

# **The Development of the Albanian Prison System in the Light of International Standards**

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## Abstract

The article focuses on the main developments in the Albanian prison system mainly during the last 24 years of democratic transformation. In more concrete terms, the article provides an insight into the legislative, institutional and infrastructural reforms of the Albanian prison system. Special attention is given to the rights and treatment of prisoners seen from a human rights perspective and principles of proper treatment. Furthermore, the article highlights the worrying issues that the prison system faces and concrete suggestions are provided from the perspective of international standards. The impact of international and national monitoring mechanisms on the Albanian prison system reforms also forms part of the analysis.

## Keywords

Albanian prison system reforms – principles of proper treatment – prisoners' rights

## Brief Historical Overview of Developments in the Albanian Prison System

Since the creation of an independent Albanian state some 101 years have now passed and during this period there have been numerous political, social and economic developments in both Albania and abroad which have had a direct impact on the legal development of the justice system in general and in particular the criminal justice system. After the country's separation from the Ottoman Empire Albanian prisons inherited a legal framework and a system and methods of running prisons which were marked by poor infrastructure and inadequate facilities, which did not provide for safety, hygiene and sanitary conditions, or humane and dignified treatment and opportunities for the resocialization of prisoners. Efforts to establish a legal basis for the prison system in Albania entered a new phase after 1920 at the time when the highest state power bodies were established. During the period of the monarchy after 1925 a step forward was taken in the organization of state institutions and in this context significant changes occurred in the prison system. A legal basis was created and law enforcement institutions were established. However, what was noticeable was that the prison system remained far from attaining its goal. With the establishment of the communist regime in 1944, prisons became the most visible symbol of violence and oppression, where violations of the rights of detainees frequently took place and where no minimum values and human rights standards were acknowledged; there was hunger and a lack of hygiene as well as beatings and torture, death and moral humiliation.

With the overthrow of the dictatorial regime in the early 1990s and a transition to political pluralism in Albania, the Albanian state was faced with new challenges in the area of reforming the justice system in general and criminal justice reform in particular. Policy orientation was geared towards the destruction of the previous criminal justice system and the establishment of a new system of criminal justice based on the principles of the rule of law, democracy and respect for human rights and fundamental freedoms.

## Reforming the Albanian Prison System seen from a Human Rights Perspective

Given the historical developments in the Albanian prison system, pressure from international monitoring bodies for reforms in this area has been increasing. Respect for human rights and ensuring proper treatment for persons detained by the prison administration has been one of the twelve key priorities of the European Commission's (EC) Opinion on Albania's application for membership of the European Union.<sup>1</sup>

## Improvement of the Prison System Legislation

Since 1991, when the law on "Major constitutional provisions" entered into effect and later the drafting and

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<sup>1</sup> The EC Opinion on Albania's application for membership of European Union, dated 9.11.2010, lists 12 priority recommendations that Albania has to fulfil in order to receive "candidate" status.

enactment of the Constitution of the Republic of Albania (1998),<sup>2</sup> one of the priorities of the criminal field has been to design and improve the legal and quasi-legal framework as well as to ratify a significant number of international legal instruments<sup>3</sup> which have become part of the Albanian national legislation. Legislation in this area<sup>4</sup> as it stands today provides for legal guarantees for the realization of a mission for the prison system where the emphasis is on efficiently managing the system of imprisonment and other measures as well as enabling the rehabilitation of and the reintegration of detained persons into society. Furthermore, legislation guarantees the public character of penal institutions as well as their organization and functioning within the chain of criminal justice bodies. There are legal safeguards for the public safety of society by means of placing offenders in penal institutions and, at the same time, there are guarantees that the rights of persons deprived of their liberty are respected and that their rehabilitation and their return to society are ensured. In addition, the international bodies<sup>5</sup> that have been active in Albania during all these years with their proactive and reactive monitoring missions have contributed to preventing, denouncing and/or redressing violations of the rights of detained persons. Domestic monitoring bodies such as the Ombudsman and the NGO watchdogs in this area are important actors in safeguarding the rights and treatment of imprisonment persons.

