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Institucioni i Avokatit të Popullit • Institucija Ombudsmena • Ombudsperson Institution

ANNUAL REPORT OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

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Ombudsperson's Statement

The Law no. 05 / L-019 on Ombudsperson, which has entered into force on 26 June 2015, stipulates that the Ombudsperson acts as a National Preventive Mechanism of Torture and other cruel, inhuman and degrading treatment and punishment (NPMT).

This Mechanism was established pursuant to the provisions of the Optional Protocol to the Convention against Torture, which is part of the legal and constitutional system of the Republic of Kosovo and has priority, in case of conflict, over provisions, laws and other acts of public institutions.

The main purpose of the given Protocol is to establish a system of regular visits, undertaken by independent international and national bodies, to places where persons deprived of their liberty are placed, aimed at preventing torture and other degrading and inhuman treatment and punishment.

Further this Protocol stipulates that the National Prevention Mechanism of Torture should be a multidisciplinary team, composed of professionals of various fields, such as: Legal officers, Doctors, Psychologists, etc. Current composition of this Mechanism abides fully with the provisions of the Optional Protocol to the Convention against Torture as well as the Law on the Ombudsperson.

Unannounced and regular visits to all places where persons deprived of liberty are held, including police detention, centers of remand detention, stay in health institutions, customs detention, detention in immigration centers and at any other places where suspects of violation of human rights and fundamental freedoms is likely to happen, are NPM liabilities determined by the Law on the Ombudsperson.

This Report presents NPM challenges in enforcement of the legal mandate during this period, but also Kosovo Republic responsible institutions' challenges and progress in respecting the fundamental rights of persons deprived of their liberty.

During the reporting period, the National Preventive Mechanism of Torture (NPMT), as well as all other preventive mechanisms worldwide, faced serious challenges in carrying out their legal mandate, due to the outbreak of the global pandemic COVID -19.

Like other countries, the Republic of Kosovo, based on World Health Organization recommendations, undertook a series of measures to prevent and combat COVID-19. These measures restricted the fundamental freedoms and rights guaranteed by the Constitution of the Republic of Kosovo and the legislation in effect, depending on the situation with COVID-19. Such restrictions on rights and freedoms were undertaken in all Institutions of deprivation of liberty in the Republic of Kosovo.

Based on situation created, the principle of not causing greater harm was applied by NPM during its work.

Despite the situation created, the NPM has continued *Ad Hoc* visits and regular contacts with the competent authorities. Prisoners also had access to telephone numbers through which they had the opportunity to contact the NPM regarding their complaints and requests.

Based on these restrictions, the objective of NPM future visits will be to assess whether these restrictions were proportionate, legal and in accordance with the assessments and decisions of responsible health authorities of the Republic of Kosovo.

In October 2020, I had the pleasure to welcome in the premises of the Ombudsperson Institution the delegation of the European Committee for the Prevention of Torture during their visit to the Republic of Kosovo. I believe that the meeting with this delegation was quite constructive and useful. Situation of human rights and freedoms of persons deprived of their liberty in the Republic of Kosovo, as well as NPM mandate and challenges in implementing the mandate defined by the Law on Ombudsperson were discussed during the meeting.

During this period the Council of Europe launched the Project on strengthening Kosovo Republic institutions' capacities in preventing and combating torture. The NPM will be the main beneficiary of this Project. With this, NPM capacities in combating and preventing torture, as well as monitoring of places of deprivation of liberty, will be further increased.

Despite the situation created by COVID-19 and their commitment to prevent and combat this pandemic of global proportions, the competent authorities, at all times respected NPM's legal mandate and did not prevent at any time and under any circumstances to carry it out. In addition, during this period, responsible authorities responded to NPM requests promptly and effectively. Therefore, on this occasion, I would like to express my appreciation for their cooperation with the NPM and the Ombudsperson.

Naim Qelaj

Ombudsperson

National Preventive Mechanism of Torture

Republic of Kosovo is not a signatory party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to this Convention, as it is not yet a member of the United Nations. However, Article 22 of the Constitution of the Republic of Kosovo stipulates that human rights and freedoms, guaranteed by international agreements and instruments, are guaranteed by the Constitution of the Republic of Kosovo. These international agreements and instruments are directly applicable in the Republic of Kosovo and have priority, in case of conflict, over the provisions, laws and other acts of public institutions. One of the Conventions enshrined in this Article is the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 10 December 1984 and entered into force on 26 June 1987.¹

Whereas on 18 December 2002, the United Nations General Assembly, at its fifty-seventh (57) session, with the Resolution A / RES / 57/199, adopted the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This Protocol has entered into force on 22 June 2006.² The main purpose of the given Protocol is to establish a system of regular visits, undertaken by independent international and national bodies, to places where persons deprived of their liberty are held, in order to prevent torture and other cruel, inhuman and degrading treatment and punishment.³

Law no. 05 / L-019 on Ombudsperson, which entered into force on 26 June 2015, in Article 17, paragraph 1, stipulates that the Ombudsperson acts as a National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (henceforward: the NPM).⁴

Regular and unannounced visits to places of deprivation of liberty, including police detention, detention on remand, stay at health institutions, customs detention, detention in immigration centers and every other place when it is suspected that there are violations of human rights and freedom are NPM assignments defined by the law.⁵

¹ *Office of the United Nations High Commissioner for Human Rights* , at: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

² *Office of the United Nations High Commissioner for Human Rights*, at: <https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx>.

³ Article 1 of the Optional Protocol of the Convention against Torture.

⁴ Law No. 05/L-019 on Ombudsperson, Article 17, paragraph 2.2.

⁵ Law No. 05/L-019 on Ombudsperson, Article 17, paragraph 2.

The Law on Ombudsperson stipulates that when exercising functions of the National Preventive Mechanisms, the Ombudsperson and his/ her representatives shall have the right to access information about the health status of any person held in places of deprivation of liberty, including access to relevant medical records, as well as, with consent of the person, they shall be entitled to access to his/her personal data.⁶ The NPM was officially established by Ombudsperson's decision on 16 January 2016.

Methodology of NPM visits

Methodology of NPM visits consists on overseeing, documents and interviewing of the persons deprived of their liberty, correctional and police officers as well as healthcare providers. Article 17 of the Law on Ombudsperson stipulates that the NPM conducts unannounced visits to places where persons deprived of their liberty are held. This methodology foresees preparation of the visit, determination of the type of visit, as well as actions taken upon arrival at the institution being visited.

The final conversation with the Head of the Institution focuses on the most important concerns, such as: the relationship between staff and prisoners, incidents between inmates, accommodation conditions, inadequate health care, the failure to implement procedural guarantees (access to an attorney, the right to medical services, family contacts, etc.). During the final meeting, the monitoring team uses constructive language and respects the work of the Institution's officials.

Composition of NPM during 2020

NPM's current composition is multidisciplinary and in compliance with the provisions of the Law No. 05/L-019 on Ombudsperson, which foresees that within the NPM there should be personnel of different occupations, including legal officers, medical doctors, psychologists and social workers with experience in this field. The current composition of the NPM is as follows:

1. Deputy to the Ombudsperson, in charge of NPM.
2. NPM Director.
3. Senior Legal Advisor of Torture Prevention.
4. Legal Advisor of Torture Prevention.
5. Counselor – Medical doctor.
6. Counselor-Psychologist.

⁶ Law No. 05/L-019 on Ombudsperson , Article 17, paragraph 4.

7. Counselor- Social worker.

Visits accomplished during 2020

During the reporting period, due to the outbreak of the COVID-19 pandemic worldwide, the NPM reduced the methodology of visits focusing only on specific issues (did not conduct general visits to Correctional and Detention centers, but only in Police Stations) and several times has suspended visits to places of deprivation of liberty based on the principle of not causing greater harm.

The NPM was continually in contact with detainees through the telephone lines accessible at any times, as well as through their families and other sources. Also, the NPM had ongoing communication with responsible authorities through official e-mail and telephone, as well as through direct contacts in certain cases.

During the reporting period, the NPM has conducted 52 *Ad-Hoc* visits to the following institutions:

1. Correctional Center in Dubrava (CCD).
2. High Security Prison (HSP).
3. Correctional Center for Women in Lipjan
4. Correctional Center for Juveniles in Lipjan.
5. Educational Correctional Center in Lipjan (ECCL).
6. Detention Center in Gjilan (DCGJ)
7. Detention Center in Lipjan (DCL).
8. Detention Center in Prishtinë (DCP)
9. The following Police Stations: Regional Detention Center in Prishtina; Police Station "South" in Prishtina; Police Station "North"; Police Station in Fushë Kosovë; Police Stations in Mitrovica South and North, Police Station in Suhareke; Police Station in Mamushe; Police Station in Prizren, in Gračanica; Drenas; Skenderaj; Obiliq as well as Police Stations in Deçan; Junik; Peja; Gorazhdec; Vitomirice; Ferizaj; Viti; Gjilan and Kamenica.
10. Students Center in Prishtina, used as quarantine for a period due to COVID-19.
11. Center for Integration and Rehabilitation of the Chronic and Psychiatric Patients in Shtime (CIRCPP).
12. The Institute of Kosovo Forensic Psychiatric (IKFP).

13. Emergency and Psychiatric Intensive Care Ward (EPICW) within the Psychiatric Clinic of the University Clinical Centre of Kosovo (UKIP).
14. Home for Children with Mental Disabilities (HCMD).
15. Special Institute in Shtime (SISh).
16. Home of Elderly without Family Care in Gurrakocë and Skenderaj.
17. Community Based Home for Persons with Mental Disabilities in Shtime (CH).

Report with Recommendations published during 2020

During the reporting period, the NPM has published a Report with Recommendations for visits conducted to the above-mentioned police stations⁷. During this period, ex officio, the issue of citizens' arrest based on Ministry of Health's decisions, on preventing and fighting COVID-19 pandemic was addressed. Through the given Recommendations Report for the visits to various Police Stations, 9 recommendations to the competent authorities were addressed by NPM.

Cooperation of visited institutions with the NPM

During the NPM's visits to the Institutions where persons deprived of their liberty are held, Mental Health and Social Care Institutions, the officials of the visited Institutions provided the monitoring team with full cooperation and immediate access. The team, without delay, had access to all the spaces intended to visit. The team was provided with all necessary information to carry out the task and was enabled to held interviews with arrested, detained and convicted persons, without the presence of correctional officers, police officers, medical staff or psychiatric staff, as well as social care personnel.

Kosovo Police

Physical ill-treatment

During the visits to places of deprivation of liberty, the NPM received no complaints from arrested or detained persons at the time of the visit for physical ill-treatment or failure to respect the fundamental rights guaranteed to persons deprived of their liberty by the Constitution of the Republic of Kosovo, Law No. 04/L-076 on Police, Criminal Procedure Code and international standards for the protection of fundamental rights of persons deprived of their liberty.

⁷ See at : <https://www.oik-rks.org/en/2020/09/16/report-of-the-ombudspersons-national-preventive-mechanism-against-torture-on-the-visits-to-police-stations/>

In 2020, the Ombudsperson Institution has registered 6 cases for further investigation against the Kosovo Police based on citizens' allegations that they have been physically abused.⁸ Five of these cases are still under investigation by the Ombudsperson Institution, while Police Inspectorate of Kosovo was recommended to conduct further investigations with regard to one case, based on its mandate, and inform the Ombudsperson Institution on findings from conducted investigations.

In general, the NPM, based on the visits accomplished during this year and previous visits, on reviewed complaints received, as well as ex-officio investigations, estimates that there is no systematic or widespread physical ill-treatment by the Kosovo Police, apart some isolated cases.

