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**REPORT WITH RECOMMENDATIONS**  
**OF**  
**NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE**  
**OMBUDSPERSON**

**concerning**  
**The Monitoring of the Dubrava Correctional Centre**

**To:** **Mrs. Dhurata Hoxha, Minister**  
**Ministry of Justice**

**Mr. Milazim Gjocaj, General Director**  
**Prison Health System, Ministry of Health**

**Mr. Imet Rrahmani, Minister**  
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**Mr. Sokol Zogaj, acting General Director**  
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**Correctional Centre in Dubrava**

In conformity with Article 135, paragraph 3 of Constitution of the Republic of Kosovo and Article 17 of Law 05/L-019 on Ombudsperson, Ombudsperson's National Preventive Mechanism against Torture visited the Dubrava Correctional Centre.

Prishtina, 26 January 2017

## Dates on the visit and the composition of the monitoring team

1. In conformity with Article 17 of Law 05/L-019 on Ombudsperson, National Preventive Mechanism against Torture (hereinafter “NPMT”) of the Ombudsperson, visited the Dubrava Correctional Centre (hereinafter “DCC”) on 21, 22 and 23 November. The monitoring team comprised from two legal advisors, one doctor and one psychologist.

## A brief background of the Institution

2. The construction of the DCC began in 1976 and was completed and opened in 1986. At that time the capacity was for approximately 1,000 convicted persons and there was a sub-branch of the DCC in Gurrakoc, where convicted persons with short-term confinement were concentrated and worked, having in mind that there was a chicken farm, workplace for machinist, etc.<sup>1</sup>
3. After the war, with the entrance of KFOR troops and UNMIK Administration, this institution began to be administered by UNMIK and was rebuilt thanks to foreign donations. Initially, Blocks 2,3,7 and 8 were constructed and it started its work in June 2000.

## General description of Institution

4. DCC is a high security level institution composed of several different sectors. Inside place is divided into two parts where one of them is the area for development of agriculture as well as other purposes, and inhabited part, where adult prisoners are incarcerated.
5. Generally prisoners are placed in 8 residential blocks, but during the visit, NPMT was informed that block 5 has been renovated, while in the Hospital Ward are accommodated patients who are provided medical assistance, except severe cases which are sent to public hospitals. Whereas, outside the prison wall there is semi-open block where low risk prisoners are accommodated who are escorted minimally. The capacity of DCC is 1183 beds. **At the time when NPMT visited this centre, there were 840 convicted persons accommodated there. NPMT was informed that due to the preparations for the closure of the Detention Centre in Lipjan (DCL), there were 40 detainees accommodated in DCC transferred from DCL.** European Committee for the Prevention of Torture visited DCC in 2007, 2010 and 2015.

## Cooperation with NPMT during the visit

6. During the visit made by NPMT to the DCC, the personnel of Correctional Service and personnel of Prison’s Health Department provided the monitoring team with full cooperation. The team, without any delay, had access to all places intended to visit. The team was provided with all necessary information to accomplish their task and the team was provided with the possibility to talk to convicted and the detained persons without the presence of correctional officers or other personnel. In addition, NPMT was also allowed to use photo cameras.

## Ill-treatment

7. Before the visit to this centre, NPMT received a complaint from a prisoner S.Z with the allegation that on 24 October 2016 he was physically and severely ill-treated from correctional officers. Concerning this complaint, the NPMT team visited the prison

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<sup>1</sup> Data from the website of Ministry of Justice of the Republic of Kosovo, at: <http://www.md-ks.net/?page=1,70> (31.10.2016).

hospital, checked the complainant's file and interviewed the complainant. NPMT conducted examination of the person in question starting with the medical documentation and the records of all protocols (History of disease and all other protocols), but his name was recorded only in the self-injury protocols. In addition, a physical examination was done to the complainant. From the examination, it was concluded that the only injury seen on the complainant's body was caused as a result of self-injury (confirmed also by the patient's anamneses).