National legislation, ranging from the Criminal Code to internal prison rules, needs to be reformed in line with the latest developments in international instruments<sup>6</sup> in order to ensure proper treatment for vulnerable groups such as incarcerated women, children, persons with disabilities, and persons with mental health disorders. These legal amendments will prevent legislation that has been drafted in a neutral fashion and, instead, will lead to legislation that is responsive to the needs of vulnerable groups in prisons.

Albania's ratification of the European Convention on Human Rights (ECHR) has ensured that victims of human rights violations are entitled to have their cases reviewed by the European Court of Human Rights (ECtHR). At the national level, the ratification of the ECHR has made its provisions directly applicable by the Albanian courts. Many provisions of the ECHR are of direct importance for the protection of the rights of persons deprived of their liberty.<sup>7</sup> The ECtHR, through its decisions on cases brought by persons deprived of their liberty, also serves as a source of jurisprudence in this area for Albania and the administration of the criminal justice system in accordance

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2 Constitution of the Republic of Albania, Tirana, 1998.

3 Universal Declaration of Human Rights (1948), European Convention on Human Rights (1950), Helsinki Final Act (1975), International Covenant on Civil and Political Rights (1976), Convention on the Elimination of All Forms of Discrimination against Women (1981), un Minimum Standard Rules "For the treatment of prisoners" (1955), un Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1987), European Convention for the Prevention of Torture and /or Cruel or Degrading Treatment (1987), un set of principles "On the protection of all persons against any form of detention or imprisonment (1988), un basic principles for the treatment of prisoners (1990), Optional Protocol of the un Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (2002), European Prison Rules (2006) etc.

4 Law No. 7895, dated 21.01.1995, "The Penal Code of the Republic of Albania", as amended, Law No. 7905, dated 21.03.1995, "The Code of Penal Procedure of the Republic of Albania", as amended, Law no. 8328, dated 16.04. 1998 "On the rights and treatment of prisoners and detainees," as amended, Law No. 8454, dated 04.02.1999 "On the Ombudsman", as amended, Decision of the Council of Ministers 303 dated 25.03.2009 "On the approval of the General Regulation of Prisons", as amended, Law on the "Prison police", Law "On pardons", Law "On legal aid", Decision of the Council of Ministers "For the approval of the general regulations of prisons", Regulation "For the standards and procedures of the oversight of the execution of alternative sanctions and the organization and function of the probation service", Decision of the Council of Ministers "For the inclusion of persons sentenced to imprisonment and pre-trial detainees in the category of persons who are economically passive", Ministry of Justice order "For rules on the behaviour of officials in the prison system" etc.

5 OSCE presence in Albania, European Committee for the Prevention of Torture (CPT), Special Rapporteur on Torture, Special Rapporteur on extralegal and arbitrary executions.

6 Convention on Children's Rights, Bangkok Rules, Convention on persons with disabilities etc.

7 Some of the Albanian cases in this area are Grori vs. Albania (application no. 25336/04), Dybeku vs. Albania (application no. 41153/06), Caka vs. Albania (appeal no. 44023/02).

with international standards.

The European Committee for the Prevention of Torture (CPT) visited Albanian detention centres and made observations and recommendations in its reports. The impact of these recommendations on improving the prison system was decisive during several key moments as is shown below. Even this regional mechanism serves as a source for the design and development of European standards directly related to the system of the police and prisons.

### *Institutional and Infrastructural Reforms of the Prison System during the Years 1991-2014*

Legal and institutional reforms have been adopted to ensure that positive steps are taken within the prison system aiming at the approximation of this system with international norms and standards; however, the implementation of these reforms has either been delayed or not fully realized.<sup>8</sup> A matter of great concern<sup>9</sup> that continued over many years as an unsolved problem was the transfer of authority for pre-detention facilities from the Ministry of Public Order to the Ministry of Justice. Although the Law “On the organization and functioning of the Ministry of Justice” clearly defined the Ministry of Justice’s authority over the pre-detention system since 2001 in accordance with the Decision of the Council of Ministers (no. 327, dated 15. 03.2003 “On the transfer of the pre-detention system under the Ministry of Justice”), a complete transfer only became possible in 2007. This transfer was not merely an organizational issue and constituted a legal violation, but, above all, was a matter which was directly related to respect for the human rights and fundamental freedoms of persons deprived of their liberty.<sup>10</sup>