Procedural safeguards against physical ill-treatment

European Committee for the Prevention of Torture (henceforward CPT), in its 2nd General Report, published in 1992, emphasized the importance of the three fundamental rights of persons detained by the police, which are: the right to notify the third person of his / her choice of the arrest (family member, friend, consulate); the right to have a lawyer; the right to be examined by a doctor of his choice (apart medical examination conducted by a doctor summoned by the police authorities).⁹ According to the CPT, these rights are fundamental guarantees against physical ill-treatment and must be enforced from the moment of deprivation of liberty, regardless of how the matter is defined within the legal system of a country.

The CPT further states that these rights should be applied not only in the case of detained persons, but also in other cases when citizens are forced to stay in Police Station or with the police for other reasons (for example: for identification purposes).

Fundamental rights of arrested and detained persons by police authorities are also provided for in the Constitution of the Republic of Kosovo, the Code of Criminal Procedure and the Law on Police.¹⁰

Even during the reporting period, local legislation regarding these rights remains unchanged. Article 13 of the Code of Criminal Procedure stipulates “*Any person deprived of liberty shall be informed promptly, in a language which he or she understands, on the right to legal assistance of his or her own choice; on the right to notify or to have notified a family member or another appropriate person of his*

⁸ Case No. 670/2020 E.H versus Kosovo Police, under investigation by OI.

⁹ See: <https://rm.coe.int/16806cea2f/>

¹⁰ Constitution of Republic of Kosovo, Article 29 and 30. Criminal Code of Republic of Kosovo, Article 13. Law No. 04/L-076 on Police.

or her choice about the arrest and that these rights apply during the whole time of deprivation of liberty.”¹¹

With regard to the notification of arrest, Article 168 of the Criminal Procedure Code further stipulates that the arrested person has the right: to notify or to require the police 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; notification of a family member or another appropriate person 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 juvenile cases.¹²

According to the Law No. 04/L-076 on Police,¹³ the right to notify the family or other person of the arrest applies also to persons who are in “*temporary police custody*” for the purpose of identification or for their own protection and the protection of others.

During the reporting period, the NPM, based on interviews with detainees and documents reviewed during visits to various Police Stations, did not observe violations of these fundamental rights by police authorities. Furthermore, the NPM notes that the Kosovo Police has standard forms through which detainees are notified of their rights and who through their signature confirm that they have been notified of these rights. The NPM has also noted that Kosovo Police generally maintains sufficient records and documents of each event with regard to persons in police custody. These standard forms are written in Albanian, Serbian and English language.

Video and audio recording of interviews as a safeguards against physical ill-treatment

The CPT considers that the electronic recording (audio and / or video) of police interviews constitutes an important additional safeguard against ill-treatment of detainees and the protection of police officers from false allegations of physical ill-treatment.¹⁴ Based on Kosovo Police’s previous notification on initiation of the project for equipment with surveillance cameras of a number of interview rooms in several police stations, NPM on 24 November 2020, requested to be informed from

¹¹ See also Articles 29 and 30 of the Constitution.

¹² Criminal Procedure Code of Republic of Kosovo, Article 168, paragraphs 1, 2, 3, 4.

¹³ Law on Police, Article 20.

¹⁴ European Committee for the Prevention of Torture, extract from the 12th General Report, paragraph 36. For more see: <https://rm.coe.int/16806cd1ed/>

Kosovo Police of the progress achieved in the project for installation of surveillance cameras in interview rooms as previously planned.

On 23 December 2020, through an official e-mail, NPM was informed by Kosovo Police that some Police Stations have arranged friendly rooms, equipped with a system for audio / video recording for interviewing juveniles. Further, through this notification Kosovo Police informed that it has made a contract agreement for supply with video / audio recording equipment, but due to lack of budget, provision and installation of these systems in the rooms for conducting interviews has not started yet. According to Kosovo Police, implementation of the given project for equipment of interview rooms with systems for audio and video recording is planned to start in 2021. The NPM will continue to monitor the situation regarding project implementation in the future.

Physical conditions of the visited police stations

As per the physical conditions in places where persons deprived of liberty are held in Police Stations, the NPM has noticed that majority of visited Police Stations meet the necessary conditions for accommodation of detained persons.

However, during the visit to the **Police Station in Deçan**, NPM noticed that there are no improvements compared to the observations during the previous visits. Cells where detainees are held do not have enough natural light, but they do have enough artificial light. Electric lamps located in cells are great concern for NPM due to the fact that they can be reached by the detainees, who eventually intend to commit suicide or perform any other harmful action for them and others.

In this regard, the NPM, through the Report with Recommendations published on 9 September 2020, for the visits conducted to various Police Stations, reiterated the recommendation as per carrying out the necessary renovations in the Detention Center at the Police Station in Deçan, as soon as possible. On 2 October 2020, the Kosovo Police informed the NPM that this recommendation is part of the action plan and is expected to be implemented by December 2020.

Through the Report on visits to various Police Stations during 2020, the NPM delivered to the Kosovo Police some other recommendations regarding the physical condition and other aspects of the fundamental rights of persons arrested or detained by the police.

As per NPM recommendation with regard to installation of **calling system** in all places of police detention where this system is missing, the Kosovo Police informed the Ombudsperson that this recommendation is included in the action plan and that it will be implemented by December 2020.

In respect of NPM recommendation that the detainees are supplied with sheets and hygienic items in the stations where the NPM noticed that they were missing, the Kosovo Police informed the Ombudsperson that this recommendation has already been implemented. However, during the visit to the Regional Detention Center in Prishtina, on 19 October 2020, the NPM noticed lack of sheets and hygienic items. The NPM considers that responsible authorities should avoid this shortcoming as soon as possible.

During the visit to the **Police Station in Suhareke**, the NPM noticed that there is a lack of appropriate premise for meetings between the arrested / detained with the attorney where the confidentiality of the conversation would be guaranteed, as defined by the Criminal Procedure Code of the Republic of Kosovo.¹⁵

Based on this finding, the NPM recommendation to the Kosovo Police was to establish appropriate space in order to avoid this shortcoming. Kosovo Police informed the Ombudsperson that the Facility Management Director was notified in order to take action to implement this recommendation.

Through visits during the reporting period, but also during previous visits, the NPM has noticed that detainees are short of access to fresh air if they stay in detention for more than 24 hours in any of Police Detention Center. In this regard, the NPM notes that local legislation does not contain provisions which guarantee detainees access to fresh air if they remain in detention for more than 24 hours.

Also, the NPM notes that the CPT, in the published standards for police detention, emphasizes the importance of going out into the fresh air for persons who stay in police custody longer than 24 hours whenever such a thing is possible.¹⁶ Notification from the Kosovo Police states that NPM recommendation that detainees, who stay in detention for more than 24 hours, must be provided at least 1 hour in the fresh air barely can be implemented due to the construction structure in some of Police facilities.

During the visit to the **Police Station in Prizren**, the NPM noticed that the mattresses were without sheets and the walls were not painted. Based on this finding, the NPM recommended to the Kosovo Police to carry out the necessary renovations in the Detention Center at the Police Station in Prizren. Kosovo Police

¹⁵Article 166 paragraph 3 of the Criminal Procedure Code: "The arrested person has the right to communicate confidentially with defense counsel orally and in writing. Communications between an arrested person and his or her defense counsel may be within sight but not within the hearing of a police officer".

¹⁶ European Committee for the Prevention of Torture, Standards regarding Police custody, General 12th Report, paragraph 47, Starsburg, 2002. See : <https://rm.coe.int/16806cd1ed>.

informed the NPM that the renovation according to this recommendation is integrated in the action plan and that it will be implemented by December 2020.

With regard to the nutrition that should be provided to detainees, the Criminal Procedure Code of the Republic of Kosovo stipulates the obligation that, if a person deprived of liberty is held for more than 12 hours, he/she should be provided with three meals of food per day. The NPM has noticed that the arrested persons, who are sent to custody, are offered three rations of food within 24 hours, based on the contract that the Police has with the contracting company.

During the visits, the NPM noticed that all three meals provided are the same in terms of content and quantity. NPM also noticed that at Police Station in Peja, food provided, except that it is the same in all three meals, it is not sufficient as per the quantity. Based on this, the NPM recommended to the Kosovo Police to provide better quality of food to detainees and to increase the amount of food. On 2 October 2020, the Kosovo Police informed the Ombudsperson that this recommendation has already been implemented and that there are no complaints regarding this issue.

Further, during the reporting period, based on the findings during the visits, NPM recommendation to Kosovo Police was to find another solution or carry out the necessary renovations to create appropriate conditions for work and functioning of Police Stations in Prishtina (Police Station- North), Police Station "South", sub-police station in Gorazhdec, Fushë Kosovë, Mamushë, Skenderaj, Mitrovica (station in the north), Vitimirica and Viti. Kosovo Police informed the NPM that the Facility Management Directorate was notified regarding this recommendation.

With regard to medical services, as a basic right, persons who are arrested by the Police, are provided with those services by public institutions, such as: Family Medicine Center and University Clinical Center, depending on the needs for treatment. No complaints have been admitted by NPM from the interviewed detainees regarding this right. Also, from the reviewed documents it was noticed that the police has recorded in their personal files the notification for the right to have medical services.

Regarding the right to file a complaint concerning their treatment by the Kosovo Police, detainees have the right to file a complaint at the Police Station where they are being held, as well as at the PIK. In addition, detainees may file a complaint with the Ombudsperson. In order to provide easier access to the services of this Institution and to enable the detainees to lodge a complaint in a confidential manner, the Ombudsperson Institution has set complaint boxes in the Police Stations where there are cells for holding detainees.

The Ombudsperson Institution also has regional offices in every city in Kosovo, and regional officials working there visit Police Stations, open complaint boxes, and handle individual complaints. In addition, all Police Stations can be visited without prior notice also by Non-Governmental Organizations which sign the agreement with the Kosovo Police to monitor compliance with the fundamental rights of persons arrested or detained by the Police.

Correction and Detention Centers

Restriction of certain rights of prisoners in times of pandemic COVID-19

Following COVID-19 virus spreading, the World Health Organization (WHO) on 11 March 2020, declared that the outbreak of the COVID-19 virus had reached the level of a global pandemic. On this occasion, the WHO called on Governments to take urgent and aggressive measures to stop the spread of the virus. In accordance with WHO statement, the Government of the Republic of Kosovo began to take the first measures which were followed in the meantime with other even more severe measures to protect lives and health of citizens and to prevent the spread of the virus in the word. Such measures of restriction of freedoms and rights were also taken in Correctional and Detention Centers.

Some rights of prisoners which are guaranteed by the Constitution of the Republic of Kosovo, Law no. -04 / L-149 on the Execution of Penal Sanctions (hereinafter, LEPS) and other applicable laws, depending on the situation with COVID-19 were restricted and were re-enacted after the situation with COVID-19 improved. These rights in general are contacts with the outside world, realization of family visits and free visits, development of activities inside prisons, etc.

Accomplished visits to Correctional and Detention Centers

During the reporting period, due to the outbreak of the COVID-19 pandemic worldwide, the NPM has reduced the methodology of visits and has several times suspended visits to Correctional and Detention Centers based on the principle not causing greater harm. NPM in continuation maintained contact with detainees through telephone numbers that were available to them at all times, through their families and other sources. Further, NPM had ongoing communication with the competent authorities through official e-mail and telephone, as well as through direct contacts in certain cases.

During the reporting period, the NPM has made *Ad Hoc* visits to Correctional Center in Dubrava, High Security Prison, Juvenile Correctional Center, Women's Correctional Center, the Educational Correctional Center, and Detention Center in Prishtina, Detention Center in Mitrovica and Detention Center in Gjilan.

The purpose of these visits was to assess treatment and safeguard of prisoners' rights, which are guaranteed by the Constitution of the Republic of Kosovo, Law no. 04 / L-149 on the Execution of Penal Sanctions (LEPS), with Law no. 05 / L-129 on Amending and Supplementing of the Law no. 04 / L-149 on the Execution of Penal Sanctions, as well as international standards on prisoners' rights.

