ENHANCING THE JUVENILE JUSTICE SYSTEM IN KOSOVO

Background

The Kosova Rehabilitation Centre for Torture Victims (KRCT), founded in 1999, is an independent, non-governmental and non-profit organization with the mission to provide treatment and rehabilitation for Kosovar torture and war victims. The organization targets to promote respect for human rights of Kosovo citizens, regardless of their ethnicity, gender or age. KRCT is actively engaged in preventing and eradicating torture, as well as other forms of ill-treatment and participates in advocacy and lobbying activities in order to increase awareness of legislative and governmental bodies about international human rights standards.

Starting from 2007 KRCT has been monitoring and conducting visits to places of detention. Since January 2009, a project called “Preventing torture and other forms of Human Rights violations in places of detention in Kosovo” was implemented with the support of the European Commission Liaison Office in Kosovo and the Civil Rights Defenders.

The team composed of doctors, lawyers and human rights specialists is regularly visiting the correctional facilities, detention centers and police holding cells in order to monitor the conditions of detention and their compliance with national, as well as international standards against torture, inhuman and degrading treatment. Special attention, over the years, has been paid to the Lipjan/Lipljan Correctional Center, which up to date remains the only penitentiary establishment for juveniles in Kosovo.

The aim of this bulletin is to raise awareness of the relevant institutions and general public on the importance of enhancing the legal system of Kosovo in the field of juvenile detention / imprisonment, as well as to underline the existing inefficiencies that jeopardize the full exercise of human rights prescribed by national, European and international instruments.

General Conditions of Detention of Juvenile Offenders

Since Lipjan/Lipljan Correctional Center (hereinafter LCC) is the only institution in Kosovo, which houses juvenile prisoners and detainees, subsequently the settings described in this bulletin are based on the observations made about this particular facility.

According to Article 2 of the 2004 Juvenile Justice Code of Kosovo, “juvenile” means a child (below 18 years) or a young adult (18-21 years), depending on time of conviction.
There is enough space and inventory for outdoor activities such as football and basketball, in addition, LCC has a big gymnastic room and a smaller fitness room.\(^1\) Juveniles have physical education every day and competitions are sometimes organized with other schools. Special activities like concerts and theatre plays are also sometimes held with singers or comedians invited from outside. If they are unavailable, the inmates are organizing the shows themselves.

The medical service includes a psychiatrist, a psychologist, a dentist, a gynecologist (meant for the LCC adult female block), and health services in LCC are generally adequate. Nevertheless, as revealed during confidential KRCT interviews, part of the young-adult inmates in solitary confinement have not been visited by a medical officer every day as required by law.\(^2\)

Furthermore, according to the statements of the juveniles interviewed, they only get visits from psychologist and social workers upon request and not regularly as it should be the case.

Though LCC does not organize religious events\(^3\) very often, it is advanced in terms of respecting freedom of faith. Inmates are usually allowed to receive food from their relatives for religious festivities or to receive extra visits from their family. In case of request, representatives of different faiths can be summoned and religious books are accessible. Special diets due to spiritual motives are always provided upon request.

Although the list of shortcomings is limited, it features some important issues. Among the minor problems, one could mention that material conditions of detention are sometimes austere and create an oppressive atmosphere. This in turn slowly drives the inmates into a pessimistic state. The bathrooms in the juveniles unit are sometimes dirty with no functioning ventilation. Non-essential auxiliary equipment such as dishwasher is occasionally not working. The more serious concerns about the human rights of juveniles are addressed below.

**Specific Problems Currently Existing in Kosovo**

**Solitary Confinement Room**

Currently the juvenile block of the LCC has a room for solitary confinement (with equipment for two persons). Notably, the block for adult women of the same facility features no such area. The use of solitary confinement to punish children is prohibited by international standards on the grounds that such confinement is cruel, inhuman or degrading treatment that may compromise physical or mental health of the children. According to Articles 118(2) and 135(2) of the Kosovo Juvenile Justice Code, a minor cannot be subject to solitary confinement as a disciplinary punishment, and, though the law does not cover young adults, KRCT finds that existence of such room in juvenile block rather than in the women’s block, is inviting to violations of the JJC regulations and human rights standards.

KRCT notes that the occurrence of the use of the solitary confinement room has significantly decreased since the beginning of 2009.

**Special Block for Females**

Up to this moment there exists no special block or regime for juveniles of female gender.\(^4\) Although KRCT team had not seen any cases involving such offenders so far in Kosovo, there is still a burden placed on the administration of the LCC to face the problems that will immediately arise if such a detainee or inmate would be taken into their custody. Among these

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\(^1\) As required Under JJC Articles 114(2) and 131(1)

\(^2\) JJC Articles 113(3), 42, 65(5).

\(^3\) JJC Article 131(3).

\(^4\) JJC Article 122(2): Males and females shall serve their sentences of juvenile imprisonment in separate correctional facilities or in separate departments of those facilities.

