

## REPORT ON THE SITUATION OF HUMAN RIGHTS IN THE PRE-TRIAL DETENTION SITES DURING THE PERIOD NOVEMBER 2007 - MARCH 2008

### Introduction

1. Albanian Helsinki Committee (AHC), the first human rights organization founded in the year 1990 has as its own mission the protection, education and awareness raising of the public opinion for a better observance of the citizen rights. The monitoring of the observance of arrestee, detainee and sentenced people rights is one of the main AHC monitoring areas.
2. During the period November 2007-March 2008, AHC conducted monitoring missions in pre-trial detention institutions as well as in penitentiary institutions that at the time of the monitoring had pre-trial detention sections within their structures. AHC monitored the following pre-trial detention institutions: Jordan Misja in Tirana, Mine Peza in Tirana, Karce, Kukës, Tropojë, Durrës, Berat, penitentiary institutions in Lezhë, Vaqarr, Rogozhinë, Peqin, Krujë, Ali Demi in Tirana and the Prison Hospital in Tirana.
3. The purpose of these monitoring missions was to evaluate the situation of the detainee rights in general and that of women and juveniles under arrest in particular.
4. During this monitoring mission, AHC observers paid due regard to the standards, rights and regulations determined by the Albanian legislation, namely the Constitution of the Republic of Albania, the Code of Criminal Procedure, the Law no. 8328, dated 16.04.1988, "On the Rights and Treatment of Prisoners", the Law no. 8331, dated 21.4.1998 "On Enforcement of Criminal Decisions", The Regulation "On Prison Police", The Pre-trial Detention Regulation of year 2006. This monitoring took into consideration the recommendations for Albania made by the Committee for the Prevention of Torture (CPT), as well as recommendations of the Ombudsman and AHC.
5. In the course of this monitoring, direct meetings were held with detainees, managers of the pre-trial detention institutions, specialists and heads of the sections of security and safety, social care and legal services, as well as health and personnel. Experienced AHC observers, lawyers and doctors by profession, conducted these monitoring missions.
6. This report presents the most general problems identified in the institutions monitored. During monitoring, AHC observers were able to meet and speak freely with detainees.
7. AHC apprises the transfer of pre-trial detention sites under the authority of the Ministry of Justice. This transfer of authority however, was characterized by several difficulties:

poor infrastructure inherited from Police Commissariats, substantial shortcomings in technical equipment and human resources.

8. Considering the impact that infrastructure and physical conditions in pre-trial detention institutions have on the respect for human rights and delivery of services to them, AHC observed living conditions in pre-trial detention institutions monitored. Physical conditions in pre-trial detention rooms inside Police Commissariats facilities were poor, especially in the pre-trial detention institutions of: Korça, Vlorë, Kukës, and Tropojë. Pre-trial detention rooms in some cases were in the underground levels (such as in Korça). Furniture to be used by detainees such as beds, mattresses, blankets, linens, etc., either did not exist or was worn-out.
9. Most of these institutions and pre-trial detention sectors had no separate area for juvenile offenders. Personnel members of these institutions, however, said there were one or two special rooms within the adult sector, considered as dedicated areas for juvenile offenders, an arrangement which allowed for contact between adult and juvenile offenders. The only institutions with separate juvenile sectors were the pre-trial detention institution Jordan Misja, Tiranë and in Durrës, as well as the penitentiary institution in Lezhë.
10. The facilities for the accommodation of the juveniles in the pre-trial detention site "Jordan Misja" were under reconstruction in the context of a project funded by UNICEF, Albania. This facility will provide the juveniles not only with better physical conditions, but also with opportunities to organize different professional courses that are directly related to their treatment.
11. Physical conditions and infrastructure in the pre-trial detention institutions of Jordan Misja and Mine Peza in Tirana as well in the pre-trial detention section inside the penitentiary institutions were more acceptable. Pre-trial detention sites in Kruja, Durrës and Berat had undergone infrastructure improvements. AHC correspondents learned from interviews with convicted juvenile offenders held at the penitentiary institution of Vaqar, that living conditions in their detention rooms were generally acceptable. They voice no specific complaint, except for the lack of a heating system necessary for in wintertime.
12. Overcrowding was a distressing problem for almost every pre-trial detention site and penitentiary institutions monitored by AHC. Female detainees held at the pre-trial detention institution of Jordan Misja, in Tirana, and female detainees held at the penitentiary institution of Ali Demi in Tirana, had to cope with extreme overcrowding which causes serious issues regarding their treatment and respect for their rights. Responding to this situation, on 22<sup>nd</sup> of January 2008, AHC issued a press release denouncing poor hygiene and sanitary conditions in the penitentiary institution of Ali Demi in Tirana and the issue of overcrowding.
13. Monitoring showed that detainees and convicted juvenile offenders did receive special treatment with respect to airing time. In almost every pre-trial detention and penitentiary institution, juvenile offenders spent their airing time in separate areas, different from those used by adults, or in different hours. In general, juvenile offenders were allowed

longer airing time than adults. In many institutions, however, the way this activity was conducted depended on the available area and on the actual physical conditions of each facility. There were institutions, such as that of Vaqarr, where there existed a possibility of contact between juvenile and adult offenders.