Physical ill-treatment

During visits to Correctional and Detention Centers and telephone contacts with prisoners during 2020, the NPM did not receive reliable complaints of physical ill-treatment or excessive use of physical force by correctional officers. Overall, the NPM has noted good communication between prisoners and correctional officers.

Incidents between inmates

During the reporting period, in general, no serious incidents were reported among prisoners. The NPM has received Reports from the Prisons Healthcare Department (hereinafter PHD) which refer to cases where prisoners requested medical assistance due to bodily injuries sustained as a result of incidents between prisoners.

During visits conducted as well as through official communication with the competent authorities, NPM has noticed that these incidents have been registered in relevant forms and other administrative documents, as well as in the appropriate protocols of the health units. Furthermore, based on official notifications and documents received from authorities, internal investigations as well as those conducted by the Kosovo Police took place in certain cases, disciplinary measures were taken based on the findings of disciplinary commissions, as well as measures have been taken to ensure physical security of prisoners.

Due to COVID-19 and based on the observance of the principle of not causing greater harm, the NPM was not able always to visit the Correctional facility or Detention center in order to verify the relevant facts regarding these incidents.

The NPM, appreciating highly PHD medical staff's actions and other security authorities, through this Report also, reminds authorities of their obligation in preventing violence between prisoners, for whom they are responsible.

This responsibility involves the obligation to care for and adopt preventive measures to reduce the risk of violence, as well as to protect the most vulnerable prisoners. Overall, the NPM, based on information gathered during 2020, has noted that relations between prisoners are generally good and there is no climate of tension between them and that incidents between prisoners do not seem to be a major problem for Correctional and Detention Centers.

Accommodation conditions in Correctional and Detention Centers

Article 3 of Law no. 05 / L-129 on Amending and Supplementing Law no. 04 / L-149 on the Execution of Penal Sanctions expressly stipulates: *“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”*.

During the reporting period, due to the situation with COVID-19, the NPM was not able to conduct general visits which would involve assessment of accommodation conditions for prisoners in each Correctional and Detention Centre which the team has visited, except in some of them.

During the visit to the **Correctional Center for Women in Lipjan** on 1 December 2020, the NPM noticed that the accommodation conditions are at a satisfactory level in terms of living space, natural and artificial light, as well as cleanliness. NPM estimated that accommodation conditions in this center are in accordance with the provisions of the Law on Execution of Penal Sanctions and the CPT Standards.¹⁷

During the visit to the **Correctional Center in Dubrava**, the NPM noticed that the control room has been renovated, some partial renovations were carried out in the hospital, but not of satisfactory quality. The renovation of the kitchen has also started and all the work is being performed by the prisoners. On 1 December 2020, the NPM, through an official letter requested from the KCS to be informed if during 2020 renovations have been carried out in Correctional and Detention Centers or if assessments have been conducted that renovations should be carried out in certain Correctional or Detention Centers in order that physical conditions of these centers comply with local and international standards.

On 7 December 2020, NPM was informed by KCS that during 2020, due to COVID-19 and budget cuts, it has encountered difficulties in carrying out renovations in Correctional and Detention Centers, specifically old constructions. Further in this notification it is emphasized that despite the difficulties the following projects have been accomplished: in the **Correctional Center in Dubrava** the kitchen was renovated as well as the roof of the control room, the boiler was installed and the poultry farm was built. During the visit to the **Correctional Center for Juvenile in Lipjan**, the NPM noticed that the renovation of Block A is nearing completion and

¹⁷ European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, published on 15 December 2015. For more see: <https://rm.coe.int/16806cc449>

that the other blocks were also renovated. According to Center's directorate notification, the renovation involves establishment of rooms for juveniles with special needs, recreation halls, kitchens, etc.

At the **Correctional Center in Smrekonica**, the kitchen has been renovated and lighting was installed. However, the NPM's recommendation with regard to the renovation of Ward roof where the convicts are placed in this Correctional Center, due to the damage and water leaking, observed by NPM on the visit conducted, has not yet been implemented. This recommendation was sent to the Ministry of Justice through the report with recommendations for the visit to this center in 2019.¹⁸ The repair of damaged sports fields and floors is in progress in the **High Security Prison**. Security cameras were also installed in several Correctional premises (project completed).

By the end of 2020, the KCS issued a public statement¹⁹ through which it notified that Correctional and Detention Centers have started to be supplied with quality mattresses, pillows and fire blankets, as the current ones are old and did not meet the standards set by the LEPS for accommodation of prisoners. The NPM, through Reports with Recommendations, has recommended to the Ministry of Justice that this shortcoming is avoided as soon as possible. Therefore, the NPM welcomes solving of this serious problem by the competent authorities.

Overcrowding

During the reporting period, the NPM has noted that congestion does not pose a major problem for Correctional and Detention Centers. In rare cases, a very symbolic overcrowding has been observed in the periods when there have been renovations in certain Wards, but which has been avoided without any major delay.

Regime

In order to re-socialize prisoners, the Law on the Execution of Penal Sanctions and the Criminal Procedure Code²⁰ expressly define the obligation of the competent authorities to engage prisoners in work, cultural activities, educational, cultural and sports activities.²¹

¹⁸ NPM, Report with Recommendations for the visit to the Correctional Center in Smrekonica. For more see at: <https://www.oik-rks.org/en/2019/05/21/report-with-recommendations-correctional-centre-in-smrekonice/>

¹⁹ Kosovo Correctional Service, Notification, 30 December 2020, see at : <https://www.facebook.com/SherbimiKorrektuesiKosoves>.

²⁰ Criminal Procedure Code , Article 199, paragraph 2 and Article 200.

²¹ Law on the Execution of Penal Sanctions, Article 55, as well as Article 200, paragraph 1.

During the reporting period, the NPM, based on the visits accomplished and official notifications by the competent authorities, noted that due to COVID-19, prisoners were restricted to certain rights which are guaranteed by the Law on Execution of Penal Sanctions, such as family visits, meetings with defense attorneys, free visits, etc. But after certain period these restrictive measures were suspended and the prisoners again enjoyed them.

Prisoners in Correctional and Detention Centers were engaged at work as well as other activities, depending on the situation created by COVID-19. During the visit to the **Correctional Center in Dubrava**, the NPM noticed that about 300 prisoners, out of the total number of 600 prisoners, were engaged at work. The prisoners were engaged in the work in kitchen, farms of the Correctional Center, slaughterhouses, gardens, maintenance of hygiene in the wards, etc. Prisoners in this Correctional Center were provided with sports activities as before, except fitness as the hall was kept closed due to the pandemic.

As part of the training programs offered by the KCS for prisoners, in the Correctional Center in Dubrava, 32 prisoners of this center were certified. The prisoners successfully completed their professional training and were certified in the following fields: Word - Excel, welding, construction, carpentry and cooking.

At the **Correctional Center for Women in Lipjan**, according to the announcement from the directorate and the findings of the NPM during the visit on 1 December 2020, all convicts were engaged in work. Thus, 38 prisoners were engaged in work in the kitchen, laundry, maintenance, sewing of protection masks, sheets, pillows, maintenance of gardens and cultivation of fruits and vegetables, as well as in making flower-pots and painting. In addition, in this center, an agricultural greenhouse has been placed, in which the convicts are engaged in work.

During this period 8 prisoners were certified, who successfully completed professional training in tailoring and hairdressing. The certification came as a result of the cooperation between KCS and "Caritas Kosova".

While, within cultural and artistic activities, in the honor of "March 8- International Women's Day" in Correctional Institutions, a concert for prisoners has been organized in this center.

During the reporting period, trainings were held and the third group of convicts was certified in the training with the title "Anger Management ". The NPM was informed that one convict managed to successfully complete her *online* university studies; there were sports activities and activities in the field of dramaturgy (psychodrama) involving 16 convicts.

The Detention Center in Prizren has significantly more limited opportunities to engage in work and other activities convicts and detainees due to old construction of building which was built in 1960s. Based on the statistics submitted by the Directorate of this Center, generally 15 prisoners are engaged in work (11 convicts and 4 remand detainees). In general in this Center, the regime remains poor and unable to offer more, despite Directorate's efforts. Such a situation has been found in NPM's Report with Recommendations on the visit to this center in 2019.²²

The same situation is in the **Detention Center in Peja**, due to old construction of the building. Based on Directorate's announcement, during 2020, in general, about 24 prisoners were engaged in maintenance and kitchen work, while at the moment, the main activity for them is walking in the fresh air and doing physical exercises in the fresh air. NPM notes that there is no change in relation to the situation found during the visits conducted in 2019 and the findings in the Recommendation Report for the visit to this Center.²³

In the **Detention Center in Mitrovica**, which accommodates a number of convicts, based on information obtained from the Directorate, currently 21 prisoners are engaged in work, while sports activities are allowed during the time when they go on the air. During this period, behavioral management workshop, accomplished by 10 prisoners, has been organized in this Center. Furthermore, workshops on (tailoring, carpentry and printing) organized in this Center in which prisoners are engaged in work and training, are active except in the first phase of the COVID-19 pandemic.

With regard to the right to fresh air, in all Correctional and Detention Centers, in general this right was exercised without restrictions, in accordance with the Law on Execution of Penal Sanctions,²⁴ except in cases where there was a suspicion that the prisoner may be infected with COVID-19, where going into fresh air was reduced to one hour.

²² National Preventive Mechanism of Torture, Report with Recommendations for the visit to the Detention Center in Prizren, see at: <https://www.oik-rks.org/en/2019/08/06/report-with-recommendations-of-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-pre-detention-centre-in-prizren/>.

²³ National Preventive Mechanism of Torture, Report with Recommendations for the visit to the Detention Center in Pejë, see at: <https://www.oik-rks.org/en/2019/12/17/recommendation-letter-pre-detention-center-in-peje/>.

²⁴ Official Gazette of Republic of Kosovo, Law No. 04/L-149 on Execution of Penal Sanctions , Article 37.

Regime for the remand detainees

However, for the NPM, even for this reporting period, the regime offered to remand detainees in all Detention Centers remains a concern. In this regard, the NPM, after visits to all Detention Centers during 2019 and before, through Reports with Recommendations²⁵, has recommended to the Ministry of Justice to enhance efforts to provide detainees with a regime that would allow them to have other daily activities, in addition to walking in the fresh air twice a day for an hour. The NPM has noticed that their engagement at work is rare and this, according to Correctional and Detention Centers' Directorates, occurs because their engagement is subject to permission from the competent court.

However, in this regard, the NPM notes that Article 199, paragraph 2, of the Criminal Procedure Code stipulates 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.”*

While Article 200, paragraph of the LEPS, with regard to engagement of the detainees in work, determines as follows: *“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.”*

In the CPT's Report on the visit to the Republic of Kosovo in 2015, which was published in 2016, the CPT, with regard to detainees' regime, exposed concern that

²⁵ Report with Recommendations for the visit to the Detention Center in Prishtina, published on 22 November 2019, paragraphs 15-21. See at: <https://www.oik-rks.org/en/2019/11/25/report-with-recommendations-pre-detention-centre-in-prishtina/>.

Report with Recommendations for the visit to the High Security Prison, published on 22 November 2019, paragraphs 12-23. For additional information visit <https://www.oik-rks.org/en/2019/11/25/report-with-recommendations-high-security-prison/>.

Report with Recommendations for the visit to the Detention Centre in Lipjan, published on 16 August 2019. For more information visit: <https://www.oik-rks.org/en/2019/08/19/report-with-recommendations-of-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-pre-detention-centre-lipjan/>.

