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Prishtina, on 25 January 2018

**REPORT**  
**OF**  
**THE NATIONAL MECHANISM FOR PREVENTION OF TORTURE**  
**OF THE OMBUDSPERSON**

**On the visits of the following police stations:**

- 1. Regional Police Detention Unit in Prishtina, station “Centre”**
- 2. Police Station in Lipjan**
- 3. Police Station in Podujevë**
- 4. Police Station in Mitrovica**
- 5. Police Station in Vushtrri**
- 6. Police Station in Prizren**
- 7. Police Station in Suharekë**
- 8. Police Station in Dragash**

For: Mr. Flamur Sefaj, Minister  
Ministry of Internal Affairs  
  
Mr. Shpend Maxhuni, General Director  
Kosovo Police

In compliance with Article 135, paragraph 3 of the Constitution of Republic of Kosovo and Article 17 of the Law on Ombudsman, No. 05/L-019, National Mechanism for Prevention of Torture (hereinafter NPM) of the Ombudsman Institution has visited the above-mentioned police stations.

### **Date of visit and composition of monitoring group**

1. The above-mentioned police stations were visited on the dates as follows:
  1. Regional Police Detention Unit in Prishtina, station “Centre”, on 30 October 2017.
  2. Police Station in Lipjan, on 9 October 2017.
  3. Police Station in Podujevë, on 18 October 2017.
  4. Police Station in Mitrovicë, on 19 October 2017.
  5. Police Station in Vushtrri, on 19 October 2017.
  6. Police Station in Prizren, on 27 October 2017.
  7. Police Station in Suharekë, on 27 October 2017.
  8. Police Station in Dragash, on 27 October 2017.
2. Monitoring team was composed of a legal advisor, a psychologist and a doctor.

### **Cooperation with NMPT during the visit**

3. During the visit conducted in the abovementioned stations, Kosovo Police provided the NPM with full co-operation. Without any delay, the team had access to all the premises. The team was provided with all the information needed to carry out its task and access to all requested documents and was able to speak in private with persons deprived of their liberty.
4. Pursuant to the applicable legislation in the Republic of Kosovo, the persons suspected of having committed a criminal offence may be detained by the police up to 48 hours before being before a pre-trial judge. The police may keep and collect information from persons found at the scene of a criminal offence that may provide relevant information (maximum time period: six hours)<sup>1</sup>.

### **Safeguards against ill-treatment**

5. European Committee for the Prevention of Torture (hereinafter CPT), in its 2<sup>nd</sup> General Report published in 1992, highlighted the importance of three fundamental rights: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer and the right to medical examination by a doctor of his choice (in addition to a medical examination carried out by a doctor called by the police authorities).<sup>2</sup>
6. These rights should be implemented not only in case of detained persons, but also in other cases when the citizens are obliged to stay in the station or with the police for other reasons (for example, for identification purposes).
7. According to CPT, these rights are fundamental safeguards against physical ill-treatment and should be implemented from the very first moment of deprivation of freedom, notwithstanding how it is described within the legal system.

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<sup>1</sup> Articles 162, 163, 164 of the Criminal Procedure Code of the Republic of Kosovo.

<sup>2</sup> See: <https://rm.coe.int/16806cea2f> (15.11.2017).

8. Similarly, these fundamental rights are also provided for in the Constitution of the Republic of Kosovo, Criminal Procedure Code and Law on Police.<sup>3</sup>
9. Article 13 of the Criminal Procedure Code stipulates that any person deprived of freedom shall be informed promptly, in a language which he or she understands, of the right to legal assistance of his or her own choice, the right to notify a family members or another appropriate person of his or her choice about the detention and these rights shall be applied during the whole time of his/her deprivation of freedom.<sup>4</sup>
10. Regarding the notification about the detention, Article 168 of the Criminal Procedure Code, further stipulates that the detained person has the right to notify the family member or another appropriate person of his or her choice about the detention and the place of detention immediately after the detention; notification of a family member or another appropriate person may be delayed for up to 24 hours when the state prosecutor determines that the delay is required by the exceptional needs of the investigation case. This delay shall not apply in case of juvenile persons.
11. Pursuant to the Law on Police<sup>5</sup> the right to notify the family or another person about the detention applies to persons, who are under “temporary custody”, with the purpose of identification or their protection and protection of others.
12. During the visits, NMPT was notified by the police officers that audio-video recording of interviews is not applied during the interviewing of the detained persons. European Committee on Prevention of Torture (CPT) considers that:
 

*“Electronic recording (audio and/or video) of police interviews represents another important safeguard against the ill-treatment of detainees. CPT is pleased to note that the introduction of such systems is under consideration in an increasing number of countries. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions”.*<sup>6</sup>
13. In the report on the visit to Ireland, in 2006, CPT highlights:
 

*“The findings during the 2006 visit suggest that audio-video recording in the interrogation rooms of Garda stations may have been a significant contributing factor to reducing the amount of ill-treatment alleged by persons detained under the above-mentioned legislation”.*
14. **The Ombudsperson’s NPM encourages the Kosovo Police to review the possibility of implementation of such audio and video recording system, in compliance to CPT conclusions and to notify the Ombudsperson about it.**

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<sup>3</sup> Constitution of the Republic of Kosovo, Articles 29 and 30. Criminal Code of the Republic of Kosovo, Article 13. Law no. 04/L-076 on Kosovo Police,

<sup>4</sup> See also Articles 29 and 30 of the Constitution.

<sup>5</sup> Law on Police, Article 20.

<sup>6</sup> European Committee for the Prevention of Torture, excerpt from the 12th general report, paragraph 36. For more, see: <https://rm.coe.int/16806cd1ed> (24.11.2017).