According to recommendation 2 (2006) of the European Prison Rules,<sup>11</sup> the infrastructural conditions in prisons should be such as to guarantee respect for the human dignity of individuals detained in such an environment; therefore, they draw the attention of the state authorities to making sufficient investments in order to meet these standards. In recent years, with the construction of new prisons<sup>12</sup> and the reconstruction of old institutions, from a structural standpoint the tendency to concentrate different regimes in the same institution, such as detention regimes and regimes with high, medium and low security, is a positive step. However, it can be noticed that plans for infrastructure improvement do not anticipate the construction of semi-open and open prisons. The establishment of such prisons will help prisoners to prepare for their integration into society, which will also meet one of the main objectives of the prison system concerning persons under its care.

Providing vulnerable groups with suitable infrastructure conditions is of particular importance especially when it comes to detained juveniles, women and persons with various mental problems. It is worth mentioning that over the years the Albanian government has failed to construct prisons with different regimes for female offenders, just as

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8 Albanian Helsinki Committee, Human rights report in Albania, Tirana, 2006.

9 CPT 2005 visit report on Albania, “The CPT delegation to Albania in 2005 visit report called upon Albanian state authorities that steps should be taken without delay to ensure that the management of the detention centre is placed under the exclusive responsibility of the Ministry of Justice. Further, the CPT wished to stress that it is not sufficient simply to change the legal status of the establishment concerned for the situation to be rendered satisfactory. Instead, steps should be taken to improve material conditions in these facilities, the regime offered to inmates must be radically improved, and staff should receive appropriate training”, p. 33. Retrieved February 2014, <http://www.cpt.coe.int>.

10 Article 71 of the European Prison Rules stipulates that “Prisons should be under the responsibility of public authorities, separate from military, police crime investigation authorities”.

11 Article 18.1 states: “The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.”

12 During recent years new institutions have been constructed, such as in Fushë-Krujë, Vlorë, Korçë, Durrës, Kavajë with financial support mainly from the European Union and in some isolated cases with support from the state budget.

it has lacked specialized medical institutions to treat people with mental health problems. For juvenile offenders, there is a separate institution, but there are also four other institutions that accommodate pre-trial detained juveniles in separate sectors in institutions with a mixed population and in three of these institutions, in terms of treatment, they fall short of European standards.

However, the infrastructural conditions of some pre-detention facilities, originally old police stations and prisons with dated and dilapidated buildings, leave much to be desired.<sup>13</sup> The lack of electricity and running water over a 24-hour period and the dilapidated and damp buildings as well as their overcapacity directly affect the poor quality of life experienced by persons deprived of their liberty and lead to conclusions that the living conditions in these institutions are not in accordance with international standards.<sup>14</sup>

Statistics show that Albania has a prison population of about 5,857 persons (out of whom 118 are juveniles and 105 are women), while the official capacity of the prison system is 4,537 persons.<sup>15</sup> There is a growing tendency of overcrowding in prisons during 2013–2014 (22% above the official capacity), a problem which has been raised in a series of progress reports on Albania by the European Commission.<sup>16</sup> To mitigate this overcrowding, at the end of 2012 senior executives of the Ministry of Justice embraced the idea of the privatization of prisons according to models offered by the prison system in the UK and the U.S.<sup>17</sup> Given that the Albanian prison system is not consolidated on the basis of effective management and in accordance with human rights standards and norms, there is a need for a complete analysis of the issue of the privatization of Albanian prisons. An in-depth analysis by and a discussion among professionals should consider aspects such as the impact of privatization on the welfare of prisoners in a profit-driven environment, where prison labour is increasingly seen as a source of income and has little to do with the training and rehabilitation of detainees. It should be meticulously considered how the oversight of private prisons by public institutions can be realized, etc. An analysis of the advantages and disadvantages will also have to consider the effects that privatization has on prison staff and the community in general. In addition, close scrutiny should be given to the fundamental moral principle of whether the administration of the prison system as a public service responsibility belongs to the state authorities or to profit-making companies.<sup>18</sup> The privatization of some services, such as food supplies, the transportation of prisoners, etc., is already proven practice in many European prison systems that have brought positive results in the better management of prisons, but transferring all management responsibilities of these public service institutions to the private sector would be a hasty step with damaging consequences, without first arranging an open discussion with all relevant stakeholders in the criminal justice chain.