14. Female detainees and female prisoners held at the pre-trial detention institution Jordan Misja in Tirana and in the penitentiary institution of Ali Demi in Tirana were allowed longer airing time.
15. AHC monitored the application of food standard for detainees and prisoners. All pre-trial detention and penitentiary institutions monitored by AHC, with the exception of the one in Berat, were already using the latest food norm. AHC observers noticed a tendency among detainees and prisoners to not consume meals served by the institution. The reason for this is the existing mentality and attitude regarding food quality, food preparation and how it is served. Several detainees at the pre-trial detention areas in Lezha complained about the quality of food, which according to them, failed to meet legal standards. This was the reason why in most of the cases they had no choice other than to leave these meals unconsumed and eat food brought to them by their families. Asked about the same issue, detainees in Tropoja responded by saying they shared the same concern about the quality of food. These institutions do not have full time medical personnel within their structures and therefore are unable to check meals prior to being served.
16. Monitoring found poor hygiene and sanitation conditions in the pretrial detention institutions in Kukës, Tropoja, Korça. Lack of utilities (electricity and water), and outworn and obsolete buildings lead to the violation of this right. The juvenile section in the pretrial detention institution Jordan Misja in Tirana lacked considerably as far as hygiene is concerned. Juvenile offenders interviewed by AHC observers said this situation was a result of negligence on the part of personnel of the institution. The pre-trial detention institution in Korça, having only one shower available, obviously lacked adequate conditions to maintain personal hygiene. Detainees had to use buckets of water to wash themselves and could not shower after morning sports activities. AHC observers noted an improvement in the hygiene and sanitation facilities at the pretrial detention institutions in Berat and Durrës.  
Although, in our country female prisoners have a dedicated penitentiary institution (the penitentiary institution of Ali Demi), yet the situation of hygiene and latrine facilities is very poor. This institution has an insufficient number of latrine facilities and showerheads. Thus, on the 22<sup>nd</sup> of January 2008 reacted by issuing a public statement requesting that this problem be addressed with due seriousness and calling for necessary measures to improve the situation.
17. The quality of health services varied between different institutions. AHC observers noted an improvement in the quality of health services delivered at the pretrial detention institution in Durrës and Berat; these institutions now have a full or part-time medic, a medical prescription register book and personal medical files and records for each detainee according to the format approved by the Ministry of Justice. Personal medical records were kept for juvenile offenders held in the detention rooms in Berat and Durrës

as well. The pretrial detention institutions of Tropoja and Kukës did not have medical personnel to provide in-house medical or dental services. Such institutions neither had a stock of medical drugs. In case of a health problem, the detainee would be transported to the civil hospital. Related to the identified problems, AHC on November 17 2007 reacted by means of a public release about the lack of health service in the pre-trial detention institution of Vlora as well as about the bad hygienic-sanitary conditions. Several institutions were short of a number of medicinal drugs at the time of monitoring. The majority of detainees and prisoners would pay out of their own pocket for medicine, although the medic of the institution would administer such drugs afterwards. Interviewed detainees complained about the quality of health services and inefficiency of drugs administered to them. The pre-trial institution of Jordan Misja in Tirana for female detainees and the penitentiary institution of Ali Demi in Tirana for female prisoners, have as part of their permanent personnel a general practitioner and four nurses, but lack a psychiatrist (although there were mentally disordered detainees or prisoners in the population of these institutions) and a gynecologists.

18. Specialized medical personnel at the penitentiary institution of Kruja provided 24 (twenty-four) hour health care services. Here, aside pathologist there was also a full time physiatrist. An examination of the Medicinal Supply Book showed that the institution had a sufficient quantity of drugs. At the time of monitoring, the institution had the necessary supply of medicinal drugs.
19. Many pre-trial detention sites did not provide dental services and lacked the necessary dental equipment or medicine. Being unable to provide in-house dental services, prison personnel was obliged to resort to private clinics, with detainees covering for cost of services they would receive. Juvenile institutions such as: that of Vaqarr, Karce, and the institution of Jordan Misja in Tirana that of Berat and Durrës, did not provide dental services. Even in institutions where such services were available, as in the case of the institution in Vaqarr, service quality was very poor. Detainees interviewed claimed that even when the institution was able to offer them dental services, this often meant waiting in line for days in a row.
20. Police officers failing to read detainees or arrestees the rights at the moment of detention or arrest, continues to remain a problem. A great number of detainees interviewed by AHC observers, among them juvenile offenders from the pretrial detention sites in Berat, Durrës and Lezha, etc., claimed that police officers failed reading them their rights at the moment of arrest. Their right to an Attorney was not observed although they had asked for one. Dragging out legal proceedings without an objective and valid explanation remains an issue causing considerable economic damage to detainees. AHC observers identified two similar cases in the pre-trial detention section at the penitentiary institution of Rrogozhina: that of a 15 year old juvenile charged with "Illegal possession of a fire arm", who had already been kept in custody for 4 months under the constraint measure of "Imprisonment pending trial", while his case was still being investigated; two juvenile offenders charged with theft for stealing few litters of fuel, were held in custody under the constraint measure of "Imprisonment Pending trial".

