Human Rights Standards
In the Police Holding Cells

KRCT Report
December 2008, Kosovo
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Police Holding Cells in Kosovo

Introduction

The Kosova Rehabilitation Centre for Torture Victims (KRCT) was founded in 1999 and provides psycho-social and medical services to victims of war and torture in Kosovo.

In 2006, as part of its prevention strategy, the Human Rights and Advocacy Sector was established. This Sector is implementing the Detention Monitoring Project. For this purpose, KRCT created a multidisciplinary monitoring team consisting of lawyers and medical doctors. The members of this team received training by the OSCE with participation of the ICRC.

Transparency and independent control of the public administration supports the development of a State system according to democratic principles as well as the implementation of rule of law. In this respect, on the 26th June 2007, KRCT has been given permission by the Minister of Justice to visit places of detention in Kosovo. This permission, renewed in 2008, entitles KRCT to monitor prisons, correctional centres as well as detention centres and contact correctional institutions’ staff and sentenced persons. Through requests addressed to the regional District Courts, KRCT is also entitled to get in contact with pre-trial detainees. In addition, on the 11th of July 2008, KRCT has obtained the permission by the Minister of Internal Affairs to monitor police holding cells.

The monitoring of places of detention in Kosovo has the aim to assess the application of legal norms, especially in the human rights field, and institutional standards by the Kosovo Correctional Service (KCS) and the Kosovo Police (KP). It also aims to support the authorities in establishing a transparent detention system which is in full compliance with Kosovo’s human rights commitments.

We would like to sincerely thank the Kosovo Correctional Services, the Courts System and the Kosovo Police for their good cooperation.
**Methodology**

KRCT prepared a Terms of Reference, including a questionnaire for persons in police custody, based on national as well as international law and standards, and submitted it to the KP. KRCT visited police holding cells in the following locations: Pristina, Drenas, Podojeve, Gjilan, Kamenice, Viti, Peja, Istog and Gjakova. Information was gathered by means of interviews, conversations with the senior and general staff as well as a tour of the premises and evaluated according to the standards set out in the terms of reference.

Overall, during the visits, KP staff was co-operative, allowing the monitoring team access to the premises and to interview arrested persons under satisfying conditions.

The report is based on the standards mentioned in the terms of reference, focusing on particular points noted during the visits. A number of recommendations regarding the conditions in Kosovo’s police holding cells are listed at the end of this report.

KRCT will follow up on the implementation process of these recommendations by keeping an open dialogue with the authorities and repeating its visits to Kosovo’s police holding cells.

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**Findings**

According to KRCT findings, records were generally well kept in the police holding cells we visited. There was a logbook registering information like the date and time of arrival and release/transfer of the arrested person, as well as an individual file for each arrested person. In Police Holding Cells Drenas, however, only basic information like the name, offense, date of admission and release were recorded but there were no other files to record specific information. The length of detention was also always in conformity with the law, i.e. not exceeding seventy-two hours from the time of arrest and the persons in police custody seemed to be adequately informed about their rights and duties upon arrest.

It must however be specified that most of our findings are based on our talks with the KP staff and the visit of the premises. KRCT team only had the opportunity to interview persons in police custody in Police Holding Cells Pristina, Police Holding Cells Gjilan, Police Holding Cells Podojeve, Police Holding Cells Gjilan, Police Holding Cells Kamenice, Police Holding Cells Viti, Police Holding Cells Peja, Police Holding Cells Istog and Police Holding Cells Gjakova.

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1 The visits were carried out from September to December 2008
2 Criminal Procedure Code of Kosovo, Art.212 paragraph 4
3 Records have been reviewed by KRCT team in order to check the date/time of arrest and the date/time of release or transfer to a detention facility.
Police Holding Cells Peja and Police Holding Cells Gjakova. There was nobody held in police custody in the other police holding cells at the time of our visit.

Prohibition of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment

This prohibition is absolute under all human rights conventions and no circumstance can be invoked as to justify a breach of this prohibition. The ICCPR specifies that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

In order to ensure that there is compliance with this rule, the Convention Against Torture (CAT) states that interrogation rules, instructions, methods and practices “as well as arrangements for the custody and treatment of persons arrested, detained or imprisoned” shall be systematically reviewed.

On the national level, Article 13.3 of the Law on Police says that “A Police Officer shall not inflict, instigate, support or tolerate any act of torture or inhuman or degrading treatment or punishment under any circumstances, and no exceptional circumstance or order can justify any such action.”