### *Treatment of Prisoners – General Overview. Principles of Proper Treatment*

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13 Albanian Helsinki Committee, Report on the status of the rights of persons in police directorates, police commissariats, in pre-trial detention facilities and prisons, Tirana, May 2010.

14 European Commission, Progress report on Albania 2011, Brussels, October 2011, pp. 16.

15 Data provided by Ms. Ersejla Murati, Media Councillor at the General Directorate of Prisons, via an email on 18 March 2014.

16 European Commission, Progress Report on Albania 2009, Brussels, October 2009, pp. 14. European Commission, Progress Report on Albania 2008, Brussels, November 2008, pp. 12.

17 Ex-Minister of Justice, Mr. Eduart Halimi, in the annual analysis for the year 2012, presenting the reforms in the prison field for the year 2013, among others the privatization of low security prisons. Retrieved in January 2013, <https://www.justice.gov.al>.

18 J. Austin and G. Coventry, Issues arising from privatized prisons, New York, Justice Supporting Bureau edition. Department of State, USA, 2001. Retrieved on 15 April 2011, <https://www.ncjrs.gov>.

This part of the article will address the main principles for proper treatment<sup>19</sup> and how these principles are reflected in the Albanian prison system. The term 'treatment' includes everything that an institution may offer to prisoners. The principles of proper treatment therefore comprise quality requirements for the treatment of prisoners, in the broadest sense of the term.<sup>20</sup>

#### The First Principle: The Principle of Correctness

The quality of daily treatment comprises the daily treatment of and contact with prisoners which satisfy the requirements set with respect to quality, professionalism and ethics. This principle emphasizes the professionalism with which prison staff must manage prisoners in different situations.

During the 24 years of development that have taken place in the Albanian prison system, an increase in staff professionalism has been among the top priorities. It can be noted that there has been greater awareness among the personnel of penitentiary institutions as to proper treatment according to the needs of detainees in their care. Increasing expertise among and the ongoing training of personnel is taking place especially by providing the prison training centre with training modules for all levels of management and with the increasing support provided in this respect by civil society organizations and international agencies. In his report of 2010, the Ombudsman<sup>21</sup> noted that "steps taken to train employees and their involvement in exchange programmes have been positive models that have significantly increased their awareness of human rights."

Nevertheless, the Ombudsman and local and international monitoring organizations have reported cases of abuse, the use of violence and the arbitrary treatment of prisoners.<sup>22</sup> There have been cases where the persons responsible have been successfully brought to justice, but their number is low compared to the total number of reported cases. The responsible authorities are encouraged to undertake prompt, independent and effective investigations into all claims of torture and/or ill-treatment in accordance with the Istanbul Protocol<sup>23</sup> to ensure that, in all cases, those responsible for abusive acts should be criminally liable.<sup>24</sup>

Monitoring reports by NGOs in recent years have highlighted alleged cases of a lack of communication, pressure being exerted, the use of psychological violence and, in some cases, allegations of physical violence by prison personnel, which have damaged the credibility of prison staff when it comes to the human aspect of the execution of prison sentences.<sup>25</sup>

The daily quality treatment of prisoners through contacts with prison staff offers opportunities for solving problems between prisoners and staff or between detainees themselves. This means that prison staff should

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19 Council for the Administration of Criminal Justice and Protection of Juveniles, Proper treatment – principles of dealing with detainees, The Hague, 2010, "Raad voor Strafrechtstoepassing en Jeugdbescherming". Retrieved on 15 January 2011, <http://www.rsj.nl/>.