15. NPM has noticed that in the visited police stations, the security cameras are functional, in station premises and cells where the detainees are held, **except in the police station in Lipjan.**
16. **NPM did not receive complaints by the detainees found in the Regional Detention Centre in Prishtina, in relation to these rights. Similarly, according to the documents reviewed it is found that Kosovo Police respects these rights, in all the visited stations. During the visits, NPM has noticed that in each cell there were written information related to the rights of persons detained in Albanian, Serbian and English Language. During the visits, NPM did not encounter any detained juveniles.**

#### **Physical conditions of the visited police stations**

17. **In the Police Station in Lipjan**, the cells, where the detained persons are held, provide good accommodation conditions, including sufficient natural light, hygiene, and ventilation. While the size of the cells is in compliance to the standards provided for by CPT.
18. **Regional Detention Centre in Prishtina** was renovated in 2016. NPM has noticed that the cells were clean, the space inside the cell per person was in compliance with the standards provided by CPT<sup>7</sup>, each cell had a mattress and clean sheets, but very little natural light and cells were not equipped with call system. Inside the Centre, the ventilation system was functional. Toilets and showers were in good condition and there was hot water.
19. Similarly as during the visit in this centre in 2016, NPM has observed that the working conditions of Police Officers, working in this Centre were not good and no change has been made. **NPM considers that the relevant authorities should undertake the necessary steps in order to overcome these shortcomings.**
20. **Police Station in Mitrovica** is in a very good condition. The Detention Centre provides good accommodation conditions and space in compliance with the CPT standards. Similarly, the police station premises provide good conditions for the work of police officers.
21. **Police Station in Vushtrri** was being renovated during the NPM visit. The detention rooms provide accommodation conditions and space in compliance with the standards provided by the CPT. Due to the renovation; the working conditions of the police officers were hampered. NMPT will request from the Ministry of Internal Affairs to be notified of the renovation in question.
22. **Police Station in Podujeva** provides accommodation conditions and space in compliance with the standards provided by the CPT. All the cells provide sufficient natural light, required ventilation, toilets and clean sheets. The facility possesses emergency stairs.
23. **In the Police Station in Suharekë**, the cells where the detained persons are accommodated provide sufficient natural lighting, required ventilation and the size of

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<sup>7</sup> See: <https://rm.coe.int/16806cea2f> (15.11.2017).

the cells is in compliance with the CPT standards. Similarly, this station provides generally good working conditions for the police officers.

24. **In the Police Station in Prizren, NPM has noticed that all cells, where the detained persons are accommodated are in a bad condition and should be painted, as well as provided with clean sheets and blankets, since the existing ones are old and not even close do they meet the conditions for accommodating the detained persons, in compliance with the international standards.** Generally, this station provides good working conditions for the police officers.
25. **Police Station in Dragash** was completely renovated and provides good working conditions for the police officers. The cells, where the detained persons are accommodated are in a very good condition, possess sufficient natural lighting, ventilation and their size is in compliance with the CPT standards. This station possesses the interview room for juveniles and the interview room for the cases of domestic violence. During the visit, NPM was impressed by the good conditions provided by the interview room, where the victims of domestic violence are interviewed, which provided very good conditions and was adequate for the victims, which are placed there with their children.

### **Call system**

26. **None of the visited stations possesses call systems.** NPM noticed that CPT, in its report on Kosovo for the 2015 visit, recommended the competent authorities in Kosovo, to equip the cells in the police stations with call system, which would enable the detained person's easier contact with police officers, in case of need. The competent authorities of the Republic of Kosovo, in relation to this report, sent their responses to CPT, however the part where they were supposed to respond in relation to the call system in the cell, is empty, thus there is no response at all.<sup>8</sup>

### **Regime**

27. In the 12<sup>th</sup> General Report published in 2002, the European Committee for the Prevention of Torture highlights that the persons held in police custody more than 24 hours, should, as far as possible, be offered daily outdoor exercise.<sup>9</sup> **NPM was notified by the police officers that the Regional Police Detention Centre and other visited stations do not offer outdoor exercise for persons staying more than 24 hours in detention, since they do not possess physical conditions.**

### **Health Care**

28. Healthcare services are a fundamental right of the persons being detained by the police. Healthcare services are provided by the public institutions such as Family Medicine Centre and University Clinic Centre, depending on the treatment needs. **NPM did not receive any complaints from the interviewed persons, in relation to this right. Similarly, from the documents reviewed it is noticed that the police has informed the arrested persons on the right to medical services.**

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<sup>8</sup> CPT report on the visit in Kosovo in 2015, authority response. See: <https://www.coe.int/en/web/cpt/kosovo> (29.11.2017).

<sup>9</sup> CPT 12th General Report, paragraph 47, at: <https://rm.coe.int/16806cd1ed> (29.11.2017).

29. NPM has noticed that all the data related to the medical services offered to the detained persons are kept in his/her personal file.

**Therefore, based on the findings during the visit, NPM recommends to the relevant authorities the following:**

- **Necessary steps shall be taken to provide more natural light in the Regional Police Detention Unit in Prishtina.**
- **Better working conditions shall be provided for the police officers in the Regional Police Detention Unit in Prishtina.**
- **The renovations and supplies specified in the paragraph 20 of this report shall be made in the Police Detention Unit in Prizren.**
- **In all the cells of police stations, where there are detention rooms, call systems shall be installed.**
- **Security cameras in the Police Station in Lipjan shall be functionalised.**

In conformity with Article 132, paragraph 3 of Constitution of the 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 Law no. 05/L-019 on Ombudsperson (“Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, ... must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question”), You are kindly asked to inform us on actions to be taken by you about this issue.

Sincerely,

Hilmi Jashari  
Ombudsperson