8. Concerning the health care, NPMT concluded that the complainant was offered all possibilities for treating the injury as well as stitching of the injury, which was refused by the complainant. The complainant also rejected the medication treatment for this injury. After committing self-injury, the complainant was sent for a medical treatment without his will, since he was bleeding.
9. In this regard, NPMT interviewed the social worker who claimed that he had seen the complainant bleeding as he committed self-injury, but he didn't see any correctional officers abusing him physically. In addition, there were a number of correctional officers interviewed claiming that they simply sent the complainant for a medical treatment without his will, since he was bleeding after committing self-injury.
10. **Based on what was said above, NPMT concluded that the complainant was not psychologically abused and no excessive force was used against him by correctional officers, but the complainant was sent to the prison's hospital without his will, since after committing self-injury, the complainant was bleeding.**
11. **During the visits made to DCC, NPMT interviewed a considerable number of prisoners and received no other complaints for physical ill-treatment or excessive use of force from correctional officers.**

## Material conditions

### Kitchen

12. During the visit made to DCC, NPMT also visited the kitchen where prisoners working outside the prison perimeter and the personnel of the correctional centre get their meals, while to other prisoners, the food is served into their cells. During the visit made to the blocks, NPMT received no serious complaints concerning the food quality. NPMT was also informed that the kitchen staff and the prisoners employed in the kitchen possess sanitary booklets. NPMT checked refrigerators where food is kept, and checked the food expiry dates. NPMT did not encounter any food with expired dates.
13. NPMT was informed from the chef that the kitchen faces lack of equipment for cooking and baking. In addition, there is lack of inventory, uniforms, work gloves, while available equipment had defects. NPMT was informed that some of the appliances (baking ovens), which were purchased for the needs of the kitchen, due to the failure to meet standards, were never used and cannot be used now either, appliances are placed in the warehouse for a long time. **NPMT expresses its serious concern concerning this issue, since the purchase of such appliances is done with the Kosovo Republic taxpayers' money and at the same time, such a situation constitutes misadministration and misuse of the public money. NPMT, therefore, requires from relevant authorities to investigate the purchase procedure of these expensive appliances, which cannot be used at all, due to inadequacy.**

## Block 1

14. This block accommodates convicted persons and detained persons transferred from DCL. Regimes in this block are as follows: basic, standard and advanced. NPMT observed that the block has been renovated, toilets and showers were in good condition, cells contained no humidity, they were painted and clean. NPMT was informed that hot water was missing in certain parts of the block. Such thing was also confirmed by correctional officers. In general, cells were warm, with sufficient lights and ventilation. **Authorities should act as soon as possible to provide hot water for the convicted persons in this block and to enable them to keep their hygiene in an adequate manner.**<sup>2</sup>
15. In this block, in the V2 wing are accommodated 37 detained persons, who have been transferred from DCL. NPMT observed that detained persons were accommodated in cells which contained no humidity, with sufficient natural light, showers and toilets were in good condition, but there was no hot water.
16. It could still be observed that convicted persons were using plastic bags to place their items, since they were lacking lockers.
17. NPMT was informed by the incarcerated persons that daily press has not been distributed for two years now. **NPMT reiterates that the provision of daily press is a right which is guaranteed by the Law on Execution of Penal Sanctions.**<sup>3</sup> According to the Directory of this centre, concerning the provision of daily press to the convicted persons, competent bodies are working on the tendering procedures and the press will soon be available to the convicted persons.

## Block 2

18. NPMT visited block 2 in which the standard regime is offered. Due to the preparations for the closure of DCL, there were 25 detained persons transferred to this block. **NPMT observed that detained persons and convicted persons were accommodated in the same wing and they could contact each other without any problem.**<sup>4</sup> **According to authorities, the detained persons brought here will be staying for a short period of time and then will be transferred to adequate centres for the detained persons.**<sup>5</sup> According to the head of the block, there are no cases of violence among the convicted persons. The last case occurred in January 2015. According to the convicted persons and correctional officers, heating is not at a satisfactory level; the heating system is old and is facing technical problems. There is lack of administrative material and technical problems with photocopy machines and lack of inventory for the convicted persons and correctional personnel. Wing V1 needs painting and intervention on sanitary water knots. **NPMT was informed by the directory of correctional centre that renovations are soon planned in this block. NPMT will monitor the situation concerning the planned renovations.**

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<sup>2</sup> Law on Execution of Penal Sanctions, Article 38.2 determines: *“In order to ensure the hygiene of convicted persons and the hygiene of premises, convicted persons shall be provided with sufficient cold and hot water, and appropriate toilet and cleaning articles. Installations and devices for personal hygiene shall assure sufficient privacy and shall be well-maintained and clean”*.

