



K O M I T E T I S H Q I P T A R I H E L S I N K I T
A L B A N I A N H E L S I N K I C O M M I T T E E

REPORT ON THE SITUATION OF HUMAN RIGHTS OF PERSONS DEPRIVED OF LIBERTY

IN STATE POLICE STATIONS,

IN DETENTION AND PRISONS

AS WELL AS

IN PSYCHIATRIC HOSPITALS

THE MONITORING WAS CONDUCTED DURING

July 2015 – January 2016

Tirana, January 2016



Civil Rights Defenders



Kingdom of Sweden



European Union

This publication is in the scope of the project: “For more empowered human rights defenders in Albania”, financially sported by the Civil Rights Defenders with funding from the Government of Sweden, and in the scope of the project “Together against police and prison torture in Albania”, funded by the European Union. These projects are implemented by the Albanian Helsinki Committee.



Civil Rights Defenders



Kingdom of Sweden



European Union



Albanian Helsinki Committee

The content of this publication are the sole responsibility of the Albanian Helsinki Committee and the Government of Sweden does not necessarily share the expressed views and interpretations and in no way should be understood as reflecting the position of the Civil Rights Defenders and of the European Union.

Supervision and scientific editing: Vjollca Meçaj, Executive Director

Project leader: M.A. Klejda Ngjela

Compiled the report: M.A. Klejda Ngjela and M.A. Iva Bregasi

Monitored the institutions: See list annexed

Translation: Anri Pashaj

If you are interested for copies of this report, please contact the Albanian Helsinki Committee at the address below:

Komiteti Shqiptar i Helsinkit
Rr. Brigada VIII-të, Ap. 10, Kati 5
P.O Box 1752
Tirana, Albania
Tel/fax: ++ 355 4 2233671
Mob: ++ 355 68 213 55 17
<https://www.facebook.com/KomitetiShqiptarIHelsinkit>
E-mail: office@ahc.org.al;
www.ahc.org.al

Author: © Komiteti Shqiptar i Helsinkit

All rights reserved. No part of this publication may be reproduced without permission of the Albanian Helsinki Committee.

TABLE OF CONTENTS

Introduction.....	Pg.6
Executive Summary.....	Pg.8
1. Summary of the Situation in the Police Institutions.....	Pg.8
2. Summary of the Situation in Detention / Prison Institutions.....	Pg.10
3. Summary of the Situation in the Psychiatric Hospitals.....	Pg.15
Methodology of the Observations.....	Pg.17

Chapter I SITUATION IN STATE POLICE STATIONS

1. Findings Pertaining the Respect for the Rights of Persons Deprived of Liberty in Police's Institutions

1.1 The Right to Dignified Treatment.....	Pg.20
1.1.1 Torture and Maltreatment.....	Pg.20
1.1.2 Use of Force.....	Pg.21
1.1.3 Interrogation Proceedings.....	Pg.22
1.1.4 The Right to Requests/Complaints.....	Pg.24
1.1.5 Transfer Procedure.....	Pg.24
1.1.6 Infrastructural Conditions.....	Pg.25
1.2 The Right to Information for Reason of Accompaniment/Detention/Arrest; Notification of Family.....	Pg.27
1.3 The Right to Counsel.....	Pg.28
1.4 The Right to Health Service.....	Pg.29
1.5 Other Findings.....	Pg.30
I. Recommendations for Improvement of Respect for the Human Rights in Police Institutions.....	Pg.30

Chapter II SITUATION IN DETENTIONS AND PRISONS

2. Findings Pertaining the Respect of the Rights of Persons Deprived of Liberty in Penitentiary Institutions

2.1 Overpopulation.....	Pg.32
2.2 The Living Conditions in Penitentiary Institutions.....	Pg.34
2.3 Safety and Security.....	Pg.36
2.4 Treatment of Prisoners. Rehabilitation and Reintegration; Individualization of the Sentence; The Daily Program.....	Pg.37

2.5 The Right to Complaint and Request.....	Pg.38
2.6 The Health Service.....	Pg.39
2.7 The Disciplinary Policy in the Local Penitentiary Institutions.....	Pg.42
2.8 Rewarding Leaves and Special Leaves.....	Pg.43
2.9 Employment.....	Pg.44
2.10 Treatment of Vulnerable Groups: Minors, Women, Mentally Ill etc.....	Pg.44
2.11 Other Findings.....	Pg.49
II. Recommendations for Improving Respect for Human Rights in Penitentiary Institutions.....	Pg.50

