

Report on the observation conducted at institutions for the execution of penal decisions and pre-trial detention institutions

Introduction

The **Albanian Helsinki Committee (AHC)**, the first human rights organization established in 1990 has as its mission the protection, education, and sensitization of public opinion and state institutions for better respect for the rights of citizens. Monitoring respect for the rights of arrested, detained, and convicted persons in penitentiary institutions has been for years under AHC's special attention.

During July 2009, AHC conducted several observation missions in pre-trial detention institutions: **“Jordan Misja” in Tiranë, “Mine Peza” in Tiranë, Sarandë, Berat, Durrës, Vlorë**, and the Institutions for the Execution of Imprisonment Decisions **“Shën Koll” Lezhë, Vaqarr, Burrel, “Ali Demi”, Tiranë and the Tiranë Prison Hospital¹**.

Some of the main objectives of these missions were: observation of living conditions of persons deprived of their liberty in penitentiary institutions; observation of respect for the rights of these persons by the institutions' administration personnel; verification on site of complaints and violations claimed by persons deprived of their liberty, as well as offering juridical consultations for those persons who lacked legal information and, for different reasons, did not have a lawyer.

The AHC group of experts and its staff participated in the observation. The methodology employed in these observations was: meetings with representatives of the institutions administration and administration personnel of the health, educational, and juridical sectors, on-site observation of premises, equipment, food and medicaments in penitentiary institutions, interviews, and meetings with convicted and detained persons.

In the course of the observations, the group kept in mind national and international standards specified in the legislation adopted by the Albanian state regarding the rights and living conditions of persons deprived of their liberty.

¹ The monitoring missions were made possible thanks to the financial support of the Swedish Helsinki Committee in the context of the program “For better respect for the rights of victims in Albania – Legal Clinic 3”

1. Infrastructure and physical conditions

In the course of the observations, it was noticed that with regard to infrastructure, issues highlighted in previous observations by AHC still remain.

Some institutions have an immediate need for refurbishments due to the deterioration of premises, humidity, etc. We could mention here: pre-trial detention institutions *Mine Peza, Sarandë and Berat, Institutions for the execution of penal decisions Ali Demi, “Vaqarr”, Burrel and the Prison Hospital*. Although in some institutions plans were for refurbishment procedures to start several months ago, it no progress was made due to tendering processes; for instance, the Sarandë pre-trial detention institution was scheduled to conduct refurbishment two years ago; such work is yet to begin. The same situation appears in the IEPD Ali Demi and IEPD Burrel.

It is to be commended that the Vlorë institution, ***upon orders by the GDP now featured a new section for young adults (18 – 21 years) who used separate rooms.***

Some of the issues noticed in these institutions were ***presence of humidity, lack of natural light, unpainted and unplastered walls.***

In terms of very good infrastructure conditions, it is worth mentioning the Vlorë pre-trial detention institution, which met the established standards. Nevertheless, the ceilings of the building had begun to leak due to damages to the pillars. Every institution needs continued maintenance work.

Although some of the observed institutions were new or had been recently refurbished, their buildings had a lot of humidity: Durrës pre-trial detention institution and the Shën Koll prison. Although the observation took place in the summer, some of the walls of these buildings were leaking and caused the plaster to fall off. The external premises of the Shën Koll prison had problems with damages to the sewage pipes.

The situation of ***lack of water and electricity*** appeared very problematic in the Durrës pre-trial detention institution and lack of water in the Vlorë pre-trial detention institution. Due to the summer season and the very high temperatures, the supply of water for these institutions was essential in meeting the living needs of detained persons.

The ***personal use items such as mattresses, sheets, pillows and/or beds*** were in a much deteriorated condition. The same problem was noticed especially in the Mine Peza pre-trial detention institution, the Vaqarr IEPD and the Prison Hospital.

The observation team noticed in the Durrës pre-trial detention institution that the institution for the mentally ill was not functioning. The Ministry of Health has not yet taken it over although it has been a while since it was built and works finished.

