



REPORT

*ON THE SITUATION OF HUMAN RIGHTS
AT POLICE DIRECTORATES AND COMMISSARIATS,
AND PRE-TRIAL FACILITIES AND INSTITUTIONS
FOR THE ENFORCEMENT OF CRIMINAL SENTENCES*

DURING THE PERIOD OF MAY - NOVEMBER 2012



ALBANIAN HELSINKI COMMITTEE
KOMITETI SHQIPTAR I HELSINKIT



CIVIL
RIGHTS
DEFENDERS

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**KOMITETI SHQIPTAR I
HELSINKIT**



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FIRST PART

SITUATION IN THE PRE-TRIAL DETENTION AND INSTITUTIONS FOR THE ENFORCEMENT OF CRIMINAL SENTENCES

INTRODUCTION

The Albanian Helsinki Committee (AHC), the first human rights organization in Albania, established in 1990, has for its mission to protect, educate and raise the awareness of the public and governmental bodies, for a better observation of citizens' rights. The monitoring of observation of the rights of persons held in institutions of deprivation of liberty, has long drawn the special attention of AHC.

For years, AHC monitors the situation of observation of human rights in institutions of deprivation of liberty, among which, the police directories and comisariats in the country. Public safety is essential to the well functioning of society, but on the other hand, police structures, should exercise their functions in full respect of the rights of persons deprived of liberty. Given this double mission of the State Police, AHC evidences in this report, the need for continued vigilance in respect of the rights of persons faced with the state police.

AHC wishes to emphasize that, according to its ascertainties, the period following immediately the detention/arrest/accompaniment, represents the potential risk for the exercising of psychological pressure and/or physical and verbal mistreatment. Therefore, respect for human rights and the treatment of persons deprived of liberty in compliance to the law on the part of the state police, is a guarantee against any possible form of abuse.

As closed institutions, the penitentiary institutions which accommodate detainees and the relatively long sentenced convicts, are also under the observational focus of AHC. Good quality of life in a penitentiary institution, depends largely on good relationships established between staff and persons deprived of their liberty, with humane and dignifying treatment that should be guaranteed to the persons deprived of their liberty which depends on the implementation of a meaningful program and diversified activities, as well as from the general physical conditions of life in the institution. In this sense, the safe environment created by the spirit of open communication between staff and persons deprived of their

liberty, is of crucial importance to guarantee the physical and dynamic security of persons deprived of their liberty.

The publication of this report was preceded by a formal dialogue process with monitored institutions through mail correspondence, as well as through a round table discussion on its preliminary findings. The high authorities present at the activity, assessed objectively the report's findings and pledged to take appropriate measures to improve the situation, and presented their objections about particular aspects of the report. AHC has taken into consideration the suggestions of the relevant authorities of state police and detention/prison structures, presented in this table.

METHODOLOGY

This report summarizes the findings and recommendations of the monitoring missions of about 50% of the total number of penal institutions, as follows: pre detention centers and prisons of "Jordan Misja", "Mine Peza", Vaqarr, "Ali Demi" in Tirana, Korça, Lezha, Fushë-Krujë, Krujë, Peqin, Tepelenë, Durrës, Vlorë and the Prison Hospital Center (PHC) in Tirana. Observations were conducted during the months from May to November 2012. Observations in the penitentiary institutions 'Jordan Misja', 'Mine Peza', in PHC and the Durrës, were conducted in collaboration with the Committee for the Prevention of Torture, under the Ombudsman.

Monitoring aimed to observe the general living conditions and treatment of persons deprived of their liberty in the aforementioned institutions, focusing mostly in the treatment of the vulnerable groups.

During observations, an eye was kept in the standards, the rights and regulations stipulated in the Albanian legislation, specifically in the Constitution of the Republic of Albania; Code of Criminal Procedure; Law no. 9331, dated 04.21.1998, as amended by Law no. 10024 dated 11.27.2009, 'On the Execution of Penal Decisions'; Law no. 9888, dated 03.10.2008, 'On Amendments and Additions to the Law no. 8328, dated 04. 16.1998, 'On the Rights and Treatment of Convicted Prisoners', as amended, and the General Regulation of Prisons. An eye was kept also on the CPT's recommendations of the EC for Albania, as well as the recommendations of the Ombudsman and the AHC.

AHC, aware of the high degree of difficulty and the special nature of the monitoring in penitentiary institutions, has trained in advance the observers who participated in monitoring missions. These observers constitute a group of experienced specialists, in the field of medicine, jurisprudence and social sciences. Groups composed of at least two observers, participated in conducting the observations.

During the monitoring process, interviews were taken of detainees/prisoners. In each of the above mentioned institutions, interviews were taken with a number of persons deprived of their liberty, to that extend as to generate relevant findings on the situation of human rights in the prison system.¹ In addition to these interviews, observers interviewed about five employees from each institution, including governors, heads of units and basic role staff. Interviews were conducted based on the questionnaires that were prepared in advance for these observation missions.

In general, during the observations, difficulties are encountered pertaining the reliability of information obtained in the course of observations. Often, different information sources present different approaches to the situation of human rights and their observance. To overcome this obstacle, efforts were made to cross-check the information received, as well as confronting it with the documents held by the relevant institutions, and by contrasting it against the actual field observations. The objective approach to the performing of observations, has been the guiding principle of each observer involved, resulting in presentation of a balanced situation and in verification in the spot of the information received. In cases when AHC was unable of verification, it has filed claims which can be further examined on case by case basis by the relevant prisons authorities.

Despite that AHC was well-known among almost all respondents deprived of their liberty and staff of penal institutions, observers in all cases did set forth the purpose of these monitoring and have ensured the confidentiality of the personal information of the persons interviewed as provided by the law on personal information.

AHC is indebted to the authorities of the monitored institutions, for facilitating the progress of monitoring in penal institutions. The cooperation with the administration of the monitored institutions was

¹ In institutions of detained juvenile and women, interviews were made with all juveniles, as well as with more than half of the total population of women deprived of their liberty.

good, guided by a mutual understanding to carry out observations in a safe climate and with appropriate confidentiality.

- **Overview of the situation of observation of human rights in penitentiary institutions, of persons deprived of their liberty**

Proper life quality in a penitentiary institution, depends largely on good relationships, established between staff and persons deprived of their liberty, through humane and dignifying treatment that should be guaranteed to the persons deprived of their liberty, which depends on the implementation of a meaningful program and diversified activities, as well as the general physical conditions of life in the institution. In this sense, the safe environment created by the spirit of open communication between staff and persons deprived of their liberty, is of crucial importance in order to ensure the physical and dynamic safety of persons deprived of their liberty.

The field observations indicate that in general, the monitored institutions provide security, which leans more towards the physical, rather than dynamic safety. However, there are also good practices in this regard. It is worth mentioning the good atmosphere that exists between staff and persons deprived of liberty in convicted women and men's units in "Ali Demi" institution in Tirana, although the institution's physical conditions are not optimal. Also, during the observations, there were not ascertained incidents or other serious violations of order that could breach the general security of the institutions, nor suicidal or self-mutilation attempts from the persons deprived of their liberty.

During the monitoring process, it was observed that, in general, the heads of the institutions take care of the cooperation between the sectors. This creates good opportunities for the work of staff in penal institutions. Working towards the same purposes, but from different angles in compliance with the preset duties and functions, civil and uniformed staff

has appreciated the good cooperation that exists between them. Despite improvements in this regard, taking into account the importance of cooperation between different sectors as key to the success of prison work, AHC encourages the governing structures of the penal institutions and of the General Directorate of Prisons (GDP), to continue to give special attention to the strengthening of cooperation between civil and uniformed staff.

By comparing findings with previous observations of AHC in penal institutions, it should be highlighted as a positive development that there is a higher awareness and sensitivity from the part of the staff in terms of respect of human rights of persons deprived of their liberty and therefore for also ensuring their proper treatment in these institutions. This serves as the basis for creating a safe climate in these institutions. In later parts of this report, we will focus on the positive and negative aspects observed in the local institutions focusing on specific groups such as minors, women, persons with mental disorders, etc.

Generally, in the recent years the trend has been the reduction of overpopulation in the prison system in the country, which has come as a result of several factors, and pursued policies such as the implementation of alternative decisions of prison sentences, the opening of the new penal institutions, the application of amnesties, etc. According to official data provided by the Ministry of Justice on December 10, 2012, the current overpopulation in penal institutions is a total of 40 people over the allowed capacity.² However, overpopulation in detention sectors in some of the monitored institutions³ seemed to be an issue and already a serious problem⁴. In all the surveyed institutions where this problem was found, the interviewed pre-trial detainees also raised this very concern. This

² According to the speech of the Minister of Justice in the event organized by the GDP "beyond repentance", December 10, 2012.

³ In the IEPD Lezha, IEPD Tepelena, IEPD Peqin, IEPD Fushë Kruja.

⁴ IEPD Tepelena presented a very problematic situation of overpopulation in the detention sector, where almost all the rooms of this sector had two or three people more than the number of beds provided. In one case, it was ascertained that in a room of 8 beds, there were up to 12 people.

problem actually reduces significantly the overall quality of life in these institutions and is a serious violation of human rights and treatment of the detainees.