<sup>3</sup> Law on Execution of Penal Sanctions, Article 87: *“A convicted person has the right to have access to the daily and periodical press in his or her mother tongue and other sources of public information”*.

<sup>4</sup> Law on Execution of Penal Sanctions, Article 33.7: *“Convicted persons shall not be accommodated in the same part of the facility as persons detained on remand”*.

<sup>5</sup> UN Minimal Rules for the Treatment of Prisoners, Article 8.b: *“Untried prisoners shall be kept separate from convicted prisoners”*. European Prison Rules, Article 18.8: *“Untried prisoners are kept separately from sentenced prisoners”*.

### **Block 3**

19. In this block are accommodated the advanced convicted persons. The capacity of the block is 168, while during the visit made by NPMT there were accommodated 144 convicted persons. NPMT was informed that there was no lack of hot water and the convicted persons could take a shower 3 times a week. There were 2, 4 and 6 persons accommodated in one cell. Cells offered appropriate light and ventilation. NPMT observed that in V1 wing of this block, showers and taps were damaged to a certain degree.

### **Block 4**

20. In this block, convicted persons with standard regime are accommodated. The capacity of the block is 168, while at the time of the visit made by NPMT there were 163 convicted persons accommodated. NPMT observed that this block needs renovations. In the first floor it could be observed that humidity had penetrated into the cells where convicted persons were accommodated, cells had sufficient light and ventilation, showers and toilets were in bad condition. During the visit, NPMT observed that in one cell there was humidity and water was leaking. **According to the announcement from the directory, the renovation of this block is soon to start. NPMT will monitor the situation concerning the planned monitoring and will also request updated information from relevant authorities.**

### **Block 5**

21. This block has been renovated and the technical handover of the facility is expected. There are currently no convicted persons or detained persons accommodated here.

### **Block 6**

22. Convicted persons with advanced regime were accommodated in this block. The capacity of the block is 134, at the time of the visit by NPMT there were 129 persons accommodated. According to block supervisors, about 60-70 of convicted persons were engaged at work. Conditions in the block were good, cells have sufficient light and ventilation, they contain no humidity, they have hot water and the convicted persons are engaged at work and can take a shower every day, while others 3 times a week.

### **Block 7**

23. The capacity of this block is 20, while during the visit of NPMT, there were 18 convicted persons accommodated, heating was at sufficient level, there was hot water, cells provided light and appropriate ventilation. Convicted persons have fitness equipment. The block has been painted from persons confined there and some small renovations have been made. Bathrooms and showers are in good condition. The block possesses a kitchen which is used by the convicted person to cook, but food is brought to them from the kitchen of correctional centre.

### **Block 8**

24. NPMT visited block no. 8 where 40 persons were accommodated. In this block are accommodated the newly arrived persons who are accommodated here from 7 to 28 days. NPMT was informed by the responsible officers that the admission registers and the file of the convicted persons accommodated in this block is held there. NPMT checked the admission registers and the files of the newly admitted persons. There were no cases of overpopulation observed in the cells of the convicted persons in this block.

25. During the visit in the cells where the newly arrived persons were accommodated, NPMT concluded that these cells need painting. NPMT was informed that tendering procedures for painting of the block are under administration. The convicted persons claimed that they can take showers as many times as they wish and their clothes are washed at DCC. In addition, NPMT was informed by the convicted persons that they are not provided with beddings and they should bring them from their homes, while blankets are provided by DCC.<sup>6</sup> **Relevant authorities should act in accordance with the obligations deriving from Article 16 of Administrative Instruction on House Rules in the Correctional Institutions.**
26. NPMT observed that the convicted persons in these cells are obliged to keep their things in plastic bags and carton box, since the areas at their availability do not suffice. European Committee for the Prevention of Torture in its report from the visit conducted to Kosovo in 2015 disclosed the same problem and requested from the relevant authorities to remedy this deficiency.<sup>7</sup>
27. Relevant authorities in the Republic of Kosovo in their response sent to the Committee on 8 September 2016, emphasised that steps will be undertaken to remedy this deficiency. **NPMT will continue to monitor the situation concerning this issue and the resolution of the problem based on the answer of Kosovo authorities.**