21. **The right to information and practice one's religion and recreational activities** is generally respected in the institutions monitored by AHC. Monitoring showed that detainees and prisoners were allowed to exercise their access to information by providing access to the visual and print media, to the library of the institution and mail correspondence. In fact, there is a double standard in respecting this right. Pre-trial detention institutions recently transferred under the authority of the Ministry of Justice are still lacking with respect to recreational and entertainment activities, partly due to the poor condition in which they were found after the transfer of authority. The pre-trial detention institution in Durrës is an exception to this situation. Here, juveniles were provided with the possibility to participate in various recreational activities. On the contrary, there were no libraries in the remand institution in Tropoja, Kukës, Berat and that in Korçës. Detainees had no TV sets in their rooms and were not provided with the possibility to conduct recreational activities. Monitoring showed that pre-trial detainees and prisoners were allowed to practice their religion although the issue of overcrowding and poor physical infrastructure in some of them, such as in the pretrial detention institutions of Korça, Berat, Vaqarr, Kukës and Tropoja, did not allow for the establishment of worship settings where detainees could practice their religion.
22. Monitoring conducted by AHC showed that the majority of institutions monitored did not offer education or vocational programs for development. General and special training programs offered to juveniles were poor, unproductive and short-termed. Penitentiary institutions in Lezha and Vaqarr as well as the pre-trial detention institution in Durrës did conduct certain educational activities, which was not the case for the rest of the monitored institutions. Personnel of these institutions voiced the same concern. They were unable to implement such programs either due to lack of funds or lack of adequate facilities. As far as psycho-social assistance to juvenile and women offenders is concerned, it would be worthwhile mentioning the assistance provided by non-governmental organizations operating inside such institutions as: the pre-trial detention institution Jordan Misja in Tirana, juvenile and women section; the penitentiary institution in Vaqar, juvenile section; penitentiary institution Ali Demi in Tirana, female and male prisoner section.
23. Part of the education section staff has been trained in relation to the juvenile and women treatment from AHC in the context of the project supported by UNICEF. They have been equipped with a special training module for the treatment of the juveniles and women in remand institutions and execution of criminal offences institutions.
24. Monitoring conducted by AHC in pre-trial detention institutions recently transferred under the authority of the Ministry of Justice, showed that efforts made to improve the education level of detainees were insignificant and unproductive. For the most part, institutions did not offer any education program and psycho-social assistance to detainees. The pre-trial detention institution of Berat had no personnel assigned in its social care services sector.
25. Use of violence was another area of focus for AHC observers during their monitoring. Findings showed that in general there were no arbitrary cases of violence used by personnel members against juvenile offenders. AHC observers did hear sporadic

allegations from juvenile offenders claiming personnel members at the pre-trial detention institution of Jordan Misja in Tirana had used violence against them. There was also a juvenile offender at the penitentiary institution of Vaqarr who claimed that during his time at Jordan Misja pre-trial detention institution in Tirana, personnel had used violence against him. This was a difficult claim to validate. The majority of interviewed detainees held at the penitentiary institution in Rrogozhina, Lezha, Berat and Korça claimed to have been ill-treated at the moment of their arrest or during the interrogation.

26. Monitoring conducted by AHC during the period of November 2007 - March 2008 at the penitentiary and pre-trial detention institutions, showed that family visits were being held in conformity with the legal requirements and regulations of the pre-trial detention institution. Detainees were allowed one family visit a week and upon a written request addressed to the head of the institution, they could be granted additional visits on special occasions. Duration of family visits remained a concern. According to the interviewees this duration was quite short. Institutions did not have special facilities where juvenile offenders could meet with their family members. Except for the pre-trial detention institution Jordan Misja in Tirana, where a special visitation area to be used for juvenile offenders is under construction, the rest of institutions monitored had not foreseen the construction of any special visitation area where juvenile offenders could receive family visits. Another problem raised by detainees interviewed was the arrangement inside these visitation areas and the conditions under which they had to meet their family members. Furniture arrangements in these areas did not allow for physical contact with family members and violated their right to privacy. The same problem was raised by detainees held at the pre-trial detention institution of Jordan Misja in Tirana and that in Korça when interviewed.
  