In Police Holding Cells Pristina, two amongst the interviewed persons complained they had been beaten or ill-treated by police officers during their arrest. According to them, they had been beaten because they did not plead guilty.

Accommodation

According to CPT regulations, all police cells should be clean, be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (preferably natural light) and ventilation. Cells should also be equipped with a means of rest as well as a clean mattress and blankets in case people are obliged to stay overnight.

In Police Holding Cells Pristina, the cells were in the basement with very tiny windows, therefore lacked both ventilation and natural light. One cell we visited only had one window. In Police Holding Cells Drenas, there was no heating in the cells and the

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4 ECHR, Art 3; ICCPR, Art. 7; UDHR, Art. 5
5 CAT, Art. 11
6 Republic of Kosovo, Law Nr. 03/L-035 on Police. See also Art. 11 paragraph 3 and Art. 155 paragraph 1 of the Provisional Criminal Procedure Code of Kosovo (UNMIK Regulation 2003/26)
7 CPT Standards, Extract from the 2nd General Report [CPT/Inf (92) 3] paragraph 42
lighting was very poor. The toilets were not separated from the rest of the room, which is problematic in case two people have to share the cell. In Police Holding Cells Podojeve, there was a total absence of window and of natural light in the cell, which was located in the basement. Even though for a short period of time, it could be very depressing. Moreover, the floor was of concrete and there was no heating, what made the cell very cold. The police staff was aware of these shortcomings and specified that arrested person usually did not spend more than six hours in this police holding cell and were rather transferred to more adequate premises. In Police Holding Cells Gjilan, the premises were generally poorly ventilated and smelly. The cells were also small for two persons and poorly lighten. The window didn’t allow much light in and there was no artificial light in the cells, only in the corridor. In Police Holding Cells Kamenice, the toilets were inside the cells and, again, were not separated from the rest of the cell. There was central heating but according to the police staff, the cells were far too hot in summer and for this reason, they were trying to transfer the people to Gjilan as much as possible. The windows were very small and only opened vertically. There was no artificial light in the cell in itself, only in the corridor. In Police Holding Cells Viti, the cell was very poorly lightened as the grid was quite thick. Here again the artificial light was in the corridor. The cell was also dirty as the cleaning person had left and they had been waiting for the administration to provide them with a new cleaning person for four months. In Police Holding Cells Peja, the cells were of adequate size, were heated from the ground but were poorly lighten. There was a protected whole in the wall with a small light and a security camera. There were two medium windows with railings and bars. The cells were quite similar in Police Holding Cells Istog and Police Holding Cells Gjakova. In these three places, again, the toilets were not separated from the rest of the cell.

**Hygiene**

According to CPT regulations, persons held in police custody should also have access to adequate toilet and washing facilities.\(^8\)

In Police Holding Cells Pristina, the arrested persons were not provided with any hygienic items. As a result, they could spend up to seventy-two hours without cleaning themselves or shaving. Moreover, they could usually not use the showers. The toilets did not have doors, which did not allow any privacy. In Police Holding Cells Drenas and Police Holding Cells Podujeve there were no shower and no hygienic products available for the arrested persons either. In Police Holding Cells Gjilan, there was only one toilet, which was very smelly, for a capacity of eight beds. Arrested persons had to ask their relatives to buy the hygienic products they may need. In Police Holding Cells Kamenice, persons in police custody and especially women could however be provided with hygienic items if needed. In Police Holding Cells Viti, the toilets, which were common

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\(^8\) CPT Standards, Extract from the 2nd General Report [CPT/Inf (92) 3] paragraph 42
for staff and arrested persons, were very smell and dirty because of the lack of cleaning person. Arrested persons could however be provided with specific items if needed. In Police Holding Cells Peja, inmates were provided with water and soap but nothing more. The police staff, however, was keeping a little cash in case the person really needed a specific product but couldn’t afford buying it. We were told that a request had been sent to the regional administration in order to obtain showers, but had been refused because of lack of budget. In Police Holding Cells Istog and Police Holding Cells Gjakova, men in police custody were not provided with any hygienic products, whereas arrested women were provided with basic products and had separated toilets.

**Nutrition**

*According to the Provisional Criminal Code procedure, a person detained by the police for more than twelve hours shall be provided with three meals a day*  

In Police Holding Cells Pristina, Police Holding Cells Gjilan, Police Holding Cells Kamenice, Police Holding Cells Viti, Police holding Cells Peja, Police holding Cells Istog and Police Holding Cells Gjakova, arrested persons were provided with three meals a day, including a warm one. In Pristina, Gjilan and Peja, the meals came from the detention centre. In Kamenice, the police had a specific agreement with a restaurant and the people in police custody could choose whatever they wanted for a fixed amount. The cost of the meals was covered by the regional administration. In Police Holding Cells Drenas, however, persons in police custody were no provided with any food and had to buy it themselves. In Police Holding Cells Podujeve, the arrested persons had to ask their relatives to purchase them some food first, but could get the police to buy some in case it was not possible.

