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Institucioni i Avokatit të Popullit • Institucija Ombudsmena • Ombudsperson Institution

Prishtinë, 8 June 2018

The Ombudsperson Institution
Report of the
National Preventive Mechanism
on the visit conducted in the Centre of Asylum seekers

For: Mr. Bejtush Gashi, Minister
Ministry of Internal Affairs
Mr. Valon Krasniqi, Director
Department of Citizenship, Asylum and Migration
MIA
Mr. Fitim Zariqi, Director
Center of Asylum- seekers, Magure

In accordance with Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 17 of the Law no.05/L-019 on Ombudsperson, Ombudsperson Institution's National Preventive Mechanism visited Center of Asylum- Seekers

8 June 2018

Dates of the visit and the composition of the monitoring team

1. Pursuant to Article 17 of the Law No. 05 / L-019 on the Law on Ombudsperson, the National Preventive Mechanism (hereinafter "the NPM") of the Ombudsperson, on 12 March 2018 visited the Center for the Asylum seekers in the village of Magura, Lipjan Municipality (hereinafter "the Center"). The monitoring team consisted of a deputy of the Ombudsperson, a legal officer and the physician.

Center for the Asylum seekers

2. The Center for Asylum Seekers in Magura was inaugurated in 2012 and functions within the Ministry of Internal Affairs (MIA). By the Regulation (MIA) no. 02/2014 on the Functioning of the Center for Asylum Seekers (hereinafter "Regulation") is regulated the issue of functioning and management of this Centre, including the procedure of admission, registration, accommodation and movement of asylum seekers within, respectively outside the Center.¹ This Regulation also regulates sanitation and hygiene conditions, nutrition, medical assistance, maintenance of order and discipline, as well as other important issues regarding its.²

Cooperation with NPM during the visit

3. During the visit, the personnel of Center for Asylum Seekers provided the monitoring team with full cooperation, so the team without any delay had access to all places of the Centre. The team was provided with all necessary information to accomplish their duty and the team was enabled to interview the asylum seekers, without the presence of correctional officers or other personnel.

Ill-treatment

4. During the conducted visit, the NPMT has recorded that 21 asylum seekers were located in this Center, while 11 others were accommodated in private housing in Lipjan. The asylum seekers were mainly from Iran, Libya, Palestine and Afghanistan. The NPM conducted several conversations with some of asylum seekers residing in the Center. **The NPM did not receive any complaint regarding ill-treatment in this Center.**

Asylum seekers' rights according to the Law No. 06/L-026 on Asylum

5. Article 26 of the Law No. 06/L-026 on Asylum has determined asylum seekers' rights, which are as follows: to reside in the Republic of Kosovo; to basic living conditions; to basic health care; to basic social assistance; to free legal assistance; of education for children applicants; of freedom of thought and religious belief; to employment and professional trainings.
6. During the visit conducted on 12 March 2018 at the Center for Asylum Seekers, the NPM received a complaint from a family, which was accommodated in this Center. Their complaint was related to the social assistance, which, according to their claims, is not being carried out properly and the course of Albanian language was not held from the moment they were placed in this Center.

¹ Regulation (MIA) no. 02/2014 on Functioning of Asylum Seekers Center, Article 1.

² Regulation (MIA) no. 02/2014 on Functioning of Asylum Seekers Center, Article 1 paragraph 2.

7. NPM notices that the Article 41 of the Law No. 06/L-026 explicitly stipulates that in order to be integrated into the society “*persons with refugee status and persons with subsidiary protection status will be enabled learning of history, language and culture in the Republic of Kosovo*”.
8. NPM notices that the Article 28 of the Law No. 06/L-026 on Asylum explicitly stipulates: “*Applicants have the right for housing, food and clothing provided in kind, or as financial allowances or in vouchers, or as a combination of all three, and an allowance for the daily expenses.*” Further, Article 37 determines:” *Person with refugee status or person with subsidiary protection status has the right to necessary social welfare under the same conditions as the citizens of the Republic of Kosovo.*”.
9. With regard to the complaint of the asylum seekers mentioned above, on 25 April 2018, the NPM contacted the head of the Center for Asylum Seeker, who on this occasion informed that the social assistance has been provided, by compensating the previous months as well, while the courses of Albanian language has resumed on 27 of March, 2018.

Safeguards against ill-treatment

10. Article 5 of the Regulation explicitly stipulates: “*It is prohibited for the Center staff to discriminate and offend the asylum seekers dignity based on their race, religion, sex, nationality, membership in a particular social group or political affiliation*”. Additionally, Article 5, paragraph 2 of the Regulation determines that: “*Asylum seekers shall not be subjected to torture, inhuman or degrading treatment*”. Article 6.3 of the Regulation determines the obligation of Center’s officer to notify the asylum seeker regarding the rights and obligations as well as the asylum procedure, including the possibility of obtaining free legal assistance and the possibility of contacting UNHCR representatives or other organizations, which deal with protection of the rights of refugees, in his language or in a language which he/she understands.
11. The NPM, during the visit, was informed that asylum seekers are notified about their rights in different languages, through leaflets and brochures. At Center’s disposal is also the list of MIA’s interpreters. Free legal aid, in many cases interpretation as well, is provided by the non-governmental organization CRPK (Civil Rights Program Kosovo). **The NPM did not receive any complaints regarding disrespect of the abovementioned rights.**
12. Further, NPM has noticed that all halls of the Center are under CCTV surveillance, which is an additional safeguard against ill-treatment.³

Material conditions

13. During the visit to the Center for Asylum Seekers, the NPM visited the premises where asylum seekers were accommodated, such as: premises where the interviews take place, bedrooms, family rooms, as well as rooms for adults and children dedicated for activities, equipped with a TV, the library, which possessed a limited number of books, children's playing room equipped with different toys, a room for praying, a kitchen that

³ See Standards of European Committee on Torture Prevention and the Report on the visit to Ireland in 2010.

is well furnished and organized as well as a laundry which suffice for the Center's capacity.