Although in 2012 there were built new institutions such as the PI Elbasan and infrastructure was improved, in some prisons still remain the issues of aging infrastructure and not suitable for the treatment of detainees/prisoners in some of the monitored institutions such as IEPD "Ali Demi", IP "Jordan Misja", IEPD Vaqarr, IP "Mine Peza" and PHC. Unfortunately, infrastructure problems were observed in some newly built institutions, such as IEPD Lezha, IEPD Peqin, IEPD Fushë Krujë and PI Durrës. Damp walls, poor hygiene, lack of beds, mattresses and personal bedding, which in most cases seemed very worn and torn, was a real issue. Lack of electricity for many hours during the day, was another issue identified in some of the Institutions such as IEPD Peqin, Vlora, Durrës, Lezha and Fushë Kruja. Some institutions such as IEPD Fushë Krujë, PI Vlorë and PI Durrës, had problems with running water supply and lack of hot water, which in turn affects negatively the maintenance of personal hygiene of detainees/prisoners.

Health care services for persons deprived of their liberty, is an aspect of direct importance in regard to AHC observations. An insufficient level of health care can open the door to situations that lead to ill-treatment or inhuman and degrading treatments. Moreover, health care service should play an important preventive role against potential abuses in closed institutions. Some of the services in the focus of observation, have been the level of health care, including its preventive role, the ensuring of the confidentiality of patients' health data, medicines supply, dental care, etc.

Firstly, we would like to highlight the positive fact of the functioning of the tripartite agreement between the Ministry of Justice, Ministry of Health and the Health Insurance Institute, to provide detainees and prisoners with health cards, which would include them automatically in the scheme of health insurance of non-active persons. During observations, it was noted that the agreement was applied to PI "Jordan Misja", and was expected to

start implementation in PI Durrës, PI "Mine Peza" and so on in all penal institutions.

Almost all of the monitored institutions, with the exception of PI "Jordan Misja" in Tirana, had problems with medicine supplies. Shortages were more obvious in antibiotics, but also in other groups of medicines, mainly pain relievers. In all the monitored institutions, there were complaints from prisoners regarding the meeting of their needs for medicines by the institution, and that for most of the time, this shortage had to be filled in by their families⁵. The monitored institutions were generally trying to solve this problem by spending funds for small purchases, which mainly covered the needs of chronically ill or the emergency medicine.

Dental care was another aspect of health care monitored by AHC, the level of which left much to be desired. The service provided was for the most part reduced to teeth extraction and limited therapeutic service. Work equipment in most cases were seneschal or out of use. Required medicament to perform therapies, was often lacking. In general, there is some kind of neglect to enhance the quality of this service, which stands in an immediate need for improvement in order to meet the required standard in this area.

The development and implementation of a diversified program of activities (work, education, sports and recreational activities, etc.) is of a special importance to the welfare of prisoners. This applies to all institutions, whether of detainees or prisoners, or of low, moderate or high security⁶. AHC has noted that there is a somewhat differentiated approach from institution to institution with regard to this aspect. In some institutions such as PI Vlora and IEPD "Ali Demi", there is a variety of activities. There are some positive trends to improve programs, mainly in professional

⁵ Due to various social causes, not all prisoners have regular contact with their families. There are many cases that they come from a poor social stratum, and do not have the financial capabilities to afford medication, clothing and other needs that these institutions do not meet.

⁶ CPT standard requires that prisoners spend a reasonable amount of time outside their rooms, which should be 8 hours or more, especially in case of convicted persons.

courses, however, a lot remains to be improved. While in some other institutions, partly due to lack of facilities designed for this purpose and partly for legitimate security reasons, inmates engage in only some sports activities during airing hours. Such is the case in PI "Jordan Misja", PI "Mine Peza", PI Tepelena, etc. It is worth mentioning the good programs that are implemented in the IEPD "Ali Demi" and partly in the IEPD Tepelena. These are institutions that despite the fact that they have a very outdated infrastructure, this has not kept the staff from caring out diverse activities as well as to be creative and adjust their limited facilities.

The approach that is taken currently in penitentiary institutions, is that every prisoner has its own psycho-social file, in which it is prescribed also the individual plan of execution of the sentence⁷. In some of the monitored institutions such as IEPD "Ali Demi" or P.I. "Jordan Misja" there was in place a differentiated treatment for certain vulnerable groups, regarding which we will talk of in more detail later on in this report. It is noted with regret that this practice is not followed in all the monitored institutions where there are such vulnerable prisoners.

AHC pays special attention to the implementation of the disciplinary practice in penitentiary institutions. In its essence, is the disciplining of the person deprived of liberty in case of a breach of the rules of the institution. Implementation of disciplinary measures not only should be based on the law, but should also be in proportion to the incident and must be carried out within the time limits envisaged in the law. Failure to implement them in the right way, can lead to ill-treatment or inhuman and degrading treatment of persons deprived of their liberty.

The following are some concerning aspects about this policy: During the monitoring were found that in isolation cells are kept not only prisoners that are under a disciplinary measure, but also other inmates, for reasons

⁷ According to Article 74 of the General Regulation of Prisons, for every prisoner must be developed an *"individualized treatment program, which is carried through by a group of experts of social-psychological and pedagogical fields, spearheaded by the educator."*

such as behavior "disturbing" in nature towards others; due to a criminal investigation; at their request; for transferring or as a result of their "dangerousness". Some of the abovementioned reasons, are known and used in practice of democratic European countries, however, there should be protocols/clear administrative guidelines for these cases. Such cases were found in IEPD Lezha, IEPD Peqin, IEPD Durrës, IEPD Tepelenë, P.I. "Jordan Misja" in Tirana. Disturbing is the fact that the prisoners held in such conditions, are not visited every day by an employee of the social care unit or the physician of the institution, in violation of the requirements of the procedure for the handling of such cases.

Location of persons deprived of their liberty as close as possible to the family or the community where they lived before being incarcerated, should be the guiding principle in the process of their accommodation. During the observations, AHC took cognizance with the complaints raised by the persons deprived of their liberty in regard to their transfer from one institution to another. Some prisoners can be indeed extremely difficult to handle and their transfer may sometimes be necessary. AHC, without wanting to prejudge the decisions of the GDP for the transfer of persons deprived of their liberty, emphasizes that the continuous movement of a prisoner from one institution to another, can have harmful psychological and physical effects on him⁸. During AHC observations, there were received several complaints of frequent transfers, without notice and without allowing time to the prisoners to take their personal belongings.

During AHC monitoring, it carefully observed the situation of the so-called 'transit people', who are sentenced and serve their time in various institutions. These prisoners are transferred to other penitentiary institutions for several days, to participate in hearings, on issues of

⁸ Among such complaints, we elicit two cases of two prisoners from the IEPD Korçë, who had gone on hunger strike of about two a week, and who were met by AHC during their visit in PHC. They had no complaint regarding the treatment on both these institutions and simply asked to be transferred to an institution close to their family residence, as defined in Article 72 of the General Regulation of Prisons *"In the case of transfers of prisoners in institutions of execution of penal decisions, must be taken into account the demands of the prisoners and their families."*

different natures. Such convicts are accommodated by relevant institutions in observation rooms, where they would stay for up to five or six days. These cases were observed in P.I. Durrës and P.I. "Jordan Misja". The conditions of rooms in which these convicts were held, were not good in terms of hygiene, and they were not supplied with personal clean bedding or clothing⁹. Most of them did not know how long they were going to stay in that institution. The prisoners did not participate in any activity during these days of staying there.

AHC suggests that such practices should be avoided and an analysis of the reasons why they occur should be conducted. Exceptional cases should be regulated by specific administrative instructions of the Ministry of Justice/GDP to prevent violations of human rights and the treatment of persons in these conditions.

The right to request and complaint that a person deprived of liberty is entitled to, is one of the fundamental constitutional rights regulated by the law on the rights and treatment of persons deprived of their liberty¹⁰. AHC, taking into account the importance of ensuring this right in practice and the unified implementation of request-complaint mechanism, in cooperation with the Work Group set up by the GDP with representatives of penal institutions and the Dutch penal law and prison experts, has contributed to the unification of procedures of this mechanism in all penitentiary institutions, through a protocol that will help persons deprived of their liberty and the staff of the prison system, as well as through formats that help to develop various requests and complaints. This initiative commenced in 2010 and ends in February 2013, so it is too early to speak of the fruits of this unifying mechanism in everyday prison practice.

⁹ Asked by AHC observers, they claimed they were never supplied with personal clothing or bedding; the beds that were observed there, had the same beddings which were not changed in a long time.

¹⁰ This constitutional right, is ensured by Article 58 of the General Regulation of Prisons.

In general, based on the observations conducted, it turns out that persons deprived of their liberty were aware of the possibility of making requests and complaints and were already exercising this right. From observations in documents kept by the institutions, it was noticed that there were more demands than complaints. AHC encourages the directories of penal institutions and relevant structures in the GDP, to ensure continuity for the same request and complaint procedure implementation in all penal institutions, so that an effective, fair and timely processing of requests and complaints and respecting their confidentiality in the case of complaints, is guaranteed.