Report with Recommendations for the visit to the Detention Centre in Prizren, published on 5 August 2019. For more information visit: <https://www.oik-rks.org/en/2019/08/06/report-with-recommendations-of-national-preventive-mechanism-against-torture-concerning-the-visit-conducted-to-the-pre-detention-centre-in-prizren/>.

despite authorities' efforts, detainees spend most of their time in their cells, in addition to two hours of walking per day, watching TV and playing cards.²⁶

Through this Report, the CPT had recommended to the competent authorities in the Republic of Kosovo, as follows: *“The CPT reiterates its recommendation that the authorities strive to enhance the out-of-cell activities available to remand prisoners in all the establishments visited and, where appropriate, in other KCS establishments; Further the CPT points out: The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them. To this end, steps should also be taken to ensure that staffing levels are, where required, increased accordingly.”*

The CPT, after visiting the Republic of Kosovo in October 2020, during a meeting with the Minister of Justice and his staff, again expressed concern about the poor regime offered to detainees.

The NPM considers that, based on the legislation in effect and the recommendations provided by CPT, the competent authorities should make efforts to increase out-of-cell engagements for detainees in other Detention Centers, insofar as this is possible.

Contacts with outside world

Legislation at force²⁷, in the case of convicted persons, stipulates that convicted prisoners have an unlimited right to correspondence (subject to certain exemptions), are entitled to a monthly visit, which lasts a minimum of one hour, as well as a visit 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.

Related to telephone calls, Administrative Instruction on House Rules in Correctional Institutions²⁸ determines that the convict has the right to telephone conversations with close family members and other persons. During visits to Correctional and Detention Centers, the NPM did not receive any complaints from detainees or convicts regarding this right.

In the case of remand 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 Facility”*, based on permission of the pre-trial judge and under his or

²⁶ CPT Report for the visit in Kosovo, published on September 2016, paragraph 46. For more information see: <https://rm.coe.int/16806a1efc>.

²⁷ Law on Execution of Penal Sanctions, Article 62-65.

²⁸ Administrative Instruction on House Rules in Correctional Institutions, Article 54.

her supervision. Further, the Code defines that the correspondence and other visits are subject to pre-trial judge's decision.

The Ombudsperson or his representatives may visit and correspond with detainees, without prior notice and without the supervision of the pre-trial judge, or the single trial judge or the presiding judge or other persons appointed by such a judge. Letters of the detainee addressed to the Ombudsperson Institution cannot be checked. The Ombudsperson and his representatives may communicate verbally or in writing in a confidential manner with detainees.

In the case of foreign nationals, they are provided with the opportunity to contact in writing or verbally the diplomatic mission or the relevant State Office which he is a national.²⁹ During the reporting period, due to the COVID-19 pandemic, these rights depending on the situation, the KCS was forced to ban family visits, free visits, meetings with defense lawyers and other contacts with the outside world, depending on the situation with COVID-19. After the situation improved, these rights were restored and the prisoners have fully enjoyed them.

Due to the deterioration of the situation with COVID-19 in the Republic of Kosovo, on 19 October 2020, the KCS, notified the public that *“In order to prevent the spread of the pandemic and to protect the health of prisoners and staff in Correctional Institutions, the Kosovo Correctional Service was forced to take the necessary actions, in which case it issued an Operational Order to temporarily stop family visits, visits of NGOs and prisoner weekends”*.³⁰ Further on this information points out: *“As an alternative in all Correctional Institutions will be provided the most frequent calls and the virtual communication system through SKYPE according to the institutional procedures. Also, due to the temporary ban on visits, the cleaning of clothes for prisoners will be organized in Institutions”*.

The NPM, during the reporting period, did not receive any complaints from convicts or detainees regarding the right to contact with the outside world. This decision is still in force, while the NPM will monitor the situation in order to determine whether this measure is proportionate, in accordance with the recommendations of the competent health authorities and whether it is subject to review from time to time.

Healthcare in Correctional and Detention Centers

Health services in Correctional and Detention Centers are managed by the Ministry of Health, respectively by the Prison Health Department (PHD) since 2013, since

²⁹Law on Execution of Penal Sanctions, Article 33 paragraph 1.

³⁰ Kosovo Correctional Service, Information, 19 October 2020. See at: https://shkk.rks-gov.net/al/lajmi_single/2913.

until then this service was managed by the Ministry of Justice. Health services for prisoners are provided in the PHD health units in all Correctional and Detention Centers and in public health institutions, as needed. The prison hospital also operates within the DCC.

Due to the spread of COVID-19 virus, the KCS and the PHD, during the reporting period, faced additional burdens which significantly hampered their work. The Ministry of Health, in cooperation with other competent bodies, during the reporting period, brought decisions in order to prevent and combat COVID-19 in Correctional and Detention Centers, which include respecting the decisions of the NIPHK, quarantine of suspected prisoners, hygienic measures, prohibition and restriction of visits, etc. Based on the information provided by the PHD, actions were continuously taken to prevent and combat COVID-19 as well as to treat the infected persons.

During the reporting period, based on the KCS and PHD notifications, in the period 19 March 2020 to 10 December 2020, 121 prisoners were tested for COVID-19, while 8 of them tested positive. Also, a total of 277 correctional officers were tested for COVID-19, of which 93 were positive.

During the reporting period, the NPM received complaints from prisoners regarding health treatment. In all cases, the NPM requested medical and administrative reports from the PHD and other authorities, which it reviewed and found that in general, prisoners were provided with appropriate medical services even during the pandemic, while some delays in providing medical services or sending prisoners to public health institutions on the recommendation of a competent physician occurred as a result of the COVID-19 pandemic and sometimes as a result of a lack of means of transport, due to the large number of requests. In all cases, these delays did not cause consequences for prisoners' health.

Medical check-ups for the newly arrived prisoners

The European Committee for the Prevention of Torture, in its Report on the visit to Kosovo in 2015, stressed the essential importance of medical examinations, especially in the case of newly arrived prisoners or detainees, not only for detecting (transmissible) diseases and preventing suicides, but also for contributing to the prevention of ill-treatment through the proper recording of injuries.³¹

³¹ CPT, Report on the visit to Kosovo in 2015, published on 2016, paragraph 62. See at: <https://rm.coe.int/16806a1efc>

Law on Execution of Penal Sanctions³² and SOP³³ of PHD stipulate the obligation for the newly arrived 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 the rights of prisoners, such as: Mandela Rules³⁴, European Prison Rules³⁵. The NPM, during the reporting period, based on the visits made and the reports sent by the PHD has noticed that all newly arrived prisoners undergo medical examinations within 24 hours from the moment of admission.

The NPM has noticed that during the reporting period, in addition to the usual controls, the newly arrived prisoners were quarantined for a period of two weeks, to prevent and fight COVID-19 infections.

Confidentiality of medical services

Confidentiality of medical services is provided by the SOP³⁶, approved by the Ministry of Health, with LEPS³⁷ and with Administrative Instruction on House Rules in Correctional Centers³⁸, as well as relevant International Acts on Prisoners' Rights.³⁹ Even during this reporting period, the NPM, based on interviews conducted with prisoners and health personnel, finds that, in general, these health services are provided under conditions that respect confidentiality, respectively provided without the presence of correctional officers, except in cases where their presence is required by the doctor. While only the medical staff has access to prisoners' medical files.

Staff of Correctional and Detention Centers

The NPM, through Reports with Recommendations for visits conducted to Correctional and Detention Centers in 2019 and even earlier, recommended to the

³² Law No. 04/L-149 on Execution of Penal Sanctions, Article 31.

³³ Standard Operating Procedures, point 1. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standard-te-Veprimit-n%C3%AB-DShB.pdf>.

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

³⁵ Council of Europe, Recommendation (2006) 2 of the Council of Ministers to the Member States on European Prison Rules, point 42.1. See at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c221d>.

³⁶ Standard Operating Procedures, point 11. See at: <https://msh.rks-gov.net/wp-content/uploads/2013/11/1.-Praktikat-Standard-te-Veprimit-n%C3%AB-DShB.pdf/>

³⁷ Law on Execution of Penal Sanctions, Article 49.

³⁸ Administrative Instruction on House Order in Correctional Institutions, Article 25, paragraph 3.

³⁹ Mandela Rules, European Prison Rules, CPT Standards, and United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

competent authorities, that according to assessments and needs, hire additional correctional staff and social workers, as numerous shortcomings of correctional officers were noted. Also, the mature age and various diseases of some correctional officers were a major problem for the KCS.

During the reporting period, correctional facilities and prisons faced additional workloads because some correctional officers got infected with COVID-19, but also due to additional commitments due to this pandemic. Based on the information sent by the KCS, during the reporting period so far, a total of 277 correctional officers were tested for COVID-19, of which 93 resulted positive.

Procedures of complaints filing in Correctional and Detention Centers

An effective system of complaint filing is a fundamental guarantee against ill-treatment in prisons and detention centers. Persons accommodated in these centers should have the opportunity to lodge a complaint within the prison or detention center where they are located and to be provided a confidential access to the appropriate authority.

Article 91 of the LEPS sets out in detail the procedure according to which detainees and convicts may address a complaint or petition to the director of a particular KCS establishment. During the reporting period, the NPM did not receive credible complaints from prisoners about the failure to respond to the competent KCS bodies to their complaints and requests. In addition to the NPM, prisoners can also file complaints to non-governmental organizations, which visit places of deprivation of liberty, according to the agreement that they have with relevant Ministry.

Complaints against Conditional Release Panel

During the reporting period, the NPM received complaints from the convicts against the Conditional Release Panel (hereinafter the CRP) for not-submitting the Rulings to the Convicts who submitted their application and their case was reviewed by this body. These complaints were received in early 2020. Regarding these complaints, the NPM, depending on the complaints received, has requested additional information from the CRP, and has recommended to the CRP to fulfill its obligations towards the applicants of parole requests, which arise from the Regulation on the Organization and Functioning of CRP. The situation significantly improved as CRP started sending regular notices and Rulings to all Correctional Centers. The NPM later received no complaints regarding the aforementioned issue.

Later, the NPM received complaints from prisoners for failing to consider their requests for parole, as the CRP, as well as other institutions were subject to restraining measures due to the pandemic and limited staffing.

Based on the statistics sent by CRP, during the reporting period, CRP, from 1 January 2020 to 30 November 2020, held 46 hearings, reviewed 679 requests for parole, of which 264 requests for parole were approved, while 366 requests were rejected, in 32 cases the review procedure for parole has ceased, due to early release by the Courts, in 15 cases the requests were rejected and 2 requests were suspended. Based on official information sent by the KCS, during the reporting period, 294 convicts benefited from early release.

Center for Asylum Seekers

During the reporting period, the NPM visited the Center for Asylum Seekers on 31 January 2020, on which occasion was informed by the Centre's Director that the number of those seeking asylum has increased compared with past time. During this visit, the NPM did not receive any complaints of physical ill-treatment, nor of conduct of center's officials, including security officials, which would be in contradiction with the respect of asylum seekers' dignity, nor of non-compliance with asylum seekers' basic rights, which are guaranteed by the Law on Asylum.⁴⁰

The given Law guarantees asylum seekers the following basic rights: to stay in the Republic of Kosovo, to have basic living conditions, to have health care, to have basic social assistance, to have free legal aid, the right to education for child applicants, the right to freedom of thought and religion, employment and the right to vocational training.

During the reporting period, there was an increase in the number of asylum seekers seeking asylum in the Republic of Kosovo. In this regard, the NPM, on 7 December 2020, through official e-mail, has requested from DCAM to be notified of the situation during the reporting period. On 17 December 2020, DCAM informed the NPM that 1362 persons sought asylum in 2020 in the Republic of Kosovo, who were accommodated in relevant institutions.

Accommodation conditions at the Center for Asylum Seeker in Magura continue to be of a high standard. Further, this Center possesses suitable spaces for children; there is a playground inside and outside the yard. According to DCAM notification, even during 2020, asylum seekers were offered various services, such as medical services by Kosovo public health institutions, psychological services by Kosovo Rehabilitation Center for Torture Victims, as well as courses and training for asylum seekers, various sport equipments as well as social assistance from MLSW.

⁴⁰ Law No. 06/L-026 on Asylum, Article 26.

