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ALBANIAN HELSINKI COMMITTEE

REPORT ON THE HUMAN RIGHTS SITUATION OF
LIBERTY DEPRIVED PERSONS

IN THE POLICE DIRECTORIES AND STATIONS,
AND IN

DETENTION AND PRISONS

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INTRODUCTION

Albanian Helsinki Committee (AHC) founded in December 16, 1990, has as its mission the promotion and observance of human rights. In fulfilling this mission, special focus remains also the monitoring of police institutions (police directories and stations) and detention and prison institutions, of the Republic of Albania.

One of the most predominant areas of AHC's activity through the years has been the monitoring of observance of offender's rights who can be found at the above-mentioned institutions. The focus of our observations is also the correct implementation of the legal framework, which also constitutes the concrete safeguard for the proper treatment of liberty-deprived persons.

Police institutions, during the execution of their duties, have a twofold mission. On one side to ensure public safety and on the other, observing the rights of offenders in these institutions. AHC focusses mainly on the treatment of offenders who are accompanied/detained/arrested. Based in AHC's monitoring experience, it is noticed that it is precisely this procedural moment in which most of the critical violations and abuses regarding the observance offenders' rights are perpetrated.

The other domain of AHC's observations focus is the detention/prison institutions. Prison system in Albania is on the mission to contribute to a safer society through the effective and humane implementation of prison sentences, enabling the persons entrusted to the care of this service, the building of an accepted social way of living upon their reintegration in society. Fulfillment of this mission requires not only a legal framework that is compatible with human standards and rights, but mostly it depends from the most correct implementation of the legal framework in force.

Good quality of life and fulfillment of reeducation process in a penitentiary institution, depends largely on the good relationships between staff and liberty deprived persons through their humane and with dignity treatment. Also of importance is the implementation of a meaningful and diverse program of activities, as well as general infrastructure conditions in the institution. In this sense, the safe climate provided through the open communication between staff and liberty deprived persons takes a special importance in the assuring physical and dynamic security and safety for these persons, as well as in terms of their reeducation.

AHC is grateful to the authorities of General Directorate of State Police (GDSP), of General Directorate of Prisons (GDP), and relevant monitored institutions for taking care of the necessary environment during the carrying out of observations. Collaboration with administration of observed institutions was at a satisfactory level, guided by mutual understanding for the purpose to conduct the observations in a safe atmosphere and in granting us the necessary privacy.

The goal of monitoring visits in police and prison institutions is to present findings, conclusions and concrete recommendations, to come to the aid of respective state

authorities in fulfillment of their legal obligations, observance of legal rights and proper treatment of liberty deprived persons.

EXECUTIVE SUMMARY

- **Summary of situation in police institutions.**

To evaluate the situation of observance of the rights of persons deprived of liberty by the police authorities for the year 2014, AHC conducted 22 monitoring visits in some police institutions throughout Albania during May-December 2014. These planned monitoring visits are part of the AHC's mission to prevent violation of rights and maltreatment of offenders, and to scrutinize cases which are further handled from AHC via administrative ways with the respective institutions and via judicial ways and free legal services.

The monitoring visits were preceded by the signing of a memorandum of cooperation with General Directorate of State Police. AHC has engaged in its monitoring work, experienced observers of different professions such as doctors, lawyers, psychologists and social workers. These monitoring visits were guided by the principles of objectivity, impartiality and the respect of the dignity of liberty deprived persons as well as that of the police staff.

AHC welcomes the efforts of police institution leaders to repair and maintain the exterior of facilities and the citizen reception halls in some of the police institutions. AHC also welcomes the fact that in fulfillment of the legal obligations for treatment with dignity of offenders, through the Instructions of General Director of State Police, it was deemed necessary the closure of several accompaniment/detainment/arrest rooms, due to noncompliance of their conditions with the minimal legal standards.

However, the conditions of detaining rooms in several police stations remain worrisome. Lack of space, lighting, and common presence of dampness constitute issues that need to be taken care of from the management of the police institutions. Poor hygiene and putrid air in toilet and shower stalls, as well as the bad conditions of personal hygiene and beddings are very dismal.

The status of being accompanied/detained/arrested, does not legitimize the police structures to exercise forms of pressure, psychological/physical violence, or torture on these persons. Some of the most problematic police stations in these regards, were those of Berat, Vlora, Saranda, Tropoja and police stations No. 1, No. 3 and No. 5 in Tirana etc.

Observance of citizens' legal procedural safeguards in police facilities, is implemented from the moment of charge notification and interrogation of offenders. During the monitoring we still encountered cases where such procedural rights are not granted. Reasons for violations of procedural legal safeguards are diverse, but often times stemming from the old mentality which holds that an efficacious tool for discovering and fighting crime, is the use of physical coercion methods. This mentality needs to be changed.

AHC welcomes the set-up of informative posters with the rights of persons accompanied/detained/arrested depicted in them, in the facilities of police stations as well as the good practice of issuing the statement of their rights. However, these rights need to be communicated verbally to persons from the first moments of their restriction of liberty, as it is sanctioned in the current legislation.

AHC has pointed out that the right for legal defense by a counsel needs to be granted from the first moments of accompaniment/detainment/arrest. Guarantors of this right need to be first and foremost the employees of police structures. Often this right was not granted from the first moment of liberty deprivation.

Medical diagnosis and follow up of cases where liberty deprived persons appear with signs of suffered violence in police stations, or that claim violence perpetrated against them by the police forces, needs to remain a primary responsibility of police institution's doctor.

Taking into account the fact that detained/arrested citizens may be held for several days in isolated facilities of police stations, they ought to be granted the opportunity for airing in appropriate facilities.

AHC welcomes the practice of the food supply for detainees in some of the observed police stations. Therefore it recommends that this good practice be extended in all Albania's police stations.

Lack of female staff to offer service in case of accompaniment/detainment/arrest of women/girls was evident especially in some police stations in remote locations of the country. In addition, legal rights and safeguards in terms of the treatment of juvenile offenders are required to be carried out imperatively in the presence of parents/legal guardian, legal counsel and psychologist. The report presents cases in which these legal safeguards were violated by police authorities.

The situation of treating mentally ill persons in police stations remains problematic. AHC has evidenced the need for a differentiated treatment toward the mentally ill persons, in accordance with their specific needs.

Professional growth of police structures regarding theoretical and practical aspects of law enforcement is a continual need for the fulfillment of work standards in this regard.

Based on concrete findings presented in the report, AHC has also offered its recommendations with the goal to improve the situation of observing the rights of persons with limited liberty from police authorities.

Summary for the situation in detention/prison institutions

For many years AHC has been monitoring the Albanian prison system to assess the observance of legal rights for the pretrial detainees and convicted in these institutions. Like every year, even during year 2014 AHC has conducted planned monitoring visits. Thus, during May-December 2014 were conducted 18 monitoring visits in the above-mentioned institutions. These observation visits are part of AHC's mission in preventing the violation of rights and maltreatment of citizens deprived of liberty and help with the scrutinization of cases which are followed up by AHC through administrative channels in the respective institutions, through judiciary channels and through free legal services.

Visits were preceded by the training of AHC's observers, who are very experienced in carrying out observations. Monitoring groups are composed of doctors, lawyers, social workers and psychologists. The monitoring visits were guided by principles of objectivity, impartiality and observance of dignity of liberty deprived persons and Albanian's prison system staff.

The observations ascertained that the most worrisome issue which the prison system is facing currently is overpopulation, which goes up to 32% over the allowed capacity, one of the highest percentages in these recent years. From monitoring, we ascertained that overpopulation has caused violations of legal standards of prisoner's treatment. These consequences have aggravated due to the fact that overpopulation is not coupled with increase in staff, financial budget, medicine or medical supplies necessary for the institutions etc. Causes of the overpopulation are priority enforcement of the security measure of "jail arrest" from courts, stiffening of criminal sentences and increased pressure toward law enforcing institutions to stiffen precautionary measures and conviction measures for unlawful acts such as theft of electrical energy, violation of road traffic rules, building with no construction permit etc.

Living conditions in penitentiary institutions are affected by all facilities of the institution in which the everyday life dynamics happen. AHC welcomes the transfer to the new detainment facilities of the Tropoja detention, transferring of Jordan Misja's detention juveniles to the special institution for juveniles in Kavaja, transferring of Jordan Misja's detained women to Ali Demi prison in Tirana, or the steps undertaken

for the transfer of the Berat institution to the new facilities. Taking measures to improve the quality of the façade of these institutions is also a positive development.

However the monitoring missions conducted by AHC this year, revealed that there are substantial problems regarding the living conditions in country's detention and prison institutions influenced by the high rate of overcrowding and lack of sufficient financial sources to face the situation.

Regarding the food offered in these institutions, overall was ascertained good service. While regarding the vendor units and the food bought from these units, AHC ascertained prices above the average of market for the marketed assortments.

Overall it was concluded that there were no problems with access to toilets and showers prisoners need to have. However, it is evidenced an immediate need for intervention to improve conditions of hygiene in these facilities. Furthermore, lack of water or water coming at scheduled times during the day in some institutions, aggravates the overall hygiene conditions. Especially in the old institution that is still in function, with a high rate of overcrowding, the conditions in rooms didn't meet the standards of personal space, light, airing time, etc.

Security and safety is a key element in the welfare of detainees/prisoners as well as prison's staff. Regarding this aspect, AHC would like to bring to attention the ascertained cases in some institutions of suicide attempts or suicides during 2014 that have increased compared to other years. Certainly, suicide attempts or suicides have different reasons why they happen, but for their prevention, needs to be created a climate where detained and convicted persons, along with prison staff, need to work together in order for all to feel safe. This is the basis of a well-functioning institution that prevents such grave situations and incidents.

The right of request and complaint is generally respected in the monitored institutions. With the exception of a sporadic case, AHC did not receive complaints regarding the functioning of request-complaint mechanism.

Treatment of convicted constitutes an important objective for prison employee work. Sentence individualization and daily program with diverse and meaningful activities, are an integrated part of every employee's work. From monitoring resulted that Ali Demi prison, Special Institution for Juveniles Kavaja and Vlora detention (the juveniles section) are the institutions where there are offered more activities for the groups of prisoners treated in these institutions.

Worthwhile are efforts of some institutions to enter into agreements with professional regional directorates to make possible offering professional courses (plumber, welder) for adult males, but not all institutions organize vocational courses as part of the program for the preparation for release. In the end of 2014, the Ministry of Justice and Ministry of Social Welfare and Youth, signed a Memorandum of Cooperation (MC), to

assure cross-institutional collaboration between prisons and regional directorates of employment to open vocational courses in all Albanian prisons as part of pre-release programs. This MC is welcomed from AHC and its implementation in practice is yet to be seen.

An important organizational instrument of drafting and implementing individual conviction plans is also the prisoners' psychosocial file. From observation was ascertained drafting and consistent filling in of this document helps solving many issues that need to be addressed, such as: standard filling in of files, lack of information about individual problems and lack of evidence for more frequent evaluation of the detainee's or convicted condition. AHC, in official communiqués with GDP, evidenced the need for psychosocial files as inherent tools in the journey of treatment according to specific needs of detained and convicts, especially in terms of special categories such as, juveniles, women, mentally ill, etc. AHC also recommends the simplification of psychosocial files and introduction of some concrete instruments of progress evaluation for persons with mental health problems.

Among the most important issues ascertained regarding health care in prison is medicine supply, where almost in all detentions/prisons were seen shortages in medicine. Overall, the lack of medical staff was overcome as institutions contracted part time doctors, a development that needs to be appraised. However since AHC received complaints regarding this service, the quality of health service in prisons needs a careful monitoring. The high rate of overpopulation especially aggravates medical service both in its preventive plan as well as in its effective service to the sick in institutions.

In comparison with monitoring findings from last year, during 2014 AHC notices a raised awareness of institutions' staff regarding the proper implementation of disciplinary policy. However, in some of the observed institutions were ascertained some problems pertaining first, the solitary confinement area, which was in bad shape regarding hygiene and sanitary conditions, and furnishing; Second, was noticed an indifference on the part of medical and psychosocial staff, to pay every day a visit to persons placed in solitary confinement; Third, in isolation premises were placed also other persons, who mostly for security reasons and with their own consent, stayed in these units/rooms for quite some time. For this category of incarcerated persons, documentation that shows isolation, reasons thereto and the program that will help them return as soon as possible in the usual regimen, all need improvements.

Implementation of disciplinary policy in detention/prison institutions always needs to reflect the spirit of law and of international standards as well as not take an arbitrary approach which can lead to ill-treatment or degrading treatment of persons kept in these facilities. AHC cautions that toward juveniles and persons with mental illnesses this disciplining tool should be used as a last resort measure after all other counseling tools and pedagogical measures have been exhausted. If these persons are put into an

solitary confinement room as a disciplinary measure, prison staff ought to aim at keeping them as little time as it is possible in these premises. There is now an administrative guide regulating disciplinary procedure for juveniles and for persons with mental health problems. This said, AHC recommends that all prison staff be made acquainted and be trained continually in terms of implementation of these disciplinary policies.

Regarding the right for rewarding and special leaves, during the monitoring sessions AHC received complaints from prisoners regarding applied procedures from leaders of prison institutions, with claims for corruption of staff, or for delay of procedures and no replies from juridical offices of respective institutions. It is worthwhile to mention the fact that GPD gives instructions to subordinate institutions to evaluate case by case, the issuing of rewarding leaves, by emphasizing that rewarding leaves are to be earned from convicted persons.

There is a directive of MoJ and a memo of GPD regarding rewarding and special leaves issued in prisons. AHC recommends that both these guideline documents to be reviewed in order to make sure that decisions for rewarding leaves are given in conformity with legal criteria, with professionalism and without discrimination for all prisoners. Moreover, institution's doctor does not need to be included in the process of granting special leaves.

AHC welcomes the latest initiatives of GPD regarding the creation of real opportunities for prisoner employment, however for the time being, in prison institutions there are a small number of convicted persons engaged in employment activities compared to the overall number of prisoners therein. Lately AHC has offered its legal opinions for draft-DCMs on employment and remuneration of convicted persons and it hopes that these recommendations will be taken into account from MoJ and lawmaking authorities.

Treatment of mentally ill has been in the special focus of observations carried out during 2014. A positive initiative from GPD was noticed, which concerned the opening of special care units in some prisons such as the Lezha prison, Elbasan detention, Berat detention (the new institution), Durrës detention, Korça prison, lately in Jordan Misja detention in Tirana and Peqin prison. AHC encourages GPD to oversee and support in continuation the staff of these institutions in order for the consolidation of this new experience of Albanian prisons. AHC offered some recommendations via official correspondence with GPD and detentions/prisons where these units are already opened, for taking organizational and substantial measures regarding differentiated treatment and according to needs for this category of prisoners and offered several assessment instruments and sentence and guiding plan models for follow up of the situation of these patients from multidisciplinary staff. During monitoring, AHC ascertained that in institutions with mental health problem patients, there is a lack of care regarding standards of residential rooms, poor personal hygiene, personal bedding and surrounding environment. The health service provided leaved much to be desired in terms of carrying out periodical visits and quality of the medical treatment. Lastly,

training programs for these persons from all medical psychosocial staff in prisons, need to improve significantly. There are some positive cases like the one of the special care unit in Durrës detention where it is noticed an improvement in treatment programs for this category of prisoners.

Another very worrisome problem that was evidenced is the continuation of keeping in incarceration persons with injunction “Compulsory Medication” and “Temporary Hospitalization”. These patients are actually held in Kruja prison and the PHC, in flagrant violation of the law and international standards which leads to inhuman treatment. It is found that in the time span of the last 10 years, the number of persons that received from courts the injunction “*Compulsory medication in a health care institution*” has doubled, some of whom are unjustly held in prisons for more than 10 years.

AHC has taken some of these flagrant cases to court, seeking the termination of the inhumane treatment of these persons held in prisons, requested to be deemed unlawful the execution of these injunctions from prosecutors of these concrete cases who put these persons in prisons and at the same time requested civil compensation for these persons as provided by the law.

Treatment of juveniles is valued positively, through undertaking of positive steps from GPD for transferring detained juveniles of Jordan Misja, Tirana, to Kavaja prison. Also, it is appreciated the general approach of institutions where there are juveniles for extra care toward them, both in terms of their education and vocational training on one hand, and the diversity of activities offered in prisons on the other. However, from monitoring we also ascertained shortcomings regarding the hygiene in some of the rooms/premises of the juveniles; regarding understanding and implementing the disciplinary policy for juveniles; regarding the schedule of the daily activities with them.

Treatment of women in detainment/prisons is another focus of our monitoring, since they constitute a vulnerable group in these institutions. The transferring of detained women from Jordan Misja detention in Tirana, to Ali Demi prison during December 2014, is a welcomed development, as the situation observed in Jordan Misja detention before the detained women were transferred, was truly worrisome. AHC appraises the treatment of women in Ali Demi prison in Tirana, that is made through a series of necessary activities for this group. However, the infrastructure of this institution is very poor in respect to ensuring all legal right sanctioned in the law for this group of detainees/convicted. AHC encourages GPD to undertake swift steps for the building of the new institution where detained/convicted women may be accommodated. Drafting individual sentence plans needs to be done in consultation with convicted women as well as to reflect concrete/specific steps of the work carried out for the fulfillment of objectives. Also, programs for release preparation need to start since the first day

women are placed in detainment and need to be carried out in collaboration with other structures of social care services and employment in the local and regional level.