## Regime

28. DCC provides 4 regimes for the convicted persons: basic, standard, advanced and semi-open regimes. In DCC, about 340 convicted persons are engaged at work. The engagement at work is higher during the summer season. Convicted persons are usually engaged at work in the kitchen, cleaning and the centre's farms. The convicted persons may move freely within the establishments where they are accommodated and are entitled to 3 hours of walking per day during summer season, while 2 hours per day during winter season.<sup>8</sup>
29. In addition, within the correctional centre, function 3 workplaces, which in fact are also vocational training centres, where training on welding, construction, machinery, carpeting, technical maintenance, water and electricity installation are organised. Courses whose duration is 3 months are organised in these workshops. NPMT observed that these courses were however available only to a limited number of convicted persons (at the time of the visit of NPMT, the number of the engaged persons in these trainings was 10-12 persons). There are 4 convicted persons engaged in these workshops.
30. The officers who met the NPMT in these places of work expressed their concern due to the fact that expensive machineries were purchased, which cannot be used as they are not completed technically. **Ombudsperson's NPMT, similarly as in kitchen's case, requests from relevant authorities to investigate these cases of supplies with costly machinery and which in fact cannot be used due to deficiencies. All these**

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<sup>6</sup> Article 16 of Administrative Instruction on House Rules in the Correctional Institutions: "Each convicted person has his own bed made of specific matrices, pillow with slipcover, two bed sheets, and one or two blankets for summer, respectively two (2) up to three (3) blankets during winter, depending on heating. Each convicted person will be responsible for their bed with all components of the bed and a locker for personal belongings".

<sup>7</sup> Council of Europe, European Committee for the Prevention of Torture, the report from the visit in Kosovo in 2015, published in September 2016.

<sup>8</sup> According to Article 37 of Law on Execution of Penal Sanctions, the convicted persons are entitled to at least 2 hours of walking.

**machineries are in fact paid with money of Kosovo Republic taxpayers and whatever misuses are unacceptable.<sup>9</sup>**

31. In addition, the secondary school “Rudina” functions in the DCC establishment, which currently engages 17 teachers, teaching is conducted in two shifts, the morning shift and the afternoon shift. Within the school functions library, where convicted persons can borrow books for reading. Except the usual literature, library possesses also religious Islam and Christian literature. Within the school are organised computer and accounting courses.
32. Tailoring is foreseen within the DCC, which has been dysfunctional and lacks working material.
33. In DCC, all the stuff is kept in the Sector of Deposits at the moment of admission at the centre and is handed over when released. Of a great concern is the situation encountered in the warehouse, where sequestered things are stored, since there were a lot of things, which were just thrown and the officers informed us that some of the things may be given to someone in need but no plan exists what will happen with them and how long they will be kept in the warehouse.
34. There is a gym, basketball and football court within DCC establishment. The basketball court at the moment is not used since it needs changing damaged windows and install window meshes, which would prevent damaging the windows caused as a result of thrown balls. A part of the hall, such as toilets and showers were renovated and are in very good condition, while in the other part, works were stopped since the work executor did not comply with technical conditions. The sports hall is dysfunctional.
35. Regarding the regime for detained persons who are brought from DCL, it remains poor, although the directory tries to relax this regime for as much as it is possible, thus enabling them to conduct cleaning work within the block and watching TV for a longer time. They are also entitled to 2 to 3 hours of walking within a day. **NPMT encourages competent authorities to increase their activities outside the cell in DCC for the detained persons. NPMT considers that the longer the period in detention is, it should correspond to the development and to the regime provided. NPMT expects that the detained persons accommodated from DCL in DCC to be transferred as soon as possible to the adequate detention centres.**

### **Health care**

36. The responsibility for healthcare in the Correctional Service was transferred from Ministry of Justice to Ministry of Health in July 2013. In Dubrava Correctional Centre prison functions the hospital for the convicted persons where are 6 regular doctors engaged (specialist of the following areas: urology, psychiatry, orthopaedic, family medicine, dermatology, ophthalmology), 26 nurses working in 12 hour shifts. In addition, there is physiatrist services offered twice a week, while the physiatrist is the trained nurse for physiatrist, working every day, full time job. The centre has also engaged one full-time psychologist. While the dentist was regular to date, but since he has started his specialisations, now he works in DCC twice a week. Therefore the centre is supported by the dentist from the Smrekonica Correctional Centre.
37. The programme of middle health personnel is organised as follows: regular personnel working from 08:00 to 16:00 and is comprised by the dentistry technician, the laboratory technician, two nurses and the physiotherapist. While in 12 hours shifts are working 14

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<sup>9</sup> See paragraph 13 of this report (kitchen).

nurses of middle personnel divided in the first 7 to 12 hours and in the second 7 to 12 hours, including also 4 nurses working only during the 12 night hours. While, one doctor is available during the 24 hours.