20 Idem, pp. 2.

21 Ombudsman, 2010 Annual Report. Retrieved in January 2012, <http://www.avokatipopullit.gov.al/>.

22 The National Prevention Mechanism of the Ombudsman, the Albanian Helsinki Committee, and the CPT have denounced cases of ill-treatment.

23 Istanbul Protocol, attached to resolution 2000/43 of the Human Rights Commission. [ap.ohchr.org/documents/.../CHR/resolutions/E-CN\\_4-RES-2000-43](http://ap.ohchr.org/documents/.../CHR/resolutions/E-CN_4-RES-2000-43).

24 Albanian Helsinki Committee, Report of the human rights status in directorates and police commissariats, pre-trial detention facilities and prisons, Tirana, May 2010, pp. 44.

25 Albanian Helsinki Committee, Report on the observance of human rights in prisons, Tirana, December 2011, pp. 6.

act with professionalism to resolve these issues through direct meetings with prisoners, but also through formal procedures which should ensure the reporting of complaints in the penal institution concerned and provide for expeditious, effective and professional complaint handling and ensuring appropriate remedial measures in cases of violated rights, especially in cases of ill-treatment.

During 2012–2013 the prison system developed a protocol for handling complaints but it still remains to be seen whether this protocol is being implemented in the right way.<sup>26</sup> It is noted that within penal institutions prisoners address requests to the GDP, but mainly only for transfers, while general complaints addressed to prisons and the GDP remain low in number.<sup>27</sup> Based on studies in this field<sup>28</sup> it is shown that during a certain period the GDP received very few complaints compared to the monitoring institutions<sup>29</sup> outside the prison system. The fact that complaints are addressed in a significant number to monitoring bodies outside the prison system is an indication of the lack of confidence by prisoners that their complaints will be effectively dealt with within the prison system.

Improving the selection procedure for prison staff, which should be competitive and on the basis of merit, remains a challenge for the future. Political appointments in the prison administration constitute a serious problem that threatens the stability and professionalism of staff. Every penal institution must have a suitable management structure and a sufficient number of specialists. Monitoring institutions outside the prison system have identified different standards in different penal institutions. A considerable number of these institutions are structurally deficient which leads to an absence of various specialized services, such as psychiatric, health, psycho-social services, etc., which are essential for the development of and for respecting the rights of prisoners in these institutions.<sup>30</sup>

#### The Second Principle: The Principle of Perspective, Reintegration and Post-Release Care

This principle has to do with the purpose that the detention regime should have, which focuses on the return of the prisoner to society and thus guarantees an adequate system of care after release. The prospect of a successful return to society after release should guide all daily programmes in prisons.<sup>31</sup>

Albanian legislation provides for this principle as the main purpose of punishment. However, the daily practice in penal institutions offers very little in the form of after-care programmes. Programmes on preparation for release are limited to the last few months before the person in question is released from prison. In some penal institutions these programmes are totally lacking, and even when they do exist, they tend to be formal and superficial. There is no structured and comprehensive approach which starts from the moment when a detainee enters a prison until the moment s/he is released, nor is there any planned or realized concrete cooperation with other local or central

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26 Article 50 of Law no. 8328, dated 16.04.1998, "For the rights of persons sentenced to imprisonment and pre-trial detainees", as amended.

27 Source of information: the General Directorate of Prisoners via an email of 25 February 2014.

28 M. Leskoviku and E. Papavangjeli, On the assessment of the request and complaint mechanism in the prisons, Tirana, 2011, pp. 43–44.

29 For the period January – March 2011 the NPM received 250 complaints, while the AHC received 106 complaints from prisoners. Complaints were related to allegations of the use of physical and psychological violence, poor living conditions in different institutions, inadequate health services, violations of prisoners' rights, complaints of transfers and long distances from families.

30 European Institute of Tirana, Human rights protection in Albania: 2011 Monitoring report. For mental health care in prisons, 2011, pp. 40; Ombudsman, 2011 Annual report, Tirana, 2012, pp. 143, pp. 151, pp. 153.