Chapter III SITUATION IN PSYCHIATRIC HOSPITALS

3. Findings in Terms of the Respect of the Rights of Persons Suffering from Mental Health Disorders in Psychiatric Hospitals

3.1 The Medical Staff.....	Pg.53
3.2 Admission in the Institution.....	Pg.53
3.3 Accomodation.....	Pg.54
3.4 Involuntary Treatment and Forced Medication.....	Pg.55
3.5 Physical Restraint.....	Pg.56
3.6 The Right to Food.....	Pg.57
3.7 Rehabilitative Activities.....	Pg.57
3.8 Personal Hygiene and Clothes.....	Pg.58
3.9 Relations to the Outside World.....	Pg.59
3.10 Staff-Patient Realties.....	Pg.59

III. Recommendations for Improving Respect for the Rights of People with Mental Health Problems in Psychiatric Hospitals.....Pg.59

LIST OF ABBREVIATIONS

GDP Directorate General of Prisons

SPD State Police Directorate

ECHR European Convention on Human Rights

CPT Committee for Prevention of Torture

AHC Albanian Helsinki Committee

MoH Ministry of Health

JPO Judicial Police Officer

CAAP Christian Association of Albanian Prisoners

PH Psychiatric Hospital

UHCT University Hospital Center of Tirana

SCU Special Care Unit

SIM Special Institution for Minors

PSHI - Prison's Special Health Institution

INTRODUCTION

The Albanian Helsinki Committee (AHC) established in December 16, 1990, has for its mission the promotion and respect of human rights and strengthening the rule of law. Within the scope of fulfillment of this mission, since several years AHC has extended its activity also in closed institutions where persons deprived of their liberty are kept, namely, in police directorates and stations and in detention centers and prisons. Also, in recent years, we have focused on supervising the respect of the rights of persons suffering from mental health disorders, as well as those who are accommodated in inpatients psychiatric hospitals. AHC has used different approaches in order to verify the situation of respect for the freedoms and rights of this category of citizens and to promote the improvement of the situation, and among those approaches, the monitoring through a group of independent experts remains the main form of intervention.

The State Police plays a very important role in a democratic state since it operates directly in order to ensure security and public order. This feature of it must be guided by the principles of respect for fundamental human rights and freedoms. Likewise, penitentiary institutions' mission is holding and treatment of persons that allegedly have committed offenses or that are convicted by the court for this reason, in order to enable the provision of justice for them or their social rehabilitation, in accordance with legislative stipulations in force.

On the other hand, specialized institutions for the treatment of people with mental health problems, have a duty to ensure that these people receive the appropriate health care service without being discriminated against and providing all the opportunities to be included in this service and to enjoy their rights, so long as their health allows, in accordance with medical protocols and standards set out in the law.

During the monitoring visits, the experts have carefully verified the respect of the rights stemming from the constitution, international conventions and/or laws, which these citizens are entitled to, but especially we have focused in the notification of citizens for the reasons of deprivation of liberty; respect for the right to appeal against this deprivation; verification of precise recording of the moment of deprivation of liberty in the relevant documentation; notification of rights of detained and arrested, especially the right to a lawyer; respect for the right to fresh air; the right to requests and complaints; the right to benefit from rewarding leaves; the right to free health care; the right to maintain communication with family and personal friends, without being under control in the communication with them, etc.

In the special focus of the monitoring, has been observation of the rights of persons that belong to the vulnerable part of society such as minors, women and people who suffer from mental health disorders, etc.

It is worth mentioning that the monitoring missions are conducted in a spirit of constructive cooperation with the authorities of the State Police Directorate, General Directorate of Prisons and the Ministry of Health, as well as the very administration of the institutions monitored. Such an approach of cooperation creates favorable conditions for the improvement of the situation of the rights of persons held in the above mentioned institutions, and provides

better opportunities for the fulfillment of international and national standards, that constitutes an important task in the process of European integration of Albania.

In this edition are included, in summary, the concrete findings that have resulted from our monitoring missions, in 2015, which we have compared with the standards set in domestic and international legislation. The report contains a comparative approach to the reports published by AHC in previous years, because the findings of this year we have compared also with the conclusions of the monitoring of the previous years, which makes possible the identification, as the case may be, of the progress or regress in the view of standards. The publication also contains recommendations for measures that would improve the situation ascertained.

From this perspective, AHC has conducted monitoring missions both planned and sporadic ones, based on a preliminary plan of monitoring, or on the basis of complaints received by different individuals, in order to evaluate closely the respect of the rights that these groups of individuals are entitled to.