38. As external consultants working once a week are engaged: the psychiatrist, cardiologist, orthopaedist, neurologist, radiologist and the radiology technician, physiatrist, ophthalmologist, otorino-laryngologist, while the general surgeon is invited on need. Currently, there is no urologist.
39. Taking into account the number of self-injuries which is increasing and the number of persons with mental problems, the persons using narcotic substances, NPMT expresses its concern due to the fact that there is only one regular psychologist employed in this centre, while the psychiatrist is engaged only once a week. Based on the number of the convicted persons accommodated in this centre, it cannot be expected that only one psychologist can respond to all requests for psychological treatment in an adequate manner.
40. During the visit, NPMT observed that there is no proper cooperation between the social service, correctional service and psychologist, where many times the psychologist is facing difficulties at work, since the competent officers do not bring planned cases for treatment in his office. The psychologist has no work supervisor for his work and as a result he is obliged to pay, with his own money, an expert to supervise and assist in his clinical work. **In addition, there is lack of continued professional training for psychologists and social workers.**
41. NPMT was informed from the medical service that a worrying problem is presented from the inability to send the convicted persons requiring medical services due to the lack of regular transport. DCC possesses an auto ambulance, which does not meet the conditions, is not fully functional and does not possess the basic things for provision of adequate medical assistance.
42. During the visit, NPMT observed that the hospital does not possess an elevator through which the access to the second floor of the convicted persons with disabilities would be enabled. Authorities of the Republic of Kosovo in their response sent to CPT concerning the conclusion in their report for the visit made to Kosovo, that the convicted persons with disabilities lacked adequate access to hospital, emphasized that the issue was addressed to Kosovo Correctional Service to avoid this deficiency and to install an elevator. Further, the authority's answer mentioned that this issue will not occur during this year based on the current budget and based on the plans for reconstruction of Correctional Service. **NPMT will monitor the implementation of this CPT recommendation and the commitment of authorities of the Republic of Kosovo to implement the same.**
43. NPMT was informed that hospital was renovated last year. However, NPMT observed that infrastructure was damaged considerably in the second floor of hospital, (floor tiles and the inventory in the corridor in the dining hall). These damages are a result of non-qualitative work executed by the company engaged which have been technically accepted. **This situation presents a misuse of public money and is an obligation of competent authorities to investigate this issue.**

## Hospital records

44. Prison hospital keeps the following records: records for self-injury, record of hunger strike, record of committal of suicides, corporal damages. Each doctor also possessed the protocol of the visit of patients. NPMT observed that hospital possessed modern equipment and may provide adequate medical services to the convicted persons. **In general, NPMT concluded that prison hospital meets the standards for the provision of medical services, but it encourages medical staff to be more rigorous when filling in medical files.**

### **Request for interim measures**

45. However, during the visit made on 27 September 2016 in this centre, NPMT observed four adults in one room in a serious health condition in the second floor of the hospital. During this visit, NPM stayed in the CC Prison Hospital, on which occasion met with persons who were serving their sentence, persons over 85 years of age, immovable persons and without adequate health care.

46. Regarding this situation, on 29 September 2016, the Ombudsperson addressed a request for interim measures to the Ministry of Justice and requested that these convicted persons are **urgently sent for medical treatment in the institutions of the Clinical and University Hospital Service in Kosovo (secondary and tertiary level), in conformity with health needs**, in order to enable adequate health treatment for them. Until the publication of this report, Ministry of Justice has not responded to the Ombudsperson's request, for an interim measure.

### **Medical screening**

47. European Committee for the Prevention of Torture in the report for the visit in Kosovo in 2015 paid particular attention to the medical screening, especially of newly-arrived prisoners or detainees, not only for detecting (transmissible) diseases and preventing suicides, but also for contributing to the prevention of torture through the proper recording of injuries.