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*Civil Rights Defenders*

An EU funded project managed by the European Commission Liaison Office in Kosovo

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Preventing torture and other forms of Human Rights violations in places of detention in Kosovo

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QENDRA KOSOVARE PËR REHABILITIMIN E TË MBIJETUARVE TË TORTURËS
KOSOVA REHABILITATION CENTRE FOR TORTURE VICTIMS
problems is most notably the need to make a choice between accommodating the female juvenile with boys, mixing female juveniles with adults or putting them in solitary confinement. All of these options contradict the national and international laws and regulations on prisoners and detainees. In addition, there is a potential threat to the exercise of the right to education by girls, as the LCC school system is currently ill-equipped to separately educate both boys and girls (should such a need arise), while mixed classes could present an issue within the correctional facility walls for obvious reasons. Research points to significant differences in the male and female population that call for a gender-specific approach:

- Girls commit fewer violent offenses. Girls are more likely to be arrested for property crimes and status offenses.
- Girls, more than boys, enter the juvenile justice system with a disturbing history of emotional, physical, and sexual abuse. Instead of receiving counseling and mental health services, girls are often re-traumatized through dehumanizing treatment and isolation.
- Girls are also more likely than boys to be sexually victimized while in a facility.
- Adolescent girls have different health needs than boys, including health education, gynecological exams, and in some cases, pregnancy-related healthcare. Girls in the juvenile justice system face a substantially higher risk for reproductive health problems compared to girls outside of the system.9

Inadequate Education

While there is a school organized by the LCC, for two years it had only four teachers as staff, covering only seven subjects (Albanian, English, mathematics, computer science, civil education, musical education and gymnastic class). Other subjects such as history, geography, biology, chemistry and physics are not covered, which creates problems for the juveniles when, upon their release, they attempt to reintegrate into public schools. There is a room with musical instruments, but there is no one to teach how to play them. The computer science is taught only on a theoretical level, but lacks practical exercises because of the lack of functioning computers. This in turn makes such lessons practically worthless. As of 2010 there has not been any improvement, which jeopardizes the juveniles’ right to education. Moreover, during the May 2010 KRCT noted a trend to dismiss/expel from classes those students, who have problems with attendance. This obviously hampers the right to education and makes the further reintegration of marginalized juveniles into society more problematic.

Education is fundamentally important for all children because of the opportunities and skills it can provide. In addition to the inherent importance of education, there are concrete societal benefits to providing education in juvenile detention centers specifically. Education has been consistently linked with reduced recidivism rates. Children who receive education while in juvenile detention are more likely to return to school after their release. They are also more likely to eventually be employed.

Inadequate Vocational Training

The vocational training currently offered for juveniles is in the field of plumbing, masonry, electricity, bakery, and, by the end of the training the participants are receiving a certificate by the Pristina/Priština Training Center. Yet, in addition to the limited opportunity to practice the obtained knowledge and skills, just a small number of prisoners can actually access educational activities and vocational training courses during their period of imprisonment. However, only inmates under privileged regime are entitled to work in the LCC: be it in the kitchen, the bakery, the garden, the laundry or by cleaning

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1 Forbidden for minors by JJC Articles 1(5) and 65(1).
2 JJC Articles 1(3), 29, 115, 115, 138(1).
7 JJC Articles 16, 29, 65(3), 81(4), 131(1).
the premises. The lack of long term purposeful activities for rest is problematic regarding the re-socialization and re-integration of the inmates into society upon their release. Although the LCC inmates receive money for their work, unreasonable delays sometimes occur for the reception of their salaries.

Juveniles with Mental Problems

No attention is paid to children with limited mental capabilities. Not only international, but also Kosovo standards explicitly provide that children deprived of their liberty are entitled to physical and mental health care services. The importance of mental health screening and services is particularly great, because surveys of children confined in juvenile justice institutions have found that a far greater proportion suffer from mental health problems than children in the general population.

Recommendations

- Juveniles need to have regular visits from psychologists and social workers in order to support them in reintegration and re-socialization process;
- Juveniles who are dismissed/expelled from classes need to be encouraged to attend again the school in the Correctional Center;
- The education curriculum needs to be similar as the one in public schools;
- The teachers have to be qualified for the subjects of the education curriculum and the number of teachers have to be adequate for each subject of the curriculum;
- Vocational training courses need to be organized more frequently;
- Solitary confinement is banned by law for juveniles and should therefore not be implemented in any penitentiary institution in Kosovo.

Mission:
The Kosova Rehabilitation Centre for Torture Victims (KRCT) is an independent, non-governmental and non-profit organization that was founded in 1999 with the mission to provide treatment and rehabilitation for Kosovan torture victims. KRCT continuously works to expand its staff’s and the public sector’s capacity to provide services on trauma and torture related issues. KRCT is also engaged in promoting the respect of human rights for all of Kosovo’s ethnicities and in the prevention and eradication of torture and any form of ill-treatment. KRCT is led by KRCT Assembly, Directing Board and Executive Director, while the organizational structure is divided under four sectors: Rehabilitation, Documentation and Research, Human Rights & Advocacy and Finances and Logistics.

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22 For example in relation to education: JC Articles 81(1), 113(1), 119.

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