Situation management during the pandemic

According to information admitted by DCAM, before the cases of COVID-19 were presented in the country, the necessary measures were taken in cooperation with the competent bodies and some international organizations. All measures were taken in accordance with the decisions of the Government of the Republic of Kosovo and the competent health bodies. These measures generally refer to the restriction of freedom of movement. While COVID-19 prevention guidelines issued by the Ministry of Health were translated into various languages and applicants were instructed to adhere to the rules against COVID 19. Also, psychological and legal counseling was provided to asylum seekers “*online*”.

Free legal aid

Free legal aid, as a fundamental right, continues to be provided by the NGO CRPK (Civil Rights Program Kosovo). In addition to the Ombudsperson, access is guaranteed to international organizations, such as: UNHCR, CPT, International Red Cross and local NGOs under the agreement.

Detention Centre for Foreigners (DCF)

On 30 January 2020, the NPM visited the Detention Center for Foreigners in Vranidoll, where at the time of the visit there was only 1 person (citizen of the Republic of Kosovo). The detainee was interviewed by the NPM and did not receive any complaints regarding treatment by the authorities and other rights guaranteed by applicable law.

During the period for which it is reported, this Center, although intended for accommodation of persons who are subject of forced return from the territory of the Republic of Kosovo, the same was used during COVID-19 as facility for quarantining foreigners.

Due to the inability to visit DCF, the NPM on 17 December 2020, requested from the Department of Citizenship, Asylum and Migration a written Report on the situation when this institution was used as a facility for quarantine of foreigners, with specific emphases on health treatment, incidents between them, supplies and possible managing difficulties during the initial phase of COVID-19.

The Report points out that during the period when this Institution was used for quarantining foreigners due to COVID-19, 95 foreigners were accommodated there. From this total number 4 were juveniles while 91 adults. During this period there have been incidents involving damage to state property, escape, attempted suicide (5), attempts to self-inflicted injuries, and fighting among themselves.

The Report further states that DCF faced difficulties due to the lack of essential and medical staff who are located within the institution to manage the therapy prescribed by the responsible doctor. This shortcoming was avoided by hiring volunteer nurses. The Report also states that the delay in provision of test results by the National Institute of Public Health has caused tensions among foreigners placed in quarantine.

Monitoring forced return operations through airlines

During the reporting period, the NPM monitored two forced return operations at the Prishtina International Airport of citizens of the Republic of Kosovo 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.⁴¹ During the monitoring of these operations, the NPM observed that the forced returnees were treated in a humane manner by the police authorities of the Republic of Kosovo. In addition, the NPM gained full cooperation of Kosovo Police during accomplishment of these operations.

Mental Health and Social Care Institutions

During the reporting period, the NPM visited the Kosovo Forensic Psychiatric Institute (KFPI) - Emergency and Psychiatric Intensive Care Ward (hereinafter, EPICW) of the Psychiatric Clinic, Centre for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (hereinafter-CIRCPP), Special Institute in Shtime, Community-Based Homes, Home for Children with Mental Disabilities in Shtime and Homes for the Elderly and without Family Care in Gurrakoc and Skenderaj.

Intention of conducted visits was to assess the situation in given institutions, management of situation during the pandemic, progress of the competent authorities in implementing NPM's recommendations delivered to them through previous Reports with Recommendations. Due to the pandemic situation and the principle of not causing the greater harm, the NPM did not visit several other mental health institutions. However, the NPM has requested reports from these institutions regarding the current state of the institutions, such as capacity, incidents, treatment, activities and challenges during COVID-19 in general, etc.

⁴¹Memorandum 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 information, visit: <https://www.oik-rks.org/en/2019/04/25/signing-of-memorandum-of-understanding-between-switzerland-and-kosovo-on-prevention-of-torture-and-common-monitoring-of-forced-return-operations/>.

Kosovo Forensic Psychiatry Institute

The Kosovo Forensic Psychiatry Institute (KFPI) was opened in August 2014. It is currently under the management of the Hospital and University Clinical Service in Kosovo (HUCSK). Pursuant to the Law on Mental Health, the KFPI is an organizational unit of the HUCSK. Under the applicable law the KFPI provides tertiary level services for the whole country (the only one in Kosovo).⁴² The relevant legal base is enshrined in the Criminal Code⁴³ of Republic of Kosovo, in Criminal Procedure Code⁴⁴, in the Law on Execution of Penal Sanctions⁴⁵ and in the Law on Mental Health.

The KFPI accommodates perpetrators who have committed a criminal offense while in a state of mental incompetence or substantially diminished mental capacity, who are subject of a competent court's order for a mandatory psychiatric treatment⁴⁶, as well as persons who are subject to a court order for psychiatric assessment for a ruling on custody in a health care institution.⁴⁷

During the reporting period, the NPM visited the KFPI only once. The visit took place by significantly reducing the visit methodology (it was not a general assessment visit, but *Ad Hoc visit*, addressing certain issues) due to the COVID-19 pandemic.

The capacity of this institution is 36 beds (12 beds in each ward). KFPI consists of Ward A (Admission / Outpatients), Ward B (Mandatory Psychiatric Treatments), Ward C (Psychiatric Expertise), and Ward D of re-socialization. Ministry of Health respectively UCHSK is responsible for Wards A, B and D while Correctional Service is responsible for management and safety in Ward C.

Ward B accommodates patients to whom the court has imposed the measure of compulsory psychiatric treatment with stay in the Institution. At the time of NPM visit, 14 patients with open history were present at the KFPI, 3 of them at the therapeutic weekend. According to the information provided the staff, there are 7 patients on the waiting list for Ward B. Based on assessment done by Heads of the Institution, the number of beds do not suffice for the whole country.

⁴²Law no. 05/L-025 on Mental Health, Article 13 paragraph 1.2.

⁴³Criminal Code of the Republic of Kosovo, Article 18 and Articles 87-90.

⁴⁴ Kosovo Criminal Procedure Code, Articles 506-508.

⁴⁵ Law on Execution of Penal Sanctions, Articles 174-180.

⁴⁶ Criminal Code of the Republic of Kosovo, Article 89.

⁴⁷ Kosovo Criminal Procedure Code, Article 508 paragraph 4.

According to claims of the Director, an additional problem represents the failure of the competent court to change the measure in 4 cases to which the court extended their stay in the KFPI, despite achieving the objectives for handling those cases. In this regard, the NPM notes that in the context of the protection of fundamental human rights, according to international and national standards, the competent courts should review decisions on compulsory psychiatric treatment.⁴⁸

In Ward C are placed patients brought by the KCS, who are either detained when the court requests an assessment of their mental condition (psychiatric expertise) or convicts brought from prisons for treatment. At the time of NPM visit, 10 cases were present, of which 7 were male and 3 were female detainees. In this Ward there is space for only two categories, while if there are requests for juvenile prisoners, admission of them cannot be done until a bed is released from the Ward where women prisoners are placed.

Within KFPI is also Ward D, of re-socialization. At the time of the NPM visit, 16 cases with open history were present, 6 of them on therapeutic weekends. Official capacity of the Ward is 12, therefore, this situation presents a symbolic overcrowding which should be avoided by the competent authorities.

Additionally, the challenge for the proper functioning of the Institution is treatment of persons who are users of narcotic substances, as the Psychiatric Clinic has only one Ward of drug addiction, where patients are kept for up to 2 weeks for detoxification.

Incidents between patients

The NPM has noticed that in ward B, during the reporting period, there were 7 incidents where staff were attacked by patients, and 6 incidents between patients. Through this Report as well, the NPM reiterates Institution's obligation to provide sufficient care and protection for persons under treatment. NPM considers of great importance organization of trainings for all staff, on ways to manage the issue of violence between patients.

Accommodation conditions of patients

Material conditions in the KFPI are generally good, the rooms have two beds each, patients have access to natural light, ventilation, and the alarm system is available to patients. Patient rooms have cabinets, but are damaged and cannot be locked.

⁴⁸ Criminal Code of the Republic of Kosovo, Article 89 paragraph 2. Law on Execution of Penal Sanctions, Article 176. Law on Mental Health, Article 24. European Committee for the Prevention of Torture, report on the visit to Kosovo in 2015, published in 2016, paragraph 101. For more visit: <https://rm.coe.int/16806a1efc>.

There is also space for living room, equipped with chairs, television, games (chess) and suitable space for the kitchen. During the visit, the NPM noticed that the cable TV system was missing.

Treatment and activities

In KFPI, psychosocial treatment in addition to assessment and drug treatment is provided to patients. Supply with drugs during the reporting period was not good. Therefore, family members are often forced to buy them. According to the staff reporting, there was a shortage of Haloperidol 5 mg, amp. Haloperidol depo 50 mg, Clozapines 100 mg, analgesics, Fluxetines 20 mg, Biperidines 2 mg, antipyretics. There is a shortage of consumables, gloves, masks and disinfectants.

In cases when there is a shortage of medicines for the patients of Ward C, the Ward for safety issues is managed by the Kosovo Correctional Service, the KFPI Director addresses the request to the Health Prison Department within the Ministry of Health. NPM considers that the competent authorities are obliged to guarantee the regular supply of KFPI with drugs.

Psycho-social treatment consists of activities such as games, watching television, drawings, walking within the yard of the Institution on daily bases, individual sessions with a psychologist, etc. The schedule of daily activities is set in vivid places, but this schedule is uniform and there are no individual activity plans listed for patients.

Due to the outbreak of the COVID-19 pandemic and based on the decisions of the authorities which provide measures for the prevention of COVID-19, group activities have been reduced, 4 staff outings were realized, while family visits have been suspended. During the pandemic the number of calls through the social worker has increased.

Emergency and Psychiatric Intensive Care Ward (EPICW)

NPM, during the reporting period, on 5 March, 17 August and 2 December 2020 visited the Emergency and Psychiatric Intensive Care Ward (hereinafter "EPICW"), which operates within the Psychiatric Clinic of the University Clinical Center of Kosovo.

Relevant legislation

Pursuant to 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 HUCSK, the Psychiatric Clinic is an organizational unit of the HUCSK. According to the law in force, EPICW provides tertiary level services for the whole country (the only clinic in

Kosovo), but is obliged to provide secondary level services for Prishtina region, in the absence of a General Hospital. All wards (except the EPICW) are open and treat patients who are willing to undergo the treatment and in certain cases even those unwilling to do that, based on the competent court's decision.

EPICW is a closed unit and operates within the Psychiatric Clinic. The age of patients accommodated there is usually from 16-65 years. In this Ward are treated cases of various psychotic disorders, bipolar and personality disorders that cannot be treated in other Wards. This Ward is the only one in the entire territory of Republic of Kosovo. In other regional hospitals, psychiatric wards do not have special rooms where emergencies are treated. Such cases from all over Kosovo are brought to the EPICW of the Psychiatric Clinic in Prishtina. The NPM considers that psychiatric wards in other regional hospitals should activate special rooms for the treatment of emergent cases. NPM, through Report with Recommendations in 2018, recommended to the competent authorities activation of these special rooms for treatment of emergency cases.⁴⁹

Accommodation conditions in EPICW

Ward's capacity is 14 beds, 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 some time, some window glasses were cracked but all of them have iron bars, while the bathrooms have moisture. There is nothing there that would decorate rooms, only some paintings are on the walls of the living and dining room. The Ward has 4 isolation rooms, where two of them are out of order and have inappropriate mattresses. Isolation rooms are away from health personnel and the alarm button is out of order. NPM considers that the EPICW of the Psychiatric Clinic should be renovated as soon as possible.

Physical ill-treatment

The NPM has not received any complaints from patients with regard to physical ill-treatment or misconduct by staff that would upset the patient's human dignity.