Finally, AHC wants to emphasize the high importance of continuous professional growth of staff in penal institutions. A professional staff is the guarantee for the respect of the rights of persons deprived of liberty and the progress of the good work in penal institutions. In this regard, it is notable the positive practice established already by the training sector of GDP for training with special curriculums of the newly recruited uniformed staff in the prison system, the middle management staff, ongoing training for high management staff in prisons and topical trainings conducted from time to time tailored to the needs. AHC has made a significant contribution in the development of these different teaching programs and the implementation of training in conjunction with the training sector in the GDP and the Dutch prison practice experts. Although there is a good practice, a continuous and in depth training of prison staff, remains a priority.

Regarding the number of staff in the monitored institutions, it is noted an increase in the number of psychologists involved in the special care unit, where people with mental problems are treated, mostly in institutions such as P.I. "Jordan Misja" in Tirana, P.I. Durrës, IEPD Fushë Krujë, IEDP Krujë, IEDP Tepelenë, IEPD Korça and P.I. Vlora. But, sad to note that there was ascertained a great need of psychiatrists. This is a very necessary

service in the prisons that have a considerable number of people with mental problems¹¹.

Trained staff retention is of crucial importance for ensuring quality services in penal institutions. During the observations, staff downsizing were observed in different sectors in IEPD Korçë, P.I. Vlorë etc. We encourage GDP to develop staff selection policies in the prison system, based on meritocracy and policies that ensure professional staff's retention by extending the status of civil servants in all penal institutions. Ensuring acceptable working conditions for staff, is the obligation of the managerial authorities of the Ministry and the GDP. During the observations, it was noted the lack of facilities, equipment as well as various auxiliary tools suitable for the work of employees in institutions.

Treatment of vulnerable groups in penitentiary institutions

As described in the introduction to this report, the special focus of this round of monitoring undertaken by the AHC, has been the observation of the living conditions and treatment of vulnerable groups in prisons. With vulnerable groups we understand those categories of persons deprived of liberty who have or should be granted a special legal protection and be guaranteed a special attention from penal institutions. Such groups are: minors, women, persons with mental health problems, drug addicts, life-time prisoners, or those with long sentences, LGBT persons¹², the elderly, etc. Due to the special needs of such groups of people, but also because of their social stigma in society at large, which is carried in penal institutions also, they ought to be offered a special treatment in prisons.

Overall, the AHC has observed a higher awareness regarding the differentiated treatment to be provided to such groups, thanks also to the intensive contribution of civil society organizations.

¹¹ More details on this service you may read the following to this report.

¹² Groups of lesbian, gay, bisexual and transsexual persons.

Below it is explicated the situation observed in penitentiary institutions, which deal with such groups. Special attention in this part of the report is dedicated to the three most 'sensitive' groups in terms of specific treatment needs that are: the people with mental health problems, juveniles and women deprived of their liberty.

Treatment of people with mental health problems in detention/prisons

One of the most important tasks of the prison system and therefore of all staff working in local penal institutions, is to provide a special care that includes a differentiated treatment, based on the specific needs of persons deprived of liberty who have mental health problems. Working with prisoners with mental health problems, is always a difficult task for all prison employees.

In almost all of the monitored institutions, there were found prisoners with mental health problems (hereinafter patients), but the majority of them were accommodated in the IEPD Krujë, P.I. Durrës, PHC, IEPD Peqin, IEPD Korça, IEPD Fushë Krujë, etc.

Given the importance of special treatment that must be provided to these patients, during 2009-2011, AHC undertook an initiative in collaboration with the General Directorate of Prisons and local penal institutions, to introduce for the first time in Albanian prison system, the setting up of special care sectors in prisons. This concept is based on a differentiated treatment of these persons, in a physical sense in a special unit, as well as in terms of a differentiated treatment, with a daily program that fits their needs and capabilities. Initially, this initiative was piloted in several prisons after the civil and uniformed staff (that will work with these patients), was trained with a multi-disciplinary treatment approach. It should be noted that the "Ali Demi" institution in Tirana, continues to be a good practice of this initiative.

AHC is aware that such initiatives take time to consolidate, therefore it encourages GDP and local penal institutions to learn from the best practices already established in one of the Albanian institutions.

During this round of monitoring, AHC has examined closely the living conditions of patients and their treatment. Save for the "Ali Demi" institution where special care unit operates according to individualized and multi-disciplinary treatment approach, in other institutions where there are such patients, we have ascertained that this approach is not being used. Deficiencies were noted in terms of material conditions and treatment of these patients. More specifically, Kruja's IEPD has an old and overused infrastructure that does not fit the specific needs of people with mental problems. An immediate problem remains the collective toilets in the institution. Accompaniment in the toilet of these people by the staff of the institution, especially during the night, makes the life difficult for the patients in this institution. While in IEPD Peqin, Fushë Krujë, PHC etc. in general, these problems were resolved. In most monitored institutions, it was noted that the patient rooms were not maintained correctly and had only a partially good hygiene.

Overall, in the monitored institutions, it was noted that the medical documentation (files or medical records) are kept in order. Psychiatric medical treatment, which is of crucial importance for these patients, should be based on an individualized approach, which is materialized in the development of a treatment plan for each patient. AHC has noted that there are significant deficiencies in terms of psychiatric services provided in these institutions, which does not cover as well as it should, the needs (at cases immediate) for a specialized psychiatric medical treatment. In the staff of Kruja institution, there is room for 2 psychiatrists, whereas in fact the service was covered by a part-time doctor who came once in three days at the institution; in P.I. Durrës the psychiatrist doctor had just left office and was expected to be replaced by the psychiatrist of PHC for several days a week; on the other hand, in PHC itself, there was only one

psychiatrist who because of the needs of other penitentiary institutions, had to work a few days off PHC¹³.

One reason for the failure to complete the staff with psychiatrist, is also the fact that doctors feel demotivated because they receive a fee equal to the service performed in specialized hospital institutions outside the prison system. Taking into account the experiences of European best practices on this issue, we encourage the GDP, the Ministry of Justice and the Ministry of Health to find facilitative modalities and motivation to increase the interest of this specialized service in the prison system by decreasing the load and better scheduling of the doctors' work in civil health centers as well as through other policies favorable to psychiatrists working in the prison system.

In some monitored institutions such as in P.I. Durrës and IEPD Peqin, there was noted also the lack of medication for this group of patients, even at emergency medicine level, not to mention the absence of those used in regular therapy. Some of the drugs belonged to outdated and not-commonly-used-anymore category. Aware of this issue, doctors felt that such problems would be resolved with the introduction of health insurance scheme.

Appropriate treatment of this group should include a wide range of rehabilitative and therapeutic activities specified in an individualized treatment plan for each person with mental problems. These activities can be occupational therapy, group therapy, individual psychotherapy, art, music and sports, suited to their specific needs. Differentiated treatment based on the specific needs of people with mental problems is just as important as specialized medical treatment.

This psychological and social rehabilitative and therapeutic treatment, was lacking in P.I. Durrës and PHC where it was noted a severe lack of significant activities outside the room. The only moment when patients

¹³ The psychiatrist of PHC, had to work in different days of the week, in P.I. "Jordan Misja", IEPD Ali Demi" Tirana, IEPD Fushë Kruja and P.I. Durrës.

were standing outside their rooms was when they came out in the fresh air, or in case they were called by the psychologist or doctor. Therefore, practically speaking, these people were staying on an average of 20 hours a day, locked inside their rooms. Because of their health conditions, many of them opted not even going out into the fresh air for several days in a row. Those who had a TV set in the room, spent most of the time watching different programs, others stayed most of the time lying in bed. In the IP Durrës, very few of them were engaged in creative or artistic work.¹⁴ This situation is contrary to the standards that are ensured to these people in international instruments and in Albanian legislation. AHC suggests that measures be taken at this institution to improve the daily program for these patients with an approach of a differentiated and individualized treatment.

Kruja institution had taken in consideration some of AHC's suggestions to improve the daily program for people with mental problems, however, also at this institution, there still remains a lot of work to be done in order to consolidate a diverse daily program in the future.

Across the monitored institutions, sports and entertainment activities take place¹⁵, however they remain fragmented and are not an integral part of the patient's individual plan.

Part of the AHC's observations regarding the treatment of this group, was also the appropriate use of restraining means or physical coercion, as a misuse of these means, opens the door for maltreatment opportunities against the patients. Physical restriction of violent patients, who may tend to harm others or themselves, may be necessary to be used in case of fits.

Thus, observations highlight as a positive development, the non-use of handcuffs as a means of restraining the irritated patients, as contrasted with the situation of a few years ago, when in order to physically restrain these patients, handcuffs were used quite regularly. Unable to acquire

¹⁴ Only a few out of 45 patients.

¹⁵ Recreational activities were usually conducted on holidays.

professional tools of physical restraint, straightjackets, or special beds, PHC doctors designed and used some leather straps, with which they tie the patient when necessary. Whereas P.I. Durrës doctors used patches for this purpose. Only doctors had the right to authorize such restraining measure on their patients, but there was no clear protocol for how long the patient could be kept tied in the bed. This fact leaves room for assumptions about possible abuses with the duration of patient's stay in tied position. The restraining measures of patients should be the subject of a clearly defined policy in guidelines/administrative protocols.