31 Council for the Administration of Criminal Justice and Protection of Juveniles, Proper treatment – principles of dealing with detainees, The Hague, 2010, pp. 7. "Raad voor Strafrechtstoepassing en Jeugdbescherming". Retrieved on 15 January 2011, <http://www.rsj.nl/>.

state bodies<sup>32</sup> such as: the probation service, local employment offices, the local social services, the local police, local businesses etc., which can support a prisoner unsuccessfully returning to society. To date, preparation for release has been considered as a programme which should start during the days, weeks or, at best, the last few months before release, but European prison experiences highlight that it is good practice for the preparation for release programmes to start during the pre-trial period, taking into account the fact that a considerable number of pre-trial detainees return to society without entering prisons. Furthermore, it is a fact that persons accommodated in pre-trial detention while awaiting final court decisions remain in the Albanian prison system for a very long period. For example, the average stay of pre-trial detained women is 22.3 months.<sup>33</sup>

### The Third Principle: A Meaningful Regime

This entails that the detention regime offers sufficient space for necessary meaningful activities which aim at providing a structured life in the institution in question, daily rhythm variations, activities that aim at social reintegration and provide for ample opportunities for prisoners to develop and to fulfil their potential.<sup>34</sup>

During these years of transformation in the prisons, there have been continuous efforts to enrich educational, sports, recreational and rehabilitation activities offered in the daily programmes. Nevertheless, the monitoring reports highlight the fact that the penal institutions have different standards.<sup>35</sup> In some prisons daily programmes are poor with an extreme lack of activities targeting the special needs of prisoners, whereas some prisons offer good facilities, as is the case with the daily programmes in the women's prison.<sup>36</sup>

Organization and the remuneration of labour remains a challenge for prisons. Despite the 2009 amendments to the General Directorate of Prisons which legally enable the realization of labour in prisons as well as appropriate remuneration for prisoners' work, in practice the remuneration of prisoners' work is not possible due to the lack of financial resources which should be allocated to the General Directorate of Prisons by the Ministry of Finance. Instead, the old practice of reducing the prison sentence by 4 days for each month that the prisoner is employed still continues. This practice is not in conformity with the national legislation<sup>37</sup> and even more so with the good practices of European prison systems. With regard to effective ways to reduce terms of imprisonment, Albanian legislation provides for early release possibilities, but it is nevertheless necessary to carefully consider a greater degree of flexibility in order to attain an adequate early release system as exists in the great majority of all Western European states.

According to the official statistics of the GDP, the entire prison system can offer work to 507 prisoners out of a total prison population of 5,857.<sup>38</sup> This limited possibility for employment means that work cannot be extensively

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32 Monitoring assessments by the Albanian Helsinki Committee for the years 2010–2013. Retrieved in January 2014, <http://AHC.org.al/>.

33 E. Papavangjeli, *Women offenders and their reintegration – penal policy seen from a gender perspective*. Chapter V. Unpublished PhD. Tirana, 2013, pp. 56.

34 Council for the Administration of Criminal Justice and Protection of Juveniles, *Proper treatment – principles of dealing with detainees*, The Hague, 2010, “Raad voor Strafrechtstoepassing en Jeugdbescherming”, pp. 9. Retrieved on 15 January 2011, <http://www.rsj.nl/>.

35 Albanian Helsinki Committee, *Report on the human rights status in police commissariats and prisons*, Tirana, May 2010, pp. 37–38.

36 E. Papavangjeli, *Women offenders and their reintegration – penal policy seen from a gender perspective*. Chapter V. Unpublished PhD. Tirana, 2013.

37 Article 37 of Law no. 8328, dated 16.04. 1998, “For the rights and treatment of persons sentenced to imprisonment and pre-trial detainees” as amended.

38 Data provided by the General Directorate of Prisons via an email on 18 March 2014.

offered to all detainees in prisons.

#### The Fourth Principle: The Principle of Individualization

This is related to the individualization of the treatment programmes taking into consideration the interests, needs and specific conditions of each individual.<sup>39</sup> National legislation<sup>40</sup> guarantees this principle.