AHC has also ascertained that in many cases women were awaiting for too long for their final court decision. The period of their stay in detention, varied from 14 months up to 2 years.

Lastly, AHC would like to underscore once more the importance of cooperation between different work sectors in prisons. In general, the staff of observed institutions affirmed to have good cooperation between them. However, disagreements regarding the way of implementation of institution's security plans, brought about obstructions in the detriment of carrying out planned activities from social care sectors.

After an open discussion about findings ascertained during the carrying out of observations in detention/prison institutions, with GPD authorities, AHC also presents its recommendations for the situation of human rights observance improvement regarding detainees/convicts, which can be found in the following sections of this report.

Methodology of observations

AHC monitors from many years prison and police institutions, by carrying out regular planned monitoring and verification visits.

During May - December 2014, were carried out 40 monitoring visits in total, in the framework of the project "For more empowerment of human rights defenders in Albania", which is implemented by Albanian Helsinki Committee in partnership with Civil Rights Defenders and financially supported by the Swedish International Development Cooperation Agency, as well as in the framework of the project "Together in observing of the rights of liberty deprived persons", financed by European Commission in Tirana.

In Police institutions were carried out 22 monitoring visits, namely **in the police stations of Tropoja, Kukës, Shkodër, Koplík, Përmet, Pogradec, Librazhd, Korça, Erseka, Fier, Lushnja, Berat, Kruja, Vlora, Saranda and Gjirokastër, and in police stations No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 in Tirana.**

Also, there were carried out 18 monitoring visits in detaining/prison institutions, respectively in **institutions of Tropoja, Kukës, Lezha, Durrës, Peqin, Rrogozhina, Lushnja, Berat, Tepelena, Saranda, Vlora, Korça, Kruja, Fushë-Kruja, Kavaja, Ali Demi, and Jordan Misja in Tirana and at the Prison Hospital Center.**

The main goal of the visits is to monitor the observation of the legal rights enshrined in the international standards and national legislation, regarding the liberty deprived person in these institutions. Special attention during these monitoring visits was paid to the observance of rights and proper treatment of vulnerable persons¹ in these institutions.

Monitoring visits were guided from the general principles of the international law and standards, Albanian legislation and recommendations of bodies that work in this field. More specifically, we list as below:

1. Constitution of Republic of Albania;
2. European Convention of Human Rights;
3. Directives of European Union, Recommendations for Albania;
4. Criminal Code;
5. Criminal Procedure Code;
6. Law no. 9331, dated 21.04.1998, amended with law no. 10024, dated 27.11.2009 "On execution of criminal decisions"
7. Law no. 9888, dated 10.03.2008 "On some amendments and additions in law no. 8328, dated 16.04.1998 "On rights and treatment of persons sentenced to prison"
8. The General Regulation of Prisons;
9. Law no.9749, dt.04.06.2009 "On the State Police"
10. Law no. 108/2014 "On the State Police"
11. Recommendations of the Committee for the Prevention of Torture, Ombudsman, and AHC.

For carrying out the observation missions, were engaged observers with many years of experience and of different professions, in accordance with professional standards of monitoring, such as: jurists, psychologists, social workers as well as doctors of psychiatry and other specialties. Observation groups consisted of 2 or 3 observers of different professions. Some of monitoring visits were conducted in cooperation with the Mechanism for the Prevention of Torture, under the Ombudsman.

In fulfillment of mission and concrete objectives of monitoring, AHC, preliminarily and consistently, trained the observer's group on observing methodology, current issues from actual situation of police and prison institutions, both in theory and practice. Prevention of torture, inhumane and degrading treatment and ill-treatment in liberty deprivation institutions, viewed in light of national and international human rights

¹ Vulnerable persons are juveniles, women, LGBTI, mentally ill, elderly, etc.

standards, was another perspective of the enabling work of AHC observers to keep in mind during the carrying out of observations.

AHC experts drafted detailed questionnaires which served the structuring of observations as well as of the data and information gathering in accordance with the goal of observations, leaving also space for the monitoring of other important issues.

The monitoring groups, after introduced themselves in the respective institutions, following it with a meeting with the warden and other authorities, carried out monitoring visits inside and outside premises of institutions. An important part of the observation was a greater number of interviews taken with accompanied/detained/arrested, pretrial detainees and convicted persons. Parts of observations were inspection and consultation of respective documentation in observed institutions.

In conclusion, monitoring groups, presented to institution's management authorities, the most important findings from the observation in the field. When it was deemed necessary for the undertaking of urgent measures in central level towards the improvement of ascertained problems, AHC addressed high officials of GPD, GDSP, Ministry of Justice and the Ministry of Interior via official correspondence.

It is important to note that AHC, for issues such as the measures that need to be taken in order to lessen overcrowding in prison system and the holding in incarceration persons with the security measure of "*Compulsory medical institution*" in penal institutions in flagrant violation of international standards and national legislation, addressed via official correspondence the President of the Republic of Albania, the Prime Minister, the Prosecutor General, the head of the Supreme Court, the Minister of Justice and the Minister of Health.

Special importance during the observations was paid to treatment of vulnerable groups held in police stations or penitentiary institutions. Differentiated treatment that needs to be provided to these groups with specific needs, follows from the law and reflects the added care that police and prison structures need to show towards these persons.

This report summarizes findings, conclusions and recommendations of monitoring visits, from an objective and impartial point of view, guided by understanding and cooperation spirit with monitored bodies, in full respect to the difficult and dynamic work that State Police and Prison administration carries out.

I. Findings Pertinent the Observation of the Rights of Liberty Deprived Persons in Police Institutions

The law "On State Police" sanctions that "*Fulfillment of mission and responsibilities of State Police are carried out only with the tools and attributes in compliance with the law and observation of human rights and freedoms*". In accordance with this provision, based on the observations carried out in the police institutions, AHC has made an evaluation of how the State Police fulfills its mission.

1.1 The right for treatment with dignity

1.1.1 Infrastructural conditions

The infrastructure is the fundamental basis that guarantees treatment with dignity that needs to be offered to accompanied/detained/arrested persons. The totality of proper physical conditions of the premises in a police institution, in order to fulfill the standards of the treatment of persons held there, is mandatory in terms of completion of police structures' mission.

The Committee for Prevention of Torture, which periodically and ad hoc monitors Albania, states clearly that "*All police cells should be clean and of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) ; preferably cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets. Persons in police custody should have access to a proper toilet facility under decent conditions, and be offered adequate means to wash themselves. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held in police custody for 24 hours or more should, as far as possible, be offered outdoor exercise every day*"².

AHC welcomes the efforts of police institution authorities for the **repair and maintenance** of such premises by fixing or painting the premises of some observed institutions. Often funds for this were secured from the cooperation with private businesses, in a situation of the lack of state funds, as is the case of Përmet and Librazhd police stations etc.). While there is investment for improvement of the outside of the

² General Report 12, of CPT, §47.

police station's premises, from observations it was found that infrastructural situation of accompaniment/detainment/arrest rooms, often remains the same, since there are no substantial investments for improvement of treatment standards for persons held therein.

AHC appraises the fact that in fulfillment of the legal obligations for providing offenders with a dignifying treatment, following the orders of Director General of State Police it was decided for **the closure** of some **accompaniment/detainment/arrest rooms**, because their physical conditions do not meet not even the minimal requested standards. However, in some monitored police stations (such as those in Shkodra, Pogradec etc.) these premises were not shut down according to the prescribed procedure³, which leaves rooms for suspicions that these premises are actually still in use. Furthermore, in these premises were found equipment and items used lately, which further aggravates the situation in question.

Also, a positive development is that there is a continual effort from police structures for improvement of premises, waiting halls for citizens (in police stations No. 2, No. 3 of Tirana, the Tropoja police station etc.)

However the situation in detainment rooms in some of the observed institutions (in police stations No. 2 and No. 3, of Tirana, the Tropoja police station etc.) was very worrisome and in serious violation of the minimal above-mentioned CPT standards. These premises were without sufficient light and space, without sufficient ventilation, with worn out bedding and not at all compatible with the norms of hygiene and cleanliness.

During the observations, was noticed a predisposition from institution's police staff to provide premises that are as suitable as possible - separate ones for those used for the **treatment of juveniles and women**. Thus, in Librazhd police station there was only one room for juveniles and women, but the staff pointed out that due to the depreciated conditions of this facility, it was not used for treatment of these categories. Accompanied juveniles and women were held in personnel offices. Accompanied juveniles and women were held in the offices of staff. Despite all the good will of the latter, there needs to be provided suitable premises for both of these categories as provided in the law.

The condition of detention rooms in the police stations of Vlora, Saranda, Lushnja, Shkodra, Kruja, those of no. 1, 2, 3, 4, 5, 6 in Tirana etc. remains a concern. **Lack of lighting**⁴, the prevailing of **dampness** or **scribbles** all over the walls, represent some issues that need to be addressed by the management of police institutions. Poor

³ With padlock and wax seal.

⁴ Lack or insufficient of natural and artificial lighting (broken lamps or low voltage).

sanitation and the putrid air in the area of toilets and showers, as well as the poor conditions of the personal beddings, are very dismal⁵

As for the accompaniment rooms, the situation remains worrying in terms of the infrastructure in Tropoja police station (small premise with no doors but iron bars, resembling more to an iron cage rather than an accompaniment room⁶), and so also in the police stations of Shkodra, Koplík, Kruja etc. These facilities had no necessary furniture for a stay of up to 10 hours (chair and table), were not in a good hygienic shape, and windows had no glass on it⁷.

Another problem ascertained related to the infrastructure in a considerable number of police stations, was the lack of the necessary material base for carrying on the daily work in fulfillment of the functional tasks and mission of the police. Often managers and staff raised concern over the lack of appropriate offices, the necessary office supplies, or even other work equipment.

1.1.2 Torture and ill-treatment;

Respect for the dignity of accompanied/detained persons, must constitute a fundamental ethical value that should guide the work of staff of police directories and stations. This predominant fundamental principle, is clearly stated in Article 10 of the International Covenant on Civil and Political Rights of the United Nations: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Above all, torture and cruel, inhuman or degrading treatment are **absolutely** prohibited and cannot be justified under any circumstance.

Also, a similar stipulation is found in Article 3 of the European Convention of Human Rights: "*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*". Prohibition of torture and various forms of mistreatment are provided also in Article 25 of the Constitution of the Republic of Albania, as well as in Article 86 of the Criminal Code of the Republic of Albania, specifically sanctioned as a criminal offense.

The earliest stages of accompaniment/detention, and particularly those involving the arrest in flagrante, interrogation and investigation, are phases with higher risk as regards the use of ill-treatment and torture. Physical restraint means are instruments of added risk if misused in the aforementioned moments.

⁵ According to official information of GDSP, reconstruction of these premises is made in accordance with the medium-term plans of the Albanian government. It is now about two years that the project plans of reconstruction of detention facilities in Vlora are ready, but it has found no budgetary financial support to be carried out.

⁶ The monitoring evidenced the use of a room/cage, measuring about 1.5 m² x 1.5 m² where the detained persons were kept during the implementation of procedures, until their transfer to detention at the premises of Tropoja detention.

⁷ From the official information received from the structures of the General Directorate of the State Police, it is noted that oftentimes, these premises' equipment were damaged by persons held there, especially by intoxicated individuals, drug addicts or the mentally ill.

AHC is aware that cases of alleged mistreatment or torture are as difficult to prove, as well too sensitive to be admitted by the staff of the police institution. It is pertinent to mention here the issues raised in an official letter addressed to the Minister of the Interior and the Director of the State Police, where AHC, inter alia, raises the concern of police's non-humane concepts or attitudes expressed during the training provided by AHC, on the topic of prevention of torture, inhuman and degrading treatment in police institutions.

AHC has found that detainees in police station of Lushnja overnight were left a plastic bucket to relieve themselves into since detention rooms were not equipped with inside toilets. This situation may constitute degrading treatment and violation of human dignity of detainees held in such conditions.

The status of being accompanied/arrested/detained by police authorities, does not legitimize the use of different forms of pressure, psychological/physical violence or torture by the latter against those persons.

The monitoring visits in the police institutions, ascertained that the most problematic ones are the police stations of Berat, Vlora, Saranda, Tropoja, the police stations no. 1, and no. 3 of Tirana, etc. The claims of respondents concern the psychological pressure and physical violence perpetrated against them during interrogation by police officers structures, mainly to accept the offense for which they are charged with, or to admit committing also previous offenses of which they are the suspected perpetrators.

Another issue was the alleged violence perpetrated by police officers of the Berat police station in the case of apprehending/arrest in his residence of a person with mental health problems. This person claimed that was hit several times with the baton in his back⁸ and in the head by police officers at his home in the presence of all his family members. In the same police station, another detained citizen accused its staff for use of violence. The citizen in question had several broken teeth and signs of blows to the body, which seemed in healing at the time of observation. By the search of the institution's medical book, which was started on 10.15.2014, it was found that during October, 29 people were sent to hospital to receive treatment and that during November, 27 others.

The situation appeared problematic also in Saranda's police station, where many of the detainees who were in Saranda Penitentiary Institution, when interviewed by AHC, stated that they often heard the loud noises of blows and cries of individuals who begged not to be hit⁹. While at the police station of Tropoja, some officers of the police authorities affirmed for the observer group that "the beating was reserved for those who deserved it". Also, during the interviews conducted with two detainees that were held

⁸ He still had some signs of blows in the back.

⁹ With such words as "stop hitting me, you're hurting me" etc.

in Gjirokastra police station, these citizens claimed that they had been slapped several times in the face by the police officers of Këlcyra police station.

As mentioned above, the means of physical restriction or those for exerting force are instruments used by police structures as leverage during interrogations of detained/arrested. AHC notes that in the premises of the police stations of Vlora, Shkodra etc. were found such instruments as batons, handcuffs, ax or sticks, chair legs of iron, various twigs etc. When the staff was asked for the reason of the presence of these instruments, the answer has been that these items are material evidence, which police have decided to keep in there. These findings contradict storage procedure of the physical evidence and are in contradiction to the standards of treatment of citizens in police custody. For this reason AHC has raised this concern also through official letters addressed to the Directorate General of the State Police.

Police staff should be aware that physical restraining instruments found in the offices of the institution, constitute an offense, as well as raise suspicions for violence perpetrated against detained/arrested citizens. AHC, after conducting a few days training with police officers from across Albania, in which were tackled topics related to the mistreatment and torture, through an official letter addressed to the Minister of Interior and the Director General of the State Police, expressed inter alia concerns that in the ranks of the state police are still officers of the old school that leads to the use of unlawful methods and that are not in accordance with the standards of treatment of persons held in the police stations.

1.1.3 The Interrogation Procedure

Interrogation remains one of the key moments of administrative and criminal proceedings in regard to the accompanied/arrested/detained. The Constitution of the Republic of Albania, especially in its Articles 27-33 defends the position of the accompanied/arrested/detained persons by clearly stipulating the rights enjoyed by individuals during interrogation by police structures. Specifically, the interrogation is provided for in Article 38 of the Code of Criminal Procedure with the following content:

"1. Even when isolated by precautionary measures or when deprived from liberty for any other cause, the defendant shall be interrogated in a free state, except when necessary to take measures to prevent the escape or violation. 2. It may not be used, even with the consent of the person under interrogation, methods or technics to influence upon the free willingness or to modify the capacity of the memory related to the evaluation of the facts. 3. Before the interrogation starts the defendant is explained his right to silence and that even if he fails to speak, the proceedings shall continue the same." Adhering to the rules of procedure and observation of the essence of the rights for accompanied/detained/arrested is of great importance for the normal continuation of this process.

Considering the interrogation procedure an important stage of respect for the rights of offenders, AHC closely monitors the interrogation procedure. Thus, the survey focuses

on the evaluation and respecting the legal safeguards for citizens who are being kept in the police institutions, according to the status attributed to them.

As a result of observations, it is noted that the accompanied are held in the detention rooms of the police stations for no longer than 10 hours whereas the detained/arrested are held for the maximum of 72 to 96 hours. The interrogation of citizens, in almost all monitored institutions was made in the offices of police officers. Detained citizens or persons under investigation, are questioned either in offices of the police officers, or in the investigation rooms¹⁰. No further investments were made¹¹ in terms of creating the necessary infrastructure for the audio and video recording of interviews and questioning of citizens.

Overall, AHC notes a different approach to treatment that is offered to juveniles and women in relation to this procedural moment, compared to the treatment of adult male citizens. It is noted a higher awareness of police structures as regards enforcement of the interrogation procedure of minors in the presence of a psychologist, who was provided as a form of cooperation with school psychologists or those of various local hospitals. Notification of family members of juveniles, was made with a priority by police officers, who regarded it as a necessary condition for the dignified and careful treatment towards juveniles as categories that enjoy special care.