Given the challenging nature of the work of staff working with this group of people, AHC suggests the GDP to pay special attention to proper staff selection and training on differentiated treatment that ought to be carried out by the civil and uniformed staff with patients that have mental problems. Furthermore, the staff working with this group of people should receive proper training to resolve difficult situations and physical defense from violent patients techniques etc. AHC with Albanian experts and those from Dutch prison service, have developed a training module for civil and uniformed staff, to ensure a professional and differentiated approach for convicted people with mental problems. This module includes not only the concept of working with these patients, but also concrete instruments of assessing the patient's individual situation, developing a multi-disciplinary individual plan, as well as progress measuring instruments by the social workers, psychologists and psychiatrists.

AHC suggests that this training module be used constantly by prison training sector to train all staff working with convicted persons with mental problems.

Last but not least, in regard to the treatment of convicted persons with mental health problems, remains a close scrutiny of the management authorities of local penal institutions and GDP, to avoid any abuse of this vulnerable group. This took occasion from a maltreatment claim brought by a detainee with the initials M.K. during our observation in PHC, who blamed a PHC nurse that during her wound treatment, had allegedly

intentionally caused her pain. She also claimed that the nurse had not taken proper medical care of her. Despite the fact that this claim was not verified by AHC observers and the Unit for the Prevention of Torture whether or not constituted maltreatment, we call on the attention of the prison authorities, to take seriously into consideration such claims when they arise from convicted persons with mental disorders.

In conclusion, the AHC wants to ponder a concerning issue, already evident for many years, concerning the keeping in penal institutions that category of sentenced people that are under the medical measure called "forced medication", in flagrant violation of the Albanian legislation and international standards. AHC raises again strongly the very troubling issue of the keeping in violation of the law of these people in the Prison Hospital Center, in the Special Institution in Kruja, or in some cases, in other institutions¹⁶. We suggest the urgent acceleration of procedures for establishing a specialized institution under the Ministry of Health, in order to ensure specialized treatment for these persons as provided by law.

The situation of detained juveniles

The Constitution of the Republic of Albania, in its Article 54 clearly states that minors enjoy a special protection from the state. They are inherently more vulnerable than adults. Consequently, special attention should be paid to ensuring their physical and mental protection and special treatment, with the aim of minimizing the ramifications of incarceration in the penal institution. With this philosophy of treatment, a special institution or sector for juveniles should provide them with a safe environment. The premises must have ample space for the ongoing of different activities, but also be kept neat and clean and well-decorated, to provide them with better living role models. For any prisoner, the lack of meaningful activities is harmful, but it is particularly harmful for juveniles due to their frail age and special needs for physical activity, intellectual stimulation and modeling of positive behavior and consequently of social

¹⁶ During observations, there in Peqin were found 4 persons that were under the measure "Forced medication".

skills. An essential part of their daily program, should be the 9-year compulsory education (for those who have not completed it), sports activities, vocational courses, diverse artistic and creativity opportunities as well as other purposeful activities, group and individualized work, in order for increasing social skills and positive behavior among minors.

Work with juveniles deprived of their liberty is particularly a challenging task. The staff working with them must be carefully selected and characterized of personal and professional maturity and ability to cope with the daily challenges of working with them, taking always into consideration the preservation of the welfare of this age group.

In relation to previous observations, it is noted a higher awareness of staff working with juveniles. This is a positive fact that should be promoted further, in order to have consistency in their differentiated treatment.

Penitentiary institutions monitored by AHC during this round of observations, which have under their care detained juveniles, have been P.I. Vlora, P.I. "Jordan Misja" in Tirana, IEPD Lezha and IEPD Korça. Monitoring has shown that P.I. "Jordan Misja" and P.I. Vlora's juvenile sectors were overpopulated¹⁷. In P.I. "Jordan Misja" there are detained adult, women and juvenile sectors, in a very aggravated infrastructure situation that as a matter of fact applies to the entire institution. AHC calls on for the attention of state authorities to give priority to the accommodation of juveniles in institutions with adequate living conditions and if possible, in institutions separate from the adults.

In general it was noted a good situation with regard to the importance that the staff placed on the contacts mainly with family and with the outside world. As a result, minors were granted twice as many phone calls or meetings per month, compared to adults, but also were never prohibited extra phone calls or additional meetings whenever they wanted or it was possible.

In regard to the treatment of detained juveniles, there were encountered some issues pertaining the implementation of daily structure routine of the minors, a very necessary element of their life while they remain in the institution. Generally speaking, in all monitored institutions, juveniles

¹⁷ In the IEPD "Jordan Misja" there were 32 juveniles. In the P.I. Vlora, there were 32 juveniles as well.

woke up around 10.00 or 11.00 A.M., because they went late in bed at night. In P.I. Vlora, members of the intervention group came in every morning to do the awakening of minors, with the latter claiming that the former did this in exerting psychological and physical violence. Although the claims were not verified in the spot, AHC suggests that the methods of the use of physical or psychological violence, must be avoided in all cases, but without giving up the structuring and disciplining of the minors. We recommend that the awakening of minors, be made by the uniformed staff of the inner regime. In cases where there is no compliance and cooperation from the minors, against the latter it is suggested that measures be taken such as exemption from any joint activity or leaving them in the room all day.

Of course, orientation, education and disciplining of juveniles, is made in conjunction with education staff, which in these cases should use contemporary methods of "TIME OUT", as well as behavioral observation formats and juvenile habits that should be part of the individual development plan of the juvenile's personality.

AHC has brought better working practices which formed the basis of trainings for the staff of Juvenile Institution Kavajë, which are needed for use in all institutions where there are juveniles. AHC suggests the intensification of the work to ensure a safe climate for all minors that are under the care of the Albanian prison system.

Ensuring the right to compulsory education of juveniles, is a legal obligation that is finding application in the detained juveniles. During the monitoring of the IEPD Korça, IEPD Lezha, P.I. "Jordan Misja" in Tirana, there was provided a 9-year compulsory education, while in P.I. Vlora, this opportunity was not offered. After AHC's ascertainment and suggestion for measures to be taken in order to ensure this right, it is a pleasure to now be informed that also in this institution, it was opened the school for the implementation of compulsory education for minors.

In regards to the ongoing of activities, the situation varied from institution to institution. In P.I. Vlora, there were a number of educational courses being offered to juveniles, such as English and Italian language courses or computer courses. Library attendance, hours of group discussions on certain topics, individual counseling by social workers, various sports activities, gym and cinema hours that were organized, were

all part of the weekly program, which all juveniles confirmed they were familiar with and participated in. During the observation of the juveniles sector in IEPD Korça, it was ascertained an insufficient level of necessary activities, and the lack of suitable facilities such as gyms, or even rooms for recreational activities. In the IEPD Lezha, there were not enough sports and recreational activities, and the same goes also for P.I. "Jordan Misja" which excused itself with the claim that minors in this institution had issues/conflicts with each other, which kept them from having joint sports activities on a daily basis. This situation prevented them from having full airing schedules, due to the insufficient space for all¹⁸.

Throughout the monitored institutions, with the exception of P.I. Vlora, most sports activities were held during the airing hours. In all institutions, the lack of activities during the weekend, remained an issue. The lack of financial resources for the purchase of equipment necessary for the ongoing of these activities, was an obstacle, as was also the quick wearing off of sports equipment/tools, due to inadequate relevant facilities (e.g. the sports courts are paved with concrete, or balls being ripped and punctured on the surrounding barbed wires).

During the observations conducted in P.I. Vlora, it was found that a few days before our observation, a juvenile had suffered violence (*multiple cigarette burns on the body*) from some other juveniles roommates with him. The institution had taken appropriate measures after the ascertainment of the incident, reporting the case to the prosecutor, thus opening the way for criminal proceeding. Being vulnerable due to their teenage years, this group should be doubly safeguarded against such dangers. AHC appreciates the reporting of the case to the relevant legal authorities, but draws attention to more preventive care against such events, which have a negative impact, not only on the juvenile that is the victim of the incident, but also on the safety of all other juveniles.

Moreover, AHC suggests that all juveniles should be treated in a special way by all prison staff and especially by the social care staff, with the purpose of modeling positive behavior, social enablement of the juveniles and disciplining of the negative behavior using contemporary and pedagogical methods. AHC, through Dutch prison service experience, has

¹⁸ Overpopulation in the juvenile sector was another issue that deterred the increase of work efficiency in this sector.

presented these working methods¹⁹ in the juvenile institution of Kavaja where they were also implemented. AHC has developed training modules specifically for handling juveniles with pedagogical methods and encourages the training sector to provide ongoing training to all staff of the institutions that have minors under their care. During the observation, there was noted the positive fact that in the P.I. "Jordan Misja" in Tirana, measures were taken to turnover the staff working in this sector, as well as the intensification of the work to improve the conflicting situation that exists between minors.

