights Program Kosovo (CRPK), has conducted two visits to the Centres of Asylum Seekers in Magura and Vranidoll. These joint visits were carried out based on the Cooperation Agreements between the aforementioned organizations and the Ombudsperson Institution. On 30 November 2022, the NPM conducted another visit to the Centre of Asylum Seekers in Magura, together with the delegation from the Ombudsperson of North Macedonia.

The visits were aimed at assessing the respect of the basic rights of asylum seekers by the authorities of the Republic of Kosovo in accordance with the applicable legislation of the Republic of Kosovo and with international standards for human rights embodied in the Constitution of the Republic of Kosovo.

The monitoring team of the NPM and of the aforementioned organizations, during the visits, has identified that 27 asylum seekers were located in the Centre of Asylum Seekers in Magura, while there were 30-40 people in private housing. While in the Centre of Asylum Seekers in Vranidoll, there were no people accommodated. In 2021, the Ombudsperson had recommended to avoid deficiencies in the operation of the sewerage system in the Centre of Asylum Seekers in Vranidoll. The monitoring group, during the last visit, noticed that renovations were carried out in this centre and the recommendation was implemented.

Based on the Centre's statistics, the number of asylum seekers compared to previous years was decreasing. During 2022, the number of asylum seekers was about 518 people, mainly from Morocco, Syria, Afghanistan, Algeria.

Regarding asylum-seeking children, the NPM team, during the visit to the Centre of Asylum Seekers in Magura (May 2022), was informed that there were families with children, but no unaccompanied children. However, according to the latest announcement dated 30 November 2022, a total of 22 unaccompanied minors were registered.

Article 31 of Regulation No. 03/2018 on the Functioning of the Asylum Centre determines that the best interest of children must be taken into consideration during the implementation of the Regulation. According to the Regulation, Children who have been victims of any form of abuse, neglect, exploitation, torture or inhuman treatment or who have suffered from armed conflicts shall be provided with adequate healthcare services and qualified counselling, as necessary. Also, according to the Regulation, children accommodated in the Centre shall be provided with access to entertaining activities and games appropriate for their age.

Notice on the fundamental rights of asylum seekers

-The NPM has noticed that asylum seekers are informed about their rights and asylum procedures through brochures and documents written in Arabic, English, French, Turkish, Serbian, etc. In addition, large screens have been installed in the corridors of the Centre for Asylum Seekers in Magura, through which asylum seekers are informed about their rights in Albanian, English and Arabic.

Treatment - During the visit, the monitoring group of the NPM and of the CRPK interviewed the asylum seekers through an Arabic translator. All the asylum seekers have said that there is a very good and humane treatment by the officials of the Ministry of Internal Affairs and the Kosovo Police.

Conditions of accommodation in centres for asylum seekers - NPM has observed that the accommodation conditions are of a very good standard in terms of living space, lighting, cleanliness and heating. In terms of social and educational activities, the monitoring group considers that the Centre for Asylum Seekers in Magura meets all the conditions for social and educational activities. At the Centre for Asylum Seekers in Vranidoll, the monitoring group observed that there is a playground for children in the yard.

Medical care - The NPM has noticed that medical services for foreigners in the Asylum Centre are provided by the nearest Family Medicine Centre and the University Clinical Centre of Kosovo. In addition, the NPM noted that a doctor was engaged by the Jesuit Refugee Service (JRS), who supplied the centres for asylum seekers with medicines and other necessary materials. The NPM has not received complaints from asylum seekers regarding medical services, on the contrary, asylum seekers have claimed that the necessary services are provided to them as soon as possible.

Psychological services are provided by the organization Kosova Rehabilitation Centre for Torture Victims (KRCT). The psychologist is present at the Centre almost every day and provides individual and group treatments.

Contacts with the outside world - According to the Regulation, asylum seekers are allowed to receive visits to the Centre, receive packages

and correspondence, use the Centre's phone to communicate according to the set schedule, and leave the Centre from 7:00 a.m. to 10:00 p.m.⁶³ Likewise, the Regulation determines that the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), as well as various non-governmental organizations have access to the Centre. The Ombudsperson and his associates have unlimited access and communication with the Centre's applicants.⁶⁴ Moreover, the internet connection via WI-FI is also available to asylum seekers, which is available to asylum seekers all the time.

Complaint submission procedure - The issue of submitting complaints is regulated by Article 43 of the Regulation, which determines that the asylum seeker has the right to file a complaint to the head regarding the conditions of admission and treatment by the staff of the Centre. The complaint is then sent to the Department for Citizenship, Asylum and Migration, within the Ministry of Internal Affairs, within 7 days. The NPM has noticed that a complaint box set up by the Centre is available to asylum seekers at the Centre.

Likewise, the Law on Asylum and the Regulation guarantee unimpeded access for international organizations and local NGOs. During the visit, the monitoring group, through the Arabic language translator, once again informed the asylum seekers about the role and mandate of the Ombudsperson Institution, as a state body which protects and promotes fundamental human rights, and about the possibility to address the Institution regarding their concerns.

63 Regulation (MIA) No. 03/2018 on the Functioning of the Asylum Centre, Articles 38, 39, 42 and 54.

64 Regulation (MIA) No. 03/2018 on the Functioning of the Asylum Centre, Article 54.

DETENTION CENTRE FOR FOREIGNERS

Based on the legal mandate, on 19 May and 30 June 2022, the NPM, together with the representatives of the United Nations High Commissioner for Refugees (UNHCR) and representatives of the Civil Rights Program Kosovo (CRPK), visited the Detention Centre for Foreigners (DCF).

The DCF operates within the Department for Citizenship, Asylum and Migration (DCAM) of the Ministry of Internal Affairs (MIA). According to Article 2 of Regulation (MIA) No. 04/2018 on Operation of the Detention Centre for Foreigners (hereinafter: the Regulation), this centre accommodates the foreigners who are subject to forced removal as well as the foreigners who are considered as breaching the public security, in order to verify their identity or for other reasons. The capacity of the DCF is for 70 people, while 3 foreigners were present during the visit conducted by the NPM.

Treatment

During the visit conducted by the NPM to DCF, 3 detained foreign persons were present. The NPM checked their files and conducted group interviews through an Arabic translator. The NPM has not received any complaints from the interviewed persons about physical abuse, excessive use of physical force or improper behaviour by security officers and DCF officials. On the contrary, the detained foreigners expressed said there is a very good treatment by the Kosovo Police and by the officials of the Ministry of Internal Affairs.

However, the NPM team, during the visit conducted on 30 June 2022 in DCF, visited the foreigner E.T.,

who was accommodated in the DCF together with his son, O.T. During the visit, the NPM interviewed E.T, who had no complaints regarding the conditions and treatment in the DCF. The complainant expressed concern that his son, O.T., during his stay in the Asylum Centre, was bullied by another resident of that centre.⁶⁵

Regarding this matter, the NPM has reviewed the documentation for the O.T. case, including the health file, the police report and the court decisions. Based on the reviewed documentation, the NPM did not observe any signs of physical abuse. Also, the NPM contacted the authorized lawyer, who represented the party in court, who affirmed that during the entire defence in court, the party did not express concern about ill-treatment and no signs of physical ill-treatment were observed.

Accommodation conditions - The NPM considers that the accommodation conditions in the DCF are at a very good level. All rooms had decent accommodation, heating, sufficient natural and artificial lighting and showers which were in very good condition. Foreigners at DCF can access the showers whenever they want.

Medical care - With regard to health services, Law No. 04/L-219 on Foreigners determines that the DCF must meet all the conditions of a dignified treatment as well as respect for human rights, guaranteed by the Constitution of the Republic of Kosovo, and enable the provision of health services.⁶⁶

Further, the Regulation determines that the foreigner, during his stay in the DCF, shall be entitled to medical services. According to the Regulation, the medical staff performs the general

65 Report of the Ombudsperson with Recommendation for the Centre for Foreigners in Vranidoll: <https://oik-rks.org/en/2022/07/26/report-with-regard-to-the-visits-conducted-to-the-detention-centre-for-foreigners-in-vranidoll/>

66 Law No. 04/L-219 on Foreigners, Article 107, paragraph 2.

medical examination of the foreigner detained in the DCF.⁶⁷

Foreigners who are kept in DCF receive medical services from the Emergency Medicine Centre in Prishtina, if necessary, they are sent for secondary regional hospital services or even to the University Clinical Centre of Kosovo (UCCK), where they are also provided with tertiary health services. This is because the DCF still does not have medical personnel, even though the NPM, through previous reports, had recommended that the DCF have at least a nurse. During the last visit, the monitoring group noticed, by looking at the files, that IOM provided an assistance for handling a case which was difficult to manage. Whereas, in terms of psychological services, which are provided for in Article 41 of the Regulation, the NPM has observed that they are provided by the psychologist contracted by the IOM.

Contact with the outside world - According to Article 25 of Regulation No. 04/2018 on Operation of the Detention Centre for Foreigners, the detained foreigner has the right to keep correspondence, receive packages and other items. Likewise, detained foreigners are allowed to receive visitors.⁶⁸

Regulation no. 04/2018 on Operation of the Detention Centre determines that the foreigner has the right to make free phone calls for up to 5 minutes, from 09:00 to 16:00 every working day.⁶⁹ According to the Regulation, foreigners are also allowed to receive calls from abroad. During the visit, the monitoring group noticed that foreigners could call their families. The monitoring group considers that since it is about administrative detention and

detention, in the sense of the provisions of the Criminal Procedure Code of Kosovo, detainees should be provided with other opportunities for communication with the outside world, such as: *online* communications through SKYPE or even through other communication systems.