Means of restraint

No physical restraints mechanisms are used in this Ward, rather only pharmacological as well as isolation measures. The NPMT considers that since the Ward uses the measure of isolation, this restraint means should be subject to a detailed policy for patients who are located in isolation rooms which should contain

⁴⁹ NPMT, Report with Recommendation on the visit to Psychiatric Clinic in Prishtine, published on 26 October 2018. See at: <https://www.oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>.

information on situations when isolation can be used, targeted objectives, the duration and the need for regular review of the decision on isolation, the existence of genuine human contacts, and the need for the staff to be particularly vigilant.

Each case of physical restraint of patients (manual control, use of physical restraint devices, isolation) must be registered in a specific register created for this purpose (as well as in the patient's record). The data must include the time when the measure started and ended; the circumstances of the case, the reasons for the application of this measure, the name of the doctor who approved such measure and the records of any injury caused to the patient or staff. The NMPT noted that the department does not have a special register for persons who are placed in isolation. Therefore, the NPM ascertains that the recommendation to establish such a register has not been implemented yet, which was addressed to the competent authorities through Recommendation Report published on 26 October, 2018.⁵⁰

Incidents

Based on information provided by EPICW staff and relevant documents, there have been cases of incidents where nurses have been attacked by patients. NPM had noticed the last case in the register of incidents, which occurred on 16 November 2020, while the other one occurred on 22 April 2020 where the patient has physically attacked the staff and the security and has caused self-injury by bumping his head on the wall.

Staff

The NPM has noticed that in terms of staff, EPICW before the outbreak of COVID-19 virus had 15 nurses and a head nurse. But with the outbreak of the COVID-19 pandemic, the staff was forced to transfer to the wards where COVID-19 patients are treated, which is a serious challenge for this Ward as there are currently only 3 nurses in a shift.

The NPM encourages the competent authorities not to transfer nurses trained in the category of persons with mental illness to other wards as far as possible, but to make them available to patients at EPICW. Lack of a social worker is also a problem for this Ward. The NPM, through the Report with Recommendations published on October 26, 2018, addressed the issue of lack of social workers and recommended to the competent authorities to increase the number of staff according to the needs assessment; however this recommendation has not yet been implemented. NPM,

⁵⁰ Ibid .

during the visits, has received complaints from staff regarding the working conditions and the danger they face in their daily work.

The NPM considers that not all the needs of the team and multidisciplinary work have been met. Also, the NPM considers that it is very important to provide ongoing professional training in the management of cases with chronic psychiatric illness.

Security in the Ward is provided by a private security company consisted of two persons. Although intervention in cases of incidents is not a mandate of security they have been invited several times by medical staff to assist them in intervention. The NPM considers of crucial importance that the staff assigned to security related tasks in a psychiatric institution should be carefully selected and subjected to adequate training before taking over their duties. Likewise, they should be supervised closely in the course of their duties and obey the authority of highly qualified medical staff.

Treatment and activities in EPICW

During the visits to this Ward, the NPM has noticed that psycho-pharmacological treatment is the main treatment provided to the patients. The supply with medicines is at satisfactory level for the moment. However, the NPM has noticed that psycho-social activities are insufficient. Also, there is a lack of multi-disciplinary team such as: psychologist, social worker, occupational therapist and individualized treatment plan. The NMPT considers that authorities and institutions should ensure the necessary diversity of psycho-social professionals as a prerequisite for adequate treatment of patients.

The NPM was informed that patients are generally brought here by family members or the police and are patients who are accommodated against their will. There are also cases when patients are brought by court decision. According to the Directorate, upon patient's admission, his / her health condition is assessed by the relevant medical commission the next day.

In this regard, the NPM notes that Article 23 paragraph 4 of the Law on Mental Health: *“If, after reassessment, the head of service determines that there are reasons to hold the person under conditions of involuntary treatment, the same person continues to receive involuntary treatment in the service. Following this decision, within forty-eight (48) hours, the head of the institution where the service is provided by mental health service specialized with beds, referred by the chief of service addresses to the basic court to assess the performed procedure. A copy of the application is available to patient, a close family member and/or his legal representative”*.

The NPM has noticed that the competent court is not notified of the patient's admission for involuntary treatment. The NPM notes that Articles 22-23 of the Law on Mental Health regulate the issue of involuntary admission of patients without a decision of the competent court. Article 22 paragraph 4 stipulates: “*The doctor in the service of mental health care specialized with beds, who decides on involuntary treatment, describes in detail in the medical card all procedures followed and provides notification of the chief of the service for involuntary hospitalization, within twenty-four (24) hours*”.

This provision clearly obliges the health institution to notify the competent court for further proceedings in cases of admission of the patient for involuntary treatment.

During the reporting period but also during previous visits, NPM has noticed that this legal criterion is not being applied; therefore, the competent court is not being notified as defined by Law. Moreover, this failure to enforce the Law continues for years and in addition to the NPM, this situation has been also noted, with great concern by CPT in the Report on the visit to Kosovo in 2007, 2010 as well as in the Report on the visit to Kosovo in 2015.⁵¹ In all given Reports this Committee had expressed serious concern due to the failure to enforce the relevant Law with regard to this issue.

NPMT, with respect to this issue, again on 2 December 2020, addressed Legal Office of the Ministry of Health with a request for information whether this shortcoming has been avoided and whether this Ministry has taken any action to adopt the above-mentioned sub-legal acts.

Regime in the Ward

Patients in the ward are subjected to a daily routine, which consists of activities such as staying outdoors (two hours a day, but patients may stay longer), watching TV, eating, and going out to the garden).

Contact with outside world

Due to the outbreak of the COVID-19 pandemic and based on the decisions of the authorities which provide measures to prevent COVID-19, family visits have been suspended, except in very specific cases, the visit accomplished within 5 minutes in the distance but this has happened only in few cases. During the period of pandemic

⁵¹European Committee for Torture Prevention, Report on the visit to Kosovo in 2007, paragraph 131, published in 2009. See at : <https://rm.coe.int/168069727c>. European Committee for Torture Prevention, Report on the visit to Kosovo in 2010, paragraph 88, published in 2011. See at: <https://rm.coe.int/16806972c7>. European Committee for Torture Prevention, Report on the visit to Kosovo in 2015, paragraph 111, published in 2016. See at: <https://rm.coe.int/16806a1efc>.

the number of phone calls increased. Standards of the European Committee for Torture Prevention with regard to involuntary treatment emphasize that patient contact with the outside world is essential not only in terms of preventing ill-treatment but also from a therapeutic point of view.

Patients should be able to send and receive correspondence, have access the telephone, and receive visits from family and friends. The Director of the Clinic should limit staying outdoors and other psycho-social activities in accordance with the situation created with COVID-19 and the recommendations of the competent bodies. This restriction should not be a principle in any way and should be subject to occasional review.

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

CIRCPP operates within the Hospital University and Clinical Service of Kosovo (HUCSK) and provides services 24 hours a day. CIRCPP is an open institution; residents in this Center are mainly diagnosed with psychotic disorders, such as Schizophrenia. The official capacity for accommodation in this institution is 60 residents, while at the time of the NPM visit the centre provided accommodation to 62 residents.

Also, during the reporting period, the NPM visited the Center for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPP). During the visit, the NPM noted that residents are treated humanely and that there is communication and a positive climate between residents and staff.

As per accommodation conditions, The NPM has noted that in the CIRCPP, ward “A” has been renovated to accommodate women, day care and ambulance. The rooms where residents are accommodated are now decorated with photographs of the activities carried out by residents themselves, which provide proper visual stimulation, and have a good therapeutic effect on the residents. In general, the NPM considers that accommodation conditions at this institution are of a high standard now.

Based on the information provided by media ⁵² for a death in Shtime, the NPM contacted the CIRCPP Director and was informed that the case was of an elderly woman, who passed away at midnight on 17 November 2020. According to the Director there was no complaint during the day.

⁵² See: <https://indeksonline.net/vdes-nje-grua-ne-institutin-e-shendetit-mendor-ne-shtime/>.

Nurses' information book did not contain any information on health concern of the deceased person. According to the Director, the dead body was sent for autopsy. Also, the NPM was informed that during November, 2 cases of COVID-19 were identified in CIRCPD, which were immediately isolated in the special ward within CIRCPP, dedicated only to infectious diseases.

In the first months of the pandemic, based on the decisions of the competent authorities, this Institution decided to ban visits outside the institution (in residents' family homes), while visits of family members to this Institution were permitted, by abiding to protection measures provided by the decisions of competent bodies.

In terms of staff, there were no staff reductions during the reporting period. The number of available staff is satisfactory to cope with the daily work, but the directorate estimated that there is a need for occupational therapist, auto ambulance driver, external maintenance worker, as well as a cooker.

During the visit, the NPM was informed by the Director that 10 residents have been rehabilitated and that with family support, they can be integrated into the family and the community. Based on Director allegations, requests have been submitted to the mental health centers at the municipal level for these residents to continue further treatment in these centers and also to continue living in their families. Six of these residents were transferred for further stay in their families as their health condition improved. The problem is the unwillingness of families to host residents whose health has been improved.

During the visit, the NPM noticed that the recommendation provided by NPM to build a rehabilitation-vocational unit, which is very important in terms of therapeutic and rehabilitation of residents, has not been implemented yet. Even through this Report, the NPM, again requests from the competent authorities to take the necessary measures to establish this unit.

Regarding psycho-social activities, the NPM has noticed that before the pandemic, visits were made outside the Institution, actually visiting tour to the city, twice a week in groups of 2-3 patients. During the pandemic, going out activities were restricted in accordance with the measures of NIPHK and MoH, while, when the measures were released by the Government, during September 2020 all residents were brought to the countryside of Jezerc (Municipality of Ferizaj).

As per incidents between residents and bodily injuries, The NPM, during the visit, noticed that the institution owns the protocol of staff injuries by residents, protocol of residents' injuries, and protocol of ill persons, of self-inflicted injury, suicide and a notebook for in charge nurses. According to the directorate and the

reviewed documents, it is noticed that there are 6 residents who cause attacks and are dangerous.

Case B.Th

The NPM has noticed that this resident is accommodated in this institution, according to which, he is being endangered by other residents. During the visit, the NPM was notified by Institution's directorate that this resident does not meet the criteria to continue further stay in this Institution and should be treated in other institutions or in the family.

In this regard, based on the reviewed documents and meetings with the Director of the Institution, the NPM notes that an Evaluation Commission was established within the Institution, which found that the patient, given his improved health, does not meet the criteria for stay in this institution and that he should continue his stay in the community in order to further rehabilitate. The NPM, not presuming the accuracy of the given Commission findings, upon analyzing the relevant documents, noted that the Commission established was not in accordance with the provisions of the Law on Mental Health and that the given Commission is not independent. All Commission members are employees of this Institution.

On NPM opinion, this situation is an outcome of the failure to approval sub-legal acts foreseen by the Law on Mental Health. Among other things, by their approval, the issue of independent Commissions establishment for re-evaluations would be regulated as provided by the provisions of the aforementioned law. Regarding this situation, the NPM has held meetings with the Legal Office of the Ministry of Health and the Legal Office of the HUCSK. All parties agreed that there is a delay in this regard and that the current situation constitutes a violation of fundamental human rights.

Even in the past, the NPM, through visit and annual reports has raised this issue and addressed concrete recommendations to the Ministry of Health.⁵³

On 15 September 2020, Ombudsperson Institution by e-mail requested from the MoH to be informed about the status of implementation of the recommendations

⁵³ Report with Recommendations for the visit to the Forensic Psychiatric Institute, see at: <https://www.oik-rks.org/en/2018/08/28/report-with-recommendations-of-the-npm-concerning-the-visit-conducted-to-the-institute-of-kosovo-forensic-psychiatry/>.

Report with Recommendations for the visit to the Psychiatric Clinic, see at : <https://www.oik-rks.org/en/2018/10/26/report-with-recommendations-psychiatric-clinic-of-the-university-clinical-center-of-kosovo/>.