Treatment programmes with an individual approach remain a challenge for the Albanian prison system, due to the lack of appropriate and sufficient personnel in prisons. Even cooperation with other civil society actors and other state institutions which offer specialized services leaves much to be desired, which is why a reform of treatment programmes having an individual approach is a necessity in any comprehensive strategy.

#### The Fifth Principle: Safety in Prisons

'Safety in prisons' means that prisons should guarantee the safety and security of prisoners. In other words, this means that the treatment in prisons is appropriate when it guarantees the physical and mental security of prisoners during their detention.<sup>41</sup>

In the recent years in the Albanian prison system it can be seen that there is increased sensitivity for differentiated treatment responding to the special needs of vulnerable groups in prisons, such as prisoners with mental disorders,<sup>42</sup> drug addicts, juveniles and women. According to official statistics,<sup>43</sup> the number of prisoners with mental disorders is increasing. A total of 254 prisoners have been diagnosed with different mental problems. In the majority of prisons these prisoners are not housed in separate sectors and there is no multi-disciplinary treatment provided by a specialised team. Special care units should be established in all prisons where there is a certain number of prisoners with mental disorders and the institutions should provide for multidisciplinary differentiated treatment. Despite the fact that by the end of 2011 the Durres institution had been opened where prisoners with mental disorders are accommodated for temporary treatment, this institution cannot provide for the needs of the increasing number of prisoners with mental disorders in all prisons.<sup>44</sup> The Kruja institution is another institution that accommodates other vulnerable groups of prisoners<sup>45</sup> and prisoners with more serious mental disorders. Despite the existence of these two institutions, the establishment of special care units in prisons where there is a certain number of prisoners with mental disorders should be considered.

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39 Council for the Administration of Criminal Justice and Protection of Juveniles, Proper treatment – principles of dealing with detainees, The Hague, 2010, "Raad voor Strafrechtstoepassing en Jeugdbescherming", pp. 11. Retrieved on 15 January 2011, <http://www.rsj.nl/>.

40 Article 10 of Law no. 8328, dated 16.04.1998, "For the rights and treatment of persons sentenced to imprisonment and pre-trial detainees" as amended.

41 Council for the Administration of Criminal Justice and Protection of Juveniles, Proper treatment – principles of dealing with detainees, The Hague, 2010, "Raad voor Strafrechtstoepassing en Jeugdbescherming", pp. 10. Retrieved on 15 January 2011, <http://www.rsj.nl/>.

42 Albanian Helsinki Committee, Report on the human rights status in directorates and police commissariats, in pre-trial detention facilities and prisons, Tirana, May 2010, pp. 41–42. During 2009–2010 special care units were established as pilot programmes in prisons such as "Ali Demi", Tirana, Peqin and Lezha, but only in Ali Demi prison does such an unit still function.

43 Data provided by the General Directorate of Prisons via an email on 18 March 2014.

44 This institution can accommodate a maximum number of 40 prisoners with mental disorders.

45 Apart from prisoners with mental disorders, this institution accommodates prisoners of an advanced age, prisoners with chronic diseases and persons ordered to be subjected to mandatory medication.

The revision of health care responding to the health needs of prisoners in all prisons remains a challenge for the Albanian prison system. The existence of double standards in this regard is highlighted in a series of human rights reports. A considerable number of complaints are reported from prisoners with regard to poor health care services.<sup>46</sup> The cases of *Dybeku vs Albania* and *Groni vs Albania* brought before the European Court of Human Rights are examples of violations of principle five where Albania has been condemned for having violated Article 3 of the European Convention on Human Rights (ECHR).