Monitoring and complaint mechanisms - The NPM team notes that foreigners have the right to complain to the head of the DCF, regarding the conditions of admission to the DCF and the behaviour of the staff. The complaint is examined by DCAM. According to Regulation No. 04/2018 on Operation of the Detention Centre for Foreigners, the Detention Centre for Foreigners has established a complaint box, which is administered by the centre itself.

While, in terms of monitoring, in addition to the NPM, foreigners in DCF can be visited at any time by the UNHCR, the IOM, the CPT, the International Red Cross. The regulation foresees that the head of this centre can grant the right of access to the DCF to other relevant institutions or organizations.⁷⁰ Detained foreigners can also address their complaints to the Ombudsperson. During the visit, the NPM distributed brochures in English, Serbian, Turkish and Arabic to detained foreigners, which contain details on how they can contact the Ombudsperson and submit their complaints.

The Ombudsperson, regarding the visit of the NPM to the Detention Centre for Foreigners, has published the report with a recommendation on 25 July 2022.⁷¹

67 Article 13 of Regulation No. 04/2018 on Operation of the Detention Centre for Foreigners <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18342>

68 <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18342>

69 Article 26 of Regulation No. 04/2018 on Operation of the Detention Centre for Foreigners <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18342>

70 Article 27 of Regulation no. 04/2018 on the Operation of the Detention Center for Foreigners.

71 Report of the Ombudsperson for the Detention Centre for Foreigners in Vranidoll: <https://oik-rks.org/en/2022/07/26/report-with-regard-to-the-visits-conducted-to-the-detention-centre-for-foreigners-in-vranidoll/>

MONITORING THE OPERATIONS OF FORCED RETURN THROUGH AIRLINES

During 2022, the NPM team, at Prishtina International Airport, monitored an operation of the forced return of a citizen of the Republic of Kosovo and of a citizen of the Republic of Albania by the Swiss authorities. This monitoring is based on the Memorandum of Understanding signed between the Ombudsperson Institution and the Swiss National Commission for the Prevention of Torture.⁷²

During the monitoring of the operations in question, the NPM interviewed the returnees and observed that the returnees returned by force were treated in a humane and correct manner by the police authorities of the Republic of Kosovo. In addition, the NPM has had the full cooperation of the Kosovo Police during the implementation of these operations.

Detention Centres for Foreigners and the Asylum Centre visited in 2022

The institution visited	No. of visits
1. Asylum Centre	2
2. Detention Centre for Foreigners	2
3. Reception Centre for Asylum Seekers and Migrants in Vranidoll	1
4. Prishtina International Airport	1

⁷² Memorandum of Understanding between the Ombudsperson Institution and the Swiss National Commission for the Prevention of Torture for the monitoring of forced return operations, signed on 24 April 2019. For more see: <https://www.oik-rks.org/2019/04/25/nenshkruhet-memorandumi-i-mirekuptimit-ne-mes-te-zvicres-dhe-kosoves-per-parandalim-te-tortures-dhe-monitorim-te-perbashket-te-operacioneve-te-kthimit-me-force/>

CHAPTER V

V. MENTAL HEALTH AND SOCIAL CARE INSTITUTIONS

The Ombudsperson, through his mechanism, regularly observes, through regular field visits, the respect of the rights and standards offered to persons with mental disorders in mental health service environments.⁷³

During 2022, the NPM visited the Kosovo Forensic Psychiatry Institute (hereinafter: KFPI), the Emergency and Psychiatric Intensive Care Ward of the Psychiatric Clinic (hereinafter: EPIC), the Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP), Integrated Community Homes in Bresje and Ferizaj, the Special Institute in Shtime, the Home for Children with Mental Disabilities in Shtime, Community-Based Homes in Shtime, Ferizaj and Prizren.

During the visits to the mental health institutions, the NPM did not receive any complaints about mistreatment of patients by the staff of the said institutions. In all the institutions visited, the general atmosphere was relaxed, while relations between staff and patients were good.

Kosovo Forensic Psychiatry Institute

Kosovo Forensic Psychiatry Institute (KFPI) is an organizational unit of the Hospital and University Clinical Service of Kosovo (HUCSK). According to

the Law on Mental Health, it provides tertiary-level services for the whole country (the only one in Kosovo).⁷⁴

During the last visit by NPM (September 2022), each ward was operating at full capacity. The total capacity is 36 beds (12 beds in each ward), while during the visit of the NPM, according to the files, there were about 40 patients, some of whom were on a therapeutic weekend. There are several other cases on the waiting list for these wards.

Treatment and activities - During the visit, the NPM did not receive any complaints about physical abuse, but neither did it notice any signs of physical violence among the patients. The team interviewed the patients present, who claimed there is proper treatment by the medical staff.

KFPI, in addition to assessment and medication treatment, also provides psycho-social activities. The psycho-social treatment consists of activities, such as: games, watching TV, drawing, daily outings within the institution (in the promenade of the KFPI), individual and group sessions with the psychologist, etc.

Over the years, the NPM has observed that the treatment is basically pharmacotherapy. In the last report of the NPM of the Ombudsperson, published in August 2018, on the visit to the KFPI,

⁷³ Article 30 of Law no. 05/L-025 on Mental Health.

⁷⁴ Law No. 05/L-025 on Mental Health, Article 13, paragraph 1.2.

it was emphasized: *“It is the responsibility of the institution to provide certain medications according to the known evidence, but also to apply the monitoring of their possible side effects according to accepted clinical practices (follow-up analyses in the application of Clozapine).”*

In the latest report of the CPT on Kosovo (published on 23 September 2021)⁷⁵, according to their findings, treatment consists of pharmacotherapy and that individual treatment plans were not systematically drawn up and there was no proper recording of assessment and progress in the patients’ medical files. According to them, the patient files, viewed by the delegation, were basic, without any information about the medical history (development of symptoms, previous treatment and results, special features of the person or the disease) and the description of the patient’s social situation was missing. Furthermore, the diagnoses and treatment of the patients were not properly justified. Even in the last Report of the Ombudsperson, published on 30 November 2022, on the visit to the Forensic Psychiatry Institute, the NPM has encouraged the KFPI staff to give importance to the CPT’s recommendations regarding pharmacotherapy and the multidisciplinary approach.

Accommodation conditions - material conditions in KFPI are generally good. It is worth noting that the inventory has been demolished, especially in the part of the daily stay. In Ward B, when the air conditioners are turned on, water drips in the corridors, in one room in Ward B there was dampness, the mattresses are generally not good, the doors of the rooms are not secure and have transparent glass. The two isolation rooms in Ward C, due to poor conditions, are out of order, the cameras are not working, the glass of the door of room was broken. Hygienic conditions are

acceptable, patients have access to natural light, ventilation, and the privacy in showers and toilets was at the right level.

The family visit spaces in all wards are in corridors, without doors, where privacy is not ensured and they are inappropriate, both for the patient and for the family. The area where family visits are carried out in Ward C was a very small room without windows, dark, with a table with two chairs and privacy was not at the right level.

The NPM, also in the latest report with recommendations for the KFPI, expresses concern that the KFPI does not have a separate ward for female and juvenile patients, and when there are female cases, male and female patients stay in joint spaces.

In the last report with recommendations on the visit to the Forensic Psychiatry Institute⁷⁶, the Ombudsperson has asked the competent authorities to take measures as soon as possible to increase capacities and create conditions for patients of both sexes as well as for minors, in order to enable patients to benefit effectively from access to outdoor environments, on daily basis (with appropriate supervision and/or security if required).

Contact with the outside world - Family visits are made twice a week for 30 minutes. In addition to visits, patients also have the right to phone calls. KFPI also practices therapeutic weekends, which has been successful so far. The NPM has not received complaints from patients about contact with the outside world.

Confidentiality of medical services - During the visits carried out in 2022, the NPM has observed

⁷⁵ See the report, <https://www.coe.int/en/web/cpt/-/the-cpt-publishes-report-on-kosovo>.

⁷⁶ <https://oik-rks.org/en/2022/11/30/ombudspersons-national-preventive-mechanism-against-torture-report-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatric/>

that medical services are provided to patients at the KFPI without the presence of security officers, unless the medical staff in certain cases expressly requests such a thing.

Suicide prevention - According to the statements of the staff, during the last years there have been no cases of death or suicide in KFPI. During the last visit by the NPM, it was observed the recommendation given in 2018 in terms of protocols was implemented during 2022. The KFPI had recently compiled: *Protocol for the assessment and treatment of patients who present a potential risk of suicide; Protocol for the prevention and management of disordered/violent behaviour and Protocol for the assessment and treatment of patients who exhibit self-injurious behaviour*. These protocols have also been verified by the NPM team.

Means of restraint - During the visit, the NPM observed that no mechanical restraint is used. In the ward there is a shirt for mechanical fixation, but it has never been used. The isolation room is the primary and only means of restraint. The NPM, during the visit, observed the isolation monitoring form, where the staff, after monitoring, every 15-30 minutes, signs the said form. After the end of the isolation measure, the form is entered in the patient's file.

The NPM of the Ombudsperson, even in the last report, published on 28 August 2018, addressed the problem that the use of isolation rooms was excessive and of a duration that could not be justified. The NPM of the Ombudsperson noted that there is still no specific protocol for the use of restraints for psychiatric institutions, as required under Article 27 of the Law on Mental Health, paragraphs 2 and 3.