Report with Recommendations for the visit to CIRCPP, see at: <https://www.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/>.

sent by the NPM. On 9 December 2020, the NPM received a response which notified that as per the Law on Mental Health, a Working Group has been established that will draft a concept paper on the Law on Mental Health.

Integrated Community Homes (ICH)

During the reporting period, due to COVID-19 pandemic, the NPM did not undertake visits to these institutions, based on the principle of not causing greater harm and based on the fact that the residents belong to vulnerable group according to their age. However, the NPM, through official documents has requested information on the situation from each Integrated Community Homes. These Institutions are managed by the University Hospital and Clinical Service of Kosovo.

Relevant legislation is found in Law no. 05 / L-025 on Mental Health and in the Administrative Instruction (in Health) no. 07/2009 on Professional Mental Health Service in the Republic of Kosovo. Based on the provisions of the above-mentioned legal acts, Integrated Community Homes (ICH) provides health care for the purpose of rehabilitation and social re-integration of clients with diseases and chronic mental health disorders.⁵⁴

Residents' accommodation in these Institutions is done based on the criteria set out in the Administrative Instruction and the decision of the relevant Evaluation Commission. Paragraph 7 of the Administrative Instruction no. 07/2009 points out that only clients with diseases and chronic psychotic disorders in remission are admitted in the ICH. Cases with delay in mental development, dementias of all kinds, addiction diseases and social cases are not admitted in ICH.

During the reporting period, NPM, unable to visit these institutions due to the COVID-19 pandemic, through official documents has requested from Institutions' Heads official information regarding the current situation, such as capacity, challenges that they have faced during the pandemic, the number of those infected with the virus, drug supplies, supplies of protective materials against COVID-19, available activities, family visits, systematic medical examinations, heating, number of available staff and possible problems in this regard, incidents, eventual deaths of residents, renovations in institutions, medical services, etc.

Based on the information sent by ICH in Prizren, Ferizaj, Mitrovica, Gjilan and Peja, these Institutions have capacities for 10 people and currently this number is met. However, despite the legal and constitutional obligation to respond to

⁵⁴ Administrative Instruction (Health) No. 07/2009
On the Professional Service of Mental Health in the Republic of Kosovo, Article 9 paragraph 1.

Ombudsperon's requests, the NPM did not receive a report from ICH in Bresje and Drenas.

According to the Reports sent, there were no residents infected with COVID-19 in these Institutions and no shortage of necessary staff was reported. During the reporting period, ICH have complied with the recommendations of the HUCSK Committee for situation management with COVID 19, who have continuously forwarded to the Integrated Community Homes recommendations of the National Institute for Public Health (NIPH), which in some degree have restricted certain rights, such as family visits, walks and other off-site activities. At certain stages during the COVID-19 pandemic, based on the decisions of the competent authorities to release restrictive measures, some of family visits were carried out in the ICH, but always having due respect for the distance and being cautious.

Accommodation conditions at ICH - based on the Reports sent, in the ICH Gjilan an annex was built inside the building, the building was painted with a facade, the residents' mattresses were changed, and new beddings were supplied. The boiler has been replaced and the clothes dryer has been provided. Also, according to the Reports sent, there were renovations in ICH Prizren, where the space dedicated to fitness activities has been enlarged, and they are in the phase of renovation of the ventilation and heating system.

Incidents in ICH

Based on the Reports submitted, no incidents were reported, whether attacks on staff or incidents between residents in Integrated Community Homes.

As per supply in ICH, the aforementioned institutions reported satisfactory food supplies and reported no problems with heating and clothing. Also, no problems were reported regarding the supply of protective materials during the pandemic and the lack of basic psychiatric drugs, except for other drugs which are not in the supply contract, and they were provided through other budget lines.

Healthcare in ICH

The NPM has noticed that the ICH provides regular psychiatric services, which are performed by the psychiatrist of the Mental Health Center (MHC) of those regions, while in case of need, other health and specialist services are provided by family medicine centers.

With regard to systematic health visits, based on the reports sent so far, such visits to the psychiatrist, laboratory tests, and seasonal flu vaccination have continued, while other specialist check-ups have been performed individually according to the needs of the residents. No resident death was reported in ICH.

Special Institute in Shtime (SISH)

This Institution continues to be regulated by two Administrative Instructions: (MLSW) 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 Community Based Homes; as well as AI with no. 13/2010 for provision of services in the community - home for people with mental disabilities - delay in mental development.

Based on the AI (MLSW) No.11 / 2014 on the work and placement of residents, persons with mental disabilities - delay in mental development in Special Institute in Shtime and in community-based homes, it is foreseen the treatment of persons whose capacity to act has been withdrawn by the Basic Court.

During the reporting period the NPM visited the Special Institute in Shtime (hereinafter, SISH), on January 24, 2020.

In addition to the visit, the NPM, on 14 December 2020, requested from SISH to send a Report on the situation in the Institution, during the reporting period. SISH sent a written Report to the NPM through which it provided information about the situation in the Institution and various aspects related to the treatment of residents, health care, challenges faced by the institution as a result of COVID-19 , psycho-social activities, family visits and those done outside the institution, etc.

In terms of staff, the SISH informed the NPM that there are 70 employees with regular contracts, while currently at work are 64 employees. Furthermore, the SISH has hired 6 maintenance personnel through a private company, as well as due to the pandemic, 5 workers were hired as interns. In this report, the SISH highlighted the lack of a nurse, physiotherapist and psychologist.

With regard to the COVID-19 pandemic, the SISH reported that decisions and regulations for managing the pandemic were issued in accordance with the NIPH recommendations and other decisions of the competent bodies for combating the COVID-19 pandemic. Also, in accordance with these decisions and recommendations, visits were terminated and the emergency headquarters was established within the institution and the COVID-19 ward with 8 beds, with separate bathroom and space for isolation.

According to the given Report, in this Institution, during the reporting period, 10 residents were infected with COVID-19, while 2 are still positive. All residents have been tested and testing continues to be done in case of any suspicious case. As per the supply with protective materials against COVID-19, the SISH reported that there was a good supply of protective materials and drugs and there were no problems in

this regard. The SISH also reported that there was a good supply of food, clothing and heating 24 hours a day.

Further, the Institution reported that during the reporting period there were 18 cases of self-harm, there were no cases of suicide and physical assault. Regarding psycho-social activities, the SISH reported that internal activities are carried out, while visits outside the institution are suspended.

With respect to health care, systematic and other visits were carried out. During the reporting period, one death occurred. In this case, an autopsy was performed by the competent body. At the moment, this Institution does not practice religious counseling, but there were such in the past.

Community Based Homes (CBH)

Community Based Homes (CBH) continue to be regulated by two administrative instructions: *Administrative Instruction (MLSW) no. 11/2014 on the work and placement of residents, persons with mental disabilities - delay in mental development at the Special Institute in Shtime (hereinafter, SISH) and in community-based homes and Administrative Instruction no.13 / 2010 on the provision of community-home services for persons with mental disabilities- delay in mental development.*

As of January 2016, CBHs are managed by the Municipal Directorates of Health and Social Welfare.

Accommodation conditions at CBH

Due to the COVID-19 pandemic, during the reporting period, the NPM did not visit these Homes, except for CBH in Shtime. Accommodation conditions in this Institution are very good.

However, the NPM has requested from Heads of CBH in Kamenica, Deçan, Ferizaj, Vushtrri, Lipjan, Gracanica to submit their Reports on the situation in these homes and in particular information on the capacity and number of residents, supplies with drugs, psycho-social activities, accommodation conditions, systematic medical examinations, possible incidents between residents, etc. So far, the NPM has received Reports from the CBH in Ferizaj, Deçan and Kamenica, while from the CBH in Lipjan and Vushtrri no a response have been received.

NPM during the visit to CBH in Shtime, was informed that the capacity of the House is 12, and currently there are 13 residents (different ages) to whom the capacity to act have been withdrawn by the Court. During the visit, no concerns were reported regarding the number of staff available. The NPM also noted that there were no

problems with the supply of medicines and that there were no residents infected with COVID-19.

Based on the Reports sent by CBH in Kamenica, where the capacity is for 10 residents, there are currently 12 residents, also according to them there are new requests for accommodation. CBH in Deçan and Ferizaj abides with the official capacity of accommodation of only 10 residents, despite ongoing requests to accommodate new cases.

Incidents in CBH

Based on the reviewed documents and information provided by the manager, no incidents between residents or incidents with staff were observed at CBH in Shtime. KBA Ferizaj and Deçan did not report any incidents.

Based on Reports sent by CBH Kamenica, one resident caused several incidents with staff and other residents, as he physically assaulted them. CBH staff undertook measures to protect themselves and other residents. The Head of the given Institution considers that the mental health status of the resident should be re-evaluated in order to be given adequate therapy as the current one is not giving results. Based on this notification, the NPM, on 15 December 2020, through official e-mail, requested from the Director of Health and Social Welfare in the Municipality of Kamenica to be informed what actions have been taken to ensure the safety of other residents and the health treatment of the resident in question.

NPMT, through this Report, reminds the competent authorities of their obligation to guarantee the physical integrity of residents who are in care in their institutions, especially when it comes to this category of persons with mental disabilities – delay in mental development and their vulnerability due to age and various diseases.

With respect of supply, the above stated **CBH** reported satisfactory levels of food supplies and no heating problems, except that clothing is usually provided by some donors to KBAs, since their mental condition is grave and needs frequent supply of clothing. Also, no problems were reported regarding the supply of protective materials during the pandemic and the lack of basic medicines that were foreseen in the essential list, except for some other medicines which are not in the essential list and which are provided with petty cash..

Healthcare services in CBH

In terms of health services they are provided in the Family Medicine Centers of the respective Municipalities, while in terms of psychiatric services, some CBHs have a psychiatrist such as CBH in Deçan, Kamenica, while CBH in Ferizaj provides psychiatric services in the Mental Health Center in Ferizaj, but no regular services

are provided. The NPM has noticed that systematic tests of residents were performed at the end of April 2020, while gynecological tests are performed once a year, at the end of the year, but if necessary they can be done earlier.

Due to the COVID-19 pandemic, CBH Heads decided that residents should remain indoors all times. With regard to family visits they were rare and generally carried out from the distance. During this period only the necessary medical visits were performed. The NPM considers that managerial staff should limit outdoor and other psycho-social activities in accordance with the situation with COVID-19 and the recommendations of the competent authorities. This restriction should not be a principle in any way and should be subject to occasional review.

Based on the information received, the NPM notes that during the reporting period, these Institutions did not report cases of COVID- 19 infection.

Home for Children with Mental Disabilities in Shtime

Home for Children with mental disabilities in Shtime is managed by the Ministry of Labor and Social Welfare (MLSW) and is the only open-type Institution that accommodates children with mental disabilities and provides 24-hour services. NPM has noticed that the age of all residents is over 18 years, except one case which is 16 years old.

The NPM, in the course of the visit to this Institution, during the reporting period, has noticed that the residents in this Institution are treated humanely and has not noticed any indication of physical or mental abuse of the residents accommodated in this Institution.

Accommodation conditions are generally at a satisfactory level. However, during the visit, the NPM noticed that the machine for drying clothes was out of order, the device that is very necessary there. Also, the kitchen lacks the necessary inventory, while there is a lack of school materials needed to work with this category. Children's rooms also need to be whitewashed. In this regard, the NPM was informed by the head that requests have been submitted to the Ministry of Labor and Social Welfare regarding this situation and that the same is expected to be realized.

In respect to the staff, the NPM was informed that the engagement of additional staff is considered necessary, therefore the Head of the Institution has made a request for two assistants and a nurse. The engagement of a psychologist and physiotherapist is also considered necessary.

As per family contacts and family visits, due to the COVID-19 pandemic, they were banned, except in one specific case, which was enabled to have visits outside the

Institution. For the greater residents' safety due to the pandemic, residents were able to contact families by phone. During the visit, the NPM was informed that no cases of infection with COVID-19 were reported either among staff or residents in this Institution.