48. DCC informed the NPMT team that the newly-arrived are screened within a 24 hour time from the moment of their arrival in this centre. These mean a general screening during which anamnesis is taken from the prisoner whether he/she has any disease to declare, which is recorded in his/her medical file.

### **Confidentiality of medical services**

49. NPMT has been interested whether medical personnel in Dubrava Correctional Centre are providing medical services in the presence of correctional officers. During the visit to the hospital, NPMT concluded that medical services are administered without the presence of correctional officers in the prison hospital. ***NPMT encourages such an attitude and practice of non-presence of security officers during the administration of medical<sup>10</sup> services.***

### **Training for medical service**

50. In general, NPMT was informed that medical personnel is not provided with appropriate training for the work specifics and let alone for the use of sophisticated apparatuses they possess. These apparatuses are mainly applied by external clients of relevant specifics.

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<sup>10</sup> European Committee for the Prevention of Torture in the report for Kosovo after the visit made to Kosovo in 2015 had remarks regarding the provision of medical services in the presence of correctional officers in some Correctional Centres and recommended to put an end to such practices.

**NPMT requests from relevant authorities to identify the professional training needs for medical personnel.**

#### **Other issues**

#### **Personnel of Dubrava Correctional Centre**

51. Based on the information obtained from the directory, DCC personnel are comprised of 515 uniformed correctional officers, 81 civilian personnel and 46 medical personnel. Within personnel there are 12 social workers and 1 psychologist employed. **During the visit in this centre, NPMT received complaints from social officers that the current number of social workers is insufficient, considering the number of convicted persons accommodated in this correctional centre. In addition, a worrying problem was mentioned the non-functioning of the database of social workers (MDSIMB) known as the integrated system for managing convicted persons.**
52. Social services also mentioned that they need continued professional training for the management of specific cases, such as persons who are accused for committing terrorist acts.
53. **During the visit, NPMT observed lack of coordination and effective cooperation among social service, health service and security service concerning case management.**
54. During the visit, NPMT was informed that at the moment the centre is facing lack of different office material, inventory, computers, printers and cartridges. **NPMT encourages relevant authorities to undertake all actions necessary in order that DCC is supplied with all necessary material for work.**

#### **Disciplinary measures**

55. According to the applicable legislation, prisoners may be subjected to the following disciplinary measures: reprimand, deprivation of an assigned privilege, an order to make restitution, and solitary confinement<sup>11</sup>. Remand prisoners may be subjected to the following sanctions: of prohibition or restriction on visits or correspondence, except contacts with defence counsel, the Ombudsperson and diplomatic missions. **NPMT observed that DCC keeps records on the disciplinary measures imposed where data regarding the measure, reason, time of impose and completion are recorded.**
56. NPMT was informed by the DCC Directory that self-injury in this Centre is not considered a disciplinary violation. **NPMT hails such an attitude since self-injury is not included in the group of disciplinary sanctions set forth by Article 102 of Law on Execution of Penal Sanctions.**<sup>12</sup>
57. NPMT was informed that medical service does not participate in decision-making regarding the ability of detainee or the convicted person to face disciplinary sanction of solitary confinement. NPMT considered that medical personnel's role is clear in this aspect. The doctor's participation in decision-making who as a matter of fact is the

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<sup>11</sup> Paragraphs from 101 to 113 of Law on Execution of Penal Sanctions.

<sup>12</sup> European Committee for the Prevention of Torture in the report for the visit in Kosovo in 2015 stressed the concern due to the fact that in some Correctional Centres in Kosovo, self-injury is considered a disciplinary violation.

doctor of the detained or convicted person would compromise the doctor-patient relation, unless this sanction is taken for medical reasons.<sup>13</sup>

58. However, NPMT expresses concern due to the fact that the applicable legislation<sup>14</sup> sets forth that before the convicted person is placed to a solitary confinement, the director of the service of correctional institution should request the doctor's opinion in writing which testifies that the convicted person is at good physical and psychological condition. **NPMT requests from relevant authorities that the provisions at force of these acts are amended in accordance with the CPT recommendation in the report for Kosovo in compliance with the 21<sup>st</sup> CPT's general report and the Recommendation of the Committee of Ministers of Council of Europe Rec (2006) 2 for the Revision of European Prison Rules, which required the written opinion that the convicted person may be subject to this measure was removed.**