Another issue encountered during the monitoring, were several claims from juveniles of P.I. Vlora that had received a disciplinary measure, to whom it was denied the meetings with family members and in some case, even the airing hours. Although these claims remain unsubstantiated, AHC suggests in principle, the avoidance of all cases where juveniles are deprived of fresh air hours or meetings with their family, even in the course of disciplinary measure.

AHC observed during its monitoring of P.I. "Jordan Misja" in Tirana, that due to overpopulation of the juvenile sector and as a result the occupation of all facilities in the sector, this had led to a lack of isolation rooms for the juveniles. Consequently, juveniles that had received a disciplinary measure, were placed in isolation rooms for adults. AHC, aware of the difficulties that overpopulation in this sector creates, cautions that all disciplinary procedures applicable to minors, must be accompanied by formal safeguards and considered with due importance, avoiding to the maximum the possible contacts between juveniles and adults.

Finally, the issue that was raised by the social care staff and evidenced by our observations, was the little efforts that are generally made by prison staff, to prepare the minors for their release. There have been many cases of minors who had no support from family or relatives, and since alternative host structures were not in place, it led to a problem in finding a place where the juvenile might find shelter. Preparation for the release is not the responsibility of only the prison staff. Other state structures such as the probation service, the representatives of the local offices of education, employment, communes and municipalities as well as the services provided by different NGOs, must play a role in the program of

¹⁹ U-Turn and Equip method.

measures taken in order to enable a successful return of juveniles in society. AHC suggests that all these bodies engage in a constructive cooperation to achieve the best programs possible of preparation for release while juveniles are still in penal institutions.

The monitored situation with regard to treatment of detainee/ prisoner women

Women and girls deprived of their liberty constitute another vulnerable group in penal institutions, and as such, AHC placed a special attention to them in this round of observations. In general, they represent a relatively small minority of the entire population in the prison system. At first glance, this is a positive fact, but on the other hand it somehow causes to generally draw only an insufficient attention towards appropriate treatment of the needs of women in penal institutions. Despite this argument to which we will come back within this section of the report, staff's awareness of penal institutions for specific treatment for women in prison, has increased.

Women deprived of their liberty, are in need of specific services that fit their psycho-social needs. Among such needs, we may mention of the needs for permanent hygiene conditions and equipment, additional gynecological health care, preventive health care measures of particular importance for women, such as breast cancer and cervix cancer tests, psychiatric care, etc. Oftentimes, women who are in these institutions are also mothers of living children, the separation from which results in severe psychological conditions for them.

In our country there are two institutions that treat women and girls that have been in conflict with the law: P.I. 'Jordan Misja' Tirana, which treats detained women and girls, and IEPD Ali Demi which treats convicted women and girls. Below are rendered the concrete findings from observations conducted in these institutions.

Two different aspects that point to the lack of proper attention towards women deprived of liberty by the policy-making and decision-making authorities of the Ministry of Justice, are the impossibility of accommodating of women in institutions that are close to the community where their families live. The second aspect relates to the placement of

women detained and incarcerated in two institutions of heaviest depreciated infrastructure.

Both of these institutions are located in Tirana, and that creates difficulties for the women in maintaining regular contact with the family and relatives, especially when their families come from remote areas. Also, detained women from remote districts, have to make a long way to attend the court sessions of their criminal cases. Psychologically-wise, these aspects have a negative effect on women.

As mentioned above, the persisting problem is the infrastructural conditions extremely outdated of P.I. "Jordan Misja" and IEPD "Ali Demi" Tirana, in which women are placed in two separate sectors. Both sectors are part of institutions that accommodate adult males and besides which are also located juvenile detainees, certainly in separate units. Residential environments where women live, are damp especially in P.I. "Jordan Misja" and both these institutions are not equipped with bathrooms inside the rooms. Abiding for a long time in such environments, brings about consequences for the health of women detainees/prisoners who dwell there. Although the staff of institutions provides disinfection of the shared toilets in the women's sector, at the P.I. "Jordan Misja", women confirmed the 'regular' presence of mice. Such a situation seriously threatens with the spread of serious diseases to the health of women and girls who abide therein.

IEPD "Ali Demi" offers outdoor facilities outside the residential rooms for female prisoners, in which they spend a significant portion of their time during the day, whereas in P.I. "Jordan Misja" such facilities are lacking, and as a result, women have a bad experience with the closed and inadequate environment of the institution.

Although in these last years, a considerable number of new penal institutions of detention and prison regimes have been built, in no case was given priority to the establishment of a special institution for women deprived of their liberty. The Ministry of Justice has established in its sectoral strategy, the establishment of new institutions of P.I. "Jordan Misja" and IEPD "Ali Demi", yet these remain only in paper and are not as yet implemented. It is yet to be seen whether women will be given a special attention.

Infrastructure has its particular importance to proper treatment of women, but much more important is the safe environment that must be ensured in the institutions where women are accommodated, to enable a normal life and not just survival in them. We were pleased to find that good climate exists in both women sectors of these two institutions.

More specifically, there is an active approach by the staff, regarding the organization of activities in these sectors, which were found to be more diverse and frequent in the IEPD Ali Demi, because of the opportunities and more ample spaces that this institution has for that purpose, and thanks to the creativity of the staff to make use to the maximum of these spaces.

In these institutions it was provided an individualized approach to the treatment of women and girls deprived of liberty, based on their individual needs. Institutions in collaboration with vocational training centers and some NGOs that have already a long history of working with this vulnerable group, ensured the realization of some professional courses, concluded with issuing of certificates recognized by the Ministry of Labor, Social Affairs and Equal Opportunities. Also, women were offered a wide range of recreational and sports activities, according to a well-defined daily program. Especially in the IEPD Ali Demi, a variety of activities were held, which keep sentenced women motivated and increased the chances of their contacts with society outside prison.

At both institutions it is offered a good psychological and social service which is part of the individual treatment plan for each woman. Earlier in this report it was mentioned the good practice of IEPD Ali Demi, where for several years by now, it is in operation a special care sector that treats women with mental problems. At the time of observation, in this institution there were two convicted women receiving treatment. Although in the P.I. "Jordan Misja" a special care sector was absent, social care staff ensures a differentiated treatment for women that have various mental problems.

Health care is another service of special importance for women. It must have the same standard as in the community outside penal institutions. In general it was noted a good situation of health care in these institutions, both in terms of the regularity of medical visits, as well as in terms of preventive health care for this group. However, the persisting problem was

the supply of medicines, which was replaced by institutions with small purchases. The situation was expected to improve with the functioning of the health scheme for these groups.

Contacts with the outside world was given due importance, through specific programs developed and implemented by social care staff to maintain ties with their families and especially women's children. Also the preparation for release was an important aspect of psychological-social programs, however, still remains the same issue identified above in regard to the lack of inter-institutional cooperation between different state actors and civil society. Although there were times when the prison authorities have taken the initiative to introduce female prisoners in employment schemes or even attempts to further their education, there was little or no readiness at all to respond to these initiatives by the relevant state institutions. Given the importance of this issue AHC suggests the involvement of all stakeholders to design together with the staff of penal institutions, individual programs of preparation for the release of women and for their return to their family and community.

- **Suggestions for the improvement of the situation**

Based on the findings of the planned monitoring, but also on the sporadic monitoring driven by complaints addressed to AHC by persons deprived by their liberty, who are in the pre-trial detention institutions and prisons, we have developed some suggestions to improve the situation, as follows:

AHC considers detention of persons with "forced medication" as a serious violation of law and has continuously raised its voice to make evident this fact. In all reports of prison monitoring, carried out by Albanian and foreign entities, has been raised this concern, which carries legal and institutional problems. This situation, of course, causes a violation of the rights of the mentally ill persons, who instead of receiving compulsory treatment in a specialized health care institution, as ordered by the court decision, are held in prison without being convicted. Again, AHC suggests to the relevant state institutions, the Ministry of Health and Ministry of Justice, to accelerate the procedures of the transfer of these persons in specialized health institutions, which will treat these patients in accordance with the law on "Mental health".

As indicated in the report, overcrowding was mainly growth in some sectors of pre-detention. Therefore, we suggest intensification of efforts of the relevant state structures, such as GDP, Courts, Prosecution and Probation Service, to study the situation and find instruments to improve overcrowding in a sustainable way, towards a flexible criminal policy in order to reduce overcrowding.

Vulnerable groups should be provided with a specialized treatment based on their specific needs. More attention should be paid to the use of pedagogical methods with minors, in order to discipline their anti-social behavior in the detention institutions. Use of these methods will promote to minors: a) positive social behaviors; b) will increase juvenile cooperation for the implementation of the daily program; c) will avoid the danger of using physical or psychological violence.

AHC suggests that staff of the institutions which hold juveniles, should be equipped with knowledge and practical skills in the use of pedagogical methods such as U-Turn and Equip, which are already in place as pilot practice in the juvenile institution in Kavaja.

AHC suggests extending the best practice of special care sector for people with mental health problems already implemented in the institution of "Ali Demi".

Work in special care sectors must have an individual and a multi-disciplinary treatment approach, where as in addition to psychiatric treatment, a great importance takes psycho-social treatment, therapy, occupational employment and light sports, in accordance to the specifications of the patients. Teamwork, including all sectors who work with this group will bring concrete results to improve their health situation.