2. Hygiene conditions

In spite of AHC’s continued findings and recommendations regarding the improvement of hygiene conditions, they still remain a problem in most of the observed institutions. Poor hygiene conditions were observed in the pre-trial detention institutions ***‘Mine***

Peza”, Jordan Misja, Durrës and the institutions for the execution of penal decisions “Vaqarr”, “Shën Koll”, Burrel and the Prison Hospital. The lack of water in during the summer season and the lack of detergents in some institutions made these conditions worse. The presence of cockroaches in the Vaqarr IEPD and convicts’ complaints about the presence of mice in the Burrel IEPD were very disturbing.

At the Berat pre-trial detention institution, the observation team noticed the **absence of a sanitary worker in the institution’s staffing pattern**, thus leading to police officers carrying out the cleaning.

In some institutions, the cleaning up of the rooms was left to the persons deprived of their liberty. Therefore, it is very necessary to educate them about hygiene and disinfect the premises of these institutions regularly.

3. Overcrowding

During the observation, it was noticed that overcrowding continued in almost all observed institutions. This was particularly noticed in the pre-trial detention institutions Mine Peza, Jordan Misja, Vlorë, Berat and the IEPDs of Vaqarr, Burrel, and the Prison Hospital.

Overcrowding in these institutions leads to failure to respect the rights of detained and convicted persons. A high capacity for persons per room was noticed particularly in the women’s section at the pre-trial detention institution “Jordan Misja” (2-5 persons per room) and the Vaqarr prison (4-6 persons). The situation appeared very problematic in the Burrel prison with some rooms planned for 4 persons hosting an average of 6-10 persons and the Berat pre-trial detention institution where, due to overcrowding in the rooms, detainees slept on mattresses on the ground.

4. Staffing patterns

The observation showed that the majority of the observed institutions had absences of personnel, mainly those in the health and educational sectors. At the pre-trial detention institutions of Durrës, Vlorë, Berat and Sarandë² *there was no dentist*. At the prison hospital, there was no *neurologist doctor or cardiologist, who had been employed part time*.

Likewise, at some pre-trial detention institutions such as Sarandë and Berat, *there was no pharmacist*. There was no *teacher for juveniles* at the “Jordan Misja” detention institution; there was *no psychologist at the Sarandë* detention institution. The Burrel IEPD and the Sarandë detention institution *only had part-time doctors*.

5. Airing

² At the Sarandë pre-trial detention institution, convicts and detainees who needed stomatological services were sent to private clinics. In some cases, part of the costs was covered by the institution.

In most institutions, the legal minimum of outside stroll time was observed, including getting fresh air 2 times a day, before noon and in the afternoon. However, in some institutions, infrastructure conditions did not allow for appropriate stroll time for the convicted persons. What was noticed in some institutions during the observation was that strolls were not taken in the open to get fresh air, but rather in another bigger room. Fresh air rooms were too small or did not meet the minimal conditions for appropriate fresh air. That was noticed in the pre-trial detention institution “Jordan Misja” in Tirana, in Sarandë, and at the Burrel IEPD.

6. Health service

AHC experts paid special attention to monitoring health services at penitentiary institutions.

In general, health services were offered at all observed institutions around the clock. Nevertheless, *health services were not offered periodically, but rather based on the requests of persons deprived of their liberty*. The observation showed that in some institutions, *the doctor worked part time* thus leading to an absence of services for persons in these institutions. This was particularly the case in the Sarandë institution and the Burrel IEPD. Deficiencies were noticed in medical personnel.³

At pre-trial detention institution “Jordan Misja,” *there was a lack of the necessary medical-stomatological equipment*, while direct contact with convicted women showed that they did not undergo gynecological checkups periodically.

The emergency service premises at the Berat institution⁴ did not meet the minimal necessary conditions. The pre-trial detention institution in Berat and Sarandë did not have a dentist or stomatological equipment, while the institutions in Vlorë and Durrës did not have ambulance vehicles.