However, AHC, during the observation conducted in the police station of Shkodra, found the case of a juvenile, who was apprehended by the police patrols from his home, without being told of the reason of his accompaniment in police custody. This juvenile had been waiting for about 3 hours in the hall of the police station for questioning by a police officer of the Serious Crime Investigation unit. No family member of the juvenile was with him.¹²

From the interviews with police officers in the monitored institutions, AHC did not ascertain any differentiated procedures against accompanied/detained/arrested persons who are mentally ill, addicted to drugs or LGBT¹³. In addition to questioning by judicial police officers of the same sex with the accompanied/detained/arrested no other differentiated procedure was observed.¹⁴ Overall, the police officers were not aware of the need for special treatment of such individuals in police premises.

¹⁰ In Shkodra police station there was a special room within the detention facilities, which was used for the interrogation of detained citizens.

¹¹ In addition to investments in Vlora and Shkodra police stations as investment made by the non-profit organizations.

¹² In similar cases presented by the Ombudsman, the GDSP measures were taken against employees who violated the relevant legal provisions.

¹³ During observation in Fier police station, the administration of this police station expressed themselves with discriminatory and unethical language regarding the correct practice of this procedure.

¹⁴ From the information obtained from the GDSP, it turns out that the police officers have little or no knowledge about the treatment of people with mental health problems, therefore relevant trainings are needed.

1.1.4 The Use of Force;

*“Measures taken for the protection of public order and safety: They constitute a set of legal actions that should be carried out by the police, ranging from verbal persuasion to the use of proportionate force, in order to restore order in compliance with the legislation in force, and in observation of human rights and freedoms”.*¹⁵

*“The police officer uses force to fulfill his duty only when necessary and only if all other measures are unsuccessful or impossible”.*¹⁶

These legal definitions clearly express the balance between the necessity to fulfill the duty and the observation and ensuring of the rights and fundamental freedoms. Police authorities are allowed the use of force only if it is vitally necessary and in that case, it ought to be proportionate to the situation in hand. Maintaining a proper balance between the uses of force in proportion to the situation poses a challenge and calls for professionalism by the police officers. Often exceeding the required measure of proportionality of force, leads directly to cases of violent acts and abuse or torture in detention and in the arrest moments, whereas the accompaniment of citizens to police stations on the other hand, must be understood only as an administrative act.

AHC highlights the case observed during monitoring in the police station no. 5 in Tirana. The citizen with the initials Q.L., contacted by the monitoring group, had obvious signs of suffering heavy blows (both eyes had blackened and the left eyebrow had a bandage over a cut). This person claimed that he was injured during the accompaniment in the police station. He was initially detained by police patrols for verification of documents of his moped, but because he resistance to the body check and the police's actions (more precisely against those of one of the police officers), he was accompanied forcefully to the station. From the information obtained both by the injured person, as well as the employees interviewed, before being brought to the police station premises, the person had received medical treatment¹⁷ in Kamëz Health Centre due to the face injuries. In the doctor's book in the station, there was no note about this case on the grounds that the person was treated at the health center of Kamëz. This person confirmed that he had communicated with the family and that he had had a meeting with his lawyer also.

As per the above AHC expresses its concern about the proportionality of the force exerted in this case in accordance with Article 93 of the Law "On State Police," which stipulates that *"Measures to avoid the risk should be proportional to the level of the danger and it should not constitute overstepping of the boundaries pertaining the need of force at the given*

¹⁵ Article 6, Section 11, Law no. 108/2014 "On the State Police"

¹⁶ Article 133, Law no. 108/2014 "On the State Police".

¹⁷ Pursuant to Article 64/2 "obligation to guarantee medical assistance" of the law "On State Police".

situation." In this case, the person was hurt while he was accompanied to the police station, in a time when the dangerousness of his actions was low, and the number of police officers taking him there was considerable. Also, in each such case, in the medical registry or other official documents, should be documented the physical harm of anyone that is administratively or criminally prosecuted (called in, accompanied, detained or arrested).

AHC recommends that such situations be avoided in the future, because they constitute violation of the law and the rights and freedoms of offenders. The use of force should be thought of in accordance to a right understanding of the legislation and be used as a last resort when other methods of neutralizing the conflicting situation were not effective.

AHC, is aware of the thin line between the use of force and acts of mistreatment or torture, and it cautions that today's standards require finding the right balance between ensuring public safety and observation of human rights and fundamental freedoms of persons. In this way, the use of force ought not to be exerted as a power show, but serve as a functional parameter according to the framework of human right.

And last but not least, such cases where citizens claim the use of violence by police officers against them, should not be circumvented without a thorough and complete examination of the case in question from the respective police and prosecutors authorities to remove any reasonable doubt of use of violence by the state the police officers.

1.1.5 Transfers Procedure

The experience in the Albanian context has shown that the accompanied/detained/arrested persons are held in police premises generally up to the legal maximum limits. CPT recommendations and other international standards consistently recommend that the staying time in these premises should be as short as possible, in respect of the legal time limits.

The observation showed that no violations were found of the legal deadlines set for the accompaniment and detention. In general, police officers were aware that they ought not to hold the accompanied/detainees beyond the legal time limits.

However, of a salient nature are the issues concerning this procedure is the situation in police stations no. 1, 2, 3, 4, 5 and 6 in Tirana. In all these stations are found citizens with the security measure of "jail arrest" given by the court, who were held at the premises of the police stations for up to 10 days, and in some cases even 15 days. Management staff of these institutions, aware of the situation, stated that it was faced

with this difficulty due to obstacles it encountered in their transfer to the pretrial institutions¹⁸.

Another problem, which actually constitutes a more serious offense, is that of the delays in the transfer of persons in penitentiary institutions (convicted by a final decision, wanted persons). The procedure followed in these cases was initiated by a request which was submitted within reasonable time limits (with no delays by the police stations) addressed to the Directorate General of Prisons. To this request were attached the following documents:¹⁹

- a) Minutes of the execution of the Order of the Prosecutor for the implementation of criminal judgments of arrest;
- b) Acts for the execution of penal decision for the convict;
- c) The order of the Prosecutor for the execution of criminal judgment;
- d) The decision of the Court to sentence the person;
- e) The process record of the personal check;
- f) The personal data from the civil registry system;
- g) The daily health care card;
- h) Fingerprints.

Due to objective and subjective reasons, the reply from the GDP was delayed for several days, often for up to 1 week, or in some cases even for up to 20 days. Police officers stated their concern about the failure by the penitentiary authorities to take the persons under the security measure "jail arrest" given by the court, on the grounds that their institutions were overcrowded. This dysfunction between the structures of police and prisons, first is to the detriment of the arrested persons, who must be treated in the penitentiary institutions immediately and, secondly, creates jamming and difficulty for the realization of the work of both these state bodies.

One of the just as important problems that was found during the inspections, concerned the small number of police vehicles, lack of fuel, and other equipment necessary for the maintenance of vehicles. This often caused the transfers to be made through makeshift solutions, oftentimes using for this purpose the patrol vehicles. Such a lack of the logistical plan, created difficulties in transfers that were scheduled to be made.

¹⁸ Detention institutions have claimed that they have no place where to accommodate detainees. However, from information received from the GDSP, this problem has now been alleviated significantly, as steps are taken from GDP to "reform" the detention institutions of Tirana, which has led them to the reduction of overcrowding.

¹⁹ Such a procedure, was made clear to us by the police officers during the presentation of their work in the police station of Korça.

1.1.6 The right to requests/complaints;

The right to request/complaint is a universal right. It is guaranteed and promoted by international acts and is sanctioned as such also in the Albanian Constitution, the Administrative Procedures Code and other special laws.

This legal provision allows for a direct ensuring of the right of accompanied/detained/arrested persons. Such provisions, oblige the police forces to think of the right to make requests or complaints that persons deprived of their liberty have, as a form of preserving their physical and psychological integrity as well as a communication tool between citizens that they have in their care and even police officers themselves.

About 3 years ago, to the Albanian directories and police departments it was sent a model of the registry of requests and complaints, along with the relevant guidelines for its use. AHC welcomes this initiative aimed at ensuring this legal right, but regretted that in almost all police stations monitored, this register was incomplete, filled out in a lousy way²⁰ or very scarcely filled out. At some police stations such records were kept in the offices of the chief of the police station and not at the security rooms²¹. Often, the registry did not contain any request/complaint. Its sections and the special registers, in most cases were not filled out. Even when there were records, they did not reflect and clearly documented the type of request/complaint. Generally, the completion of the records was made by standard sentences and in a "sloppy" way. Also, requests/complaints both written and those found in the record books, were not archived.

Observations showed that accompanied/detained/arrested citizens, exercise their right of appeal also through a written letter. Usually, this is provided by police staff when it was required. Yet there are cases like the one observed in the police station of Korça where approximate to the security rooms was fixed a box for requests/complaints on which were placed batons.

Such a case constitutes not only a flagrant violation of the rules for the handling of the instrument of the use of force, but also establishes a climate of fear in the detained/arrested citizens if they dare to make a request or file a complaint. This leads to failing to guarantee and the violation of the right to request/complaint.²²

AHC recommends regular maintenance of documentation, be not regarded as a trivial (formal) task, but rather a mindset and practice is developed according to which the regular documentation reflects the daily work dynamics.

²⁰ Such was the case of the Fier police station.

²¹ Besides the police station of Fier, Përmet, Korça, Shkodra etc.

²² From information received from GDSP, up to November 2014 were received 37 complaints from some PD of districts of Durrës, Kukës, Vlora etc. which are followed up by the relevant authorities.

1.2 RIGHT TO NOTIFICATION/INFORMATION (OF THE CHARGES AND THE NOTIFICATION OF FAMILIES);

The right to notification/information of the charges, as well as notification of family members comprise two elements which are especially provided for, as a fundamental right by the Constitution of the Republic of Albania and the European Convention of Human Rights.

Specifically, Article 5, paragraph 2 of the ECHR reads as follows:

“Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him”.

The Constitution of the Republic of Albania provides in Article 28, paragraph 1 as follows:

“Everyone whose liberty has been taken away has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as the accusation made against him. The person whose liberty has been taken away shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with his lawyer, and he shall also be given the possibility to exercise his rights”.

The importance of notification of the charges, as well as that of the family or other contact persons, is a foundational element which provides for ensuring of human rights and fundamental freedoms in conformity with legal and normative provisions.

AHC has evidenced the case of a juvenile accompanied to the Shkodra police station, who was not informed why was accompanied in police custody, and likewise, neither his family members were aware of the causes of this accompaniment.

As for the acquaintance with all rights during accompaniment/detention/arrest, it was found that persons accompanied/detained/arrested were made verbally known their rights during interrogation procedure on the premises of the police station. Generally speaking, the verbal communication of the rights is not made from the first moment of person's restriction of freedom (accompaniment, detention, arrest).

During observations it was evidenced that in general the posters depicting the rights of persons accompanied/detained were posted and visibly displayed in the rooms of accompaniment/detention/arrest, and in noticeable places of the police stations.

Another positive aspect is marked in the practice of the counter-signature. The moment that the rights were read to the accompanied/detained/arrested person, after they were previously made known verbally to them, they were given copies of the latter to sign, when placed in detention rooms. This best practice was ascertained in the police stations of Gjirokastra, Përmet, Shkodra, Fier, Korça etc. However, there are cases like in the Vlora police station where it was found that the Statement of the Rights was issued to detainees only a few moments prior to the arrival of AHC's monitoring group.

Another dimension of the right to information is related to the notification of the family/relatives in terms of the placement of their family member in the police station. It is worth highlighting the efforts of police staff, that even in cases of inability of persons or lack of budgeted funds to establish contact via phone calls with their family, such communication was established on staff's expenses. For the most part, the notification of relatives, especially in cases of accompaniment/detainment/arrest of juveniles, does take place. However, in some police stations, such as the police stations in Koplik etc., were encountered issues with **formal and incomplete records of relevant documentation**/sections pertaining the family notification procedure, due to outdated register formats or the poor traditional practices in the filling out of them.

1.3 THE RIGHT TO A COUNSEL;

The right to defend comprises one of the most fundamental guarantees for a fair treatment of the accompanied/detained/arrested person in a democratic state. As a basic fundamental right, it is sanctioned by the international and national legislation. So ECHR provides in Article 5, paragraph 3 as follows:

Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

Also, Article 28, on paragraph 1 of the Constitution of the Republic of Albania we find this right expressed as follows:

"The person whose liberty has been taken away shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with his lawyer, and he shall also be given the possibility to exercise his rights".

Ensuring the right to be defended by a counsel effectively enables the right of defense that ought to be provided to the accompanied/detained/arrested persons.

During the inspections, was observed sensitivity by the police staff to provide defense lawyer to the persons accompanied/detained/arrested. However, the right to defense, and notification of the lawyer was made known to accompanied/detained/arrested persons, only during the interrogation procedure and not from the first moment of his/her deprivation of liberty. Due to the legal qualification of the above procedures, it is necessary the presence of a lawyer in the process²³.

In cases when these people could not afford a lawyer, they were provided with one from the published list (list of mainly state appointed lawyers). These lists were usually

²³ It is required that in the process protocol which is kept for this purpose, the lawyer would put his/her signature, if the person has requested so.

found on the premises of police directories (police stations in the directorates), while the other stations generally did not possess any.

In general, in the monitored institutions, it was observed that staff kept properly the register of meetings with lawyers (hour of the meeting, license number, signature, etc.). It was also observed that under the section Lawyer's Notes, there was nothing entered by the lawyers²⁴ in terms of cases of potential infringement of procedures. AHC has also previously highlighted this finding as unexplainable, considering that there are many allegations and complaints about violations of the rights of persons accompanied/detained/arrested.

However it is worth highlighting again that the right to legal protection through counsel it is not observed from the first moments of detention, and in some cases, this right is not guaranteed in the police station, but in the Court. More specifically, it is worth noting the case of the police station in Tropoja, where the police staff was not aware of the existence of a list of lawyers (mainly appointed). Moreover, a person detained in the police station, interviewed by AHC observers, stated that he had been questioned in the absence of his lawyer.

1.4 THE RIGHT TO HEALTH SERVICE;

Provision of health services is set out as one of the social objectives in Article 59 of the Constitution of the Republic of Albania:

"The state, within its constitutional powers and by means at its disposal, and in compliance with the private initiative and liabilities, aims at providing:

....c) highest possible standard of physical and mental health..."

Also, CPT standards stipulate that: *"Persons in police custody should have a formally recognised right of **access to a doctor**. In other words, a doctor should always be called without delay if a person requests a medical examination; police officers should not seek to filter such requests. Further, the right of access to a doctor should include the right of a person in custody to be examined, if the person concerned so wishes, by a doctor of his/her own choice (in addition to any medical examination carried out by a doctor called by the police). All medical examinations of persons in police custody must be conducted out of the hearing of law enforcement officials and, unless the doctor concerned requests otherwise in a particular case, out of the sight of such officials. It is also important that persons who are released from police custody without being*

²⁴ In all monitored institutions across Albania, no specific note was found for cases of breaches of procedures (relating to the rights enjoyed by accompanied/detained/arrested citizens).

brought before a judge have the right to directly request a medical examination/certificate from a recognised forensic doctor²⁵".

Overall, the observations showed that all police directories have medical staff on duty, mainly doctors, who try to cover with medical service all police stations under their responsibility. Doctors had their rooms and the documentation highlighting their daily work (the register of medical visits). From interviews with doctors there was ascertained a significant lack in the supply of medications, which is a standing issue from a long time. In a letter to the GDSP regarding the situation found in the police station of Berat, AHC has pointed out that the health services offered at this institution suffered from a lack of financial resources to enable effective service delivery. For more than 4 years, budget entry for medication was 0 Albanian Lekë.

AHC staff appreciates the efforts of the police staff in police stations to ensure the health service through cooperation with civil hospitals and doctors appointed for service in police stations.

Immediate access to a physician of the accompanied/detained/arrested person, is of paramount importance especially in cases of identification of devolution by the police in the use of force in the first moments of detention. Registration and medical follow up of these cases remains the primary responsibility of the police institution's doctor. Therefore the well-functioning of this service is important not only to the health service per se but also as an additional safeguard in preventing and reporting of cases of illegal use of violence.

1.5 OTHER ASCERTAINMENTS

During this round of monitoring has been paid close attention to the **right to fresh air/airing** that persons held in police custody are entitled to. This is a fundamental right that is highlighted also in the reports of the Committee for the Prevention of Torture (CPT) as well as in the AHC's reports of the two last years²⁶. Given that detained/arrested citizens may be kept for several days in isolated environments, they must be provided the opportunity to fresh air in appropriate facilities. This is a legal right and therefore immediate steps ought to be taken to ensure the exercise of this right by all persons held in these closed environments.

²⁵ *CPT Standards, pp. 11-12, §42*

²⁶ Report "On the situation of human rights in police directories and stations in the pretrial and penitentiary institutions" 2012, 2013.