Having in mind this individual and multi-disciplinary approach, AHC draws attention to the IP Durrës and PHC to immediately start working on the above mentioned treatment to the patients under their care. Also Kruja institution, despite some recent undertaken positive measures to improve the daily program, should pay greater attention to improving the treatment of people with mental health problems. Passive attitude of these patients in their rooms during the day, without being offered a diversified treatment program based on their specific needs, is a violation of national legal requirements and international standards.

General Directorate of Prisons in cooperation with the Ministry of Health should take immediate action on ensuring psychiatric treatment of persons deprived of their liberty with mental health problems who are in various penal institutions in order to ensure that the same care standards is guaranteed to those patients as to other ones held in public health institutions. Also, is to be solved the overload of the PHC psychiatrist by doing better planning and also supplement recruitment in local institutions where the number of these patients is considerable.

Although positive developments were observed in the non-use of handcuffs as a means of restraining patients in crisis in PHC, AHC suggests the application of new procedures for the management of patients' restriction measures, drafted by the Ministry of Health, pursuant to the Law "On mental health". These procedures will avoid the possibility for abuse of patients in times of crisis and enable the accountability of abuses by the responsible staff in this regard.

AHC suggests the need for continuous multi-disciplinary training of the staff working with people with mental health problems in the penitentiary institutions. Opening special care sectors in institutions where there are a significant number of persons deprived of their liberty with mental health problems remains a necessary measure to be taken as soon as possible. It is suggested to follow the best practices implemented in the penitentiary institution of "Ali Demi" to the women sector.

Many positive aspects were observed during the monitoring regarding the treatment of women on the respective penitentiary institution, but it is unfortunate that women are still accommodated in institutions highly depreciated by the infrastructure. AHC repeats the suggestion that women should be placed in institutions that respond to their specific needs.

Security and feeling safe in penitentiary institutions constitutes the necessary basis for respect of the rights of persons deprived of their liberty and well-functioning of penal institutions. Therefore, AHC, suggests that for each allegation of physical or psychological exercised by the staff, or between prisoners themselves should be very carefully considered by the relevant state authorities in order to immediately held accountable anyone who commits violence on prisoners. In particular, should not be tolerated delays in medical examination of prisoners / detainees who claim to have been violated, or who suffer physical damage from any cause, as well as documentation of the medical treatment carried out in this case.

Although during the recent years have been made improvements in the infrastructure of penal institutions, AHC brings to the attention of the prison authorities that it should be made further improvement on the infrastructure, various accommodations taking measures against dumping walls and must avoid shortages of electricity and water to all institutions identified in this monitoring report.

Taking into consideration the problems that were identified by observations concerning the maintenance and treatment of persons in isolation rooms, who have not been given a disciplinary measure, AHC suggests drafting specific guidelines. Furthermore AHC suggests to GDP to manage better the need for transfer of the prisoners who have adoptability problems in the institutions where they are accommodated. Also for persons to whom are proposed disciplinary measures, should be provided, in any case, correct application of disciplinary procedures, without delay and in conformity with the principle of proportionality.

Also for people with disciplinary measures, it must be ensured the application in any case of the correct disciplinary procedures, without delay and in accordance with the principle of proportionality.

Taking into consideration the problems that were identified by observations concerning the maintenance and treatment of persons in isolation rooms, who have not been disciplined, AHC suggests the development of specific guidelines for these situations

AHC suggests intensification of work regarding the joint programs of preparation for release of prisoners, especially for juveniles and women. State structures such as the probation service, the representatives of the local offices of education, employment, municipalities and communes as well as the services provided by different NGOs should be part of the taking of measures to ensure a successful return to society of these persons.

AHC suggests providing sufficient financial and human resources to develop appropriate programs for the treatment of prisoners, including opportunities for meaningful activities / significant and continuing education and educational.

Finally, AHC wants to emphasize the importance of continuous professional growth of staff in penal institutions. A professional staff is the guarantee for the respect of the rights of persons deprived of liberty and the progress of the good work in penal institutions. Also, the stability of trained personnel is of crucial importance for ensuring quality services in penal institutions. We encourage GDP to develop policies for the recruitment of the personnel in the prison system based on meritocracy and policies that ensure continuous training, consistency and acceptable working conditions for staff.

SECOND PART

SITUATION IN POLICE DIRECTORATES AND COMMISSARIATS

For several years now, AHC monitors the situation of the observation of the human rights in institutions of deprivation of liberty, among them of the departments and police stations in the country. Public safety is essential to the well- functioning of society, but on the other side of the police must exercise their functions in full respect of the rights of persons deprived of their liberty. Given this dual mission of the State Police, AHC evidenced in this report, the need for continued vigilance in respect of the rights of persons facing the state police.

AHC desires to stress that, according to its ascertainties, the period following immediately the detention/arrest/accompaniment, represents the potential risk for the exercising of psychological pressure and/or physical and verbal mistreatment. Therefore, observance of human rights and the treatment of persons deprived of liberty in compliance to the law on the part of the state police, is a guarantee against any possible form of abuse.

METHODOLOGY OF THE MONITORING MISSIONS

During the period May-November 2012, AHC conducted monitoring missions in some of the police departments and stations of our country. More specifically, monitorings were conducted in police stations of Kruja, Vlorë, Durrës, Tepelena, Gjirokastra, Korça, Shkodra, Lezha, and in police stations no. 2, 3, 4 and 5 in Tirana. Monitorings at the police station no. 3 in Tirana were conducted in cooperation with the Ombudsman.

The purpose of this round of monitoring was to assess the situation of the accompanied, detained or arrested in regard to their rights, in police departments and stations, with special focus on the treatment of vulnerable groups in these institutions of deprivation of liberty. Observations were conducted by experienced AHC observers from different walks of life, such as lawyers, doctors of various specialties, psychologists and social workers.

Taking seriously and with the proper commitment the monitoring process in these closed institutions, AHC has trained its observers in advance, equipping them with updated knowledge in regard to current issues, both in the theoretical and practical sides, drawing on reports of its own, of national and international actors in this field, as well as on specifications and treatment of vulnerable groups precepts on international monitoring standards from the perspective of practical implementation. The principles of observation and reporting methodology have been taken into account, and the observers were also provided with monitoring questionnaires²⁰. Groups with at least 2 observers visited the monitored institutions, the findings of which are officially presented to their representatives, also through official communications.

During observations, an eye was kept in the standards, rights and regulations set forth in the Albanian legislation, namely: the Constitution of the Republic of Albania; Penal Code; Code of Criminal Procedure; Law no. 9331, dated 04.21.1998, as amended by Law no. 10024 dated 11.27.2009, 'On the Execution of Penal Decisions'. It was taken into account also the CPT's recommendations of the EC to Albania, of the Ombudsman and of the AHC itself.

This report presents the most important and general issues found in the monitored institutions during this period. AHC would like to thank the management structures of the State Police that facilitated and enabled access in the course of observations. In general, AHC observers were allowed access to the examination of physical facilities and interviews with accompanied/detained/arrested people while preserving their confidentiality.

²⁰ Observers have interviewed all persons present at the time of monitoring in police departments and stations mentioned above, and have also interviewed the police staff assigned over them.

- **General observations on human rights situation of the accompanied/detained/arrested persons in police commissariats**

During this round of monitoring, AHC has paid special attention to the treatment of vulnerable groups that are found in the premises of police stations. The main focus has been groups of juveniles, women and case management of people with mental health problems in these institutions.

Based on monitoring of the observed institutions it was found that there were special rooms reserved for juveniles and women, which is considered a positive development and an indicator of a growing sensitivity towards treatment of these vulnerable groups. However, in one case (station no. 3 in Tirana) it was ascertained that, although there were rooms reserved for holding juveniles in, they were not used when two juveniles were in the police station as accompanied. Similarly, psychologist's service, in most cases is only offered if the juveniles would be detained and not during their accompaniment.

AHC followed through with concern the flagrant case of a juvenile against whom physical violence was exerted by a police officer. This case was substantiated by television footage filmed at the end of November 2012. The case is followed up further by the Ombudsman at prosecutorial bodies. AHC taking this opportunity calls on the attention of the police authorities to prevent these serious violations of the rights of persons deprived of liberty, more so when the subject of violence is a juvenile. In cases when unfortunately there are such occurrences, it should be the relevant structures of the State Police that distance themselves from the phenomena, and that criminally prosecute offenders.

As regards the treatment of women and girls accompanied/detained/arrested, it was ascertained that in general, there is a heightening of awareness for their special treatment. This is noticeable in the creation of special facilities and increased staffing of these institutions with female officers. At those stations where there was no female staff, accompanied/detained/arrested women, were transferred to the relevant police department that offered this service.

People with mental health problems, constitute a vulnerable group, which is a potentially difficult group to be managed in a professional manner and without harmful consequences to them, by state police structures. From observations, it is ascertained a high degree of not recognition of traits or symptoms that characterize such persons. Oftentimes, their behavior is not perceived as steaming from one of this category of persons, which leads to a treatment that does not take into considerations their needs. Also, stigmatization and prejudice²¹ that police officers have against such persons, were high. Mention must be made to the good collaboration with the psychiatric hospitals, in cases when they were accompanied by the police.