The observation showed that the Vaqarr IEPD did not have the financial capabilities to afford conducting scanner checkups, required by the Forensic Medicine institute.

AHC received complaints with regard to medical services at the pre-trial detention institution “Mine Peza”, “Jordan Misja”, Durrës, and the Burrel IEPD.

The observers contacted several longtime users of narcotic substances in the observed institutions who were not in good health conditions. The institutions for serving prison terms and detention ones did not have specialized programs for this category. This was most evident at the institution in Durrës,⁵ Sarandë⁶, IEPD Burrel, the institution in Berat

³ For more see item 4 “Staffing pattern” in this report

⁴ The first aid room at the Berat institution did not have a mattress, but just a bed used also for meetings with family members

⁵ One detainee contacted by the observation group was a user of narcotic substances for over 10 years. He was in poor health condition, his legs were swollen, had a dark violet color, and he could not walk

(70% of detained persons at this institution were users of narcotic substances). Based on contacts with the administration of the Berat pre-trial detention institution, it appeared that after their release from the institution, there were no rehabilitation programs available for them and, thus, they went back again to the same conditions and went through the recidivistic return to committing different penal offences.

At the Durrës pre-trial detention institution, there were persons who suffered from diseases such as epilepsy, who received no specialized treatment. Therefore, their transfer to another specialized institution was required.

At the “Vaqarr” IEPD, based on contact with persons in this institution, it appeared that there were individuals suffering from diabetes who had undergone tests one year before and there had been no further service for them in these institutions.

With regard to medicaments, all institutions had pharmacies that were regularly supplied with medicaments. An open violation noticed at the *Berat detention institution was the absence of special premises for the pharmacy* and for maintaining medicaments. Shelves with medicaments were located in corridors. The pharmacist was not available and the service was carried out by a nurse. There was no schedule for the distribution of medicaments. It is worth mentioning a positive example regarding storage and the distribution of medicaments as was that of the Vlorë pre-trial detention institution.

With regard to the condition of pharmacies in the observed institutions, it was noticed that they had no reserves of medicaments. *An obstacle was the failure to carry out the tender for the purchase of medicaments in many institutions;* nevertheless, needs were met through purchases by the institution, through the small funds they had available. The Prison Hospital, as a specialized medical institution, conducted purchases for the health needs of ill persons making use of the emergency purchases fund because the tender had not been conducted.

Pharmacies in the Vlorë detention institution and the Vaqarr institution were in very good conditions with the medicaments, which were in sufficient supply and not expired.

Based on the on-site observation of the physical conditions of the pharmacy, it resulted that in some observed institutions, such as *“Jordan Misja”, Berat and IEPD Burrel some of the medicaments had expired.* With regard to this issue, the observation group gave its notes to the Institution. It also received a response saying the General Directory of Prisons had also been informed but the withdrawal of the medicaments or their elimination had not happened yet.

7. Category of the mentally ill

⁶ Based on contact with one detained person, it resulted that a drug user had been in the isolation room for 2 weeks. The conditions of the room were very poor. He slept on a mattress on the ground and had no visits by anyone.

The mentally ill persons, as a category that requires specialized health and psychiatric treatment, should be placed in specialized institutions.

At present, a problem is the large number of this category at pre-trial detention institutions and prisons. These not only do not offer specialized health services, but also do not have any psychiatrist. Almost all observed institutions, among convicted and detained persons, included mentally ill persons.

The prison hospital is the institution with the largest number of mentally ill persons, approximately 113 persons⁷, of which 100 persons needed “obligatory medication,” 11 had a security measure of “temporary treatment in a psychiatric hospital,” and 3 persons were transferred to the prison hospital due to acute psychiatric problems. Holding the mentally ill persons in the Prison Hospital weakens the role of this institution as a center for treating general illnesses for persons deprived of their liberty. The Prison Hospital does not have the capacities of a psychiatric hospital.