Even the CPT, in the last report on the visit to Kosovo, regarding the Kosovo Forensic Psychiatry Institute (KFPI) and the Psychiatric Clinic, had emphasized that the isolation of patients was a frequent practice, usually combined with the forced administration of medicines (with chemical content). The CPT reminds that the use of means of restraint should be subject to a comprehensive policy and had sent a number of specific recommendations in this regard.⁷⁷

The staff at KFPI - The NPM considers that the KFPI has sufficient staff. In terms of training, the staff had a basic capture/control training for the management of difficult cases only at the beginning, and never again have such training been delivered to the staff. During the last visit, the NPM was informed that the health staff of the KFPI has given basic information to the internal security personnel on how to manage crisis cases.

Review of decisions by competent courts - Regarding court decisions, as in previous years, the NPM was informed even during 2022 that the same problem continues, where the director of the KFPI claims that an additional problem is the competent courts not changing the measure despite the achievement of the objectives for handling those cases. According to the director of the KFPI, they have made a request to change the measure imposed on some people, but they have not received a response from the courts.

Complaint submission procedure - An effective complaint submission procedure is a fundamental guarantee against ill-treatment in psychiatric institutions. During the last visits, the NPM noticed that in Forensic Psychiatry and in the wards of the Psychiatric Clinic there are patient complaint boxes, which were not properly labelled, and, according to the directorate, those boxes are

⁷⁷ See the report of the CPT on the last visit to Kosovo, paragraphs 139, 140: <https://www.coe.int/en/web/cpt/-/the-cpt-publishes-report-on-kosovo>.

opened by a responsible office within the UCCK. However, for the NPM it is unclear what is the procedure for submitting a patient complaint, who opens those boxes, who handles complaints. So, during 2022, the NPM sent an e-mail to HUCSK to ask for information, but the institution in question has never responded.

Regarding the findings at the Forensic Psychiatry Institute, the Ombudsperson, through the report with recommendations, published on 30 November 2022⁷⁸, addressed the responsible authorities, the Ministry of Health and the Ministry of Justice.

The Ombudsperson has received responses within the legal deadline from the Ministry of Health and the Ministry of Justice. However, the responses of the Ministry of Health, specifically of the director of the KFPI, were general responses, emphasizing the following: *“Regarding the recommendations given in this report, we will request and push all stakeholders to fulfil these recommendations, as this would be the basic and legal conditions for the operation of the KFPI, while we will implement those that are within our competence.”*⁷⁹

Psychiatric Clinic in Prishtina - Emergency and Psychiatric Intensive Care Ward

During the reporting period, the NPM of the Ombudsperson, on 19 August and 29 September 2022, visited the Psychiatric Clinic where special attention was paid to the Emergency and Psychiatric Intensive Care (hereinafter “EPIC”) ward. During the visit, the health personnel offered the NPM monitoring team full cooperation, unhindered access to any space and were allowed

to talk to patients without the presence of medical personnel.

Relevant legislation – Based on the Law on Health, Article 13 of the Law on Mental Health of the Republic of Kosovo and Article 6 of the Statute of the Hospital and University Clinical Service of Kosova (hereinafter: HUCKS), the Psychiatric Clinic is an organizational unit of HUCKS. According to the law in force, it provides tertiary level services for the whole country (the only clinic in Kosovo), but it is also forced to provide secondary level services for the region of Prishtina, due to the absence of a general hospital. All wards (except the Emergency and Psychiatric Intensive Care ward) are open and treat patients upon their consent and in certain cases even against their will based on the decision of the competent court.

The relevant legal provisions for involuntary placement of a civil nature are regulated by the Law on Mental Health (LMH) (Articles 20-24), which was adopted in 2015, and the Law on Out Contentious Procedures (Articles 75 to 96).

Psychiatric Clinic in Prishtina - is located within the space of HUCKS, it has an area of 3860 m². Its capacity consists of 85 beds. The Psychiatric Clinic consists of 4 separate wards: Ward A, where all psychotic disorders are currently treated; Ward B, for affective/personality disorders; Addiction Diseases Ward (ADW), where all cases of addiction to alcohol, prescribed drugs, narcotic substances (Cocaine, Heroin, etc.) are treated; closed Emergency and Psychiatric Intensive Care (hereinafter: EPIC) Ward as well as psychiatric service for children and adolescents.

The Psychiatric Clinic does not have a ward for the treatment of the elderly, children and adolescents,

78 Ibid. <https://oik-rks.org/en/2022/11/30/ombudspersons-national-preventive-mechanism-against-torture-report-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatric/>

79 Response recorded with No. 518/2022, dated 29.12.22.

as only patients aged 18-65 are treated in the aforementioned wards. However, the placement of minors and the elderly is an almost permanent practice and, in a way, forced, because for minors there are no beds in Child and Adolescent Psychiatry and also for the elderly, they have no other hospitalization spaces. Regulation No. 127/2015, dated 21.12.2015, on the admission and treatment of persons with mental disorders in HUCSK (Article 11), allows the hospitalization of a person aged 16 and older. According to the announcement of the director of the Psychiatric Clinic, the psychiatric service for children and adolescents will soon be supplied with beds. The NPM of the Ombudsperson will follow the actions of the authorities regarding this matter even during 2023.

In the Addiction Diseases Ward (ADW), the NPM, during the visit in 2018, noticed that there are not enough rooms for treating patients (only 6 beds). During the last visit (September 2022), the NPM was informed by the director of the Clinic that the new part of the ADW, with a capacity of 12 beds, has been operationalized. The NPM welcomes this achievement of the Psychiatric Clinic, however, this ward is not a complete solution for drug addicts, as patients stay in this ward for up to 2 weeks hospitalized and after the end of detoxification, the treatment continues in the family circle.

Personnel of the Psychiatric Clinic – The staff in the entire Psychiatric Clinic consists of 25 psychiatrists, 47 nurses, 3 psychologists in the Psychiatric Clinic and 3 in Child and Adolescent Psychiatry. The director points out that the social worker has been retired for several years now and has not been replaced. The lack of social workers is causing difficulties at work, especially for cases of involuntary treatment in the EPIC ward. The NPM,

even in the Report with recommendations regarding the visit to the Psychiatric Clinic of HUCSK⁸⁰, emphasized that the social worker has retired and has never been replaced. The Ombudsperson will continue monitoring during 2023 and will come up with concrete recommendations for the Psychiatric Clinic.

Emergency and Psychiatric Intensive Care (hereinafter: “EPIC”) **ward** - is a closed unit and operates within the Psychiatric Clinic. In this ward are treated cases of various psychotic disorders, bipolar disorders and personality disorders, which cannot be treated in other open wards. This ward is the only one in the entire territory of Kosovo. In other regional hospitals, psychiatric wards do not have functional special rooms where emergency cases are treated. Such cases from all over Kosovo are brought to the EPIC ward of the Psychiatric Clinic in Prishtina. The NPM considers that psychiatric wards in other regional hospitals should activate special rooms for the treatment of emergency cases.

The NPM, even through this report, considers that psychiatric wards in other regional hospitals should activate special rooms for the treatment of emergency cases. The NPM, through the report with recommendations in 2018⁸¹, has recommended to the competent authorities the activation of these special rooms for the treatment of emergency cases, but the situation remains the same and this recommendation has not yet been implemented.

The NPM was informed that patients are generally brought to the EPIC ward by family members or the police and are accommodated against their will. Security in the EPIC ward is provided by private security service, which was carried out by two people. Although intervention in cases of incidents

80 See the Report on the visit to the Psychiatric Clinic of the University Clinical Centre of Kosovo, published on 26 October 2018, <https://oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>

81 NPM, Report with recommendations on the visit to the Psychiatric Clinic in Prishtina, published on 26 October 2018. See at: <https://oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>

is not a mandate of the security officers, they have been invited several times by the medical staff to intervene. The NPM considers it essential that personnel assigned to security-related duties in a psychiatric institution are carefully selected and undergo adequate training before assuming their duties. Likewise, while performing their duties, they must be closely supervised and obey the authority of qualified medical personnel.

According to the director, within 24 hours after the patient's admission, his/her health condition is assessed by a neutral medical committee of three members (who are not EPIC staff) and they assess the case whether it is for involuntary treatment at EPIC or for open wards in the Psychiatric Clinic.

Over the years, the Ombudsperson has mentioned in reports with recommendations⁸² that the treatment of people with mental disorders, in particular, is challenged by the lack of by-laws of the Law on Mental Health and which are expected to be approved by the Ministry of Health and the Government of Kosovo. The Ombudsperson reiterates the recommendation that by-laws of the Law on Mental Health be issued, so that the law is applicable and functional.

Accommodation conditions at EPIC - The capacity of this ward is 14 beds, while the ward is divided into two wings: 7 beds for men and 7 beds for women. The NPM has noticed that the walls have not been painted for a long time, some window panes are cracked, the windows have iron bars, the bathrooms are damp, the women's bathroom is out of order due to water leakage. There is moisture in the ward kitchen. The rooms are with two beds, with adequate space, with light and ventilation

and are warm. The spaces of the rooms have no decorations, some paintings are on the walls of the living room and dining room. There are 4 isolation rooms, they are demolished, they have no ventilation. The Director of the Clinic fixed the walls of the two isolation rooms, but the NPM also noticed that the isolation rooms are far from the health personnel and the alarm button is out of order.