AHC hopes that the findings and recommendations proposed in this report will encourage decision-makers in the public institutions concerned, to take further steps to improve the current situation, and will inspire incarcerated individuals in these institutions, their family members and the general public, to react to possible violations of their rights. Our society needs informed citizens, involved and participating in all processes of development and integration of the country, as only that would democratize our lives.

EXECUTIVE SUMMARY

1. SUMMARY OF THE SITUATION IN THE POLICE INSTITUTIONS

During the period July 2015 - January 2016, AHC has monitored the situation of respect for the rights of persons in the premises of police stations. Specifically, during this period, there were 22¹ monitoring missions in 20 police institutions, 2 of which were monitored twice. Relevant monitoring reports have concluded with concrete findings and recommendations for improvement of the situation. The following findings were ascertained, which we have grouped according to their specifics:

It turns out that people were generally granted their procedural rights. The right to counsel even if only formally, was granted. Persons were assigned a lawyer in most cases from the list of attorneys in those cases when the individual could not afford to get a lawyer of his/her choice. There was evidenced a good cooperation with regional hospitals for people in need (worth noting here is the service provided to persons suffering from mental health disorders). It is considered a positive development the closing of accompaniment or security rooms that do not meet the standards expressed in legislation and that are not anymore used for the persons detained and arrested, as well as the reconstruction of some accompaniment and security rooms. The situation with transfers in Tirana has improved during 2015

Overall, the food was considered of good quality. It was observed an increase in female staff of the State Police. This initiative was welcomed by AHC as it helps the gender balance employment in this sector, as well as guaranteeing the rights of accompanied / detained women in these institutions. As a best practice is noted the Berat Police Station where there are employed 17 female officers in uniform.

It is concluded that the legal obligations are not always immediately fulfilled such as in terms of notification about **the reasons for the accompaniment, detention, or arrest and consequently the limiting the freedom and rights of citizens**, from the first moments of contacting the police. People do not always obtain a copy of the declaration of the rights they enjoy while are under police's custody, despite claims of them being regularly communicated to them. The notification of family is carried out on regular basis when the adults desire and request it, whereas in case of juveniles, the notification of the family is mandatory even without juvenile's consent.

Of concern remains in some cases **the disproportionate use of force** by police forces. During 2015 there have been made public by the media, but is also claimed by the interested parties, in some cases, the perpetration of disproportionate violence by police officers. This occurred mainly in the moment of arrest. Allegations for violations have been made also regarding the interrogation process, or during accompaniment to the police premises. There have been allegations of violence

¹ For more information refer to "Methodology of Monitoring";

exerted against minors as well.² (*In the Police Station No. 5 in Tirana and the Police Station of Elbasan*).

At the local police structures, in the process of interrogation there are issues with the phenomenon of overlapping positions of the institution's lawyer and that of the psychologist. These are offices with different from each-other educational background, whereas it was practically evidenced that the police officials concerned did not meet either of them. There were cases when the official was a jurist and had not graduated on psychology, or vice versa³. This violates one of the foundational legal guarantees for offering the psychological services, especially in cases of juveniles deprived of their liberty, persons with mental disabilities or victims of serious crimes, since the law provides the mediation by the psychologist during the communication with them in the context of criminal proceedings. Also, in some cases, it was evidenced the absence of special rooms for keeping in the juveniles, women and girls.

The assigned attorneys, in most cases, meet the detained / arrested only at the court session pertaining the decision regarding the security measure, and not before. There were claims that this service suffered significantly from the lack of the quality and effectiveness of service provided by these lawyers.

Regarding the right to **dignified treatment**, there were found cases in which people sleep on the floor, in rooms with capacity for only one person due to the overpopulation of the institution. In some other cases, the rooms do not meet the legal standards of space available to a person with restricted freedom. It remains the same situation regarding the procedure for the permanent closure of these rooms, not in compliance to the rules adopted for their closure with wax and seal.

Monitoring visits showed that there is a lack of hygiene in some accompaniment and detention facilities, as well as in shower and toilets stalls. In some cases, these environments are in incredibly deplorable conditions. It was evidenced also insufficient natural or artificial lighting, stiff air in places where the persons deprived of their liberty are held, dampness, no individual clean beddings, etc.