Other institutions with a considerable number of mentally ill persons included detention institution ‘Jordan Misja’ (13 mentally ill women), Vlorë (15 mentally ill persons), and the Shën Koll institution (10 mentally ill persons), Berat (2 persons), etc. The situation was very critical in the Berat pre-trial detention institution with 2 detained persons (wanderers) with mental illnesses. They could not use bathrooms and defecated in their clothes. It had been a long time since they had had a shower, thus posing the risk of an infection. The room where these persons were kept had the worst conditions also due to the absence of personal hygiene. Many of the chores to be carried out by a sanitary person in their room were conducted by police officers, thus posing risks to their health.

The transfer of mentally ill persons to specialized institutions, such as the institution for the treatment of mentally ill persons in the Durrës detention institution and the special institution of Zaharia, Krujë, is in our opinion *an essential step for guaranteeing specialized medical treatment for these persons and for facilitating work for the administration of these institutions.*

8. Psycho-social care and education plans

With regard to psycho-social care and education plans for detained and convicted persons, every institution pursued its own programs.

The observation conducted in some institutions, such as **detention institution in Vlorë and IEPD Ali Demi**, it resulted that there were individual monthly and daily programs for each convicted or detained person. At the Vlorë detention institution, the section of juveniles and young adults (18 – 21) had prepared specialized programs that were implemented rigorously.⁸

⁷ The number refers to the date of observation at that institution, i.e. July 9, 2009

⁸ During the observation at Detention Institution in Vlorë, the observation group was present during the implementation of educational programs for juveniles staying in this institution

In the *Sarandë and Berat pre-trial detention institutions and the Burrel IEPD, there were shortcomings in drafting and implementing social programs, monthly and individual plans, due to infrastructural or staff deficiencies*. Even in those cases when the programs had been drafted, they were standard ones and not tailored to the individual characteristics of the persons and their physical and emotional needs.

More priority should be given to the conduct of professional courses by penitentiary institutions in order to enable the reintegration of persons deprived of their liberty in the labor market, upon their release from the institutions. In some institutions, besides *computer and foreign language courses applied in some institutions, no other professional courses were held*.

The observation showed that the only alternative for persons deprived of their liberty to spend free time was that involving sports, organized several times a week. Many of the contacted persons complained about the lack of activities of an educational or sportive character, mainly at IEPD Burrel and detention institutions of Berat and Sarandë. The situation was different at the Vlorë institution where, because of new infrastructure, detainees used the gym, which had very good conditions, and played ping pong, chess, computers, etc.

Courses for teaching the illiterate were applied in all observed institutions. Nevertheless, the agreement between the General Directory of Prisons and the Ministry of Education about the organization of schooling for juveniles and the illiterate was only being implemented at the Vaqarr institution for the implementation of penal decisions. At the Ali Demi institution, the agreement could not be implemented because of the institution's inappropriate infrastructure.

The lack of a library in some of the observed institutions (pre-trial detention institution in Sarandë, Berat, and IEPD Burrel) is a disturbing problem related to how convicted/detained persons spend their free time. The Vlorë institution had a library rich in various publications and a system of membership cards for every detained person.

9. Transfers

Overall, all observed detention institutions *had delays in the transfer of persons convicted through final decisions to institutions for the execution of penal decisions*. Verifications showed that the reasons for these delays included: *failure to pass judicial decisions from the court to the prosecutor's office, delays in the issuance of the prosecutor's execution order, as well as delays in assigning the institution for serving prison terms by the General Directory of Prisons*.

In some of the cases identified by the observation groups, transfers by the General Directory of Prisons did not happen before 15 days.

At the Sarandë pre-trial detention institution, in contravention with the law, persons convicted with final court decisions and with two months of their term left, were kept in detention rooms to be close to their families. This also happened at the Durrës detention.

10. Food

Premises for cooking at penitentiary institutions were also a target of our observation. *The food norm offered to convicted and detained persons was respected and the daily menu was diverse.* However, due to the mentality of persons deprived of their liberty, food consumption was low and part of the detainees preferred to take their food from home. Convicts and detainees at the Burrel institution for the execution of penal decisions continued to complain about the quality of food offered to them.