The supply of adequate mattresses was one of the recommendations of the NPM to EPIC, which was implemented. The NPM considers that renovations should be made in the EPIC ward of the Psychiatric Clinic as soon as possible, in order to provide patients with accommodation in accordance with international and national standards for the accommodation of patients of this category. The NPM also notes that the CPT, in the report on the visit to Kosovo, published in September 2021, recommended the competent authorities to take concrete steps to avoid the deficiencies found in terms of accommodation conditions.⁸³

Treatment and activities in the EPIC ward – During the visit (August 2022), the NPM checked the register of cases admitted to the EPIC and never noticed overcrowding in this ward, at most 10-12 patients were present. During the visit by the NPM, there were four patients who were interviewed and the NPM team did not receive any complaints of physical abuse or inappropriate behaviour of the staff.

During the visits to this ward, the NPM has observed that the main treatment is with medications. However, the NPM observed that the psycho-social activities were not sufficient.

82 See the recommendations in the Report on the visit to the Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime, published on 26 October 2018: <https://oik-rks.org/en/2018/10/26/-1report-with-recommendations-on-the-visit-to-center-for-integration-and-rehabilitation-of-the-chronic-psychiatric-patients-in-shtime/>

83 CPT, Report on the visit to the Republic of Kosovo, published on 23 September 2021, paragraphs 124, 125 and 127. See at: https://www.coe.int/en/web/cpt/kosovo/-/asset_publisher/WsovygSd8qFK/content/council-of-europe-anti-torture-committee-publishes-report-on-kosovo-

The NPM has noticed that the multidisciplinary team, such as: psychologist, social worker, occupational therapist as well as the individual treatment plan are all missing. The NPM considers that the authorities and institutions must ensure the necessary variety of psycho-social professionals as a prerequisite for an adequate treatment of patients.

Over the years, the NPM has observed that there is no evidence that a written explanation has been provided for the reasons for involuntary treatment, as provided for in Article 21, paragraph 1.4, of the Law on Mental Health, which expressly determines that the reasons for the involuntary treatment, among other things, must be explained in writing to the patient treated involuntarily, within 48 hours.

Regarding the right to treatment, the same situation was found in the report of the European Committee for the Prevention of Torture, on the visit to Kosovo in 2015⁸⁴ and 2020⁸⁵, which stated: *“Admission of a person to a psychiatric establishment on an involuntary basis, whether in the context of a civil or criminal proceeding, should not preclude seeking informed consent to treatment. Any derogation from this principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.”* In Kosovo, in most cases, patients are not given the opportunity to give written consent or the right to refuse treatment.

Means of restraint in the EPIC ward - In EPIC, mechanical restraint is not used, but only isolation measures and chemical restraint. During the visit, the NPM observed that the patient files contained the assessment of three doctors, the anamnesis,

the history of the disease, the form for placement in isolation rooms, the request for admission to the hospital, but there is no consent to treatment and no informed consent.

The NPM considers that as long as the ward uses the measure of isolation, this means of restraint should be subject to a detailed policy for patients who are placed in isolation rooms, which should contain information about the situations when isolation can be used, the objectives intended, the duration and the need for regular review of the isolation decision, the existence of genuine human contacts, the need for the personnel to be particularly vigilant.

The NPM has noticed that the ward does not have a separate register for people who are placed in isolation. Therefore, the NPM concludes that the recommendation to create such a register, which was sent to the competent authorities through the report with recommendations, published on 26 October 2018, has not yet been implemented.⁸⁶

Even the CPT, in the last report on the visit to Kosovo, published in September 2021, noted that the isolation of patients was a frequent practice combined with the forcible administration of medication. The CPT emphasized that the use of means of restraint should be subject to a comprehensive policy and has sent a number of specific recommendations in this regard.

Incidents in the EPIC Ward - During the visit by the NPM, based on the evidence and information provided by the staff of the EPIC ward and the relevant documentation, there were no incidents.

84 European Committee for the Prevention of Torture, Report on the visit to Kosovo in 2015, published in 2016, paragraph 101. For more: <https://rm.coe.int/16806a1efc> (4.7.2018).

85 See the CPT Report, paragraph 145, on the last visit to Kosovo, published on 23 September 2021: <https://www.coe.int/en/web/cpt/-/the-cpt-publishes-report-on-kosovo>.

86 Ibid. <https://oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>

MENTAL HEALTH CENTRES AND INTEGRATED COMMUNITY HOMES

The relevant legislation for these institutions is found in Law No. 05/L-025 on Mental Health, where Article 10 of this law defines the categories of services through which mental health care is provided, such as: primary, secondary and tertiary health care. Secondary level mental health services (part of HUCSK) include: psychiatry departments, within general hospitals; Mental Health Centres and Integrated Community Homes; Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (hereinafter: CIRCPP).

In Kosovo, the community and residential service is provided through the professional mental health service and there is a total of nine (9) Mental Health Centres [MHC], with nine [9] Integrated Community Homes [ICH], that provide mental health services in all regions of Kosovo.

Community Mental Health Centres (MHCs) provide daily services, medication treatment and psychosocial activities. In MHC, the work is organized in two ways: in the internal one, where psychosocial activities take place inside the Centre, where patients are given therapy with free medications; and in what is done on the ground by the Centre's mobile team, where they cover the regions of the city where the MHC is located. These visits of the mobile team are made for the purpose of psychosocial support, providing regular therapy, at the same time providing support for the family.

There is a total of nine (9) Integrated Community Homes, each with a capacity for 10 residents, except

for the ICH in Mitrovica, which has a capacity for 20 residents. Integrated Community Homes provide 24-hour health care for the rehabilitation and social reintegration of clients with illnesses and chronic psychotic disorders in remission. In ICH, cases with mental retardation are not accepted, neither with dementias of all kinds, nor with addiction diseases, or the social cases.

The placement of residents in Integrated Community Homes is based on the criteria defined in *Administrative Instruction No. 07/2009 (on Health) for professional mental health services in the Republic of Kosovo*, which has been repealed by Decision of the GRK, No. 02/50, dated 23.12.2021.

During the year 2022, the NPM visited the Mental Health Centre in Prishtina and the Integrated Community Homes in Bresje and the Integrated Home in Ferizaj.

Treatment of residents in ICH Bresje and ICH Ferizaj

- The NPM has interviewed the residents without the presence of the staff of the homes and has not received any complaints about physical abuse. The team noticed a relaxed atmosphere between the residents and the health staff. Regarding the incidents, during the visits, the NPM team did not notice any incident recorded in the staff's daily report notebook. According to the information provided by the staff, there happened to be some arguments between the residents, but such cases were well managed.

Accommodation conditions in the ICHs visited - Integrated Community Homes in Bresje and Ferizaj meet all the necessary living conditions. According to the announcement of the acting director of the Mental Health Centre in Prishtina, the Home in Bresje was completely renovated in the fourth quarter of 2022. According to the information provided by the staff of the houses, food supplies were satisfactory and they reported no problems with heating or clothing.

Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP)

CIRCPP operates within the Hospital and University Clinical Service of Kosova (HUCSK) and provides services 24 hours a day. CIRCPP is an open-type institution, residents in this centre are mainly diagnosed with psychotic disorders, such as schizophrenia. The official capacity for accommodation in this institution is for 60 residents, and during the visit no overcrowding was observed, and a total of 60 residents were present.

Cooperation with NPM and treatment of residents - During the visit that the NPM team (21 April 2022) conducted to CIRCPP, this team encountered full cooperation with the health staff, as they had unhindered access to every space and were able to conduct interviews with residents without the presence of the staff health. The NPM has observed that residents are treated humanely and there is communication and a positive climate between residents and staff.

During the last two years, the multidisciplinary team (such as: psychiatrist, psychologist, social worker, nurse) has compiled the Individual Treatment Plan for several cases, where, according to them, only

about 23 residents are more active and ready to cooperate and therefore not all residents have an Individual Treatment Plan.

Regarding accommodation conditions - The NPM has noticed that there are four psychiatric wards [A1, A2, A3 and A4] in CIRCPP, with 15 beds each. The rooms where the residents are accommodated are adorned with pictures of the activities carried out by the residents themselves, which provide adequate visual stimulation and have a good effect on the residents in a therapeutic sense. CIRCPP has special rooms where psychiatric patients are treated, who have any infectious disease (TB, or any specific infectious disease, which spreads through the respiratory organs). CIRCPP still does not have the Rehabilitation-Vocational Unit (with recreational rehabilitation space for daily psychosocial activities), but the activities are carried out in spaces of daily stay. In general, NPM considers that the accommodation conditions in this institution are of a high standard.

Regarding incidents and means of restraint - The NPM has noticed that until the time of the visit by the NPM (April 2022), the team recorded 1 incident where residents were injured by each other and the injuries were recorded in separate registers. CIRCPP does not have isolation rooms, does not use mechanical restraint, but when the staff notices concerns or aggressive behaviour, the psychiatrist, who is also the director of the institution, applies chemical restraint for those cases. During the visit by the NPM, in the "Psychiatric Visits" Protocol, the team identified several cases where the psychiatrist used chemical restraint, due to the concerns he observed in those cases. While the description of the concerned cases was recorded in detail in the register of on-call shifts performed by the nurses, as well as in the individual files of each case, where chemical restraint was used, dated and signed by the psychiatrist.

The staff at CIRCPP - there are 42 in total, including nurses, medical assistants, cooks, assistant cooks, technical staff. There are 2 nurses on-call in a 12-hour schedule in four shifts, and there are also 3 security staff. According to the director, there is a shortage of physiotherapists and administrative officers.