With regard to medical services, psychiatric visits were provided to the residents outside the Institution, actually they have been sent to UCCK, because the psychiatrist's contract was terminated. The NPM has noticed that 7 residents are under psychiatric therapy.

Regarding the supplies with cloths, bedding, the Institution has received a donation from Turkish KFOR and a private company and in this regard there are no significant problems. Also, in terms of food supply and medicine, the situation is good at the moment. The municipality has provided protective materials for protection from COVID-19.

Home for Elderly Without Family Care in Prishtinë

Home for Elderly without Family Care (HEWFC) in Prishtina is an Institution of social character and operates within the MLSW. The official capacity of this institution is 100. The NPM, during the reporting period, did not visit this Institution due to the outbreak of the COVID-19 pandemic and the age of residents who are considered vulnerable categories.

NPM, on 14 December 2020, through official e-mail has requested from the Director of the given Institution to submit a Report on the current situation, number of residents, those infected with COVID-19 and available medical services, as well as other aspects which are important for humane and professional treatment.

On 15 December 2020, the Director of HEWFC, sent a written Report through which she informed the NPM that there are currently 67 residents in the Institution of a capacity up to 100 people, the current number of residents is 67, of which 38 are female and 29- men.

In terms of staff, there are currently 53 employees, while 11 employees are employed through the Office of Employment in the time of Pandemic. Some of the Institution's personnel were infected with COVID-19, but after recovery they returned to work. Also, 4 workers are hired by a maintaining cleaning company. Through this Report, the Director of the Institution expressed her opinion that the current staff is sufficient in relation to residents.

Due to the pandemic and based on the decisions of the competent bodies, the Institution issued several recommendations in writing based on NIPHK

recommendations, WHO, MoH and Government decisions for protection from COVID-19.

So far, 51 residents have been infected with COVID-19 in this Institution, but thankfully all have recovered. Regarding the supply of protective materials to COVID-19, the Institution is continuously well supplied. Also, in terms of heating and clothing supplies, the situation was reported to be good and without problems.

With regard to incidents, we were informed by the Director that there were no incidents, except for some minor disputes between the residents, which were avoided by the staff at HEWFC. NPM encourages HEWFC to regularly engage in the avoidance and prevention of all incidents, regardless of their nature.

Due to COVID-19, psycho-social activities were reduced, but were carried out with smaller groups in occupational therapy and the resident club in HEWFC, while family visits were carried out according to the recommendations of NIPHK, MoH and decisions of Government at the national level.

Regarding healthcare, the Directorate reported that medical visits by doctors and health staff to the HEWFC have been permanent even during the Pandemic. The Institution is supplied with an auto-ambulance for the needs of Institution's residents, which facilitates the work of the staff. In all cases of residents' death during 2020, the death was ascertained, but not the autopsy. Also, religious ceremonies were performed by religious institutions based on residents' religious affiliation.

During the early period of the pandemic, the Institution undertook measures for disinfection of the premises of the Institution, residents' awareness rising for protection from COVID-19, maintenance of personal and general hygiene in the Institution by staff and residents. Residents infected with COVID-19 are mainly treated in HEWFC in a separate facility in the building, dedicated to the treatment of those infected with COVID-19.

Home for the Elderly and Without Family Care in Gurrakoc

The visit to the Home for the Elderly and Without Family Care in Gurrakoc was conducted on 27 February 2020. The purpose of the visit was to assess the treatment of residents, accommodation conditions, psycho-social activities available, etc. The NPM was informed that the official capacity of the house is for 20 people, while at the moment there were a total of 18 elderly people residing there (10 women, 8 men).

As per the infrastructure and accommodation conditions, the NPM noticed that two elderly people are accommodated in a room. Rooms where the residents are accommodated are large, with sufficient natural light, equipped with good beds,

beddings and personal lockers. The living rooms have a desk where the elderly receive their food, as well as there is a television. The NPM has noticed that the elevator is functional, which significantly facilitates the movement of elderly people. The bathrooms and toilets were separate for both sexes and were clean.

Medical care is provided by the general practitioner who visits them 2 times a week. Visits to the internist or any other specialist under the guidance of a general practitioner are made at the Family Medicine Center or at the Regional Hospital. The NPM, however, noted the lack of a psychologist and a facility for physiotherapy services. At the disposal of the Institution and the elderly is also an ambulance which greatly facilitates the work of medical staff.

With respect to supply with drugs, the NPM has noticed that the medicines that residents usually need are not included in the essential list. Drugs such as *Enap*, *Diazepam*, *Lopril*, *Emoprazole*. Also, there are cases, for example, when an elderly person needs a medication that is not on the essential list, for which a request has to be made to the Municipality and it usually takes up to two weeks delay of getting that drug, and this causes a problem in managing *Ad-Hoc* cases. As per medicines, the NPM considers that it is the liability of competent authorities to avoid these shortcomings and to provide medicines to the residents on a regular basis and without delay.

With regard to psycho-social activities, the NPM has noticed that sightseeing for residents is organized 5 times within a year, outside Gurrakoc. Apart from card games, there are no other activities for residents. Outdoor activities were suspended during the pandemic.

Home for the Elderly and Without Family Care in Skenderaj

The NPM visited this Institution on 11 February 2020. The objective of the visit was to assess the treatment of residents, accommodation conditions, available psycho-social activities, etc. The center has a regional character and accommodates residents from Skenderaj, Drenas, Vushtrri and Mitrovica.

The NPM visited the House before the start of the pandemic and was informed that 16 people were accommodated in this house, while the official capacity is 20. Residents are divided into three categories of elderly persons; dependent on assistance (2), semi-dependent and independent.

As per the infrastructure, the NPM has noticed that mainly rooms accommodate two persons, but there are also rooms (especially for the category of those who are dependent) where three or four people stay. Mostly the rooms are large, and with sufficient natural light, good beds, bedding and personal lockers.

The NPM has noticed TV set in the living room as well as table where the residents can play chess, at their disposal was also the greenhouse where the elderly engage in work activities. The Institution owns an ambulance for medical services and the van for organizing visits. It is also worth mentioning that the elevator is functional, which had a positive impact, because residents felt free and safe to get out of the building.

The bathrooms and toilets were shared, the cleanliness was on level, and there were no problems with hot water or electricity. A good supply of hygienic materials was also observed.

With regard to the health care and drug supply no problems were observed. Within the Institution was the doctor's room and the pharmacy, but there is no doctor. They receive medical services at the Center for Family Medicine. The absence of a doctor and physiotherapist was also noted. According to the house manager, NPM was informed that funds had been allocated for construction of physiotherapy facility. It is also worth mentioning the lack of a special bed for cases with decubitus⁵⁵.

The manager of the institution emphasized that the psychologist issue was discussed with the Center for Social Work, where they have requested that the CSW psychologist is engaged twice a week in the home for the elderly persons.

During the visit, the NPM noticed that the health files were separate from the administrative ones. Based on the files, it can be seen that regular systematic visits are made to residents. There were no cases of dementia. Regarding food, the NPM did not receive complaints; only two residents need dietary food, which was taken care of by the kitchen staff.

In respect of activities, the NPM has noticed that chess, dominoes and work in the greenhouse are available for the elderly in this House, where they can spend their time engaging voluntarily. According to the manager, they often organize outdoor walks. They do not have other occupational activities, as they lack professional staff. In terms of visits, some of the residents are visited by family members. They are rarely taken to spend the weekend at home. While case managers from the Center for Social Work, rarely come for visits.

⁵⁵Decubitus - is a wound which is manifested by a pathological disorder of the body. It occurs in these patients: Decompensation of the heart, diabetes, in immobile persons. Occurs due to local disorder and blood circulation..

NPM activities during 2020

During the reporting period, due to the COVID-19 pandemic, the NPM activities were significantly limited compared to previous years. On 21 July 2020, the Council of Europe launched a Project to strengthen the capacity of Kosovo Republic institutions on prevention and combating torture and physical ill-treatment. As the main beneficiary of this project, the NPM also participated as part of the panels in which international and national officials were involved.

On 7 October 2020, the NPM representative participated in Parliamentary Committee on Human Rights session, in which the Minister of Justice and the Government Committee reported on the issue of missing persons.

Further, on 22 September 2020, the second meeting was held regarding the given Project, in which NPM representative participated. During this Conference, among other things, the issue of effective investigation of cases of physical ill-treatment was addressed, including in this theme European Court of Human Rights case law. In addition to other international and national experts, participants in this video conference were the President of the European Committee for the Prevention of Torture and a former judge of the European Court of Human Rights.

The NPM representative, during the reporting period, was a member of the Working Group for drafting the Law on Kosovo Correctional Service.

On 6 October 2020, the Ombudsperson of Kosovo and the NPM team had an official meeting with the Delegation of the European Committee for the Prevention of Torture, during their visit to the Republic of Kosovo, from 6-17 October 2020. During this meeting, the parties discussed the situation in places of deprivation of liberty in the Republic of Kosovo, NPM findings and challenges in implementing the mandate.

On 1 July 2020, the Deputy Ombudsperson, in a meeting with the Organization for Security and Co-operation in Europe (OSCE), outlined the needs for OI capacity building and in particular the NPM.

On 21 July 2020, the Deputy Ombudsperson held a lecture to the youth of the school "Alternative for Human Rights", on the theme, "The role of Ombudsperson Institution in Protection and Respect of Human Rights in Kosovo".

On the occasion of marking the World Human Rights Day, on 10 December 2020, the Deputy Ombudsperson presented the work of the NPM and the Ombudsperson, in front of Kosovo Disability Forum.

NPM in printed and electronic media

During the reporting period, the NPM made an announcement in 5 cases in electronic and print media, regarding the issue of respect for the fundamental rights of persons deprived of their liberty and respect for human rights during the COVID-19 pandemic.

Table of NPM presenting in electronic and print media:

RTK	4
TV Dukagjini	1
TOTAL	5

International cooperation

During the reporting period, the NPM continued its international cooperation, participating in meetings, through video conferences organized by the NPM Network of Southeast Europe, in Asylum and Migration Working Group of the European Network of National Human Rights Institutions (ENNHRI) and the Council of Europe.

Also, the NPM has continued the cooperation with relevant international organizations, responding to the questionnaires sent, regarding the situation of persons deprived of their liberty and on issues related to asylum and migration. In addition, the NPM has had an ongoing exchange of information with the European NPM Forum, reporting from time to time on human rights situation of persons deprived of their liberty and exchanging information with other NPM, within this network.

As part of the exchange project with the National Institutions on Human Rights organized by ENNHRI, the representative of the NPM, from 18 to 20 February 2020, visited the Commission for Human Rights of Northern Ireland. In addition to exchanging information with members of this Commission, meetings with NGOs and other relevant organizations, NPM representative had a meeting with the Commission on Human Rights of Northern Ireland Parliament in which occasion he informed the deputies about the state of human rights in the Republic of Kosovo and other aspects of constitutional and legal order of various issues. This exchange was held in the framework of the project for the work of National Human Rights Institutions in post-conflict situations.

In the framework of cooperation with ENNHRI, the NPM participated in two video conferences on the rights and situation of immigrants and asylum seekers by reporting on the situation in our country. Also, within cooperation with this network, a member of the NPM attended a one-month training organized by ODHIR and ENNHRI, otherwise known as the Academy for Human Rights, which was conducted through video conferencing. The training focused on protection of rights of migrants by National Human Rights Institutions.

On 3 December 2020, the NPM participated in the video conference organized by Penal Reform International on the occasion of the 10th anniversary of the Bangkok Rules for the Treatment of Women Prisoners.

On 18 and 19 December 2020, the NPM participated in the video Conference of international character organized by the National Preventive Mechanism of Torture of Tunisia on the theme "*Monitoring of places of deprivation of liberty in the context of COVID-19*".