The onsite observation showed that *premises for cooking in general are good and hygiene in cooking is respected. Conditions at the cooking premises of the Vlorë detention center are very good.* The premises also had refrigerating equipment.

The cooking premises at the Berat detention center, due to the lack of infrastructure and premises, were located in the Berat Commissariat building.

Conditions in which convicted/detained persons consume institution or home food and store it, particularly when temperatures are high and not all rooms have refrigerators.

It was disturbing that at the Vlorë institution and the Vaqarr IEPD, no special diet was used for those suffering from diabetes.

11. Other

At all observed institutions, persons deprived of their liberty were **engaged in different work**. There were more detained or convicted persons at the IEPD Vaqarr, Burrel, eh Durrës detention institution, etc.

It still remained a concern at the Burrel IEPD that work days were not recognized by the Judicial District Court due to instructions issued by the prosecutor's office. The practice was not pursued by other judicial district courts.

Regarding the **request-complaint mechanism**, by which persons deprived of their liberty, according to legislation, should be given the possibility to present every day request-complaints to the institution administration, or request a meeting with the IEPD director or responsible personnel, *the experts found that the legal deadlines within which the institution administration is obliged to provide a response were not respected.* Many complaints about failure to respect this deadline were raised by detainees in the Durrës institution.

Premises for meetings with family members in the Sarandë and Berat detention institutions *were either lacking or inappropriate and made it difficult physically and emotionally for the persons to meet with their family members.* Numerous complaints were raised by juveniles at the Shën Koll institution because their family members did not care for them. Continued psycho-social support by the family is essential for juveniles in order to minimize the negative impact of their stay in closed quarters. In that regard, it is very important to draft programs that would enable maintaining contact between juveniles and their family members.

12. Judicial problems

A considerable number of complaints by persons deprived of their liberty addressed the judicial system.

The raised problems included: the issuance by the court of “arrest in prison” security measures in cases when persons did not pose high risk or were public officials; procrastination of judicial processes on cases detainees are accused of, and different requests regarding reduced sentences, recognition of work days, etc., deficiencies in lawyers’ actions toward their clients, particularly lawyers assigned by the court, including the lack of meetings between lawyers and clients, failure to inform persons of judicial processes, requests for bribes “in the name of” judges or prosecutors, etc.

The out dragging of judicial processes is particularly problematic for juveniles who, because of their age and the negative impact of their stay in closed quarters, need as fast and effective adjudications as possible.

Based on contacts with juveniles in the Vlorë detention center, Jordan Misja, and Shën Koll, Lezhë as well as the study of their files, it resulted that most of the juveniles charged with the penal offense of theft stayed in detention institutions for more than 3-4 months⁹. At the time of the observation, few cases had seen the start of the application of alternative sentences for juveniles.

The situation appeared very problematic at the Prison Hospital with regard to persons on whom the courts had ordered “compulsory medication at a medical institution.” In accordance with article 46 of the Penal Code, the court, is obliged to review its decision when one year passes since the issuance of its decision. This was not done in practice for ill persons in the Prison Hospital. On this issue, the Albanian Helsinki Committee has reacted several times for years in a row in an attempt to sensitize institutions such as judicial district courts and the High Council of Justice.¹⁰

13. Legal consultations

Given that one of the objectives of the observation mission was to offer legal counseling to persons in need, AHC, through the observation groups, offered legal advice and informed persons deprived of their liberty about alternative sentences and the law on evidence, detention deadlines, legal tools of complaints about judicial decisions, shortened adjudication, etc.

⁹ At one of the observed detention institutions, juvenile A.D. was kept in detention since 23 months and his process had not ended yet

¹⁰ During the observation at the Prison Hospital, AHC identified the case of one person with mental disorders who had been in the institution for over three years with the security measure “temporary hospitalization in a psychiatric institution,” issued by the court on 03/03/2006. The penal offense the person was accused of was being adjudicated in the First Instance Court. According to institution personnel, his case had been forgotten. The person did not have a defense lawyer and, based on our contact with him, we were informed he had no family members either.