A challenge, mentioned by the director of CIRCPP, is the referral by the court of cases for compulsory psychiatric treatment as well as the permanent removal of the capacity to act from some patients. The NPM will carefully address these topics during the coming year.

SOCIAL CARE INSTITUTIONS

Special Institute in Shtime (SISH), Home for Children with Mental Disabilities in Shtime, Community-Based Homes (CBH)

Treatment for people with mental disabilities-retardation in mental development is provided 24 hours a day at the Special Institute in Shtime and at nine [9] Community-Based Homes.

The Special Institute in Shtime and the Home for Children with Special Needs in Shtime have been managed by the Ministry of Finance, Labour and Transfers (hereinafter: MFLT) until the end of 2022, while it is expected that from January 2023 these institutions will pass under the management of the Ministry of Health. While the Community-Based Homes, from January 2016, have been managed by the municipal directorates for health and social welfare.

Relevant legislation - The Special Institute in Shtime and the Community-Based Homes are regulated on the basis of *Administrative Instruction No. 11/2014 for Work and Placement of Residents, Persons with Mental Disabilities-Delay in Mental Development at the Special Institute in Shtime and in Homes with Community Based*. This AI provides for the treatment of persons who have been deprived of the capacity to act by the Basic Courts. During the visits, the NPM was informed that all the cases placed in these institutions have been deprived of

their ability to act and their legal custodian has been determined.

Article 18, paragraph 1, of Law No. 0/5L-025 on Mental Health, states: “Persons who are in residential social care institutions are offered counselling, treatment, rehabilitation and mental health care equally and according to health standards, approved by the Ministry of Health” Paragraph 2 of this Article states: “The way of organization and provision of services, as provided in paragraph 1. of this Article shall be determined by special sub-legal act proposed by the Ministry of Health in cooperation with the Ministry of Labour and Social Welfare, adopted by the Government.”

The NPM, in the Report with recommendations for the visit to the Special Institute in Shtime, published on 22 February 2017,⁸⁷ has recommended to the competent authorities to issue sub-legal acts in accordance with Article 18 of the Law on Mental Health, but this recommendation has not yet been implemented.

Visit to the Special Institute in Shtime (SISH)

During 2022, the NPM has made two (2) visits to SISH, with which it had very good cooperation. The team was allowed access to every space and was able to interview some patients who were able to communicate.

87 See more at: <https://oik-rks.org/en/2017/02/24/raport-i-mkpt-instituti-special-ne-shtime-en/>

The Special Institute in Shtime is an open-type institution, which offers 24-hour services, such as: food, clothing, health care, educational and training occupational therapy, social treatment. The official capacity of the institution is 63 beds and during the visit it was found that 63 residents are placed. Categorization of residents is done according to gender and health status.

Living conditions - Living conditions are generally very good, living spaces have sufficient natural lighting, heating, ventilation, and cleanliness is at a satisfactory level. The rooms where the residents were accommodated are mostly with 2 to 3 beds in a room, there are dressers for placing clothes and personal things, there are also decorations for visual stimulation, e.g., different paintings, which were made by some residents in collaboration with the instructors. During the visit to SISH, the NPM team also visited the kitchen, where food is prepared and served. The kitchen had adequate lighting and ventilation, the cleanliness was up to standard, and the food was adequate.

Treatment, staff and activities at SISH - During the visit by the NPM, a close approach of the staff towards the residents was observed. The residents looked good in terms of appearance and hygiene, the relationship with the staff was friendly. NPM has not come across residents with signs of injuries.

In terms of staff, there are seventy (70) employees in total. During 2022, SISH had implemented all the recommendations of the Ombudsperson regarding the staff and the ambulanta where the health staff stays. It now employed a general practitioner and a part-time psychiatrist, a psychologist, a physiotherapy technician, two nurses, an occupational therapist and a medical assistant. The ambulanta where the health personnel stayed and where some health services were provided now meets the conditions, as it has been divided into

a separate space. This was also a recommendation in the Report with recommendations for the visit to the Special Institute in Shtime, published on 22 February 2017.⁸⁸

Dental services are provided by the Home for the Elderly in Prishtina. If needed, other health and specialist services are provided to residents by the Family Medicine Centre in Shtime, the Regional Hospital in Ferizaj and the University Clinical Centre in Prishtina.

The psycho-social activities are different, there are three occupational therapy rooms: the art, carpentry, and handicraft workshops. They include all persons who are capable of doing these activities. There is also a hall for other recreational-sports activities (table tennis, chess, dominoes, cards, etc.). Other activities include outdoor camping, various games and walks to different cities, with small groups, as well as going out to bars in the town of Shtime.

As for the means of restraint - According to the director, there are no isolation rooms at SISH and no forms of physical restraint are used.

Visit to the Home for Children with Mental Disabilities in Shtime

On 14 April 2022, the NPM conducted a follow-up visit to the Home for Children in Shtime. This institution is the only open-type institution with a capacity of 10 beds and which accommodates children with special needs (learning disabilities-mental retardation). The Home for Children provides 24-hour services, such as: food, clothing, health care, educational and training occupational therapy, social treatment.

88 See more at: <https://oik-rks.org/en/2017/02/24/raport-i-mkpt-instituti-special-ne-shtime-en/>

During the last visit, the NPM observed that 10 people of different ages are housed in this institution, where only one resident is under the age of 18, the others have reached adulthood.

Based on the fact that this institution is designated as a Home for Children, it is unacceptable for adult residents to continue to stay in the home. The Ombudsperson has been informed that there are cases of children with special needs who are waiting for accommodation in this Home, but, according to the announcement of the head of the Home, there are no free spots in any Community-Based Home for the accommodation of residents who have reached adulthood. During 2023, the NPM of the Ombudsperson will continue to discuss with the competent authorities regarding this issue.

Treatment and activities at the Home for Children with Mental Disabilities - During the visit, the NPM noticed a close, warm and friendly approach by the staff towards the residents. The NPM has not come across any persons with signs of injuries.

In terms of psycho-social activities, NPM was informed that residents usually listen to music as well as go out in nature, make some trips to the city, although rarely. While some of the residents continue their education in a special school. The NPM finds that the number and quality of psycho-social activities is poor and there is no individualized treatment plan according to the needs and abilities of the residents.

Accommodation conditions in the Home for Children with Mental Disabilities - in general they are good, the residents' rooms have enough space and are not overcrowded, in recent years there have been renovations in all areas of the Home. According to the manager of the Home, the Turkish KFOR has expressed its willingness to provide them with physiotherapy equipment, but the Home lacks space for physiotherapy.

Health services at the Home for Children with Mental Disabilities - The health and psychiatric service is shared with the Special Institute in Shtime. The psychiatrist visits them once a week, the cases are sometimes sent to the ambulant of the Special Institute in Shtime. In case of need, other health and specialist services are provided by the Family Medicine Centre in Shtime and the University Clinical Centre in Prishtina. Laboratory analyses are done at the Family Medicine Centre in Shtime every 6 months in a regular manner, which the NPM also verified during the last visit.

In terms of staff, there are a total of eight people (four medical assistants, four nurses) as well as the manager of the Home.

Regarding the supplies of clothing, bedding, the institution has received a donation from the Turkish KFOR and from a private company, and there are no significant problems in this regard. Also, in terms of the supply of food and medicines, the situation at the moment is good.

Means of restraint - In the Home for Children there are no isolation rooms and no forms of mechanical restraint are used. In certain cases, chemical restraint prescribed by a psychiatrist is used.

Community Based Homes (CBH)

There are a total of 10 Community-Based Homes in the municipalities of: Kamenica, Deçan, Ferizaj, Vushtrria, Lipjan, Gračanica, Shtime and Prizren, as well as the Home for Children in Shtime. Each Home has a capacity for 10 residents, except CBH in Shtime, with a capacity of 12 beds.

During the year 2022, NPM visited the Community-Based Homes in Shtime, Ferizaj and Prizren.

Treatment of residents in CBHs in Shtime, Ferizaj and Prizren - The NPM interviewed the residents, without the presence of the staff of the homes,

and did not receive complaints for physical abuse. Regarding the incidents, during the visits, the NPM team did not notice any incident recorded in the daily report notebook of the staff of these homes. According to the information provided by the staff, there happened to be some arguments between the residents, but such cases were well managed.

Accommodation conditions in CBHs in Shtime, Ferizaj and Prizren - Regarding the accommodation conditions, the Community-Based Homes in Shtime, Ferizaj and Prizren generally meet all the necessary conditions for living, except in Prizren, where the NPM team has noticed deficiencies.

On 8 November 2022, the NPM visited the Residential Home for people with mental disabilities in Prizren, which, according to information, was operationalized two years ago. During the visit, the NPM team noticed some deficiencies in the operation of this centre, which may affect the respect of the rights of persons with mental disabilities in this institution. Some of the findings we can mention are: the facility's heating runs with pellets and the team has found that the institution does not have pellets in these cold winter days; for six months, no procurement procedure was developed for food supply, and the supply of food items was done through the aid of donors and the residents' own pensions; clothing is also provided through aid; there were not enough medicines because the last reserves are being used now; the Home has no leader.

The selected staff is unqualified and inexperienced in the field of mental health, and to make matters worse, since the opening of the home, no training has been organized regarding the work that should be done with this category of persons; some of the personnel do not even have employment contracts.