The food supply for the detained persons generally resulted functional. The police authorities had regulated this service by entering into contractual agreements for the provision of meals by catering service. This service was observed in all stations that were at the police directories. Whereas in some police stations in the outskirts of cities, no food was offered but family members of the apprehended persons were allowed to cover this service. This double standard practice must come to an end.

AHC monitoring was focused also on the ratio or the percentages between the **female and the male staff** serving in police structures. In general, at the police stations of the police directories, there is female staff working in the police structures (numbers varying from 5 to 10 policewomen). While in police stations not at the respective directorates (e.g. in Koplík, Lushnja, Saranda, Tropoja, etc.), the lack of female staff presented a problem for providing the service in cases of accompaniment/detention/arrest of women/girls.²⁷

The juvenile offender is entitled to some additional rights arising from the constitutional principle of "the best interest of the child". Also, in order to meet the requirements of the Code of Criminal Procedure, it is required that the procedural actions against the juveniles (*accompaniment, taking statements, the performance of other procedural actions*) by judicial police officers must necessarily be made in the presence of parents, legal guardians and psychologist. We wish to bring again to the attention, the ascertained case in the police station of Shkodra, in which a minor was found in the halls of this institution, awaiting questioning by an employee of the serious crimes sector. The juvenile was apprehended by police forces in his house, without disclosing the reason for his apprehension, without being accompanied by one of his parents and, moreover, had now been waiting for about 3 hours to be interrogated.

Problematic is the situation regarding the **treatment of mentally ill persons**. There are two issues worth tackling. The first issue relates to the accompaniments by police forces of these patients to the psychiatric hospitals. Swayed by the demands of family members or relatives, police structures forcibly make these patients' accompaniment directly to psychiatric hospitals. Often, due to ignorance in terms of the specific treatment in case of agitated patients, or the stigmatizing perception involved, police forces exert unnecessary force. The second issue relates to offenders with mental health problems. Little or no differential treatment was offered to these people during their stay in police custody.

²⁷ From information received from GDSP we were informed that currently are finishing training a group of 550 new employees, 250 of whom are women that will be appointed to work at stations where additional police staff is needed.

II. Recommendations for improving observance of human rights in police institutions

In accordance with the findings presented in the section above, AHC wishes to present its recommendations with a view to improving the situation of human rights of individuals being held in police custody considering national legislation and relevant international standards. AHC recommends the following:

The right to dignified treatment

- AHC acknowledges the work and efforts of police authorities to improve the external environment and buildings of a number of police directories and stations, however, it recommends that the same considerations apply for the infrastructure of facilities used for accompaniment/detention/arrest were detained individuals deprived of freedom are held. As stated in section 2.1.1 of this report, the situation in some of these facilities calls for urgent steps to be taken in order to improve the present situation.
- The obligation to respect the dignity of persons deprived of liberty, is the keynote in the work of police structures in a democratic state. In this context, the change of outdated mentality is needed to happen, whose expression is the exertion of physical strength as an efficient tool for fighting crime. Practices which violate the law and do not provide minimum standards of treatment of citizens, such as those referred to in section 2.1.2 of this report, must come to an end. AHC recommends that police management authorities, take concrete measures when ascertaining cases of violation of the law and the use of violence by holding accountable with criminal and administrative liabilities these police officers. The police staff must be aware that the implementation of the task should be accomplished only through the correct application of the law and the restrictions it enforces.
- Procedural rights of citizens with restricted freedom are not observed from the first moment of restraint of liberty, but begin to apply at the time of the interrogation of the offender. Although there is a higher awareness by the police authorities in terms of the proper treatment of women and juveniles, during monitoring there are still observed cases in which such legal safeguards are not met, as is evidenced in paragraph 2.1.3 of this report. AHC recommends that police management authorities consistently instruct their staff on the need for differential treatment of juveniles offenders, and the proper implementation of the standards stipulated in the law of the interrogation procedure of persons restricted of their liberty.
- AHC expresses its concern about the proportionality of the force exerted by the police staff, in accordance with Article 93 of Law "On the State Police", which stipulates that: *"The measure taken to avoid the risk, should be proportional to the level*

of danger and it should not constitute overstepping of the boundaries of the need for that particular measure in the present situation". AHC recommends that against police structures involved in such situations, appropriate measures be taken to end the arbitrary actions stemming from their abuse of power.

- The observations found that there are issues pertaining transfers of detained/arrested persons in pretrial institutions especially in those of Tirana. From the official information obtained during the presentation table of the draft version of the monitoring report, it was confirmed that this problem was solved in terms of relevant institutions of Tirana. However, AHC recommends that the institutions of the police and prison system, find effective and long terms solutions regarding the delays in the transfer of persons who have received a final form decision by the court. AHC recommends also the setting up of a clear procedure for the transfer, in order to make possible the accountability of persons responsible when the transfer is not made on time.
- Considering the right to request/complaint an universal and constitutional right, AHC recommends that management structures of GDSP and those of police stations of Albania, give the necessary importance the regular recording of the documentation and the following of the standard procedures of requests/complaints. AHC recommends that the legal safeguards that come with the application of this procedure, shall not be regarded as superficial fulfillment of a formal obligation, but instead, a unified and effective practice be established in all police stations through which citizens feel that their requests and/or complaints are heard and taken seriously in consideration.

The right to notification/information (of the charges and notification of family)

- Notice regarding the charges, as well as the notification of family members or other contact persons, is fundamental in terms of ensuring the rights and freedoms of citizens deprived of their liberty. AHC positively acknowledges the placement of informational posters depicting the rights of persons accompanied/detained/arrested at the premises of police stations and the practice of handing out the statement of their rights. However, AHC recommends that verbal communication is made of these rights, from the first moment of person's restriction of liberty, as stipulated by the legislation in force.

The right to counsel

- Ensuring the right to be protected by attorney effectively enables the right of defense that should be provided to the accompanied/detained/arrested persons. AHC recommends that the right to legal protection through counsel must be guaranteed from the first moments of accompaniment/detention/arrest. Its guarantor must be first and foremost the police officers of police authorities, who

pursuant to law, shall notify and take other technical measures to ensure the effective application of this fundamental right.

The right to health service

- The immediate access to a physician by the accompanied/arrested/detained person is of paramount importance especially in cases of identification of individuals who need health care, resulting also due to physical altercations with police forces. Evidencing and medical follow up of these cases, ought to remain the primary responsibility of the physician of the police institution. This serves as a safeguard for preventing and reporting of cases in which the use of violence has occurred. AHC also recommends identification and making immediately present all cases with signs of violence to the prosecution authorities. To fully respect the right to adequate health services, AHC recommends the supporting with human and material resources (professional equipment and/or medications) of the health structures under the State Police.

Other Ascertainments

- Given that detained/arrested citizens may be kept for several days in closed environments, they must be provided the opportunity to fresh air in appropriate facilities. This is a legal right and therefore immediate steps ought to be taken to ensure the practice of this right to all persons held in these closed environments.
- AHC acknowledges positively the practice of food supply to persons detained in several police stations monitored. Therefore it recommends that this practice be extended to all police stations of Albania.
- The lack of female staff presented a problem for providing the service in cases of accompaniment/detention/arrest of women/girls. Although it is expected an increase in female staff, AHC recommends the acceleration of procedures, in order to effectively solve this problem, especially in the police institutions of remote districts.
- The juvenile offender is entitled to some additional rights arising from the constitutional principle of "the best interest of the child". Therefore, AHC recommends strict adherence by police structures, to the Code of Criminal Procedure while conducting procedural actions with juveniles (such as *accompaniment, taking statements, the performance of other procedural actions*) which are required to be mandatorily performed in the presence of parents/legal guardian, legal defense and a psychologist.
- Problematic is the situation regarding the treatment of mentally ill. AHC recommends that more attention be paid to accompaniments by the police forces of these patients to the psychiatric hospitals. There is a need for a better professional preparation of the police forces that accompany the mentally ill in

psychiatric hospitals, to make a professional neutralization of these patients, in order to ensure the least deterioration possible of their condition. Also, mentally ill offenders, who are kept in the police premises, may be offered a differential treatment, in accordance with the specific needs they have.

- Taking into account the above, AHC highlights the need for further professional qualification of the police structures regarding the theoretical and practical aspects of law enforcement. AHC recommends the organization of basic and ongoing trainings to address the issues raised in this report.

PART TWO SITUATION IN DETENTION AND PRISONS

III Findings concerning the observance of the rights of persons deprived of liberty in penitentiary institutions

International standards and current developments of criminal law serve as a guideline for countries to use deprivation of liberty/imprisonment as a last resort, taking into account the investigation of criminal offenses and protection of society and the victim. European best practice models presents us with a deviating approach from the security measure of "jail arrest" for offenders who pose low risk to society and in cases of criminal proceedings for relatively minor crimes. Also, European countries tend to lax their criminal policies, especially for a variety of minor offenses. Alternative sentences are widely used in such cases, setting a fair balance between the type of crime and punishment measure envisaged for it. Particularly in the case of minors, international standards encourage avoidance of imprisonment for juveniles.

Through the implementation of imprisonment sentence, individuals lose their fundamental right to freedom of movement, but they should enjoy the other human rights and freedoms, and be treated with respect in terms of their dignity as human beings.

3.1 Overpopulation;

The most disturbing issue the Albanian prison system is facing currently is that of overcrowding. It is ascertained that in pretrial and prisons facilities are accommodated 6,022 persons deprived of their liberty²⁸, while the potential capacity of the entire system is only 4,537 persons, or expressed in percentage, the situation currently is 32% above the allowed capacity. This figure marks the highest percentage of overcrowding that the prison system has experienced until today. The observations carried out by AHC have found that in some prisons and detention institutions, overcrowding reaches up to 100% over the capacity that the present infrastructure allows ²⁹.

This alarming situation of overcrowding creates conditions for violation of the rights of persons deprived of liberty and an inhumane and degrading treatment as described in the Article 25 of the Constitution and Article 3 of the European Convention on Human Rights. AHC's monitoring work found that overcrowding has caused a breach of the spatial legal norm, that persons deprived of their liberty should have available; that they are laid down to sleep on the floor and with extremely worn out beddings; delays

²⁸ According to official data provided by the GDP dated November 19, 2014.

²⁹ Besides the Prison Hospital Center and Kukës and Tropoja detention institutions, in all other monitored institutions there were evidenced different levels of overcrowding. One of the highest overcrowding rate was observed in Tepelena remand institution, with a population 140% of the allowed capacity.

in obtaining health care, or lowering of this service's quality; inability to enjoy the rights to the extent and quality that is sanctioned by law, such as in the case of the use of toilets, showers, airing facilities, participation in sports and recreational activities and those of a social character, as well as acquiring permits.

These consequences have aggravated more severely due to the fact that overcrowding is not countered with addition of staff, increased financial budget, increase/supply of medicines to these institutions, or the addition of equipment and other necessary utilities.

AHC is of the opinion that the overcrowding in these institutions has come as a result of several factors. As such we mention the priority implementation of the security measure "jail arrest" by the courts even when the gravity of the offense committed and that of the defendant, could justify easier security measures; low scale of implementation of alternative sentences to imprisonment; the procrastination of the proceedings; complexity and the difficulties of the procedure of seeking pardoning; the unlawful placement of persons with the medical measure '*obligatory treatment in a health institution*' in prison to spend their sentence; as well as management problems of prisoners and detainees by the Directorate General of Prisons.

Another important factor that has led to an increase in the prisons and detention institutions' population are also the numerous legal amendments of the recent years, which have stiffened the criminal penalties measures, as well as the increase of pressure on law enforcement institutions, to tighten security measures against acts of unlawful punishment such as electricity theft, violation of traffic regulations, illegal construction, etc.

AHC is aware that the implementation of criminal policy is the competence of the judiciary, but we have come to know from international best experiences that show that a criminal policy aimed at reducing crime, is more effective if there is a better use of the preventive measures and the restorative justice, as well as when there is an expansion of the application of alternative sentences with imprisonment. In this regard, we are of the opinion that, in addition to other measures, judges and prosecutors in particular, ought to be informed and their awareness raised.

3.2 The living conditions in penitentiary institutions;

Living conditions in prison include a wide range of facilities and equipment needed in a prison regime, such as residential facilities in the inner regime, outdoor facilities, observation rooms, solitary confinement rooms, accommodation rooms for the prisoners, airing space, toilets and showers, recreating environments. In short, there is a host of institutional environments in which the everyday dynamics of living in an institution takes place.

In compliance to Article 31 'Differentiation of institutions for the purpose of treatment and grouping of prisoners' of the Law no. 8328, dated 16.4.1998 as amended, AHC highlights positive measures taken by the GDP during September-December 2014 to accommodate elsewhere certain categories of detainees, both juveniles and women in Jordan Misja Prison, who due to deteriorated living conditions in this institution, are relocated respectively in Kavaja Prison and Ali Demi Prison".

Another positive aspect is the measures taken to close the Kukës Prison and to move this institution in a more suitable infrastructural premise³⁰. AHC encourages GDP to accelerate steps to start the process of obtaining the new facility. Moving from the old Berat detention to the new institution constructed and inaugurated recently, is also a positive development. The transfer of pre-trial detainees from the Tropoja detention to the new building set up for this purpose, is also a positive step in improving the living conditions for detained/prisoners in these institutions.

There is a difference between the situation of external and internal environment of the institutions, where the latter are poorer in terms of hygiene and the overall order. It must be noted as positive the taking of positive measures to improve the situation of institutions in Lezha, Tropoja and Korça, Jordan Misja in Tirana etc., however, the domestic sanitation of facilities remains a concern in some institutions. Likewise, in almost all institutions (except Tropoja remand) there was an urgent need to provide a part of prisoners with mattresses, some of which, the directors of institutions were forced to provided not on institutional channels but privately.

However, the monitoring missions that the AHC has conducted this year in the Albanian prison system, have proved that it faces substantial problems regarding the living conditions in the pretrial facilities and Albanian prisons, effected by the high rate of overpopulation, and lack of sufficient financial resources to cope with this situation.

Problems related to the presence of dampness in the walls of the first floor of buildings, poor hygienic conditions, especially of the collective toilets and showers (*except the Durrës prison, in all other monitored institutions this problem was evidenced*), the absence of personal beddings and personal hygiene equipment (*all monitored institutions could not afford to buy enough sanitation lotions to maintain personal and collective hygiene*), lack of running water, littering in the inner and outer regimes of the institutions (*it was evidenced presence of garbage in the outdoor facilities in the prisons of Peqin, Lezha, Rrogozhina, Lushnja etc.*).

- **Kitchen facilities and food quality;**

³⁰ These are measures related to the negotiations pertaining obtaining a building suitable for the accommodation and treatment of pretrial detainees.

The monitored institutions have their own kitchen for cooking and distributing food to the prisoners. It is a positive fact that in the institution's kitchen were employed also prisoners. Generally speaking, in the kitchen facilities of monitored institutions was observed order and cleanliness. Food portions were preserved according to required standards. A better standard of cleanliness, quality and diversity of food offered to prisoners was found in the prison of Tropoja and that of Durrës. Meanwhile the situation found in Rrogozhina, Peqin, Tepelena, Berat, etc. was pretty much unsatisfactory in terms of cleanliness of facilities and food quality. AHC observers also received complaints from prisoners about the quality of cooking, and poor food menu (in the prison of Berat and that of Rrogozhina).

Besides food prepared in the institution, the pretrial detainees/prisoners were allowed to receive food from their family, according to the quantity allowed by the regulation. During the monitoring in some institutions were observed long lines of prisoner's family members waiting for their scheduled meeting and for entering the food in the institution. Also in the findings presented during 2013, AHC has identified the problems associated with the incoming foods from the family, which reduces security in penal institutions and creates a lot of issues with the storage of these foods in optimal conditions in the residential rooms of the pretrial detainees/prisoners. For these and many other reasons, AHC has recommended that each institution take measures for a better functioning of commercial entities as well as the purchase of food from these units, while the families can deposit the money in the account numbers of detainees/prisoners rather than bring in the food themselves.

Commercial units were found operating in all institution. In Rrogozhina prison, AHC received complaints from prisoners for higher prices of goods sold in this unit compared to those of the outside market. There were lists of articles posted up with the relevant goods' prices, but prisoners claimed that the market prices that were being referred to, were the highest of those outside the institution.

- Toilets and showers;

“Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment..... Further, prisoners should have adequate access to shower or bathing facilities. It is also desirable for running water to be available within cellular accommodation³¹.

In correlation with the above, AHC ascertains that the overall situation of access that prisoners must have to toilets and showers is not problematic. In every institution there is an internal regime that regulates the schedules of activities. AHC has received no complaints or claims for intentional violation of access to these facilities. However, it stresses the need for immediate intervention to improve the situation of hygiene in these environments. Lack of water or its supply with a schedule at several institutions

³¹ CPT standards, p. 19. paragraph 49.

(in the Prison of Kruja, the Detention of Kukës, the Prison of Peqin, the Prison of Lezha, the Detention Jordan Misja, the Prison of Korça, the Detention of Berat, etc.), and the lack of detergents, cleaners and hygienic solutions, aggravated even more the situation therein.