Recommendations to the General Directory of Prisons and the Ministry of Justice:

1. Detention and sentence institutions should be given a fund for maintaining the institutions continuously to correct attrition.
2. Better inspections should be conducted on works conducted in the prisons before they are taken over officially in order to avoid continued problems.
3. AHC recommends that priority should be given to taking measures for the reconstruction of some problematic buildings, namely detention institutions Sarandë, Berat, Mine Peza and IEPD Ali Demi, Vaqarr, Burrel and the Prison Hospital.
4. The General Directory of Prisons (GDP), together with the Prison Directories of detention in Vlorë and Durrës should coordinate with relevant communes and municipalities about water supply.
5. It is recommended to replace personal use items such as mattresses, sheets, pillows, beds with new ones, especially at the institutions Mine Peza, IEPD Vaqarr, and the Prison Hospital.
6. Coordination is needed between the GDP and the Ministry of Health to put to work the section established at the Durrës detention institution for persons with mental disorders and their quick transfer to this institution.
7. We recommend to the GDP to add a cleaning maid to the Berat detention institution staffing pattern to maintain common premises, in order to police officers to be able to conduct only the duties assigned by law.
8. Hygiene conditions should be improved and premises should be disinfected in the detention institutions and IEPDs, particularly IEPD Vaqarr and Burrel.
9. AHC recommends to the GDP and relevant institutions to complete the staffing pattern or increase it to address deficiencies noted during the observations, concretely the dentist in the institutions of Durrës, Berat, Vlorë, and Sarandë; the neurologist and cardiologist at the Prison Hospital; the pharmacist at the Berat and Sarandë institutions; the teacher for juveniles at the Jordan Misja institution; the psychologist at the Sarandë detention institution, and the hiring of a full time doctor at the Sarandë and Burrel institutions, as well as a lawyer at the Durrës institution.
10. Conditions should be improved in the airing premises for persons deprived of their liberty to offer more appropriate external premises and not improvised rooms, particularly at the Jordan Misja, Sarandë, and Burrel institutions.
11. We recommend that gynecological checkups be conducted periodically at the Jordan Misja institution.
12. Deficiencies in necessary medical-stomatological equipment and ambulances should be addressed, such as in Durrës and Vlorë; conditions should be improved at the Berat institution emergency premises.
13. Pharmacy and emergency premises should be provided immediately at the Berat detention institution.
14. We recommend to the GDP and the Berat, Burrel, Jordan Misja institutions to take measures to eliminate or withdraw expired medicaments in their pharmacies.

15. The transfer of the mentally ill to specialized institutions, such as the institution for the treatment of the mentally ill at the Durrës detention institution and the special institution of Zaharia, Krujë, is in our opinion an essential step to guarantee specialized medical treatment for these persons and to facilitate the work of the administration of these institutions.
16. Improve monthly and daily group and individual plans at detention and sentence institutions, particularly Sarandë and Berat, and increase sports and educational activities.
17. Accelerate GDP procedures to transfer persons on whom there are final court decisions from detention institutions to institutions for serving imprisonment terms.

Recommendations to the Ministry of Justice regarding the justice system:

1. It is recommended that more alternative sentences are applied by the Courts in order to reduce overcrowding in the relevant institutions.
2. Application of different alternative security measures in cases of accused persons who do not pose social threats.
3. Accelerate judicial procedures in order to avoid unnecessary out dragging, making the judicial system more efficient.
4. Apply alternative sentences and alternative measures for juveniles aiming at their rehabilitation and integration. Judicial and investigative processes should be conducted in as short periods of time as possible in order for juveniles to remain in detention as little as possible.
5. AHC recommends to the Ministry of Justice to take measures through legal ways to oblige judges who have issued compulsory medical measures for persons who have committed or are accused of committing a penal offence, to review their decisions based on article 46 of the Penal Code. Measures should also be taken so that the prison administration can initiate relevant procedures in the Court.

Tirana, November 9, 2009