Regarding these findings, the Ombudsperson has opened an *ex-officio* case,⁸⁹ and on 30 November 2022 sent an official letter to the Directorate of Labour and Social Welfare in Prizren, in order to inform the Ombudsperson if they are informed about the condition of the Residential Home in Prizren and about the actions that have been taken or that they plan to take for these issues. The Ombudsperson, through e-mail, received the response beyond the legal deadline. In this response, it was emphasized that the remarks of the Ombudsperson stand and that they have taken actions for rectifying the situation. Regarding this issue, the NPM will continue with field follow-up visits.

In terms of supplies with clothing, medicine and heating, the NPM team has not noticed any deficiencies in the Community-Based Homes in Ferizaj or Shtime.

Incidents in the CBHs visited - Based on the analysed documentation and notifications from the leaders of the Homes in Shtime, Ferizaj and Prizren, no cases of incidents between residents or incidents with staff were observed.

The health services of the CBHs visited - are carried out in the family medicine centres of the respective municipalities, while in terms of psychiatric services, the CBH in Ferizaj and the one in Prizren carry out such services in the Mental Health Centres of the respective municipalities. CBH in Shtime performs specialist services in Ferizaj and in the University Clinical Centre of Kosovo (UCCK). NPM has observed that residents' laboratory analyses are regularly performed in these Homes.

Means of restriction in the CBHs visited - Community-Based Homes do not have isolation rooms and no forms of physical restraint are used, except in one case at CBH in Shtime, where a

89 Case No. 662/2022.

resident often hurts himself and sometimes the staff have to tie his hands behind his back with a tie, loosely, enough to prevent self-harm. Staff have expressed regret for managing this case in this manner, however, according to staff, they have tried all possible ways to manage this case without using restraints, but without success.

The NPM considers that the manager of the Home, at the recommendation of the psychiatrist, should address this case to other specialized psychiatric institutions (Psychiatry Clinic, etc.) to find the most suitable and dignified treatment methods and approaches, creating an external evaluation committee. Usually, the psychiatrist would prescribe chemical restraint for aggressive cases, which they record in the case files.

Mental Health Institutions visited during 2022

The institution visited	No. of visits
1. Institute of Forensic Psychiatry	3
2. Psychiatric Clinic – Emergency and Psychiatric Intensive Care (hereinafter: EPIC) Ward of the Psychiatric Clinic	2
3. Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP)	1
4. Special Institute in Shtime (SISH)	2
5. Home for Children with Mental Disabilities in Shtime	1
6. Community-Based Home in Shtime	1
7. Community-Based Home (CBH) in Ferizaj	2
8. Integrated Community Home in Ferizaj	1
9. Residential or Community-Based Home in Prizren	1
10. Integrated Community Home (ICH) in Bresje	1

CHAPTER VI

VI. HOME FOR THE ELDERLY WITHOUT FAMILY CARE

During the year 2022, the NPM, based on its mandate, visited the Home for the Elderly Without Family Care (HEWFC) in Prishtina, the Home for the Elderly Without Family Care in Gurrakoc, the Home for the Elderly Without Family Care in Skenderaj, the Special Institute in Shtime and the Home for Children with Mental Disabilities in Shtime.

The purpose of the visits was to assess the state of the institutions in question, the management of the situations in the institution, the accommodation conditions, the challenges these institutions face, as well as the progress of the competent authorities in the implementation of the recommendations of the OI, sent through the previous reports with recommendations.

Home for the Elderly Without Family Care (HEWFC) **in Prishtina**, is an institution with a social character and operates within the Ministry of Finance, Labour and Transfers. The official capacity of this institution is for 100 people. During the visit, 63 residents were accommodated at HEWFC in Prishtina.

Whereas the Home for Elderly Without Family Care in Gurrakoc and the one in Skenderaj operate within the respective municipalities. The capacity of these homes is for 20 people.

Treatment - During the visits to these institutions, the NPM interviewed a number of residents and did not receive any complaints of physical mistreatment or verbal abuse, as well as of behaviour that would violate the human dignity of the residents

in HEWFC. The NPM highly appreciates the commitment of the personnel for the care for the elderly, especially the immobile elderly.

Incidents between residents - NPM was informed that during this year there were no cases of violence between residents, apart from some arguments. These assertions were also verified through the control of the relevant documentation, as well as through the interviewing of residents in HEWFC in Prishtina, Skenderaj and Gurrakoc.

Accommodation conditions - The NPM, during the visit to the **Home for the Elderly Without Family Care (HEWFC) in Prishtina**, was informed that there were renovations in the external environment, but they were not completed due to the termination of the contract by the subcontractor. NPM has noticed that there is an elevator that is functional, but it is very old and often breaks down, and the space is insufficient for residents who move around in wheelchairs. Construction of a new elevator had begun, but works were halted because the subcontractor terminated the contract.

During the visit to HEWFC in Prishtina, the NPM received a complaint from the resident G.S., who is disabled and in wheelchair and claimed that for three years he has not had access to the yard, due to the small space of the elevator. Regarding this complaint, the NPM has again asked the competent bodies to rectify the situation as soon as possible, making the necessary arrangements so that the resident can enjoy his right, equally with

other residents and without any discrimination.⁹⁰ Also, the NPM has observed that the rooms where the residents are placed have sufficient lighting, in general they do not have humidity, but the inventory is outdated and damaged in some rooms, as well as the bathrooms are very damaged.

Based on the findings of the NPM for the Home for the Elderly Without Family Care in Pristina, the Ombudsperson, in the Report with recommendations⁹¹, has addressed the Ministry of Finance, Labour and Transfers with concrete recommendations for which it has not yet received a response.

Regarding the accommodation conditions in the **Home for Elderly Without Family Care in Gurrakovc**, the NPM observed that the rooms were occupied by two elderly people, the rooms were large and well lit, they had good beds that were brought as a donation. The kitchen was renovated and equipped with all new elements, new tiles, new cabinets, 3 refrigerators, and the elevator for transporting food is functional.

Regarding the infrastructure in the **Home for the Elderly Without Family Care in Skenderaj**, during the visit, the NPM noticed that two elderly people would be placed in a single room, but there were also cases where even three elderly people, especially the dependent category, would be placed in a single room, mainly in the rooms that were large and bright, had good beds, covers and personal wardrobes. The municipality invested last year and built a new facility, where the administration has moved, as well as a physiotherapy room, but it has not yet been equipped with tools. The

institution has an ambulance for medical services and a van for organizing outings, but there is no driver. It is also worth noting the malfunction of the kitchen elevator that serves to transport food, as well as the frequent breakdown of the elevator that serves to move residents out of the building. The access that serves the residents who are disabled (wheelchairs) to exit to the yard is quite inappropriate. There is a lack of cameras, which, according to the head nurse, are very necessary for the safety of the residents. The bathrooms and toilets were shared and were quite damaged, and the floor was also very damaged. It is worth noting that before the pandemic, 20 new beds were supplied as a donation from Switzerland.

Psycho-social activities - As part of the Home for the Elderly Without Family Care (HEWFC) in Prishtina, the club for the elderly operates, 3 walks are organized during the year, as well as therapy is provided for the residents. The work program is drawn up by the social service and occupational therapy is in compliance with the health service, adapting it to the abilities of each user who engages in work.⁹² Each floor of the institution has halls equipped with TV, where the elderly spend their free time. The institution also has an activity hall where usually the elderly women do handicraft. The residents' club has also a space for playing chess, dominoes and cards, where residents can play and spend their free time.

The NPM, during the visit to the Home for the Elderly Without Family Care in Gurrakoc and the one in Skenderaj, has noticed that chess, dominoes, sitting in the yard, and lectures on diabetes are available

90 NPM, Report with recommendations for the visit to HEWFC, published on 18 November 2022. See at: <https://oik-rks.org/en/2022/11/24/ombudspersons-national-preventive-mechanisms-report-regarding-the-visit-conducted-to-the-home-for-elderly-people-without-family-care-in-prishtina/>

91 See the Report with recommendations for the visit to the Home for the Elderly Without Family Care in Prishtina: <https://oik-rks.org/en/2022/11/24/ombudspersons-national-preventive-mechanisms-report-regarding-the-visit-conducted-to-the-home-for-elderly-people-without-family-care-in-prishtina/>

92 Article 11, paragraph 2, of Regulation No. 09/2008 on the Internal Organization of Work for the Home for the Elderly Without Family Care.

to the elderly in these homes. They often organize excursions outside Gurrakoc and Skenderaj, such as in Rugova, Istog, Prizren. Regarding the visits, some of the residents visit their family members, sometimes they even go to the family.

Contact with the outside world - Article 16, paragraph 1, of Regulation No. 09/2008 on the internal organization of work for the HEWFC determines that users can be absent from the HEWFC at the request of their relatives, but with permission issued by the social services officer in consultation with the doctor, if the resident has health issues, in the time period up to 30 days from time to time. Meanwhile, according to Article 42, residents are notified of the designated time of visits from outside, which are set by the social service in agreement with the health service, and the schedule is placed on the notice board of the HEWFC. The visits of the users can be interrupted only by the director of HEWFC and at a certain time in case of any pandemic or any other danger for the users.