AHC wishes to bring to attention one case in the Tepelena Prison, in one of the premises converted to a residential room for inmates, where 8 people had been accommodated, in which there was no functional toilet. Two of these prisoners were mentally ill, one of which, used a bucket as a toilet. AHC expresses its great concern about the case, because along with the situation of overcrowding, the cumulative effect of this phenomenon brings harmful consequences to the health of prisoners and moreover leads to degrading treatment of these citizens.

Overall, in the monitored institutions was provided warm water. However, the prisoners did not always have access to showers, primarily due to the depreciation of hydro-sanitary equipment needed and secondly, due to overcrowding the chart compiled by staff prescribed shower opportunity in some cases only once in 10 days (as was the case in Korça Prison, in the sector of observation, or in the Prison of Rrogozhina). Often, the prisoners bathed in their room's toilets (that is in those prisons which had toilets in prisoners' rooms, who in turn were using blankets as makeshift doors), after filling buckets with hot water from showers down the hall to use them to bathe themselves.

- Conditions in the rooms;

The high rate of overcrowding with which the monitored institutions were faced has spread its negative effects on all aspects of life in detention/prisons. Unable to accommodate all prisoners, the institution's directors had turned to other work environments in residential areas. As a result, many prisoners had no personal bed, as required by law. Often they slept on the floor, and in some cases without mattress (as it was found in Berat Prison and elsewhere.) but only with a make-shift one created with folded blankets.

Especially in old but still functioning institutions with high levels of overcrowding (such as Tepelena Prison, the Berat Detention, Rrogozhina Prison, Lushnja Prison etc.) the conditions in the rooms did not meet not even the minimum standards of natural light, personal space, etc.

AHC wishes to point out once again the crucial importance that the prison infrastructure has in achieving the mission of the Albanian prison system in its entirety. There is a strong need for this situation to change as soon as possible, bearing in mind that such conditions, in themselves constitute grounds for non-observation of human dignity of prisoners.

3.3 Security and safety

“When a state deprives an individual of his liberty, it is obliged of caring for that person in order to ensure that his/her dignity is respected. States should also ensure that prisons are safe and prisoners, staff, visitors and the community outside feel safe as well. These two obligations are not contradictory, but go hand in hand with each other. Safety and security can be better established in a well-run and well-managed system where justice prevails, and where prisoners are treated with humanity and fairness”³².

Therefore, a safe environment is a key element in the welfare of pretrial detainees/prisoners and prison staff. As regards this aspect, AHC points to the cases observed in some institutions pertaining suicide attempts or actual suicides.

A difficult situation was found in the institution Zahari of Kruja, where about three months ago there had been a suicide of a prisoner. Also, a year ago, another prisoner had taken his life there. Suicide attempts were more frequent, especially from three convicts who had repeatedly attempted if for up to 5 times³³ (the most recent suicidal attempt had occurred only two days before the AHC monitoring of the prison). The lack of psychosocial interventions to rehabilitate trauma that usually follows such incidents was worrisome. We would like to draw the attention of the relevant authorities to the use of Administrative Guidelines "On Suicide", approved for use since 2013.

Another institution in which were ascertained two cases of attempted suicide, was Fushë-Kruja Prison. It is a worrisome fact that the motives of one of the prisoners to attempt suicide was the constant bullying by his inmates who wanted him removed from their room.

Of course, suicide or suicide attempts have different reasons in terms of why they occur, but the establishment of an atmosphere where both detainees and convicted on one side and the staff on the other should coexist and cooperate in conditions where everyone feels safe, serves as the basis of a good functioning of the institution that prevents aggravated situations and incidents.

3.4 The right to requests and complaints;

The right to requests and complaints as a universal right, which is sanctioned by the Constitution of the Republic of Albania, is reflected also in Article 8 of Law no. 8328, dated 16.04.1998 "On the rights and treatment of prisoners" according to the following formulation:

³² Andrew Coyle, *A Human Rights Approach to Prison Management: Handbook for Prison Staff* (International Centre for Prison Studies, 2002) p.58.

³³ That is about 15 attempted suicides committed by three convicts in recent months.

“The convicts have the right to submit requests and complaints regarding the implementation of the law and internal rules in the manner set forth in this law and individually. As a rule, requests and complaints should be addressed to the competent authority under this law, but the prisoners when, they deem it necessary, may address any state authority or non-governmental organization in and outside the country”.

The well-functioning of the requests-complaints mechanism in prisons is an indicator of good-governance of the prison institution, and of a standard of transparency and good relationships between staff and prisoners. As initiators of the creation of the internal mechanism in prisons, AHC and its experts have trained the staff on the importance of penitentiary institutions for their role and standardized way of functioning. We want to bring to your attention the fact that the administrative standardized guide for processing requests and complaints of all the prison system, preceded the legal amendments of certain provisions related to this constitutional right. Acknowledging the importance of this right, AHC has also monitored the functioning of this mechanism during the monitoring that took place.

In all monitored institutions, the relevant documents related to the exercising in practice of this right by pretrial detainees and prisoners, underwent our scrutiny. It was found a register that identifies the requests or complaints of prisoners (except in Berat detention), addressed to institution's staff. Generally, prisoners (except a case in Korça Prison) had no complaints about the functioning of this mechanism. Requests or complaints that could be made in writing or verbally, were delivered in hand to the social care or security staff, or were put in a sealed envelope in the complaint's box of the institution. However, it must be stated that not all institutions inspected had functional boxes of requests/complaints.

By scrutinizing the requests/complaints, it was noted that the most frequent requests/complaints concerned: meeting with the warden, application for leaves, complains for lengthy court proceedings, complaints for corruption by staff and differentiated treatment, requests for additional meetings or phone calls with family and special meetings etc.

3.5 Treatment of prisoners. Rehabilitation and reintegration; individualization of the sentence plan; the daily program.

The daily program enriched with diverse activities (work, education, sports, etc.) is of peculiar importance for the welfare of prisoners. All detention/prison or special institutions, such as the institution of Kruja or Prison Hospital Center (for resident convicts) ought to provide substantial and meaningful activities for persons under their care.

All detainees and prisoners should have the possibility of following an individualized treatment program, which in the monitored institutions proved to be difficult sometimes to realize due to their overcrowding. However, prisoners cannot be left locked in their rooms for a long time, regardless of how good the physical conditions of them may be.

“The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favorable³⁴.”

Also, our domestic legislation, as stipulated in its Article 9 of Law no. 8328, dated 16.04.1998 "On the rights and treatment of prisoners and detainees" stipulates the rehabilitation and re-integration function as follows:

“Treatment of prisoners and detainees aims their rehabilitation for their reintegration into the family, social and economic life. Preparation for reintegration begins in detention, continues during the prison sentence and goes on even after release from the prison. Prisons, in cooperation with the probation service, social welfare services, local authorities and nonprofit organizations, develop eve-release reintegration programs for addressing gender issues. For prisoners and juvenile detainees, the preparation for reintegration is implemented in cooperation with the juvenile, the social worker, his family or his legal guardian. For prisoners and detainees who belong to ethnic and linguistic minorities, foreigners and stateless persons, to the extent possible, programs are enabled that are considerate to their culture”.

Articles above constitute important a legal basis, in accordance with the standards and requirements of today's democratic countries, for the treatment of this group of individual offenders who often have antisocial behavior.

Also, Article 10 on "The Individualization of Treatment" of the same law, sanctions that *“Treatment of prisoners and detainees should be done according to the criteria of individualization and in compliance to the state and the individual characteristics of each prisoner... ”.*

In a general sense of the legal obligations mentioned above, it is the responsibility of all staff of the penitentiary institution, to design and implement a diversified regime of daily activities, in accordance with the specifications of each institution. The work in this regard is not the sole responsibility of the social care sector, but for the most part, of multidisciplinary teams, through cooperation and promotion of new ideas that are applicable in these institutions.

AHC also welcomes the achievement of year-end 2014 bilateral agreement between the Ministry of Justice and Ministry of Social Welfare and Youth, with the object of preparing for reintegration of pretrial detainees and those sentenced to imprisonment, through the organization of vocational training in detentions/prisons and creating

³⁴ CPT standards p.18. paragraph 47.

opportunities for reintegration into society of these persons after their release. This is a positive step that shows the exercising of the functional responsibilities of other state bodies, in addition to prisons, for the purpose of creating real and necessary opportunities for individuals who are in proceedings/serving a criminal conviction.

Understanding the important function in the rehabilitation and re-integration of prisoners that Prisons play, AHC has observed closely the situation in monitored prisons. In the process it was ascertained in Prison Ali Demi, the Special Juvenile Institution of Kavaja and Vlora detention (in terms of the juvenile unit) are institutions that provide more activities for groups of prisoners who are treated therein. The daily program that was applied there included several types of activities within the hours of operations, including education, vocational courses, recreation and reading.

Praiseworthy are also institution's efforts to enter into agreements with regional professional directorates (such as in Lushnja, Rrogozhina, in Fushë-Kruja, in Korça, etc.) to enable the delivery of vocational courses (plumbing and welding) for adult males.

However, observations at other institutions (e.g. in Tepelena, Lezha and Peqin prisons, and in Jordan Misja detention in Tirana, etc.) found considerable impediments in terms of opportunities to carry out activities of rehabilitation or reintegration purposes. Sports activities are mainly carried out during the airing period, and there was a lack of facilities and appropriate material base to enable the realization of other activities that aim at rehabilitation. The most common sports activity, was football, which as a consequence of large scale of overcrowding, was now being organized less frequently per person. Also, in some institutions (such as in Lezha, Peqin, Korça, Fushë-Kruja, Vlora, Kavaja etc.) the gyms were functional but with a predefined schedule. The most organized libraries were those found at the Ali Demi prison in Tirana and the special institution for juveniles in Kavaja.

Although the special institution for juveniles Kavaja is mentioned above as an institution that has had for many years a good practice in terms of diverse program that are carried on until afternoon, this experience is recently waning away with the restriction of activities until 16.00. When asked about this backpedalling, the staff referred to an instruction issued by GDP³⁵.

The monitoring revealed that different units had different understanding of the meaning and application of the directive issued from the GDP in terms of duration of activities that must be organized for the juveniles.

An important organizational instrument of design and implementation of individual sentence plan is also prisoners' psychosocial file. The observation found that the drafting and completion of this document on a regular basis, serves as a guideline for a

³⁵ In a letter addressed to the Director General of Prisons, we have stated our concern that an instruction of GDP for limiting the airing activities to up until 16.00 in all prisons/detentions during the winter, was taken by the Kavaja staff to mean that it constituted the last time-limit when all kinds of activities with juveniles ought to be ended, and that including airing.

number of issues that need to be addressed, such as: standard completion of files (as for now, files look like replicas of one-another), over simplicity in filling out sections pertaining individual problems and that of periodic follow up of prisoner's situation³⁶.

AHC in its official communications with the GDP has identified the need to use the psycho-social files as essential tools in the path of treatment according to the specific needs of detainees and prisoners, especially when it comes to specific categories such as juveniles, women, the mentally ill, etc. Also, in official communications with the GDP, AHC has recommended the simplification of the psycho-social files and introduction of some concrete tools to assess the wellbeing of people with mental health problems. Following these recommendations, AHC welcomes the GDP's efforts to introduce as part of the psycho-social files, the assessment instruments in accordance with the specifications of the pretrial detainees and prisoners as well as ongoing efforts to improve treatment and reintegration services of prisoners, by adding the diversity of meaningful activities in detention facilities and prisons.

3.6 Health Care;

Due to the way of living in penitentiary institutions, the provision of health care is of paramount importance. The restriction of prisoner's freedom, does not affect other rights they are entitled to, one of the most essential of which is the right to health service.

Article 33 of Law No. 8328, dated 16.4.1998 "On the rights and treatment of prisoners and detainees", amendment no. 40/2014, stipulates inter alia that "...*The prison administration provides the conditions, means and the staff necessary to protect the health of detainees and prisoners. Health services should provide:*

1. *Prevention, diagnosis and treatment of diseases;*
2. *Supply of medicines and medical equipment in cases of health emergencies when they are not covered by compulsory insurance of health care;*
3. *Prophylaxis of diseases, giving special attention to infectious and contagious diseases;*
4. *Ensuring environmental hygiene and sanitation education of detainees and prisoners*".

Likewise, Article 33 stipulates that: "*Detainees and prisoners are included in the category of economically inactive persons within the meaning of applicable law, and benefit, free of charge, all services provided by the health insurance scheme under this law*".

AHC has monitored the prison institutions also in terms of observation of this right. From observations are raised a number of issues that need to be addressed by the management of the Albanian prison system and the Ministry of Health.

Among the most important issues, is that of supplying medicines for the penitentiary institutions. In all monitored institutions (except the Prisons Hospital and Zahari

³⁶ The notes on the psychosocial files were only entered when required by the procedure (i.e. every one or three months).

institution, Kruja) were noted shortages in medication. AHC observers received many complaints from prisoners for lack of treatment with medicament therapies from the pharmacies of the institution. The vast majority of them provided privately the medications in cases of diseases, mainly with the support from family members.

In terms of the medical staff, generally speaking, the monitored institutions had settled the issue of their lack of medical staff through part-time contracts (as was the case in Berat, Lushnja, Tepelena etc.) which is something to be positively recognized. However, AHC has ascertained the need to enhance the quality of health care specifically the periodicity of medical examinations, medical visits facilities and equipping them with the appropriate equipment.

As mentioned in the first part of this report, in many monitored institutions there are ascertained poor hygienic conditions. One of the tasks of the health service is also "*Ensuring environmental hygiene and sanitation education of pretrial detainees and prisoners*". Particularly high overcrowding exacerbates this situation and as a result, the work of the health service needs to rise at the appropriate levels, to provide health care both in terms of a preventive plan, and also in delivering effective service to patients in these institutions.

In some institutions it is needed an augmentation of the medical staff, given the number of detainees that receive treatment in every institution each year, as well as groups of prisoners with special needs (e.g. in Lezha, Peqin and Zahari Kruja prisons). Also it is needed an expansion of psychiatric services provided for prisoners. Moreover, in many monitored institutions, the staff pointed out the need of being equipped with auto-ambulances.

Dental Service, except that at the Ali Demi Tirana and Fushë-Krujë Prison, generally speaking, this service covered only extractions, and no other dentistry service. In the aforementioned institutions, dentist's rooms were renovated with funds from private entities.

To the attention of the AHC observations pertaining the medical service was also the medical documentation which reflects the dynamics of this service. In all monitored institutions were not found prisoners with personal medical file. Also, the register of visits was completed daily by the doctors of the institutions. It is worth mentioning here the situation in some institutions (such as Tepelena detention etc.) of not equipping prisoners with the health booklet that is issued by the Regional Health Insurance Service³⁷, due to the lack of their Identity Cards.

One issue raised in interviews with prisoners, is the lack of a complete medical exam of prisoners when they are first received in the institution. Doctors perform a brief interview with the returning prisoners, focusing on their health background, for the

³⁷ Health Insurance Service in Tepelena did not recognize any other identification document except ID cards. Meanwhile, almost half of the inmates there cannot be provided with a health care card due to this institutional congestion.

most part only to fill out the required documentation of such cases. Lack of laboratories for medical analysis in institutions, hinders the realization of this particular procedure. Of special importance is the cooperation with the Ministry of Health, especially for some specific categories such as persons with mental health problems. Under Article 29 of Law no. 44/2012 "On Mental health" it is stated that "the Ministry of Health through mental health services, offers according to the needs, all the assistance necessary for the diagnosis, treatment and rehabilitation of persons with mental health disorders" and according to this law in its Article 33.2 it states that "Appeals regarding decisions taken concerning their complaints addressed to the institutions where mental health services are provided, are filed with the Minister of Health within 10 days, who in turn must reply within 10 days". Given that the Penitentiary Institutions there are special care units where persons with mild mental health issues get treated temporarily, in Kruja Prison and Prison Hospital Center get treated more severe cases of patients with mental health problems, we recommend that the Ministry of Health provides continuous contribution conform the legal provisions cited above in the detentions/prisons where there are persons with mental health problems.

3.7 The disciplinary policy in local penitentiary institutions;

AHC, in its observations of this past year, has devoted a special focus to the implementation of the disciplinary policy in detentions/prisons. In pursuing the ongoing work of improvement of standards of treatment in prisons, AHC has developed a "Study on disciplinary measures policy in detention and penitentiary institutions"³⁸. The study presents an enhanced approach to European and national standards, as well as concrete findings, later on reflected in recommendations for improving the situation that was found. Moreover during 2012 was approved an administrative guideline to regulate and standardize the practice in detentions/prisons for the use of disciplinary measures with particular focus on juveniles and persons with mental health problems.

"CPT has always paid special attention to prisoners who are kept in solitary confinement, because it can have a hugely detrimental effect on their mental, social and somatic health"³⁹.

Law no. 8328, dated 16.04.1998 "On the rights and treatment of prisoners and detainees" in its article 51 provides that *"The disciplinary regime is in place in order to stimulate the sense of responsibility and self-control skills"*.