Part of the unsolved problem is the treatment of persons with mental disorders who have been ordered by the courts to undergo “mandatory medication”. The Albanian legislation foresees specialised treatment in specialised institutions for these patients. According to data reported by the GDP<sup>47</sup> there are 105 persons who are currently being accommodated in the Prison Hospital and in Kruja prison in flagrant violation of national and international laws and standards. This situation seriously violates the rights and treatment of these patients who should be treated in specialised forensic institutions and who are not deemed to be prisoners as such by the final court decisions delivered. During all these years the Ministry of Health and the Ministry of Justice have not found a solution to this troubling issue.<sup>48</sup> Almost all national and international actors that monitor the Albanian prison system have strongly highlighted this flagrant violation of the physical and mental security of persons subjected to mandatory medication as well as prisoners who are accommodated in the same premises as such patients.<sup>49</sup> A final solution to this troublesome issue should be part of the reforms that the Albanian prison system should aim at.

#### The Sixth Principle: The Principle of Legitimate Enforcement

This principle provides for a general legal framework instead of incidental decisions taken by prison personnel in different situations. As was already analysed earlier in this article, the Albanian legislation is generally complete, but this principle puts emphasis on the proper implementation of the legislation, especially when it has to do with the limitations placed on prisoners’ rights which in all cases should be legitimate according to a specific regulation/protocol/administrative guideline on a specific type of limitation. The general regulations on definitions or restraining means are obviously not sufficient for adequate implementation.

Based on the conclusions of the reports of the independent monitoring organisations it is evident that there are violations in the implementation of the law and a lack of proportionality in concrete situations created in cases of specific incidents, aggressive behaviour by prisoners etc.<sup>50</sup>

During 2012–2013 specific protocols were drafted concerning such situations and incidents, so now it remains for these protocols to be correctly implemented by prison personnel.

## Conclusions

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46 The Ombudsman, the AHC, the European Institute of Tirana, the Centre for Trauma and Torture, etc., have constantly reported a considerable number of complaints regarding health services.

47 Data provided by the General Directorate of Prisons via an email on 18 March 2014.

48 During 2012 a new Law “On mental health” entered into force which provides, among other things, for legal guarantees for the rights and treatment of persons subjected to mandatory medication measures. There have been efforts by the Ministry of Justice and the Ministry of Health to establish a forensic institution but, as yet, there is still no concrete outcome.

49 The Ombudsman, the AHC, the European Institute of Tirana, the CPT, the European Commission etc.

50 Albanian Helsinki Committee, Report on the human rights status in directorates and police commissariats, in pre-trial detention facilities and prisons, May November 2012, Tirana, 2013, pp. 36–38.

During the last 24 years of democratic transformation the Albanian prison system has embarked on progress and positive steps have been taken with regard to legislation and, to some extent, the infrastructure and treatment of prisoners. Nevertheless, there is a great deal to be done with regard to the proper treatment of prisoners in general and especially those with specific needs.

It is necessary that all the above-mentioned principles for the proper treatment of prisoners should serve as reference points for the prison authorities to draft and implement concrete interventions for the further improvement of law enforcement in practice.

Further reforms of the Albanian prison system require a genuine will and a contemporary vision by the decision-making authorities concerning all the changes that should take place. Part of these reforms are the following: improving the selection criteria for prison personnel who should be appointed on the basis of merit; ensuring the sustainability and consolidation of the prison personnel training system for all management levels; prison personnel should be regulated by the civil service law, this will lay the basis and provide for the sustainability of prison personnel and their professionalism.

Having pointed out the lack of trust that prisoners have in the prison authorities when lodging their complaints, it is of great significance to have in place an independent complaint body outside the prison system, apart from the possibilities that prisoners have to address their complaints to equality bodies like the Ombudsman or monitoring NGOs. An independent complaint body will ensure the effective, impartial and expeditious handling of prisoners' complaints.

The lack of individualised treatment programmes for prisoners and a lack of preparation for release programmes in the Albanian prison system result in the necessity of having effective detention planning and a phased system for each prisoner from day one in the prison system up until the detainee's return to society.

Furthermore, in the context of enabling the reintegration of prisoners into society, there is an urgent necessity to create decent labour facilities with possibilities for a combination of vocational training and labour for all prisoners in the Albanian prison system.

Prison reforms should be guided by civil mentalities regarding the good functioning of all prisons in Albania. The serious implementation of such reforms will make it possible to measure progress in the prison system which remains a priority for Albania on its road towards membership of the European family.

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