Regarding this right, the NPM was informed by the media that a resident received a visitor from outside on Sunday, who refused to identify herself to the security workers, but also to the health service workers. After that, there was a complaint by the health workers to the leaders of the centre, who immediately took measures by issuing a decision, which they placed at the entrance of the centre and with which they announced: *“Announcement - Visits to the residents of HEWFC should be done from 8:00 a.m. to 4:00 p.m. during working days, so that they are monitored by the social service and every visitor is registered at the security worker, because there are cases of visitors who do not show up to the security workers, thus obstructing afternoon shift workers.”*

After this announcement, the Ombudsperson visited HEWFC in Prishtina and was informed that this decision was issued based on Article 43 of Regulation 09/2008, which states: *“The visitor cannot enter the facility as long as he/she does not show up to security worker of HEWFC.”* While paragraph 2 also defines: *“The visitor is obliged to provide the identification document to the official person and allow the control of the items he/she wants to send to the user.”*⁹³ Therefore, the decision that was issued based on the regulation was aimed at preserving the dignity of the residents, their well-being and safety, taking into account the sensitivity of the institution and the very sensitive category of residents in that institution.

Health care - Health care in the Home for the Elderly Without Family Care (HEWFC) in Prishtina is provided according to individual and general needs. Systematic visits are made at least once every 6 months. The medical service has special protocols for self-harm, bodily injury, hunger strike, sexual abuse, suicide, and institutional deaths. The NPM has observed that they are sufficiently supplied with medicines and that the therapy is regularly distributed by nurses. The NPM was informed that, during this year, no resident died in this institution, while 2 residents died during the previous year 2021. From the total number of residents (63), 42 residents have been identified as having psychiatric therapy, 21 residents who need continuous assistance for personal needs, and out of this number, 13 are fully dependent and 12 partially dependent. All residents are vaccinated with two vaccines.

Health care in the **Home for the Elderly Without Family Care in Gurrakoc** is provided by the general practitioner, who comes from the UCCK and visits them once a week. Visits to the internist or any other specialist at the instruction of the general

93 Article 43, paragraphs 1 and 2, of Regulation no. 09/2008 on the Internal Work Organization for the House for Elderly Without Family Care.

practitioner are carried out at the Family Medicine Centre or at the Regional Hospital. During the visit, the NPM noticed that they lack a room for physiotherapy and a physiotherapist, as well as a psychologist and a neuropsychiatrist. In terms of medicines' supply, the situation is satisfactory.

Regarding health care in **Home for the Elderly Without Family Care in Skenderaj**, the pharmacy exists, but they have a shortage of medicines, because they have not been supplied at all this year. There was a doctor's room within the institution, but there is no doctor there. They receive medical services at the Family Medicine Centre, because they have a very good cooperation, as every Thursday a general practitioner comes and examines the residents. They are sent to the dentist when needed. The absence of psychiatrists and psychologists was noticed, and the residents are sent to clinics when needed. They have anti-shock therapy, but it has expired.

Complaint submission procedure - Residents, whose health condition allows this, can submit complaints and submissions to the relevant department of the MFLT and to the directorate of the institution. Residents can also submit their complaints to the Ombudsperson Institution (OI), against the institution where they are accommodated and against the public institutions of the Republic of Kosovo. Residents can make complaints to the OI by phone, mail, e-mail and by showing up in person to the institution. Also, the institution is visited from time to time by various NGOs, which, in addition to the activities they develop with residents, also accept residents' complaints.

Institutions for the elderly

11. Home for the Elderly Without Family Care in Prishtina	4
12. Home for the Elderly in Gurrakoc	1
13. Home for the Elderly in Skenderaj	1

CHAPTER VII

VII. ACTIVITIES AND MEETINGS OF THE NPM WITH THE COMPETENT INSTITUTIONS DURING 2022

During 2022, the NPM, with the aim of raising awareness for the representatives of the institutions of Kosovo regarding the mandate of the NPM, as well as regarding the modalities of cooperation between the NPM and other institutions of Kosovo, has carried out several activities, such as: meetings, one-day roundtables, conferences, forums, supported by the joint project of the European Union and the Council of Europe, as well as with the support of the IPA-European Union project.

During this year, the NPM continued periodic meetings with representatives of the Organization for Security and Co-operation in Europe (OSCE). Thus, on 18 January 2022, a meeting was held in which it was discussed regarding the monitoring of DC-Gjilan, which will be taken over by Denmark, as well as the support of the OSCE to the NPM.

On 27 January 2022, the NPM held a meeting with the representative of the Ministry of Justice, in which it was discussed about the draft of the LECS, as well as the monitoring of the DC-Gjilan, which will be taken over by Denmark.

On 2 February 2022, the NPM held a meeting with the representatives of the IPA project, related to the support of the OSCE to the NPM.

On 16 February 2022, the NPM held a meeting with the Information and Privacy Agency (IPA), regarding the visit of the NPM to CCW-Lipjan.

On 2 March 2022, the Ombudsperson and the director of the NPM participated in the Conference organized by the Kosova Rehabilitation Centre for Torture Victims (KRCT), on the topic: *“Agreement between Kosovo and Denmark on the transfer of prisoners to Kosovo: Implications on Human Rights Standards”*. The purpose of the Conference was the public discussion about the agreement which would enable Denmark to rent prisons in Kosovo.

On 3 March 2022, representatives of the NPM held a meeting with the Civil Rights Program Kosovo (CRPK).

On 16 March 2022, the representative of the NPM conducted an interview for KTV, regarding a minor in the Correctional Centre for Juveniles in Lipjan.

On 21 March 2022, the representative of the NPM conducted an interview for the show “Gjurmët” (English: “Traces”), on RTK, regarding the Correctional Centre for Women (CCW) in Lipjan.

On 30 March 2022, NPM representatives met with a delegation from FRONTEx.

On 14 April 2022, the Director of the NPM participated in the meeting organized by the Office

of the UNHCR Chief of Mission. 2023 Strategic Planning Session with Stakeholders.

On 14 April 2022, the Correctional Unit of the EULEX Mission in Kosovo, within the framework of mutual cooperation, held a meeting with the representative of the NPM, regarding the latest developments, findings and recommendations sent to the competent institutions.

On 22 April 2022, representatives of the NPM held a meeting with the expert of the European Union Kosovo Justice Sector Programme (EUKOJUST Project), with whom various aspects were discussed regarding the situation of prisoners in the Correctional Centre for Women in Lipjan.

On 27 April 2022, a meeting was held with the Kosovo Probation Service regarding the imposition of punishments and alternative measures.

On 28 April 2022, NPM representatives held a meeting with the Civil Rights Program Kosovo (CRPK), where it was discussed about NPM-CRPK cooperation, about joint visits to border points and Asylum Centres in Magura and Vranidoll.

On 19 May 2022, representatives from the NPM held a meeting with the deputy director general of the Kosovo Correctional Service (KCS), related to the issues of the correctional service (Ward D and the Denmark Agreement).

On 27 May 2022, the representative of the NPM conducted an interview for the show "Kiks" on Klan Kosova, regarding a resident who is placed in the Home for the Elderly Without Family Care in Pristina.

On 1 June 2022, the representative of the NPM participated in the roundtable organized by the Ministry of Justice, on the topic: "*Presentation of the Administrative Instruction for the Implementation Child-Friendly Justice in the Criminal, Civil and Administrative Proceedings*".

On 13 June 2022, the director of the NPM participated in the forum organized by the Kosovo Correctional Service, supported by the Council of Europe and financed by the European Union, on the topic: "*The process of rehabilitation of violent and radicalized extremist prisoners in KCS and preparation for their reintegration into society*".

On 23 June 2022, members of the NPM held a meeting with the director of the Directorate for Migration, regarding the complaints of two Turkish citizens.

On 6 July 2022, the representative of the NPM participated in the roundtable organized by EUKOJUST (European Union/Kosovo Justice Sector Programme), on the topic: "*Access to Justice for female inmates*".

On 19 July 2022, the director of the NPM and the representative of the NPM held a meeting with the Minister of Justice, where they discussed the issues of inter-institutional cooperation based on the responsibilities that fall within the scope of the NPM, in monitoring human rights in places of deprivation of liberty in Kosovo.

On 2 September 2022, the representative of the NPM participated in the meeting organized by the Kosovo Correctional Service, related to the Rehabilitation Plan for convicts.

On 5 and 6 September 2022, the deputy Ombudsperson participated in the training organized by the DAI Global Austria GmbH & Co KG Project with the expert of the Council of Europe with a topic: "*On the Approximation and Harmonization of Legislation with the standards of the ECHR*".

On 9 and 10 September 2022, the deputy Ombudsperson participated in the inter-institutional workshop on the drafting of non-discriminatory legislation and equal treatment, with the expert of the Council of Europe, prof. Lady Bianku.

On 9 September 2022, the director of the NPM participated in the continuation of the meeting with the Kosovo Correctional Service, about the Rehabilitation Plan for convicts.

On 20 September 2022, the representative of the NPM participated in the international conference, organized by the Center for International Studies (CeSI-Centro Studio Internazionali) and the Kosovar Centre for Security Studies (KCSS), supported by the Ministry of Foreign Affairs of Italy, through the Italian Embassy in Kosovo.

Subject: *“Building Resilience: R&R Programs for Extremists and Foreign Fighters in Kosovo and Italy”*.

On 26 September 2022, representatives of NPM held a meeting with the director of the Prison Healthcare Department (PHD), regarding the difficulties and treatment of prisoners, the implementation of recommendations and the difficulties that affect the smooth running of the work.

On 28 September 2022, members of the NPM held a meeting with the director of the Psychiatric Clinic in Prishtina, regarding the psychiatric service for children and adolescents.

On 28 September 2022, the NPM held a meeting with the director of the Special Institute in Shtime, regarding the organization of annual activities to mark Mental Health Day.

On 30 September 2022, the NPM held a meeting with the director of SOS-Villages, to be informed about the treatment of two children living in SOS Villages, whose parents were in prison.