Regarding **health care** in the institutions of the State Police, persists the same situation as in previous years. The medical service is provided by doctors of the local police directorates⁴ that are under the authority of DSP or as it was verified in one case, by the doctor that was part of the institution's (prison's) organizational structure, in cases when the police station was situated near

² Claims received during interviews of juveniles held in SIM Kavaja;

³ In monitoring of 20 police stations throughout the country, it was not found any case in which the lawyer has been educated also in the branch of psychology or vice versa;

⁴ Referring to the new terminology in Article 21 of the Albanian State Police Regulation adopted by the Council of Ministers Decision no. 750 dated 16.9.2015; http://www.qbz.gov.al/botime/fletore_zyrtare/2015/PDF-2015/167-2015.pdf;

the prison or detention center. Lack of medicines or necessary equipment for offering this service is still a problem in many police stations.

Food was generally provided through the catering service, but in some of the institutions that were monitored, there were grievances related to its quality and quantity.

Regarding the right of persons held in the premises of the police, to make requests/complaints and get replies pertaining them, it was ascertained that these citizens, in most cases, addressed them verbally, directly to staff in charge of security rooms. In the records that were monitored were evidenced only a few requests. In the Police Station No. 4 in Tirana, the registry of requests/complaints was missing altogether. The staff explained that the potential requests/complaints they wrote down in the register of entries and exits. The object of most requests consisted in meetings with personal lawyers.

It remains problematic **the delayed transfer past legal time frames of people who have received their security measures, or the arrestees in order to serve their final form court decision** in the respective prison. AHC has ascertained that these delays are extended up to 13 days of stay in police station pending the transfer.

2. SUMMARY OF THE SITUATION IN DETENTION / PRISON INSTITUTIONS

Measures are taken by the competent institutions to somehow improve the situation of **overcrowding** in the penitentiary system. Compared with data from a year ago, where overcrowding amounted to around 32% in all the penitentiary system, in the prison system there are currently 6,282 people⁵, while the capacity is 5,484 persons which accounts for 798 persons or about 14.5% over capacity. New institutions were opened in the pretrial of Berat and the prison of Fier⁶ (with a capacity of 600 prisoners and 180 detainees), and also the Jordan Misja Prison in Tirana was reopened after its reconstruction. Also, with the approval of Law no. 154/2015 "On awarding amnesty"⁷ in January 2015 were released 968 convicts, which also helped to lower the overcrowding in prisons. Regarding the persons who suffer from mental health problems and who remain in the penitentiary system, AHC has been informed that the Ministry of Justice (Directorate General of Prisons) and the Ministry of Health are put in disposal by the government two plots of land for construction of two institutions which will serve people with mental health problems, or people with medical measures and convicted persons who while incarcerated have developed mental illnesses.

⁵ Official site of GDP, data for January 2016. These figures resulted after the application of the amnesty law that released 968 convicts, <http://www.dpbsh.gov.al/newweb/?fq=brenda&m=shfaqart&gj=gj1&aid=580>

⁶ Referring to the Official Site of the Directorate General of Prisons, <http://www.dpbsh.gov.al/newweb/?fq=brenda&gj=gj1&kid=96> ;

⁷ Official website of the Albanian Parliament http://www.parlament.al/web/pub/ligj_nr_154_dt_21_12_2015_25096_1.pdf

Treatment of minors in prisons and detention facilities was found to be in the focus of the competent institutions. In all institutions where juveniles are held, the 9 year obligatory education is offered to them. In SIM Kavaja the school was organized in 4 groups of students, two of which belonged to elementary and two others to the secondary education. School was opened every day from 08:15 to 13:00 PM for secondary level and from 08:15 to 11:45 for elementary level. For their rehabilitation are undertaken separate programs of treatment and rehabilitation, as well as various vocational courses (plumber, electrician and wood work, although it turns out to be a lack of supply of raw materials and tools required for the job). Among other things, most of the time they spent outside the room watching TV or taking part in various sports activities. The atmosphere in some institutions where juveniles are held, has improved. In this context, it is worth noting the recent initiative that AHC is undertaking as part of a project⁸ implemented by the Dutch Helsinki Committee, supported by the funds of the Dutch Foreign Ministry, which inter alia, aims to complete the rehabilitation of the juveniles into society after release from penitentiary institutions. One of the basic pillars of this initiative is an educational approach offered to juveniles in penitentiary institutions by well-trained staff, so that they change behaviors that have caused them to be now faced with the law. Health service was quite good with each juvenile having his own medical file filled out periodically in institutions where this category of citizens is held.