It is important that the disciplinary measures are not used by staff in penitentiary institutions as a means of intimidation or to show power over the prisoners, but as a legal tool that is used in accordance to a law-based procedure. Also, the documentation that accompanies this procedure was found to be complete in the monitored institutions. Each institution has its own register of disciplinary measures where are

³⁸ The study was realized under the auspices of OSI Budapest and the Civil Rights Defenders. Copies of the study can be found in the AHC offices.

³⁹ CPT standards, p 30, paragraph 53.

documented all disciplinary measures that are taken. A positive example concerning this issue was found in the detention of Tropoja, in which the documentation was kept in a clear and orderly fashion and it clearly captured the circumstances of taking a disciplinary measure (since 2007, there was no disciplinary action taken).

AHC, in comparison with the findings of the monitoring of the last year, notes sensitivity from the part of the staff of institutions about the proper application of the disciplinary policy. However, AHC underscores some important issues elicited from the findings of our observations.

Firstly, the solitary confinement rooms are very dismal in terms of hygiene conditions and their furnishing, in some of the observed institutions (such as in prisons of Lezha, Peqin, Rrogozhina, Kukës, Lushnja, Vlora etc.). As soon as stepping in these environments, it was noticed immediately the lack of hygiene, the putrid air, lack of clean personal beddings, damp walls and dirty toilets.

Secondly, in the monitored institutions it was ascertained a negligence from the part of the medical and psycho-social staff, to meet daily the isolated persons. The secluded individual was visited only by the assistant doctor, in case there was distribution of medicaments involved. Sometimes, it was observed that the social care worker, who had responsibility over that regime, had made appointments with these detainees and convicts.

Thirdly, in the solitary confinement sector were placed other persons as well, who, mostly for security reasons, and with their consent, were held in these sectors/rooms from a long time.

CPT standards allow for the use of these facilities for the protection or safety reasons of the prisoners themselves, but their placement therein shall be made in accordance to adopted legal and sublegal procedures. In order to assist the prison/detention staff to follow unified procedures for the well management of the solitary confinement room, AHC in collaboration with the GDP has developed the Administrative Guide on "The Use of the Solitary Confinement Room" which has entered into force since 2012.

The length of stay of prisoners in such environments should not be long, and their stay therein ought to be reassessed periodically. In the light of the observations in the solitary confinement rooms of Peqini, Lezha, and Rrogozhina institutions, in which were held a relatively high number of prisoners 'either problematic or those who have compatibility problems with other prisoners', AHC expresses concern for the security and safety of the prisoners. AHC has recommended in its official communications with the GDP and detentions/prisons observed, that a better job be made by the uniformed and psychosocial care staff toward these individuals, in order to avoid as much as possible their stay in these solitary confinement rooms.

Implementation of the disciplinary policy in detentions/prisons must always reflect the spirit of the law and international standards, as well as not reflect arbitrariness which can lead to ill-treatment or degrading treatment of persons held in these environments.

They should serve to establish and maintain order and security in the institution and not used as an indicator of staff abuse of power against prisoners. Here, we must make mention of the numerous complaints raised by prisoners of the institution of Peqin against security staff, who, according to these claims, used these disciplinary measures, even when no conflicts were involved, asking afterwards a monetary bribe in exchange of the removal of these measures from the personal files of prisoners. These claims should be taken into serious consideration by the GDP who ought to treat with professionalism and objectivity prisoners' complaints on this issue and to pursue legal liabilities of those responsible for such illegal actions, if they are found to be so after investigation.

Another issue of concern, which was raised by all pretrial detainees and prisoners of Tepelena prison, had to do with the way of control by the structures of Escort, Accompaniment and Security, known as DAP in the GDP. Beyond the procedures adopted for the control of prohibited items, detainees/prisoners complained that during the control, by this structure was exerted psychological and physical violence⁴⁰, and, what is worse, there were claims that employees of DAP, had snatched⁴¹ personal belongings of detainees/prisoners, involuntarily from the latter.

If confirmed, this claim, for which we recommend commencement of investigation as soon as possible by the structures of GDP, to our opinion constitutes an extremely unprofessional behavior, incompatible with the exercise of the duty, therefore it is required a strong stance towards it as provided in law. In fulfilling their legal duties, such structures should work with professionalism and provide security for all, and not put pressure or perpetrate violence against detainees/prisoners.

AHC in its official correspondence with the GDP has recommended in particular, the investigation of the allegation of forceful snatching of personal belonging in the possession of the pretrial detainee, and the need for an enhancement in the professionalism of the security staff of DAP, through ongoing training that need to take place in this direction.

3.8 Rewarding and special leaves;

Articles 59 "Rewarding Leaves" and 60 "Special Leaves" of law no. 8328, dated 16.4.1998 "On the rights and treatment of prisoners and detainees", amendment no. 40/2014, sanction the right of sentenced prisoners to obtain leaves of exit the premises of the institution of prison, based on some predetermined legal criteria that must be fully met.

⁴⁰ Article 57 of Law no. 8328, dated 16.04.1998 as amended, stipulates: "*The use of physical force against the prisoners and detainees is prohibited, unless it is necessary to stop violent acts, attempts to escape from the institution, or to quench resistance, even when it is passive, in complying with the orders given*".

⁴¹ There were claims for snatching of a valuable item belonging to a detainee, namely a golden ring, as well as other items such as cigarette packs, chewing gums, etc.,

In itself, this legal practice serves as a bridge of communication with the outside world, and has a direct impact on the reintegration process of prisoners.

Thus, the legal criteria regarding obtaining a rewarding leave, promote the good behavior in the institution *"Prisoners who observe the rules of discipline and internal regulations of the institution, who are motivated to participate in rehabilitation and reintegration programs and that do not pose threats to society, have the right to obtain rewarding leaves, but not more than 20 days a year"*. While the granting of special leaves shows attention mostly to social/family situations of convicts, situations that are just as important for every human being: *"The director of the institution may grant the prisoners and detainees special leaves, in case of serious illness, which threaten the lives of family members, evidenced by a medical report, or important family events such as death, birth or marriage, and in the case of school exam dates for both prisoners and pretrial detainees. This period is counted in the sentence time spent"*.

During observations, AHC has received complaints from prisoners regarding the procedures implemented by the management of prison institutions. Complaints are mostly related to corruption allegations raised against staff (as was the case of claims in Peqin prison) or about delays in procedures and failure to respond by the legal office, or even obstruction of the commencement of procedure for issuing leaves for certain groups of prisoners who have committed sexual crimes against juveniles.

Based on the complaints received by the convicts for denial of rewarding leaves, we were informed that in a directive of the Director General of Prisons, it is prescribed that *"... for some convicts who pose risk of recidivism, such as described on the chapter 'sex crimes' of the Criminal Code, Articles 100 and 101, the leave must be granted on a meritocracy bases and not as a kind of obligation from the part of the institution"*.

AHC appreciates the fact that GDP orders the subordinate institutions to assess, on a case by case basis, the issuing of rewarding leaves, pointing to the deserving aspect of rewarding leaves, but we also desire to highlight that the quoting of particular articles of the Criminal Code, leaves room for misunderstandings in some institution, that persons convicted of offenses quoted in the directive, should be excluded from the right to benefit leaves. AHC has raised this concern in an official letter addressed to the relevant authorities.

Also, AHC addressed official letters to the authorities of the Ministry of Justice and the GDP regarding the Instruction of the Minister of Justice no. 103, dated 02.14.2014 "On regulation of some issues related to the procedure of issuing rewarding or special leaves to persons sentenced to imprisonment". In points 26, 27 and 28 of this Directive, inter alia, are defined some tasks for the health sector authorities in the penitentiary institutions, such as: *"...verification of medical expertise to control the elements of its truthfulness, stipulating that the person in charge expresses in writing about it."*

Furthermore they are charged to "... assess the severity of the illness of family members of the prisoners that has applied for this leave." He also must make a written proposal for the granting or not of the special leave for the prisoner, and compile a joint report with the legal, security and social care units.

Based on the jurisdiction of the penitentiary system and more specifically in Article 33 "Medical Services", of the law *"On the rights and treatment of persons sentenced to imprisonment and detainees"* medical service duties focus on providing medical care to prisoners and detainees that each institution has under its care. Therefore, family members and relatives of prisoners/detainees are not supposed to be covered by this service. On the other hand, if the prison health service would perform the task to verify and assess diagnoses listed in medical acts of the family members of the prisoners, our opinion is that it would consume valuable working time of the medical staff, reducing their service time towards detainees/prisoners in the institution. Also, such tasks would create a conflict of competence with the public health service, which provides medical expertise to the relatives of the prisoners, which requires in itself a special permission.

To AHC's opinion, the competence of assessment of the health situation of prisoner's family member should remain the responsibility of the public health service doctors, who shall prepare documentation based on direct examination of the patient, which is impossible to be performed by the medical staff of the prison. Severity of the disease depends also on the individual circumstances of the patient, duration of disease, its complications etc. and these are elements that the medical staff of the prison cannot diagnose and assess without contacting the institutions where prisoner's family member was/is treated. This would require the cooperation with the institutions of the public health system and consequently the instruction should have been prepared and approved by the two Ministers.

3.9 Employment;

An important aspect of the social objectives of the state, related to *"employment under suitable conditions for all persons who are able to work"*⁴² and which is reflected in its constitutional provision in the chapter on fundamental rights and freedoms of citizens, that deals with the right of individuals to choose a certain profession or a particular activity.

Also, Article 34 of the law *"On the rights and treatment of persons sentenced to imprisonment and detainees"* stipulates that *"All detainees and prisoners, are entitled to the right to work. Work is organized by the prison management inside and outside the institution, with the help of other subjects.... Work is not punitive in its nature and is remunerated according to criteria determined by special decision of the Council of Ministers"*. Standards

⁴² See Article 59, paragraph 1, letter "a" of the Constitution of the Republic of Albania.

provided by the law regarding the employment and working conditions, remuneration, duration etc., are in accordance with Labor Code of RA.

AHC welcomes the recent initiatives of GDP aiming to create real opportunities for employment of prisoners. However, currently in prison institutions, only a small number of prisoners compared with the total number of prisoners per institution, are engaged in employment activities, usually in trades such as: maintenance, dishwasher, cooking, food distribution, sanitary, librarians, gardeners etc.

AHC finds that the old law it is still in force which regards the manner of remuneration of labor of the convicts, stipulates 3.9 days of their sentence deducted a month. AHC promotes the swift implementation of the legal obligations of wages for employed prisoners, according to standards set by law, and that a variety of forms of employment for prisoners are found. AHC recently provided legal opinions on the draft decision of the council of ministers on employment and remuneration of detainees and hopes that the recommendations it offered are taken into account by MoJ and legislative authorities.

3.10 Treatment of disadvantaged groups: juveniles, women, the mentally ill, etc.

Juveniles, women, the mentally ill, LGBT prisoners, prisoners who have committed sexual offenses etc. are but some of the disadvantaged groups in the prison system, because they have special needs compared to most of the other prisoners. To these categories should be offered a more specific multifaceted care, due to the specific needs that they have, because they belong to those certain groups, and because of the prejudices of their fellow inmates against them.

Such treatment does not translate into the creation of privileges for such groups, but on meeting the constitutional and legal standards for such groups. Such an understanding is important for a special treatment of vulnerable groups, especially in everyday life within penitentiary institutions. AHC welcomes the legal amendments to Law no. 40/2014 "On the rights and treatment of persons sentenced to imprisonment and detainees" in which there are special provisions for individualized treatment and the needs of some categories mentioned above.

- Treatment of prisoners with mental health problems;

In accordance with these legal changes and more specifically those of Article 16 of Law no. 40/2012 which provides that "*medical treatment in special medical sections within the prison institutions are completed as defined in mental health law*" arose the need of establishing special care units (SDU) in prisons/detentions, in which are temporarily

treated people with moderate mental health issues by a multidisciplinary team trained in advance to provide medical and psycho-social treatment according to the needs of patients. From 2010 and until today, SCUs were operational only at the Ali Demi prison in Tirana in the sector of convicted women, and their work was based on the good experience of Dutch prisons.

AHC welcomes the steps taken by the GDP regarding the opening of special care units in five institutions, namely Lezha prison, Elbasan detention, Berat detention, Durrës detention, Korça prison, Jordan Misja detention in Tirana and Peqin prison, as a pilot initiative and desires to support and bolster the GDP in the ongoing supervision and support to be given to the staff of these institutions in order to consolidate this new experience of Albanian prisons. AHC, through official correspondence with the GDP and detentions/prisons where these units are already opened, offered some recommendations for taking organizational and functioning measures about differentiated treatment according to the needs of this category of prisoners.

Following the cooperation and capacity building of the staff of Albanian prison system, AHC is implementing trainings for the staff of detentions/prisons to support professionally the multi-disciplinary teams for the successful accomplishment of their duties, through the use of useful instruments for assessing individual detainees/prisoners with mental health problems as well as for the development of initial treatment plans and ongoing treatment guidance plans for these people. AHC recommends that these instruments become part of everyday work practice of these patients in prison.

Institutions that treat considerable numbers of the mentally ill are Zaharia institution in Kruja, the Durrës one and that of the PHC. It is worth noting that in the scope of AHC's recommendations for preparing meaningful activities for people with mental health problems, Durrës detention, has taken concrete steps to increase the number of outdoor activities with this group of prisoners since it is not possible to use the internal environments for such activities. A different situation was found in the Zahari institution of Kruja and PHC marked a significant lack of therapeutic and psycho-social activities that are to be organized for this group.

Even in institutions other than those that have piloted the SCUs, there are prisoners with mental health problems that need to be treated with additional caution, due to disorders that they have such as the cases are in the prisons of Peqin, Lushnja, Tepelena, etc. in all inspected institutions, it was noted that these patients are treated in rooms with other residing inmates. Often, these prisoners remain in rooms with poor living standards, as well as an unsatisfactory personal hygiene of their personal bedding and surroundings. Also, the health service offered there was not qualitative (no periodic visits were made, as well as treatments offered were outdated/no new drugs that are more effective in the pharmacological treatment were introduced). In cases of agitation, medicament therapy was applied to these patients after they were first neutralized by

security forces. The medical staff of the observed institutions shared its difficulties about the treatment of this group in need, in the absence of adequate facilities for their treatment.

Overall, in the institutions where there were no mentally ill patients, the psycho-social service was covered by the institution's psychologist. In some prisons/detentions there was a lack of psychologists as in the case of Lushnja and Korça prisons. The treatment provided consisted of individual meetings and counseling sessions. It should be highlighted the importance of social workers in working with these patients in the organization of activities of social nature such as occupational therapy, strengthening ties with family etc. This special group of prisoners suffers at a deeper level the abandonment by their family, because oftentimes, the criminal offense committed by them falls in the category of domestic crimes, therefore the work to restore family links for these patients by social workers, is exceptionally important. In general, there was good cooperation of medical and the psycho-social staff in terms of the exchange of information regarding the needs of these patients. However, it is important to draft individual sentence plans in full cooperation with all the specialists who treat these patients.

Another very disturbing problem is the incarceration of people with an injunction that imposes the measure of "compulsory medication" and "temporary hospitalization" who are currently held in Kruja Prison and Prison Hospital Center in flagrant violation of international law and standards.

AHC has addressed the highest Albanian authorities for the issue of the treatment of persons under the medical measure "*Forced medication in a medical institution*", which are indicted by the courts, based on Article 46 of the Penal Code and the law "*On mental health*".

The legislation in force stipulates clearly that medical measures are taken against persons who are suspected of having committed an offense, but due to their mental illness, from which they suffer, have not been able to understand the importance of illegal acts they have committed. Consequently, they have been declared legally irresponsible by the court, and not adjudicated any further nor sentenced for the criminal act they were charged for.

It was found that in a span of about the last 10 years, the number of persons to whom the court indicted the medical measure "*compulsory medication in a medical institution*" has doubled, reaching to more than 150 people.

Regarding the place and way of implementation of this medical measure, paragraphs 1 and 2 of Article 28 of Law no. 44/2012, "*On Mental Health*", stipulate that, this measure, having as main purpose the treatment of the person, should be carried out at **special medical institutions that are part of the integrated health system of the Ministry of**

Health. The same is stipulated by article 45 of law no. 8331 dated 21.04.1998, "**On the execution of court decisions**" which states that: "*The measure of compulsory medical treatment is executed in specialized medical institution, as defined by the Ministry of Health, upon request of the prosecutor ...*"

Regarding the treatment to be applied to this category, the Constitution (Article 55/1) states that: "*Citizens enjoy equally the right to health care from the state*", so as a consequence, to this category too should be applied relevant protocols approved by the Minister of health, which stipulate that to these patients shall be offered health care in an as little coercive environment as possible, and that they must be treated by multidisciplinary teams that must address the complex needs that these patients have and which are of a medical, psychological, social and rehabilitating nature, in order to cure and reintegrate them into society life.

The AHC has found that 148 people subject of a medical measure, contrary to the law and their needs for treatment are sent by prosecutors to prisons for execution of their medical measure indicted by the court. They are accommodated mainly in the prison of Kruja (Zahari) and the Special Institute of Health for Prisoners (former Prison Hospital). Many of these individuals remain unjustly in prison for more than 10 years.