### Contact with the outside world

59. Legislation at effect<sup>15</sup>, in the case of convicted persons determines that a convicted person shall have the unlimited right of correspondence (subjected to specific exceptions), shall have the right to receive a visit at least once each month for a minimum of one (1) hour by his or her spouse, child at least once every three months for a minimum of three hours. In addition, they shall have the right to make phone calls.
60. Regarding phone calls, Administrative Instruction on House Rules in the Correctional Institutions<sup>16</sup> determines that convicted persons may place phone calls to close family members and other persons. According to this Instruction, phone calls of the convicted person and the detained person shall not last more than 15 (fifteen minutes).
61. Convicted persons on basic regime shall be entitled to one phone call a week lasting 15 (fifteen) minutes, while convicted persons on advanced regime shall be entitled to two phone calls a week lasting 15 (fifteen minutes).
62. In the case of the detained persons, Article 200 of Criminal Procedure Code of Kosovo determines that the detainee on remand may receive visits "within the limits of the rules of the detention facility", based on the permission of the pre-trial judge and on his or her request. Further the Code determines that correspondence and other visits are subject to the decision of the pre-trial procedures.
63. Ombudsperson or his representatives may visit the detained persons and contact with them without announcing it and without the supervision of the pre-trial judge, single trial judge or presiding trial judge or other persons appointed from such judge. Letters of the detained person sent to the Ombudsperson Institution cannot be controlled. The Ombudsperson and his representatives may communicate verbally or in writing confidentially with the detained person.
64. In the case of foreign nationals, they shall be provided with the opportunity to contact a diplomatic representation in writing or verbally or the relevant office of his or her State of nationality.<sup>17</sup> During the visit, NPMT interviewed a number of foreign nationals who

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<sup>13</sup> European Committee for the Prevention of Torture in the report for the visit in Kosovo in 2015 required from relevant authorities to put an end to the practice of the request made by the doctor to confirm that detainee or the prisoner is in a situation to face the sanction.

<sup>14</sup> Article 107 of Law on Execution of Penal Sanctions and Article 76 of Administrative Instruction on House Rules in the Correctional Institutions.

<sup>15</sup> Law on Execution of Penal Sanctions, Articles 62-65.

<sup>16</sup> Administrative Instruction on House Rules in the Correctional Institutions, Article 54.

<sup>17</sup> Law on Execution of Penal Sanctions, Article 33 paragraph 1.

had no complaints regarding the enjoyment of these rights. **NPMT received no complaints regarding the right for contacts with the outside world neither from convicted nor from detained persons.**

### Admission procedures

65. In DCC, the newly-arrived persons are required to undergo an admission procedure lasting at most 30 days. During this period, they are assessed and categorised in special cells, before they are accommodated in normal cells. During the visit, NPMT observed that DCC possesses a register which records data regarding the convicted person accommodated in the admission block. Regarding the contacts with the outside work and walking during this period, convicted persons declared that they are allowed two phone calls during the period they are accommodated in this block.
66. NPMT received no complaints from the convicted persons accommodated in this regime. NPMT considers that DCC does not implement a restrictive regime against the convicted persons during the period while they are in the admission block.

### Security-interrelated issues

67. During the visit, NPMT observed that the so called *pepper spray* is part of standard equipment of correctional officers in DCC. In addition to this, NPMT was informed that this *pepper spray* has expired. **CPT in the reports for visits in Kosovo in 2011 and 2015 requested from relevant authorities to put an end to such practise, considering the damaging effects caused by the substances and this equipment should not be part of the standard equipment of correctional officers.**
68. NPMT was informed by the directory that in some blocks and facilities in DCC there are no security cameras. **NPMT encourages DCC authorities to equip all corridors of blocks and external areas with security cameras, which according to CPT comprise one of guarantees for protection from ill-treatment.**<sup>18</sup> In the report for Ireland for 2010, CPT encourages relevant authorities to install more security cameras in places where persons deprived of liberty are accommodated.
69. **NPMT also encourages relevant authorities to provide technical possibilities so that the data recorded by the security cameras are stored for a long time, since eventual allegations for ill-treatment or excessive use of physical force can be investigated more effectively in this way.**

### Procedure for filing complaints

70. Effective system of filing complaints is basic safeguards against ill-treatment in prisons and detention centres. Persons accommodated in these centres should have avenues to file complaints, within the prison or the detention centre and be entitled to confidential access to an appropriate authority.
71. Article 91 of the Law on Execution of Penal Sanctions provides for a detailed procedure by which detainees and prisoners may address complaints or requests to the Director of a specific Kosovo Correctional Service establishment. The procedure includes deadlines for responses by the Director, and the possibility to refer a complaint under certain circumstances to a higher authority, which in the current case is the General Directory of the Correctional Service and the Minister of Justice.<sup>19</sup>

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<sup>18</sup> CPT, Report on the visit to Ireland in 2010, paragraph 18.