On 12 October 2022, the director of NPM, as a member of the IPA Steering Committee, participated in the regular meeting where the progress of the project and plans for the future were presented.

On 24 October 2022, a meeting was held and visit to the Special Institute in Shtime, in the framework of the meetings that the Ombudsperson holds in public institutions and with the aim of marking international days, since the World Mental Health Day is marked in the month of October (10 October).

On 25 October 2022, the deputy Ombudsperson and the representative from the NPM participated in the roundtable organized by Kosovo Police in cooperation with “Terre des homes”. The roundtable was for strengthening cooperation between institutions and civil society in preventing human trafficking in Kosovo.

On 25 October 2022, the representative of the NPM participated in the second activity of the “Dialogue for EULEX Legacy” series. Title of the activity: *“The EULEX Correctional Unit and its contribution to the Kosovo Correctional Service”*.

On 1 November 2022, representatives of the NPM held a meeting with the project manager from the Council of Europe, where the direct beneficiaries are the Forensic Psychiatry Institute, the Special Institute in Shtime and the Kosovo Correctional Service.

On 7 November 2022, the director of the NPM participated in the workshop organized by the Kosova Rehabilitation Centre for Torture Victims, in cooperation with the Netherlands Helsinki Committee, on the topic: *“Restorative justice and disciplinary measures”*.

On 8 November 2022, the deputy Ombudsperson held a meeting with the head of the Department of Social Policy and Family (DSPF), where it was discussed regarding the granting of licenses to homes for the elderly and their monitoring by the MFLT, after licensing.

On 9 November 2022, the deputy Ombudsperson spoke for the RTK, regarding the treatment of

the elderly by the institutions of the Republic of Kosovo.

On 10 November 2022, the Ombudsperson together with the director of the NPM hosted 9 representatives of the Chamber of Advocates from Norway.

On 11 November 2022, the NPM team met with the International Committee of the Red Cross (ICRC), to discuss the possibility of cooperation, namely the conduct of visits to Kosovo citizens who are in Serbian prisons.

On 14 and 15 November 2022, the Correctional Service of Kosovo, with the support of the OSCE, organized the workshop for drafting the Administrative Instruction on House Rules in Correctional Institutions and the Draft Administrative Instruction on employment of the sentenced persons, suspensions and release of the sentenced persons from work.

On 15 November 2022, the Ministry of Internal Affairs/Department for Reintegration of Repatriated Persons and Integration of Foreigners (DRRPIF), in close coordination with the Office of the UNHCR Chief of Mission in Prishtina and the Civil Rights Program in Kosovo (CRP/K), organized a roundtable on the topic: *“Social and Economic Integration of Persons with International Protection”*.

On 15 November 2022, the deputy Ombudsperson participated in a meeting with marginalized groups in the municipality of Gjilan, presenting the role of the Ombudsperson and participation in discussions with non-majority communities in this municipality regarding human rights and cooperation of OI with municipal officials and civil society.

On 17 November 2022, the deputy Ombudsperson held a meeting with the Minister of Justice and the Deputy Minister of Justice, regarding the visit to Kosovo of the delegation of the OI of North Macedonia.

On 18 November 2022, the deputy Ombudsperson participated in the Municipal Assembly of Gjilan, and had a meeting with three groups of children from the municipality of Gjilan, on the Universal Children’s Rights Day, in which case the role of the OI in the representation of children’s rights was presented.

On 22 November 2022, the deputy Ombudsperson and the director of the NPM participated in the launch of the project: *“Improving the treatment for persons deprived of their liberty”*, which is implemented by the Office of the Council of Europe in Prishtina.

On 22 November 2022, the director of NPM participated in the Steering Committee, as a member of the team, where the plan of project activities for the 6-month period was presented.

On 29 November 2022, the deputy Ombudsperson and the director of the NPM held a meeting with the deputy Ombudsperson of North Macedonia and the delegation of the OI of Macedonia, together with the director of the KCS and the coordinator of the PHD, from the MoH.

On 30 November 2022, the NPM staff, together with the delegation from North Macedonia, visited the Special Institute in Shtime and the Asylum Centre in Magura.

On 5 December 2022, the deputy Ombudsperson participated in the launch of the “State Protocol for the Treatment of Cases of Sexual Violence”, organized by the Ministry of Justice.

On 12 December 2022, the deputy Ombudsperson participated in the Meeting of the Municipal Community Safety Council, which was attended by the highest security actors in the municipality of Kamenica. Therefore, as a special item on the agenda was: *“Promotion and Protection of Human Rights”*.

On 13 December 2022, the deputy Ombudsperson spoke for KTV on the “Tempus” show, regarding the topic of how much human rights and freedoms are respected in Kosovo.

On 15 December, 2022, the Kosova Rehabilitation Centre for Torture Victims, in cooperation with the Netherlands Helsinki Committee, organized a panel discussion on the topic: “*Rehabilitation and reintegration of minors in conflict with the law: the perspective of post-release*”.

On 14 December, 2022, the Ombudsperson, together with the director of the NPM, hosted the director of Health in Prisons, the deputy general director of the Correctional Service and the director of the Kosova Rehabilitation Centre for Torture Victims (KRCT), to discuss the Cooperation Agreement and the KRCT’s access to the institutions where persons deprived of liberty are held.

Training for the NPM during 2022

In the framework of the joint project of the Council of Europe and the European Union, as well as with the support of the IPA project, the trainings have continued even during 2022, to strengthen the capacities of the NPM.

Within the joint project of the European Union and the Council of Europe, as well as with the support of the UNHCR Office in Strasbourg, representatives from the NPM, from 28 February to 6 April 2022, attended the online course of HELP, with the topic on: “*Asylum and Human Rights*”, which interactively covers the key concepts, the international and European legal framework (UN, CoE, and EU) related to asylum and the case-law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU).

On 23 and 24 March 2022, NPM members participated in the Procurement and E-Procurement

Training, organized by the IPA project, with the support of the OI.

On 28 and 29 March 2022, representatives from NPM participated in the training organized by IPA, on the topic: “*Protection from Discrimination according to the ECHR*”.

On 28 and 29 April 2022, representatives from NPM participated in the training organized by IPA, on the topic: “*Access to Justice according to the ECHR*”.

On 4 and 5 May 2022, NPM members participated in the training on the topic: “*Training on the United Nations Convention on the Rights of Persons with Disabilities*”, organized by IPA.

On 24 May 2022, representatives from NPM participated in the training on the topic: “*Property rights*”, supported by the EU project.

International cooperation of NPM during 2022

Even during 2022, the NPM has continued international cooperation, participating in meetings, trainings, conferences, as well as virtual courses organized by the South-East Europe NPM Network, the Working Group on Asylum and Migration of the European Network of National Human Rights Institutions (ENNHR), by IPA, as well as by the Council of Europe.

Also, the NPM has continued cooperation with relevant international organizations, having a constant exchange of information, reporting from time to time on the state of human rights, related to the state of persons deprived of their liberty and issues related to asylum and migration.

In the framework of these collaborations, on 4 February 2022, representatives from NPM held a virtual meeting with the Danish counterpart,

as the purpose of the meeting was to exchange information regarding the agreement between Kosovo and Denmark on the accommodation of prisoners from Denmark in Kosovo.

During this year, representatives from the NPM attended the online course on the topic: “*Asylum and Human Rights*”, organized by the joint project of the European Union and the Council of Europe, with the support of the UNHCR Office in Strasbourg.

On 30 March 2022, the Ombudsperson, as well as representatives from NPM, held a meeting with a delegation from FRONTEX (Fundamental Rights Officer). Border management issues were the focus of this meeting.

On 31 March 2022, the representative from NPM participated in the online meeting organized by ENNHRI (European Network of National Human Rights Institutions). The main topic, among others, was “NHRIs under threat-Ukraine”, focusing on the very difficult situation that the Parliamentary Commissioner of Ukraine is facing to carry out her duty, as well as issues of migration and asylum, with a focus on the situation in Ukraine.

On 22 April 2022, the NPM hosted in a meeting the EUKOJUST expert, with whom various aspects related to the situation of prisoners in the Correctional Centre for Women in Lipjan were discussed.

On 20 to 22 June 2022, representatives from NPM participated in the meeting organized by the South-East Europe NPM Network in Vienna, Austria, on the topic: “*The special needs of the elderly and persons with physical disabilities in places of detention*” and “*NPM’s relationship with the public*”.

On 7 to 9 September 2022, the representative of the NPM participated in the training organized by the OSCE and the Office for Democratic Institutions and Human Rights (ODIHR), in Warsaw, Poland, on: “*Integrating the Issue of Sexual Violence and*

Gender-Based Violence in monitoring the places of deprivation of liberty”.

On 29 September 2022, the NPM held a meeting with EU experts, where the mandate, work and challenges of the NPM were presented.

On 5 to 6 October 2022, the deputy Ombudsperson and the director of the NPM participated in the Conference of European NPMs in Strasbourg, France, organized by the Council of Europe. The focus of this conference was the monitoring of the rights of specific groups of people deprived of their liberty, such as: women, children, the elderly, migrants, etc.

On 14 to 16 November 2022, representatives from NPM participated in the second meeting organized by the South-East Europe NPM Network in Vienna, Austria, on the topic: “*Accommodation and treatment of children and adolescents with mental health problems and mental and physical disabilities*” and “*Application of coercive measures to minors and persons with mental disorders*”.

On 15 and 16 November 2022, the representative from NPM participated in the workshop organized by IOM and UNMIK, in Skopje, regarding the use of languages.

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