Prosecutors, who ordered the execution unlawfully of court decisions, justify themselves with the argument that they were obliged to it because the health institutions have not accepted for treatment persons subject of medical measure, arguing that in the health system **there is not yet any "special institution"** defined by the law "on mental health" and which should serve for providing the required forced treatment, in accordance with judicial decisions.

This situation has caused serious problems in two directions. **First** the rights of citizens subject of medical measures have been seriously violated, as they have not received the appropriate treatment, which has caused deterioration of their health status, and their right to freedom was limited beyond the limits set out in the law. **Secondly**, the presence of this category of citizens in prisons is an illegal situation, which runs contrary to the legislation regulating the functioning of these institutions, as well as it plays a role on prison's overcrowding and deterioration of the climate therein.

Through our monitoring, in addition to the above, we concluded that the prison system lacks the appropriate capacities, facilities, regime and medical staff for treatment of these persons, therefore their situation results in continuous deterioration.

The Report of the Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) dated March 20, 2012, underscores the fact that "*more than 13 years after the first visit to Albania, the CPT once again wants to raise the issue of the presence in Prison Hospital of psychiatric patients ruled irresponsible by the court*"

and subject to a compulsory medical measure in accordance with Article 46, paragraph 1, of the PC, and psychiatric patients who are subject of a measure of temporary hospitalization, pursuant to Article 239 of the CCP. These patients are still held in the Prison Hospital and not in a specialized medical institution, or in a psychiatric institution, as provided in the Albanian legislation. So far, Albanian authorities have failed to find a satisfactory solution to this problem, and there has been much hesitancy to set up a special institution in Durrës or in Kruja."

The same conclusions are reached from the institution of the Ombudsman, the organization "Amnesty International", the Albanian Helsinki Committee and other organizations, but this problem has not been resolved yet.

The placement and treatment of these citizens in penitentiary institutions, and lack of adequate medical treatment for them, in accordance with the state of their mental health, infringes their freedoms and rights.

For similar cases reviewed by the European Court of Human Rights, such as the case "Dybeku against Albania", or "Groni against Albania", the Court found a violation of Article 3 of the ECHR, in the form of inhuman treatment against the petitioner because during their imprisonment period, they were not treated in accordance with their health condition. That honorable court has stated in its decisions that the lack of material and financial resources does not justify the violation of fundamental rights of citizens. Under these circumstances, the AHC is pursuing judicially some flagrant cases, requesting that violations of the rights of concerned citizens to cease and their indemnification according to the law.

- Treatment of juveniles;

The juveniles constitute the most vulnerable group in institutions of detention/prison. The specifics of this age group in terms of the formation of personality, dictate the need for a different prison regime compared to adults. Such measures are in alignment with the principles of international and national law of "the best interest of the child".

Given the above, AHC welcomes the measures taken by the GDP and Kavaja institution to transfer and accommodate juveniles who used to be held at Jordan Misja detention in Tirana, to the Special Institution for Juveniles in Kavaja.

As for the observations conducted by AHC, they showed that in all institutions where juveniles were held (SIJ Kavaja, in Lezha prison, Vlora detention and Korça prison) the mandatory nine-year education was delivered, in collaboration with the Regional Education Directorates. There was a lack of didactic tools and schools supplies in almost all institutions where juveniles are held.

Also the range of activities that were conducted with juveniles, it was found to be the more extensive compared with adult prisoners. In all these institutions, various vocational courses were available (such as electrician, plumber, welder, etc.), as well as foreign language courses, mainly English. It has been mentioned earlier in this report that although Kavaja prison is noted as an institution that has had for years a good practice of a well-diversified program which carried on until afternoon, this good experience is recently being tampered with the restriction of activities within 16.00. Asked about this backpedaling, the staff referred to an instruction issued by the GDP⁴³

The monitoring showed that different sectors had different understandings of the meaning and application of the instruction issued by the GDP in terms of duration of activities that ought to be carried out for minors.

During the monitoring of these institutions/sectors several problems were identified related to sanitation in some of the rooms/facilities where minors were held. Often, rooms were messy, with clothes thrown everywhere, unmade beds, food placed on the floor etc. Lack of detergents was visible; also minors did not take care of themselves in terms of maintaining personal hygiene and a clean living environment⁴⁴.

Regarding the concrete work with juveniles, we recommend that specific objectives⁴⁵, should be set, in the individual sentence plan of each juvenile⁴⁶ and then all sectors should work together to achieve these objectives. Regarding the above, we recommend the restoration of the technique of social skills, a technique highly practical and useful that enables juveniles to gain some social skills for taking care of themselves and their coexistence in the community. We also recommend that relatives⁴⁷ of the juveniles should be more involved in the process of drafting the individualized sentence plan, as well as later on in the treatment of juveniles in the institutions in which they are held

⁴³ In a letter addressed to the General Director of Prisons we have set forth the concern that an instruction of GDP for ending the airing activities within 16.00 in all prisons/detentions during the winter, it was understood by Kavaja staff as the deadline for closure of all kinds of activities with minors including airing.

⁴⁴ Article 26 of Law no. 8328, dated. 16.04.1998 as amended states: *"Detainees and prisoners should be provided facilities, equipment and tools necessary for personal hygiene, in proportion to the number of beneficiaries, in order to ensure optimal personal hygiene. Each institution provides periodic cleaning services for the environments, clothing and personal items, as well as for haircut and shaving. Personal hygiene, haircut and shaving can be made mandatory only for specific sanitation reasons, as per medical service request and by order of the director of the institution."*

⁴⁵ AHC has conducted several training sessions focusing on the treatment of juveniles, as well as their behavior change and increase of social skills for each one that does not have such skills".

⁴⁶ Article 11 of Law no. 8328, dated 16.04.1998 as amended, states that "For every minor detained or convicted is prepared an individual rehabilitation and reintegration plan, which takes into account his education, psychological assessment, emotional situation, desires and possibilities of attending vocational courses or to advance his education".

⁴⁷ Article 40 of Law no. 8328, dated 16.04.1998 as amended, specifies that "... For the pretrial and convicted juveniles and for women who have minor children, a special program is prepared which favors family ties".

Another issue that needs to be addressed was the use of tobacco by juveniles, in almost all areas of their abode. Although on the walls were posted warning signs announcing the prohibition of smoking, as the law requires, in reality in these sectors people were smoking everywhere.

Also, the implementation of the disciplinary policy towards juveniles requires firstly, the implementation of educational measures, as instructed by social issues sector in GDP in accordance with administrative guidelines of disciplinary policies for juveniles. This procedure was not implemented in all cases, mostly because of conceptual changes in the sectors of security and social care. AHC recommends ongoing training on this guide of staff working with juveniles in order to have the same understanding and correct implementation in practice from both civil and uniformed staff.

It is worth noting that juveniles in SIJ Kavaja did not benefit the time prescribed by law for airing⁴⁸. Furthermore, juveniles who remained in isolation rooms went out to fresh air only 30 minutes a day and were not included in any other activity throughout their time in solitary confinement. This situation, which is not in conformity with national and international standards of treatment of juveniles, constitutes a violation of their rights, and therefore we recommend that immediate measures be taken to restore this violated right. For all juveniles who stay in such institutions the same care must be provided, without discrimination, in terms of respecting the rights of everyone without discrimination.

- The treatment of women;

Women in prisons constitute a vulnerable group. AHC welcomes the decision taken by the GDP to group women in a single institution for pretrial detainees/convicted women and girls. Their treatment in a single institution will bring standardization of treatment and will enable more specific services for this vulnerable group.

From the observation at the Ali Demi prison in Tirana, it was found that female prisoners were treated in an open regime, which enables a variety of activities throughout the day. Other positive aspects, were also the functioning of vocational courses (hairdressing, tailoring, painting etc. and various jobs that were delivered in cooperation with foreign associations or foundations. Also the greenhouse of the institution was functional and therein were cultivated flowers and vegetables of the season. The library as well as the continued presence of psychosocial staff, addressed a considerable part of their needs for cultural engagement and psychological counseling.

⁴⁸ Article 28 of Law no. 8328, dated 16.04.1998 as amended, specifies that "...*The pretrial and convicted juveniles are entitled to airing no less than 3 hours a day, on top of the time dedicated to social and educational activities. The airing for this category is done separately from that of the adults*".

One problem identified in this institution is the high rate of the depreciation of the building, which was coupled by massive dampness in the rooms of convicts, as well as in toilets and shower stalls.

It is worth noting that AHC conducted a specific observation in Jordan Misja detention along with members of parliament, representatives of the Subcommittee on Human Rights in the Parliament in addition to its planned observation in this institution. In Jordan Misja detention, the pretrial women detainees were held in overcrowded and highly depreciated premises.

The awaiting of these women there, for the final form decision by the court, oftentimes proved to be lengthy. The time spent by women in custody ranged from 14 months to 2 years. The women interviewed complained about the quality of services by appointed lawyers as well as rare or nonexistent meetings with prosecutors in charge of their case.

When asked what they did from 8 in the morning until 16.00 which coincided with the schedule of activities, pretrial women detainees affirmed that besides airing and volleyball three times a week, they had nothing else to do but smash cockroaches in their cells and play cards with each other. The library was very poor. Not all woman had TV sets in their rooms and for those that did not have one, their family had to provide a new one for them, as pursuant to the directive of GDP, all pretrial detainees and prisoners must provide for themselves only new TV sets!!! This directive creates difficulties for many detainees and convicts with financial problems who cannot afford a new TV set. AHC during its observation introduced to authorities of GDP and Jordan Misja detention, a concrete recommendation in order for these situations to be avoided.

The health service in this institution was not satisfactory at all because the doctor did not make regular visits. There were many complaints about the specialized services such as gynecological ones. All the women interviewed who had been for a considerable period in Jordan Misja detention except for their initial gynecological visit, had not received other gynecological visits. There were complaints that they had waited a long time in PHC for surgery intervention by doctors of the civil hospital.

When asked concerning requests and complaints, the pretrial women stated they did not dare to complain because staff would write a service report against them for violation of some rule of the institution.

From the examination of psychosocial files, it was found that they were filled out formally and reviewed every 6 months. Besides that, the treatment objectives were not consulted with detainees. When detainees were asked on whether they were consulted at all in drafting their sentence plan, they stated that they did not even know what this plan was about. Failure to consult with detainees was evident by the fact that psychosocial files were completed only formally.

Some women were concerned about their children outside the institution. Among them there was the case of H.K. whose husband was also in prison and had no information about her children during 21 months she was in detention. Moreover she came from a family that was involved in a blood feud.

AHC acknowledges the positive fact that the law 40/2014 provides some specific provisions indicating a higher sensitivity in the treatment and rehabilitation of pretrial detainees and convicted women according to their specific needs that include specialized medical treatment, rehabilitation from trauma of domestic violence, treatment of mental disorders and psychosocial treatment in accordance with other specific needs of women. AHC encourages employees working with women in prisons/detentions, to be closely acquainted with these new provisions and legislative improvements in order to duly fulfill the requirements of the law in their daily practice. The preparation for their release is of special importance in the treatment of women and which should begin since the first day they are placed in detention and should be implemented in cooperation with other care structures at local and regional level.

3.11 Miscellaneous;

Collaboration between employees of different sectors of the penitentiary institutions, and cooperation among senior and middle level management and basic role staff, is key to a good functioning and governance of institutions. Overall, the staff of the monitored institutions affirmed that they had good cooperation between them. However, differences over how to implement security plans of the institution impeded the implementation of planned activities by social care sectors.

Retention and training of prison staff is another important component that directly affects the quality of services offered there. It is important that staff of these institutions be offered the possibility of professional growth through the promotion of work and continuous training in view of the general and specific needs of each institution.

IV. Recommendations for improving the observation of human rights in the penitentiary institutions

Through the implementation of imprisonment sentence, individuals lose their fundamental right to freedom of movement, however they are still entitled to their other rights and fundamental freedoms and ought to be treated with respect for their dignity as human beings.

AHC, based on the findings and conclusions of the monitoring of institutions of the Albanian prison system, as well as after an open discussion with the management

authorities of the prisons of the monitoring's draft report, presents hereby its recommendations.

Overcrowding

- Currently, overcrowding constitutes the most disturbing and urgent problem of the Albanian prison system, widely reflected in paragraph 3.1 of this report. All services provided by the prison system deteriorate under the influence of overcrowding. In order to reduce overcrowding, AHC recommends a large scale intervention, which would have to include various policy makers and law enforcement bodies. Concrete measures ought to be taken swiftly to improve the current almost alarming situation of the system. AHC is aware that the implementation of criminal policy is the competence of the judiciary, but we have come to know the world's best experiences, which indicate that a criminal policy aimed at reducing crime, is more effective if there is a better use of the preventive measures and the restorative justice and there is an expansion of the application of alternative sentences with imprisonment. In this regard, we are of the opinion that, in addition to other measures, judges and prosecutors in particular, ought to be informed and their awareness raised. Structures of the judiciary, the executive and the legislative power should cooperate to address such an aggravated situation, which has consequences to convicted nationals, prison staff and society as a whole.

Living conditions in institutions of the Albanian prison system

- AHC welcomes the measures taken during the end of 2014 by GDP for the accommodation of the pretrial juveniles and women detainees, respectively in SIJ Kavaja and in Ali Demi Prison, Tirana. Also, the transfer of detainees of Tropoja detention center in the new facilities of Tropoja institution, as well as taking measures to close soon Kukës detention center and to move to more suitable premises, are important steps to ensure appropriate treatment for detainees. These concrete steps have directly contributed in improvement of the treatment of detainees and special groups such as juveniles and women. Also, they have contributed to an increased cooperation between the prison system and police structures of Tirana for the transfer of those persons who are under court's indictment of the security measure "jail arrest".
- However, AHC has ascertained substantial issues pertaining living conditions in the observed institutions, presented in more details in section 3.2 of this report. As an important aspect of achieving the standards of treatment, AHC recommends that concrete measures should be taken to improve living conditions in the

institutions facing this issue. For this purpose, it is necessary to increase financial resources also for these institutions from the state budget.

- Also, the same importance should be given to properly maintenance of the interior of institutions, along its external side. It is necessary a heightening of the care for hygiene and cleanliness inside the regime and in the premises where sports activities and airing take place etc.
- Heads of institutions should constantly consider the type/quality of food provided to the prisoners, through periodic controls that ought to be made on the kitchens of their institutions. Also they should be mindful of the commercial units within their institution in terms of items they market and respective price per each item, in order to end potential abuse with the quality and prices of the sold goods.
- AHC stresses the need for immediate intervention to improve the situation of hygiene in the toilet and shower stalls. Lack of water or its supply on a schedule at several institutions specified in page 28 of this report, as well as the lack of cleaning and hygiene detergents further aggravates the situation encountered in some institutions. Along with the overcrowding situation, the cumulative effect which aggravates the situation, causes harmful consequences to the health of prisoners and moreover leads to degrading treatment of these citizens.
- AHC highlights once again the fundamental importance that prison's infrastructure takes in the implementation of the mission that the Albanian prison system has in itself. It is necessary that this current situation changes as soon as possible, bearing in mind that the right conditions in a substantial part of the penitentiary institutions, constitute a basis for inhumane treatment of prisoners.

Security and Safety

- AHC recommends that the high officials at GDP and local penal institutions should aim at creating a good and safe atmosphere where both detainees and convicted on one side and the staff on the other should coexist and cooperate in an environment where everyone feels safe. That serves as the basis of a good functioning of the institution and prevents aggravated situations and incidents. Good and professional communication among staff and prisoners and dynamic security, constitute the basis of a safe atmosphere in an institution.

The right to request and complaint

- Overall, AHC finds it positive the actual situation of the management of the request-complaints system. Once again we would like to bring to your attention

that all penal institutions should ensure the use of the administrative guidelines for the handling of requests and complaints of pretrial detainees and convicts.

The treatment of prisoners: rehabilitation and reintegration; individualization of the sentence plan; the daily program

- AHC welcomes the increasing sensitivity pertaining the variety of daily activities offered in detentions/prisons. With recent amendments to the law on the rights and treatment of persons sentenced to imprisonment and the pretrial detainees, AHC recommends that priority be given to the implementation of individualized treatment programs, which based on the monitoring work, was found to be still far from being implemented in practice. AHC calls for the attention of prisons authorities to the fact that prisoners cannot be left locked in their rooms for a long time. AHC also recommends that the activities in institutions do not end at 16.00, or even earlier than that as it was ascertained they do in many of the observed institutions. Each institution is encouraged to assess concrete opportunities and the specific needs of particular groups to extend and diversify even more and make more meaningful the daily program.
- AHC once again recommends the simplification of the psychosocial files and the introduction of some concrete tools of assessment of the welfare of people with mental health problems⁴⁹. In line with these recommendation, AHC also welcomes the GDP's efforts to introduce as part of the psychosocial files assessment instruments in accordance with the specifications of detainees and prisoners as well as the ongoing efforts to improve treatment and services that are of reintegration nature for the prisoners increase of the diversity of meaningful activities in the detention centers and prisons.