The accompanied/detained/arrested people should be expressly informed without delay of all their rights when accompanied/detained/arrested by the police structures. AHC places a great importance to this moment, because it relates directly to the observance of the fundamental rights of persons deprived of liberty, such as the right of immediate access to a lawyer, the right to notify family or relatives (especially in the case of juveniles, it is a legal obligation), the right to conduct medical examinations if necessary, etc. In the mentioning of these rights by the police themselves, the citizen is furthermore ensured of their respect and treatment in accordance to the law.

From field observation, it was noted that in many cases, the accompanied/detained/arrested persons are not mentioned their rights from the first moment of confrontation with the state police. Many of the responders said that initially they were told that they would just be accompanied to the police station. Later on, these rights were told them by judicial police officers at the time of interrogation.

It has been some time since a new positive practice has commenced, constituting of handing out in writing the rights that are entitled to any person accompanied or detained by the police. It is a personal statement,

²¹ In interviews with police officers in regard to this group, they often referred to them as 'fools' or 'madman'.

which the persons concerned are required to sign, to show that they have become aware of them. In practice we have observed that not in all monitored institutions was this statement handed out, although this procedure was known to them. In Tepelena police station, as well as in stations No. 4 and No. 3 in Tirana, the procedure had not begun implementing yet.

When asked if they knew about this statement, the majority of accompanied/detained persons were not aware of the receipt of this document²². Therefore, we emphasize that, in addition to handing out the formal statement to the accompanied/detainees, they later be notified in a way that it is ensured that they understand its contents, in order to make this procedure really effective.

AHC welcomes the fact that the posters with the rights and obligations of accompanied/detained/arrested persons were found in all premises of monitored police stations. However, not in all of these institutions, was this information accessible by the accompanied/detained/arrested persons, due to their location.

Procedural deadlines²³ for the keeping in police institutions the detained/arrested, were generally properly understood and the general trend was that for it to be observed, but AHC also found cases in the field, where these deadlines were either not respected or misunderstood. In the Police Station No. 5 Kamza, Tirana, were found 2 people held beyond the

²² Almost all accompanied/detained persons asked by AHC's observers concerning to what extent they were aware of the written statement of their rights, answered "no", while they had it with them, but unaware that the document served their awareness of their rights from the first moment of being held by the police.

²³ As provided for in Article 28 of Constitution of R.A. "... 2. The person deprived of liberty under Article 27, paragraph 2, subparagraph c, should be sent within 48 hours before a judge, who decides his detention or release not later than 48 hours from the time of his receipt of the documents for review ... 4. In all other cases, the person deprived of liberty may extra judicially, at any time address the judge, who shall decide within 48 hours regarding the legality of this measure."

time limits prescribed by law²⁴. Institution executives were aware of the situation and confirmed that they had problems also with the transfer of persons to the detention facilities, these delays being generated by the General Directorate of Prisons (GDP). Whereas in police station of Shkodra, it was ascertained the practice of holding detainees/arrested, as a rule, up to a maximum of 96 hours. By examination of relevant records, it was observed that a high number of people held in the station, were kept there for 4 days. This was also confirmed to us by two of the detainees who were there with the initials K. SH. and B. B. who were in the institution for 4 days and a half at that time.

Regarding medical services offered in these institutions, double standards were noticed in play. In police departments, there is a doctor who assists with medical assistance, while in police stations no such service is provided. In case of need, detainees were sent to the nearest hospital. Also, major deficiencies were noted in medical drugs and other equipment needed for this service. Overall, from the observations it was noted that the medical support for these institutions, was coming more from civil hospitals than from their medical domestic service.

AHC wants to bring to the attention of management authorities of ASP and its subordinate institutions, the case of a detainee with the initials F. D. who had been staying for 7 days at Police Station No. 5, Kamëz. This person was a diagnosed Albin, but was not visited by the doctor of the institution. For safety reasons, staff had taken away his glasses, without which he had very limited sight due to the medical specifics of his illness²⁵. He had been asking the authorities of this institution for several days for his glasses back, but they were denied him for safety reasons.

AHC suggests that such cases be examined with the maximum attention by the relevant structures of ASP, and situations that impede the livelihood

²⁴ In Police Station no. 5 in Tirana (Kamëz) a detained person had been held for 7 days, while another person for 5 days in these premises, while in Shkoder station, as a rule, the detainees were held for 4 days in these premises.

²⁵ This detainee had second-degree myopia.

and well-being of the person deprived of liberty, be prevented. The illegal duration of his detention in these premises, which did not meet the minimum standards of treatment, "depriving" him of even his sight, constitute maltreatment and degrading treatment.

Interrogation of detainees/arrestees is another aspect in the focus of these observations. This is a procedure that should be guided by the principle of the presumption of innocence, and should be managed with high professionalism, fairness and impartiality. Since this is an important moment during the interrogation, clear procedures should be considered²⁶, and should always be carried out in the presence of the lawyer of the person. In the case of juveniles, the presence of the family member or custodian, is a legal obligation.

From the observations it was found that in general, the accompanied persons were interrogated in most cases without the presence of the lawyer. Whereas when the person was detained, generally his lawyer was involved in the process because, in case of his absence, the court considered invalid all procedural actions. Overall, as in the cases of accompanied/detained juveniles, the same situation was observed.

More specifically, based on the AHC's observations in police station No. 3 in Tirana, were found two accompanied juveniles with initials K.S. and Zh.S. who were in the same room with two adults, regardless that in that station there were separate rooms designated for this group age. Concern was also the fact that these juveniles were accompanied to the police station for investigation purposes, to identify a third person under investigation²⁷. Another disturbing fact was that in the register of the accompanied persons, was listed as a reason of accompaniment the lack of identification

²⁶ To avoid possible maltreatments or potential psychological pressures during the interrogation process, the CPT has recommended installation of audio and video cameras in these premises.

²⁷ According to the official authority of the police station, juveniles were held in the same environment with adults, because they had to identify a third person, caught by the police together with them.

documents, while the two juveniles had actually with them their identity cards.

AHC has paid attention to the electronic registration (ADAMS system) of data of accompanied/detained/arrested persons. In almost all observed institutions, the relevant data was not immediately entered in this system. Also, in most of the observed institutions, this system either did not function properly, or did not function at all.

One of the responsibilities of police staff in police premises, is also the ensuring of physical and psychological integrity of persons under their care. One of the safeguards in this regard, is also the functioning of request and complaint mechanism²⁸. AHC has lobbied strongly for the right to request and complained, be sanctioned in the law of the State Police. ASP has set up a work group where AHC takes part in the revision of the law in question. In this process, many provisions have been improved from the perspective of human rights, including the legal guarantee of the right to request and complain. AHC suggests that legal improvements for State Police law, be finalized soon. In parallel with this development, ASP has drafted a request and complaint registry model, which it has distributed in its subordinate institutions²⁹.

Based on the observation we conclude that this record had started to be kept in only a few police institutions. In other institutions, it had either been filled out wrongly (due to misunderstandings regarding the right way of handling it, as was the case in police station no. 5 Kamëz), or was not being kept at all (as in the case of police station of Durrës, etc.).

Practice has shown that accompanied/detained/arrested persons remain in police premises, generally in the legal maximum limits, although the guiding principle should be the opposite. The time spent in these premises should be as short as possible. Given that the accompanied/detained/

²⁸ AHC has published an evaluation report regarding the operation of this mechanism in police institutions, which presents concrete findings and suggestions for improvement of the situation.

²⁹ AHC has presented its thoughts on the register.

arrested people are kept in there for several days, the physical condition of the living facilities, must meet certain set criteria of also physical nature. Such aspects would include: the physical space of the rooms³⁰, adequate artificial and natural lighting, ventilation or heating, furniture such as fixed chairs or benches, bed per person, personal clean bedding, personal hygiene conditions, including the ability to have a shower etc.

AHC finds that there is a trend and practical commitment to improve the physical condition of the premises of accompaniment/detention by the managerial structures of the state police. This is a result also of constant pressure from national and international organizations to improve the situation. Also, AHC noticed that in some police stations, upon the order of the Director General of State Police, the premises used for accompaniment or detention were closed due to not meeting the minimum standards of treatment (such as the case in the police station of Tepelena, police station no. 4 Tirana etc.). AHC appreciates this attitude of the state police, towards ensuring the rights of persons deprived of liberty in the premises of the state police.

Besides premises of police stations in Gjirokastra, Korça, Tepelena (the accompaniment premises) and Lezha, which met the minimum conditions of detention and treatment, we find that the situation on the premises of the detention of police departments and stations of Vlora, Durrësi, Shkodra, station no. 3, no. 4 and no. 5 in Tirana, do not meet the standards of detention and treatment of persons accompanied / detained / arrested under their care. These rooms were cramped, without adequate natural or artificial lighting, no ventilation, no inside toilets, with old, dirty and not personal beddings³¹ etc. Asked by AHC, none of the persons detained/arrested responded positively to having had a shower during their stay there. During the observations, complaints were received about access to the toilet, especially during the night.