14. All rooms provide decent accommodation, heating, cleanliness and sufficient natural lighting. The Center offers suitable bathrooms and hot water all the time, where asylum seekers accommodated in this Centre can take shower whenever they want. There is also a playground for children in the yard of the Center. **In general, based on the inspection conducted by NPM, it deems that all conditions for accommodation of asylum seekers are met by the Center.**

Food

15. The Law on Asylum and the Regulation determine asylum seekers' right on food. The NPM was informed that three meals are provided to the asylum-seekers during the day at this Center, while to those suffering from any disease, such as diabetes, meals are provided based on a medical reports. The NPM has noticed that the Center possesses the kitchen with all necessary appliances, clean and in very good conditions.
16. The NPM received complaints from asylum seekers that the food provided is of a poor quality and since it is provided from the company outside the Center, mainly is served cold. Complaints were also received related to the schedule of serving the dinner.
17. According to the Directorate this problem is going to be solved since the food from now on will be prepared by the cooker of the Centre, thus the meals are going to be served hot as well.

Heath care

18. The NPM was informed that medical services to the asylum seekers in this Center are provided by the Family Medicine Center and the University Clinical Center.
19. Article 9 of the Regulation (Medical examination) explicitly stipulates that, the medical personnel carries out a general medical examination of the asylum seeker(s) upon arrival at the Center. The Regulation further foresees that all asylum seeker(s) above five years old should conduct a medical examination to assess risk in terms of tuberculosis as well as lung X ray.
20. Additionally, according to the Regulation, asylum seekers with mental or physical disabilities are entitled to professional medical care and counseling. On 12 March 2018 NPM was informed by the Center's Director that the Centre is in a possession of facilities for medical services provision and that appropriate medical staff will be hired in order to be able to provide these services within the scope of the Centre.
21. The NPM was informed that asylum seekers at the moment of accommodation undergo lung X ray, lab tests and a general medical check-up. MIA covers asylum seekers' medical expenditures. The NPM has noted that all data regarding medical services provided to the asylum seekers are kept in his / her personal file.

Children

22. During the visit conducted in the Center, NPM was notified about the presence of an 11 years child in the Centre, residing there with the family.

23. Article 13 of the Regulation stipulates that child's best interest should be taken into consideration during the implementation of this Regulation. According to the Regulation, children who have been victims of whatsoever form of abuse, neglect, exploitation, torture or inhuman treatment or they have suffered from armed conflicts, will be offered appropriate medical treatment services and qualified counseling when necessary. Further, children accommodated at the Centre for asylum seekers will be ensured to access entertaining activities and games in accordance with their age and within the Center for Asylum.
24. During the visit, NPM was notified that at the moment, there is no any unattended child as well as identified victim of torture and violence.

Disciplinary measure

25. Article 45 of the Regulation determines disciplinary measures, which can be imposed to the asylum seeker in case he/she fails to comply with the guidelines set forth in this Regulation, such as: refusal of permission to leave the Center for a certain period of time, limiting TV access. If an asylum seeker during his/her stay at the Center commits violent acts or has aggressive behavior with which the order and safety are at risks, he/she shall be placed in a separate room and the Center shall immediately inform the police authorities (Police).

Admission of the Asylum seekers

26. Article 6 of the Regulation stipulates that, Department for Citizenship, Asylum and Migration (DCAM) within MIA decides, based on the relevant documents, whether an individual is to be sheltered in the Center or elsewhere. The Center confirms with an admission sheet housing the asylum seekers, which is placed in the file of asylum seekers. Further, the asylum seeker is notified on his/her rights as well as undergoes medical check-up.

The procedure of complaint submission

27. The issue of complaint submission is regulated with Article 19 of the Regulation which has determined that asylum seekers have the right to file a claim to the Head of the Center regarding living conditions and the behavior of the officials. Further the complaint shall be forwarded to the Department for Citizenship, Asylum and Migration (DCAM) within 7 days.
28. DCAM has noticed that a complaint box, placed by the Centre, is on asylum seekers' disposal in the Centre.

Based on findings and conclusions achieved during the visits, pursuant to Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 16 paragraph 4 of the Law 05/L019 on Ombudsperson, the Ombudsperson recommends to the:

Ministry of Internal Affairs:

- **To adjust meal schedule to asylum seekers' needs, particularly the time when the dinner is served.**
- **NPM of the Ombudsperson Institution to be informed on the situation related to the provision of social assistance in accordance with the Law on Asylum.**

- **NPM of the Ombudsperson Institution to be informed on the progress of the Albanian language courses and other aspects of integration of these persons in the society of the Republic of Kosovo.**

Pursuant to Article 132, paragraph 3 of the Constitution of Republic of Kosovo (“*Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law*”) and Article 28 of the Law No.05/L-019 on Ombudsperson, (“*Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, including disciplinary measures, must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question*”), You are kindly asked to inform us on steps to be undertaken in the future by You regarding this issue.

Sincerely,

Hilmi Jashari
Ombudsperson