Health care

- Among the thorniest issues with regards to this service, is the issue of the supply in medicines to the penitentiary institutions. In all monitored institutions (except PHC and Zahari institution in Kruja) where noted shortages in medication. Therefore, AHC recommends a review of the manner of operation of this important service, in order that these basic legal rights of prisoners are guaranteed to them.
- AHC also recommends more motivating opportunities to encourage doctors to work in institutions where there is a need for increased medical staff. AHC also

⁴⁹ During the official communications with the GDP, were offered concrete and relevant recommendations and instruments.

recommends finding opportunities to provide institutions with the necessary tools for performing basic examinations, as well as ambulances.

- Given that under the prisons/detentions there are special care units in which get temporary treatment persons with moderate mental health problems, we recommend that the Ministry of Health provides continuous contribution conform legal provisions in institutions where there are people with mental health problems.
- It is recommended that in the special care units which are established during 2014 in some penal institutions, this good practice is to be consolidated through the increase of knowledge obtained during the ongoing training for mental health issues, the use of assessment instruments, individual sentence plans, as well as individual guiding plans for the persons treated in these units.

Disciplinary policies in detention institutions and prisons

- AHC reiterates the fact that disciplinary measures should not be used as a tool of intimidation or of power play by prison staff towards prisoners, but as a legal tool that is utilized according to the procedure based on the law. Equally important is the documentation that accompanies this procedure. AHC notes staff awareness of institutions about the proper application of the disciplinary policy.
- However, as regards this aspect, AHC strongly recommends that institutions show more caution towards hygiene conditions and equipment of these residential facilities, equipping them with all that is needed. Separation of these persons is in itself apart of the punitive sentence, therefore within the framework of the standards set by law, such environments must meet the legal requirements of space, light, necessary equipment, hygiene etc.
- AHC also recommends that care is shown towards persons in the solitary confinement by the medical and psychosocial staff, as the law requires, through daily meetings.
- AHC expresses its concern for the safety and security of the prisoners who, mostly for security reasons, and with their consent, were held in these rooms for a relatively long time. AHC recommends once again that on the part of the GDP and the monitored detentions/prisons, a better job be made by the uniformed staff and that of the psycho-social care toward these people, in order to avoid as much as possible their stay in the solitary confinement rooms.
- AHC stresses that towards the juveniles and persons with mental health problems the aforementioned means of discipline ought to be used as a last resort and only after all other means of counseling and pedagogical measures are exhausted to no avail. If these persons are placed in solitary confinement as a disciplinary

measure, prison's staff aim in this case should be the minimization of their stay in these rooms. There is already an administrative guideline that regulates the disciplinary proceedings for the juveniles and persons with mental health problems. That said, AHC recommends that the entire prison staff be acquainted and consistently trained on the correct application of these disciplinary policies.

- Also, AHC recommends that GDP examines the way that DAP officers perform their search, in the case of complaints by prisoners pertaining allegedly violence perpetrated against them during the search. AHC, through its official communiqués has expressed its concern raised by prisoners even earlier, and recommends that such acts come to end, and in case of verification of cases of violence, administrative measures be taken and/or criminal penalties are imposed against those responsible.

Rewarding and special leaves

- AHC has received complaints from prisoners regarding the procedures implemented by the wardens of prisons, with allegations of corruption from the part of the staff, or for procrastination of procedures and failure to reply from the part of the legal offices of penitentiary institutions. Therefore, we recommend that such claims will serve to raise the alertness of GDP and penitentiary institutions in regard to these claims, through effective and thorough verifications and by taking measures to prevent and bring before justice the persons who are proved to have committed the penal offense of corruption.
- AHC appreciates the fact that GDP instructs subordinate institutions to assess, on a case by case basis, the granting of rewarding leaves, underscoring that the rewarding leaves ought to be earned based on good behavior of the prisoners when the latter also meet the other obligations set in law. But, on the other hand, AHC recommends that the directive (see section 3.8 of the report) of GDP sent to all penal institutions should be reviewed from the perspective of not leaving any room for a priori decisions that excludes from obtaining the leaves, convicts who have committed certain offenses that are listed in this directive. AHC recommends that decisions be based on legal criteria, expertly applied without discrimination.
- As for the special permits, AHC's opinion is that the competence of assessment of family members health situation of prisoners, should remain the responsibility of the public health service doctors, who shall prepare the documentation based on direct examination of the patient. The medical staff of the prison is unable to perform this verification. AHC addressed the MoJ and GDP through official letters to review the aforementioned sublegal act issued by MoJ.

Employment

- AHC welcomes the recent initiatives of GDP in terms of creating real opportunities for employment of prisoners. However, in prison institutions there is currently only a small number of prisoners that are engaged in work activities compared to the total number of prisoners per institution.
- It is also observed that the old law is still in force, which stipulates the manner of remuneration of labor of the convicts, i.e. 3.9 days per month reduction of their sentence. AHC promotes the acceleration of the implementation of the legal obligations of wages for the work completed, according to standards set by law, and that diverse forms of employment for prisoners are found. AHC recently offered recommendation regarding the draft decision of the council of ministers for the employment and remuneration of convicts and hopes that our recommendations are taken into consideration by the MoJ and legislative authorities.

Treatment of prisoners with mental health problems

- AHC welcomes the steps taken by the GDP regarding the opening of special care units in five prisons, namely, the Lezha prison, Elbasan detention, Berat detention (the new institution), Durrës detention, Korça Prison, in Jordan Misja detention in Tirana and Peqin prison, as a pilot initiative. AHC encourages the GDP to continuously monitor and support the staff of these institutions in order to consolidate this new experience of the Albanian prisons. AHC, through its official communiqués with the GDP and detentions/prisons where these sectors are already open, offered some recommendation for taking organizational and substantive measures about differentiated treatment according to the needs of this category of prisoners.
- Also, pursuant to the efforts for strong cooperation and capacity building of Albanian prison system's staff, AHC is implementing trainings for the staff of detentions/prisons, to expertly support the multi-disciplinary teams for the task they ought to accomplish, through the use of helpful tools for an individual assessment of pretrial detainees/prisoners with mental health problems, as well as for the development of initial treatment plans and ongoing treatment guidance for these people. AHC recommends that these instruments become part of everyday work practice with these patients in prisons.
- Despite the good initiative, AHC recommends that special attention is given to these patients regarding the standards of their rooms, about the poor personal hygiene, personal bedding and surroundings. At the same time, health services provided should improve the quality of medicaments that they provide and the periodic medical visits with these patients.

- Another very concerning problem remains holding the people with injunction of the medical measure "compulsory medication" and "temporary hospitalization" in Kruja Prison and Prison Hospital Center, in flagrant violation of international laws and standards. It was found that in the span of about the 10 last years, the number of persons who have received the injunction of the medical measure "*forced medication in a medical institution*" has doubled. AHC has found that 148 people with medical measures, contrary to the law and their needs for treatment, are sent by prosecutors to spend their medical measure injunction, to the prison, where many of these persons remain unjustly for more than 10 years. This situation has seriously violated their rights because they have not received appropriate treatment, which has caused deterioration of their health condition, and they are deprived of their liberty beyond the measure set out in the law. The presence of this category of citizens in prisons is nothing but an illegal situation, which is contrary to the legislation governing the functioning of these institutions, and it has adverse effects in prison's artificial overcrowding and deterioration of the atmosphere in these institutions. Under these circumstances, the AHC is pursuing judicially some of such flagrant cases, seeking termination of the inhumane treatment of these persons held in prisons. It has also declared illegal the execution of injunctions from the prosecutors of concrete cases who place these people in prisons and at the same time also requested the civil compensation of such persons, as provided by law.
- In this situation, AHC does once again urge all relevant state institutions to find quick and effective solutions to undo the flagrant and ongoing violation of the rights of the disadvantaged groups of society. AHC recommends the operation of specific sectors of medical institutions (e.g. the ones at the psychiatric hospital), in conjunction with the MoJ structures for external security issues. This situation could solve the ongoing unlawful practice of holding these people in prison, until a permanent and sustainable solution is found.

Treatment of juveniles

- AHC welcomes the positive steps taken by the GDP for the transfer of detained juveniles detained in Jordan Misja detention in Tirana to SIJ Kavaja. It also welcomes the overall approach of institutions where there are juveniles, for an extra care towards them, whether as regards education and vocational training, or as regards the variety of activities offered to juveniles in prisons.
- However, based on the findings of monitoring, AHC recommends that more attention be given to the issues pertaining hygiene in some of the rooms/facilities where juveniles are held. In order to improve the situation, AHC recommends

that concrete goals are set in the individual sentence plan of each juvenile and then all sectors to work towards achieving these objectives. The achievement of these objectives would be bolstered by utilizing again the technique of social skills formats, a technique highly practical and useful that enables juveniles to gain some social skills for taking care of themselves and their coexistence with others in the community.

- Important for these age group of offenders, is the involvement of family members/relatives of the juveniles in the process of drafting individual sentence plans, and subsequently in the treatment of juveniles in institutions where they are held.
- AHC wishes to reiterate once again the importance of prohibition (non) use of tobacco by juveniles, in almost all areas of their residence. Although on the walls were posted warning signs announcing the prohibition of smoking, as the law requires, in reality in these sectors people were smoking everywhere. AHC recommends that the institutions that treat juveniles, take concrete steps/measures, to initiate and to finish implementing the law no. 76/2014 "On some amendments to Law no. 9636, dated 06.11.2006, "On protection of health from tobacco products", as amended.
- Also, the implementation of the disciplinary policy towards juveniles requires firstly, the implementation of educational/pedagogical measures, as instructed by social affairs sector in GDP in accordance with administrative guidelines of disciplinary policies for juveniles. AHC recommends ongoing training of the staff working with juveniles with this guideline, in order for it to have a common understanding and correct implementation in practice of it by all uniformed and civil staff.
- It is evident that through an order of the GDP, which limited the time for completion of activities during the afternoon, the juveniles did not benefit the time prescribed by law for airing. For this reason, AHC recommends immediate measures to be taken in order to restore the violated right.
- For all juveniles who stay in such institutions must be provided the same care without discrimination, in terms of respecting the rights of everyone equally.

Treatment of women

- AHC welcomes the decision taken by the GDP for grouping in a single institution all women and girls in pretrial detention/convicted. Their treatment in one single institution will bring standardization of treatment and will enable more specific services for this vulnerable group. AHC also encourages GDP to take concrete steps towards the construction of a new institution which will accommodate

women detainees/prisoners, since Ali Demi prison has a very outdated one and full of various problems that negatively affect living conditions for imprisoned women.

- AHC recommends the revising of GDP's instruction to allow in the institution only new TV sets, purchased by the families of prisoners. This instruction, considering the general economic level of prisoner's family, may cause economic difficulties in the families wishing to make the purchase. Moreover, this fact leads to the violation of equal access to information by creating unequal premises based on different economic conditions that women and prisoners in general have in this regard.
- AHC encourages employees working with women in prisons/detention to get closely acquainted with the new legal provisions, to better comply with the law regarding the specifics of the treatment of women. Individual sentence plans should be drafted in consultation with women prisoners and should reflect concrete/specific steps of the work made towards achieving the objectives envisaged therein. Also, programs focused on their preparation for release, should commence with the first day when they are placed in detention and should be implemented in cooperation with other social care and employment services at local and regional level.
- The duration of the time that women spend awaiting a final decision rendered by the court, in many cases was long. Their time of stay in detention ranged from 14 months to 2 years. Also, AHC received complaints about low professionalism of assigned lawyers, as well as scarce or inexistent meetings with the prosecution of their criminal case. AHC recommends the heads of judicial authorities to undertake periodic inspections/checks regarding the above issues in order to ensure full procedural rights that women in the criminal proceedings are entitled to.

Miscellaneous

- AHC, lastly reiterates once again the importance of cross-sector cooperation in prisons. The cooperative spirit between prisons and that between prisons and GDP, is key to the establishment of a good working climate and professional development opportunities of prison workers. In addition, retention and training of prison staff is another important component that helps them in meeting with quality and professionalism their functional duties.

APPENDIXES

Appendix Letters to the state authorities.

- Letter Nr. Prot 121, dated 05.06.2014 directed to Mr. Artan Didi, Director General of State Police, for police trainings, organized by the Albanian Helsinki Committee.
- Letter Nr. Prot 181, dated 26.06.2014 directed Mr. Artan Didi, Director General of State Police, walks on training structures State Police regarding the understanding and prevention of torture, inhuman and degrading treatment.
- Letter Nr. Prot 182, dated 26.06.2014 directed Mr. Saimir Tahiri, Minister of Internal Affairs, on the training of State Police structures regarding the understanding and prevention of torture, inhuman and degrading treatment.
- Letter Nr. Prot 121, dated 08.07.2014 directed to Mr. Artan Didi, Director General of State Police, on police training organized by the Albanian Helsinki Committee.
- Letter Nr. Prot 210, dated 08.07.2014 directed to Mr. Artur Zoto, Director General of Prisons, connected with the observation in Criminal Operations institutions in Peqin and Lezha.
- Letter Nr. Prot 211, dated 08.07.2014 directed Mr. Kanto Ndoj, Director of Lezha Prison Institution regarding the observation made in the monitoring missions in this institution.
- Letter Nr. Prot 212, date 8.07.2014 sent to Mr. Fatos Veliu, with regard to monitoring missions' remarks in this institution.
- Letter dated 31/07/2014 Nr. Prot 253 addressed to Mr. Nasip Naço, Ministry of Justice, regarding the barriers on the transferring procedures, within the legal limits of the people arrested, to the respective penitentiary.
- Letter Nr. Prot 335 dated 10.9.2014 addressed to Mr. Alfred Cepo, Chief of the Police Station in Gjirokastra, related to the observation in the Police Station in Gjirokastra.
- Letter Nr. Prot 336 dated 10.9.2014 addressed to Mr. Agim Basha, Chief of the Police Station in Vlora, regarding the observation in Vlora Police Station.
- Letter Nr. Prot 337, dated 10.09.2014 directed Mr. Artan Didi, Director General of State Police, regarding the observation in the Police Station No. 5 in Tirana and in Tropoja police station.
- Letter Nr. Prot 338, dated 10.09.2014, addressed Mr. Preng Laska, chief of Police Station in Tropoja, regarding the observation in Tropoja Police Station.
- Letter Nr. Prot 339, dated 10.09.2014, addressed to Mr. Fatmir Lleshaj, chief of Police Station No. 5 in Tirana, regarding the observation to the Police Station No. 5 in Tirana.
- Letter Nr. Prot 340, dated 10.09.2014 directed Mr. Artan Didi, Director General of State Police, regarding the observation in Saranda Police Station.
- Letter Nr. Prot 341, dated 10.09.2014, addressed to Mr. Arianit Arapi, Chief of Police Station in Saranda, regarding the observation in Saranda Police Station.

- Letter Nr. Prot 386, dated 12.21.2014, addressed to Mr. Nasip Naco, Minister of Justice, regarding some aspects observed during monitoring mission carried out in the penitentiary institutions.
- Letter Nr. Prot 379, dated 11.12.2014, addressed to Mr. Avni Sulaj, Director of Tepelena Prison, on certain aspects observed during the survey conducted in Prison.
- Letter Nr. Prot 378, dated 11.12.2014, addressed to Mr. Perparim Daiu, Director of IVM Kavaja, regarding some aspects observed during the monitoring mission carried out in IVM Kavaja.
- Letter Nr. Prot 376, dated 11.11.2014, addressed to Mr. Arthur Zoto, Director General of Prisons, regarding some aspects observed during surveys carried out in Tepelena Prison and IVM Kavaja.
- Letter, Nr. Prot 419, dated 05.12.2014, addressed Mr. Xhezair Zaganjori, Chairman of the Supreme Court, concerning the situation of overcrowding in detention institutions, and police stations.
- Letter, Nr. Prot 418, dated 05.12.2014, addressed Mr. Adriatik Lala, General Prosecutor, on the situation of overcrowding in detention institutions and police.
- Letter, Nr. Prot 417, dated 05.12.2014, addressed Mr. Nasip Naco, Minister of Justice, concerning the situation of overcrowding in detention institutions and police.
- Letter, Nr. Prot 416, dated 05.12.2014, addressed Mr. Edi Rama, Prime Minister, on the situation of overcrowding in detention institutions and police.
- Letter, Nr. Prot 415, dated 05.12.2014, addressed Mr. Bujar Nishani, President of the Republic of Albania, on the situation of overcrowding in detention institutions and police.
- Letter, Nr. Prot 414, dated 12.02.2014, addressed Mr. Artan Didi, Director General of State Police regarding the monitoring mission to the Police Station Berat and Lushnje.
- Letter, Nr. Prot 413, dated 12.04.2014, addressed Mr. Artur Zoto, Director General of Prisons, regarding some aspects observed during the monitoring missions carried out in Berat Prison.
- Letter, Nr. Prot 387, dated 21.12.2014, addressed Mr. Artur Zoto, Director General of Prisons, regarding some aspects observed during monitoring missions carried out in penitentiary institutions.