**Health Care**

*According to the Provisional Criminal Procedure Code, an arrested person has the right “to receive a medical examination and medical treatment, including psychiatric treatment”.*

The CPT standards mention that any medical examination should be conducted outside of the hearings, and possibly of the sight, of police officers and the medical conclusions should be made available for the arrested person and

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9 Provisional Criminal Procedure Code of Kosovo, Art. 217, paragraph 3
10 Provisional Criminal Procedure Code of Kosovo, Art 214 paragraph 1(6)
Moreover, he/she should be allowed to be examined by the doctor if his/her choice, in addition to any doctor called by the police.

In all the Police Holding cells we visited, requests to see a medical doctor seemed to be adequately addressed and transfer to health facilities in case of emergency seemed to work properly. In Police Holding Cells Pristina, Police Holding Cells Kamenice, Police Holding Cells Istog and Police Holding Cells Gjakova, there were some basic medicines available, whereas the family or the arrested person himself/herself had to buy more specific drugs. In Police Holding Cells Podojeve, the police staff mentioned there was a lack of medical staff available at the public health centre in Podojeve which could be problematic in case of emergency, as only one doctor was present in the evening to take care of all the inhabitants living in the area. In Police Holding Cells Peja, we were told that in case an arrested person had specific medicines needs, an agreement could be made with the authorities who would takes care of the expenses. Moreover, we were told that each policeman/woman had completed first-aid training.

Outdoor exercise

According to the CPT standards, persons held in police custody for at least twenty-four hours should possibly be allowed to outdoor exercise every day.

In Police Holding Cells Kamenica, Police Holding Cells Drenas, Police Holding Cells Viti, Police Holding Cells Peja and Police Holding Cells Istog, persons in police custody were allowed to spend some time outside. In Police Holding Cells Pristina, Police Holding Cells Podojeve, Police Holding Cells Gjilan and Police Holding Cells Gjakova, however, the persons in police custody were never allowed to go out of their cells, except for interrogatories or visits from the lawyer, and were therefore unable to do some exercise or even breathe fresh air.

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11 CPT Standards, Extract from the 2nd General Report [CPT/Inf (92) 3] paragraph 38
14 According to the police staff, people are never held in PHC Podojeve more than 6 hours, so it is not a real problem
Recommendations

- KRCT requests KP senior staff, notably in Police Holding Cells Pristina, to make sure that no ill-treatment of any kind occurs during the arrest or within the police holding cells and that any member of KP who committed this kind of act against a person in police custody is adequately punished. It is also important to remind everyone in the KP that cruel, inhuman or degrading treatments or punishments are completely prohibited.\(^{15}\)

- KRCT recommends taking measures in order to insure adequate ventilation and lightening of the police holding cells. More specifically, KRCT recommends installing an adequate heating system in Police holding Cells Podujeve and resolve the issue of excessive temperatures in summer in Police Holding Cells Kamenice.

- When the toilets are placed inside the cells, KRCT recommends that a system be found in order to separate them from the rest of the room. This is specifically important in shared cells in order to guarantee the privacy of the persons in police custody.

- KRCT recommends providing the persons held in custody in Police Holding Cells Drenas and Police Holding Cells Podujeve with three meals a day free of charge.

- Finally, KRCT recommends that persons who are held in custody for at least twenty-four hours in Police Holding Cells Pristina, Police Holding Cells Podujeve, Police Holding Cells Gjilan and Police Holding Cells Gjakova be allowed to go out of their cells every day, in accordance with CPT recommendations\(^ {16}\).

\(^{15}\) ECHR, Art 3; ICCPR, Art. 7; UDHR, Art. 5; Law Nr. 03/L-035 on Police, Art. 13 at para. 3

Conference on Human Rights Standards in Correctional and Detention Centres and Police Holding Cells, 10 December 2008
Annex:

List of acronyms

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<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>CPT</td>
<td>Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>KCS</td>
<td>Kosovo Correctional Service</td>
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<tr>
<td>KP</td>
<td>Kosovo Police Service</td>
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<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
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<td>UNMIK</td>
<td>United Nations Mission in Kosovo</td>
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