<sup>19</sup> Article 91, paragraph 4 of Law on Execution of Penal Sanctions stipulates: The director of the correctional facility will respond in the appeal filed in a time period of fifteen (15) days, whereas the Head Office of the

72. NPMT observed that there are complaint boxes available to the convicted persons in DCC establishment placed by the Kosovo Correctional Service and the complaint boxes placed by Ombudsperson Institution. Complaint boxes placed by Ombudsperson Institution may be opened only by the personnel of this institution, which provides confidentiality for complainants in filing complaints. **NPMT received no complaints from detained persons and convicted persons concerning the issue of filing complaints or delays in the review of the complaints within the legal time.**

Based on findings and conclusions reached during the visits, in conformity with Article 135 paragraph 3 of Constitution of the Republic of Kosovo and Article 16 paragraph 4 of Law 05/L019 on Ombudsperson, Ombudsperson recommends:

**Relevant authorities to investigate:**

- The purchase of expensive kitchen appliances which are out of function, due to inadequacy.
- The purchase of machinery for the workroom, which could not be used and are out of function, as they were incomplete.
- The quality of work accomplished in the second floor of the hospital, as the corridor tiles were badly damaged, only one year after renovation done.

**Further, the Ombudsperson recommends the Kosovo Correctional Service (KCS) and the Ministry of Justice:**

- To supply with hot water the blocks where hot water is missing;
- To supply with lockers in order that accommodated persons can keep their things;
- Convicted persons should be enabled access to daily press;
- To systemise convicted persons / detained persons;
- To supply with mattresses, beddings and blankets;
- To renovate Block 2 and 4;
- To renovate sanitary knots;
- To put in function the gym and investigate the reasons for its technical non acceptance;
- To increase activities for the detained persons;
- To bring into action tailoring, by providing work material, which could assist in meeting the needs of the centre and even wider;
- Kosovo Correctional Service should provide a solution regarding the access of persons with disabilities to the second floor of the hospital;
- Correctional Service should find a solution about the seized things placed in the warehouse.
- Correctional Service should functionalise MDSIMB database.

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Correctional Service in a time period of thirty (30) days. In a written appeal a response in the written form will be issued.

- Correctional Service should provide professional training for management of specific cases (for terrorist acts);
- Correctional Service should supply DCC with all necessary material for work: inventory, computers, printers and cartridges, etc.;
- To supplement/amend LEPS and Administrative Instruction on House Rules in the Correctional Institutions, which foresees to request the doctor's written opinion before a disciplinary sanction is imposed to a person;
- To remove the so-called *pepper spray* as standard equipment of correctional officers;
- To install security cameras where they are missing, and provide the technical possibility to store the recorded data for a longer time;

**The Ombudsperson recommends the Ministry of Health and Correctional Service:**

- Ministry of Health should hire a dentist on regular bases;
- Ministry of Health should hire additional psychologist, since it is impossible to successfully accomplish the overall work in the centre only with one psychologist;
- Ministry of Health should hire one psychiatrist on regular bases;
- Ministry of Health and Kosovo Correctional Service (KCS) should provide adequate and ongoing training for medical personnel, social officers and correctional personnel;
- Ministry of Health should provide auto ambulances to DCC, since the one available scarcely can fulfil the needs of the Centre;
- Ministry of Health and Kosovo Correctional Service should increase the level of coordination and effective cooperation among the social service, medical service (psychologist) and security service concerning case management;
- To undertake necessary steps for accommodation of mentally-ill persons in a special institution in accordance with the European Prison Rules adopted by Council of Europe and Law on Execution of Penal Sanctions.

Sincerely,

Hilmi Jashari  
Ombudsperson