27. Tremendous delays in the investigation of cases and judicial proceedings were yet another distressing problem voiced by detainees in almost every institution monitored by AHC. Many detainees complained about the quality of defense. Some claimed their attorney had not been present while they were being taken into custody and arrested and also during the interrogation session. If such claims are sustained, everything would amount to a serious violation of their rights and invalidation of the procedures followed during the investigation stage. Furthermore, we would like to mention here the frequent use of detention as punishment against juvenile offenders. Such a measure is imposed without any differentiation as to the category of juvenile offenders and any consideration of their special status, or the fact that sometimes the criminal offence committed by such juvenile offender does not pose a high risk to the society. From our communication with juvenile detainees at the penitentiary institution of Lezha, we found that sometimes juvenile offenders were held for up to a year in detention waiting for the conclusion of the judicial proceedings on their case. Such claims were brought forth by two other juvenile detainees in Berat, who for the purposes of this report will be identified with their name initials P. G. and V. M.. Both of them had already been waiting respectively for three months and a half and four months to appear before the court and had yet to do so. Similar claims were brought forth by other juvenile offenders held at the penitentiary institution in Rrogozhina.

## **Some suggestions as how to improve the observance of human rights at pre-trial detention sites**

1. AHC recommends taking actions for the improvement of the infrastructure of the remand rooms that are located in the police station facilities. Despite the fact that possibility of the transfer of the pre-trial detention rooms from the police station to some other facilities has been planned, it is necessary to take measures in keeping the people in appropriate hygienic-sanitary conditions and the facilities should be equipped with necessary living means.
2. It is necessary to create spaces in the pre-trial detention sites for the accommodation of the juveniles which should be equipped with necessary equipments
3. In order to ease the overpopulation problem in the pre-trial detention sites, it is necessary the best coordination of the work of the General Directorate of Prisons with the Prosecutor's Office aiming at reducing the timing of the preliminary investigations. Furthermore, it is recommended that the General Directorate of Prisons, based on the periodic assessments of the existing capacities in the institutions should take necessary measures for the alleviation of overpopulation and the transfer of the persons to the relevant institutions.
4. Regarding airing period, in the institutions where there are juveniles, and especially in the institution of Lezha and of Vaqarr it is advisable to organize the airing period at different timings from the airing period for the adults.
5. AHC assesses the implementation of the new food norms in the pre-trial detention institutions and prisons, but it recommends that the General Directorate of Prisons should time and again organize inspections to see if these norms are implemented in practice.
6. The heads of the police and prosecutor's office should take measures in order that their officials observe the obligation on informing about the rights of a person at the moment of arrest or detention.
7. Assessing the importance of social programs in the social rehabilitation of the convicts in general and of juveniles specifically, it is recommendable that the institutions should increase cooperation with the actors of the civil society and other institutions out of prison's reach in order to organize socio-cultural, educating activities etc.
8. Physical and psychological violence should be prevented. Alongside the increase of the efficiency of the inspections and the punishment of the ill-treatment cases, it is recommendable organizing daily schedules in order to reduce stress and situations that can lead to tension and violation of order. Also, in the cases of admission of persons in the institution, it is compulsory making a verification of the physical situation of the person and identifying the cases when the person has signs of use of violence or when there are claims for the use of violence.

9. It is recommendable that the heads of the institutions should assess the meeting area of the pre-trial detainees with the family members especially as regards meetings with the children or when the pre-trial detainee is a juvenile and should take measures for their adaptation to the standards defined in the Albanian law and international acts.
10. AHC demands that the legal and psychological defense of the juveniles should be effective, to the benefit of their non-formal well-being. The National Bar Chamber should consider the possibility of training the defense lawyers for juveniles and to select from the ex-officio lawyers list the experienced lawyers and those having the psychological capacities for the treatment of juveniles.
11. Related to the investigation and judgment of the juveniles it is necessary to change the practice used so far. Remand in custody should be the last resort to be used in rare cases and the preliminary investigations deadline should not be at the maximum extremes prescribed in the law.
12. It is recommendable to use direct and short judgments for the juveniles and that sentencing should be a sanction when the dangerousness of the offender and of the criminal offence is very severe.
13. The internal and out-of-institution monitoring mechanisms play a significant role in identifying the cases when the treatment of the juveniles is not in compliance with the principle "at the best interest of the child". The need of the implementation of the non-penal measures and of the alternative sanctions is a must.
14. As regards women pre-trial detainees, it is recommendable that their treatment should be made according to the standards defined in the European Prison Rules, by providing them with the necessary hygienic-sanitary conditions, the furniture for their treatment in conformity with their needs.