³⁰ The minimum standards of the CPT for this space is 7m², 2 or more meters wide, 2.5 meters height.

³¹ The individuals were not provided with clean and personal bedding (sheets, blankets) when entering the institution, but use the ones they found in their rooms.

Holding the detainees/arrested in such environments, constitutes abuse and degrading treatment. Especially Vlora police station premises, station no. 3 and no. 5 Kamza, Tirana, leave much to be desired in this respect, by not meeting any of the standards listed above.

Most times, the management staff of these institutions was aware of the poor condition of these facilities, but in some cases they justified such conditions with different 'arguments'³². They also claimed to have informed the ASP about the situation and had requested for the allocation of funds to reconstruct these premises, based on accepted respective standards. Some of these institutions, were in the process of reconstruction of the premises of the accompaniment/detention (such as the police station Durrës, or as planned soon for Vlora police station), while staff work environments were already reconstructed.

The right to notification of family members or relatives of accompanied/detained or arrest person is another right guaranteed by law. Especially in the case of the juveniles, this right is of particular importance. Generally, it was found that family members or their relatives are informed of the presence of their family members/relatives in police premises. This was not made at the first moments of accompaniment or detention, but after a few hours of the person's stay in there. Police officers were often engaged with their own private means of communication³³ to facilitate the realization of this right for them. However, we need to bring to attention the case mentioned above, of the accompaniment of the two juveniles in station no. 3 in Tirana, during the night hours. The family of one of these juveniles was not notified of his accompaniment, because the juvenile had not wanted for them to be

³² In finding a lack of benches to sit both in the accompaniment and detention area in Shkoder police station (the rooms being totally empty), executives who accompanied us, justified the situation with a "there is no need for them" statement.

³³ This is due to sufficient financial resources for the purchase from institutions of fixed telephony cards.

notified. According to Article 35³⁴ of the Code of Criminal Procedure, the notification of family members of juveniles held in police premises, is a legal obligation.

The right to fresh air for accompanied/detained/arrested persons, was not observed in none of the monitored institutions. AHC calls on the attention of police authorities, for the right to fresh air, as a right sanctioned by law and therefore, immediate measures must be taken that all persons deprived of their liberty held in the premises of the police station, may have every day the possibility to enjoy fresh air as provided in the international standards.

From the monitoring of several institutions staff shortages were observed. These were vacant positions which were in the process of completion (institutions had made requests for additional staffing). Observations also revealed that in the organogram, it existed the position literally defined as the lawyer/psychologist. AHC suggests the revision of this position in institutions' organogram, separating the lawyer from the psychologist as two distinct professions. Ensuring such services in an effectively way, contributes to a better observation of the rights of persons deprived of their liberty.

During the observations, the observed delays in the issuance of the executive order by the prosecutor, for the transfer of persons to penal institutions. AHC has repeatedly raised this issue by calling on the attention of the prosecution to act quickly to avoid the stay of convicted persons beyond the legal limits, which otherwise would constitute a legal violation of the rights of persons deprived of their liberty.

³⁴ "Paragraph 1. Juvenile defendants are provided legal and psychological assistance, in any level and stage of the proceedings, with the presence of a parent or other persons requested by the juvenile and accepted by the proceeding authority.

2. The proceeding body may take actions and prepare acts which require the participation of the juvenile, without the presence of the persons indicated in paragraph 1, only when that is in the interest of the juvenile or when the delay can severely damage proceedings, but always in the presence of counsel."

Another problem found in almost all police stations that keep arrestees (convicted with a final decision and wanted persons), against who was issued by the prosecutor the decision for execution of a penal decision, was that they were kept outside the time limits envisaged in the law. At the moment these people were caught, they were sent in police stations where relevant authorities had to go through a long bureaucratic procedure, addressing the GDP to initiate the transfer procedures. Such persons were held for up to 12 days in police premises, until the determination from the GDP of the place of execution of the penal decision. Such a procedure is contrary to law, as it is in violation of the rights of convicted persons, as well as it creates an artificial overcrowding in the police stations.

The two last issues raised in this report, show that there is a need to improve significantly the cooperation between the police, judges, prosecutors and prisons, in order to avoid delays in transfer of persons in prisons.

This round of observations focused also on the needs of the state police to perform their work in a professional manner and in accordance to the law. From interviews with police staff of the monitored institutions, there were highlighted mostly the needs in regard to the material base as well as further growth of professionalism of the police officers.

- **Suggestions for the improvement of respect for human rights in police directorates and commissariats**

AHC evaluates the positive changes undertaken by the police structures in the context of improving the infrastructure or staff recruitment, of the opening of separate rooms for minors or women etc. and encourage for more positive results in fulfilling the rights for persons deprived of their liberty in police premises. For this reason, based on the findings of planned and sporadic monitoring held in the framework of this round of monitoring

missions as well as based on the verifications driven by citizen complaints addressed to the AHC, we have developed some suggestions as follows:

AHC draws the attention of the state police authorities to take further measures to prevent the exercise of physical and psychological violence against minors or adults, which constitutes a serious violation of the rights of persons deprived of their liberty. When these situations occur unfortunately, to the victims it should be created all conditions to denounce it, and the State Police structures themselves should respond immediately to the treatment and recovery of the victim, as well as keep accountable the perpetrators. Police authorities should take into close consideration the notifications that monitoring subjects do, in relation to complaints received, or findings on violence against accompanied, detained or arrested persons.

AHC suggests to continuously use the rooms reserved for the maintenance of minors, when they are in police premises in the quality of the accompanied or detained and avoid keeping the minors in the same rooms with adults. Also, it should be prohibited the use of minors as a way to obtain information on the matters under investigation, in which other people are involved who are staying in the same room with the minors. AHC draws the attention of the police authorities that these are serious violations of the rights of minors in police premises.

Since one of the monitoring finding is the lack the knowledge from the part of police staff to identify the characteristics or symptoms that represent mentally ill persons in police premises, AHC suggests police structures to increase awareness and professionalism of the police officers in this regard. It should also be avoided police bias for this group.

Making present of the rights of persons accompanied / detained / arrested in the first moment of confrontation with the state police is a fundamental right which must be respected in any case. AHC suggests that to this aspect should be given more attention by the police structures, in order to standardize the standards in all police institutions, on the basis of positive examples cited in the report. Moreover, AHC suggests accelerating the

process started in 2012 for legal improvements of the law "On the State Police", especially with regard to certain provisions that directly affect better respect and proper treatment of accompanied, detained and arrested persons.

AHC suggests implementing the procedural terms of keeping people in police premises in all police stations in the country, as enshrined in the Constitution of the Republic of Albania.

Interrogation of detained and arrested persons should always be carried out in the presence of a lawyer and in the case of minors, to respect the legal requirement for the presence of a psychologist, family member or a custodial person.

AHC suggests taking measures to improve health service in police institutions. As noted by the observations, this service left much to be desired in terms of its quality, as well as supplying medicines. We recall the attention to the case of the citizen found in station no. 5 in Tirana, whose condition constituted inhuman and degrading treatment.

Praising the efforts of the police to improve infrastructure facilities, in which are kept the accompanied / detained / arrested persons, AHC suggests speeding up this process, and also draws attention towards the maintenance of those facilities that are already improved. Furnishing facilities with the necessary equipment to stand, chairs, beds, clean bedding, providing real opportunities to maintain personal and premises hygiene etc. are necessary to achieve the required standards in the humane treatment of these persons.

AHC welcomes the initiatives taken by the state police for the use of the declaration of rights and the register for the requests and complaints. Those initiatives create premises for fulfillment of the national international standards in this field. These documents should be met in police premises and serve for fulfilling the standards that should be met therein. On the other hand we encourage the leadership police structures of these institutions to fulfill not only formally these documents, but to act

in an appropriate way and orient subordinate bodies, to fulfill their purpose, and supervise them on continuous bases.

AHC, reiterates the concern regarding the delays in the transfer of persons in penal institutions. Keeping people in police custody, exceeding legal terms is a violation, so AHC suggests intensification of the cooperation in order to prevent this legal violation of the rights of persons deprived of their liberty.

Also, given the problems found, almost all police departments, concerning the maintenance of arrested persons in police stations, sentenced to a final decision, wanted persons, after issuing the order of the execution of penal decision by the prosecutor and in excess of the limits determined by the law, AHC suggests taking measures from the GDP, ASP, General Prosecutor's Office to avoid such unjustified delays. Undertaking joint studies to find ways and means, suitable to prevent such situations is another suggestion of AHC.

AHC suggests increasing the awareness in regard to the material needs of the police structures, in order to fulfill their functional duties, alongside with the continuing increase of professionalism regarding the concept of community policing, through which will develop a police structure which produces security for all citizens, including those who are in conflict with the law.

Last but not least, we suggest signing up as soon as possible the cooperation agreement between the ASP and AHC, under the circumstances that the parties have reached understanding on the content of this agreement.

APPENDIXES

LETTERS ADDRESSED TO STATE AUTHORITIES AND ENSUING RESPONSES