In Ali Demi prison, a comprehensive plan is offered to women for their reintegration and measures are taken for the implementation of distance parenting program by creating appropriate conditions in the respective premises of the meeting room. The room was in good condition, with paintings adapted to provide a pleasant environment for the children. Also distance parenting was practiced for up to 8 hours a day, but on average, mothers stay with their children up to 2 hours a day. The latter meet their children at the meeting rooms. Regarding **health care, it was found** that women detainees, prior to being admitted to the institution, underwent a gynecological and ECHO examination in order to determine their reproductive status. Positive cases were ascertained pertaining activities, such as organization of musical therapy and handicrafts (knitting) in PSHI, or the diversity of activities organized in the Ali Demi prison in Tirana. The institution has long made use of its green house, where several women are employed to take care of flowers or different vegetables. Regarding their treatment, the institution has signed a cooperation agreement with non-profit organizations for the implementation of near-release programs. In this institution were offered courses in tailoring, hairdressing and English. The activities that were implemented consisted of card games, dominoes, ball games, movies, art therapy, etc

It was noted that the right of request-complaints is respected in compliance to procedures adopted and that in this regard no complaints from prisoners were submitted. The right to quality food by consuming foods of the season, is best observed in PSHI Tirana, where the daily meal was rich in assortments and carefully stored, with respective portions for diabetics and

⁸ "Improving conditions for reintegration of juvenile prisoners in Albania, Macedonia and Kosovo, "CoPROL Matra Program" funded by the Ministry of Foreign Affairs of Netherlands";

others with various diseases. Generally, the procedure for issuing rewarding and special leaves, is implemented in conformity with legal regulations.

During 2015, **overcrowding** continued to be one of the most serious problems of the penitentiary system as a whole. AHC has identified one case where overcrowding has reached 100%. Stricter sanctions for some offenses, the mass issuing of the security measure "jail arrest" and the application sparingly of alternative sentences, have proved to be some of the main reasons that have "fed" the phenomenon.

With regard to infrastructure conditions, in many institutions were found not so good conditions (the first floors of buildings were depreciated, lack of sufficient number of beds for all inmates, noncompliance with the legal standards in terms of space per person, etc.). In several institutions the walls were damp all over the premises, especially in areas near the toilets and showers, due to poor insulation of piping or low quality of the construction work. It is worth evidencing the need for immediate actions to be taken in order to improve the severe depreciation of the Ali Demi institution's infrastructure. Also, isolation facilities in this institution do not meet the standards of natural lighting and access by employees of the institution.

In some institutions it was found that the **heating system** does not work, where most flagrant case was presented in PSHI Tirana, where the problem persists since 2 years and still measures have not been taken in order to make the system operational. On cold winter days, especially in institutions where excessive dampness is evident, the situation creates conditions for inhuman and degrading treatment, especially for people with special circumstances such as sick, children, women, elderly, etc.

Hygiene appeared problematic in most of the monitored institutions. This is because a part of the category of persons residing in prisons is not capable, due to their health conditions, to serve themselves and to keep their environment clean. It was found that there was a lack of detergents and in many cases the convicts relatives provided them, at their own expense.

In most monitored institutions, **showers and toilets** were not in good condition. There were found rusted and broken doors, excessive dampness, damaged shower heads, depreciation of tiles, dirt and damaged pipes and consequently, in a sporadic case was evidenced the overflow of sewage around the toilets.

Some institutions posed problematic concerning they water supply 24 hours a day. In Kavaja prison the water was contaminated with dangerous bacteria, namely: Escherichiacoli and risked spreading diseases. This water with this quality was forbidden to be used for drinking and quite dangerous for washing dishes and clothes.

There have been numerous claims about the **quality of food and its variety**. This has been noticed also by the verification of books where the food menu is recorded. Many convicts admit

that they receive their food from their relatives and that the institution did not opt to have the food of the institution, because they did not like it.

Safety and feeling safe are important elements of the treatment of prisoners. Suicide attempts and suicides, still persist. The most extreme form of violation of personal security, claimed during the monitoring, it was that told by a convict, who stated that he was violently sexually abused by another convict. On our alert, relevant authorities took immediate measures to clarify the situation, but care should be taken by authorities to create real and credible opportunity for prisoners that such alerts be obtained directly from the injured and vulnerable. The vigilance must also be stepped up against such incidents. The phenomenon of smuggling banned items in prisons and detention facilities, which indicates the lack of capacity, or low-level integrity of the staff that exert controls for this purpose, is still a concern.

(banned items that have been smuggled in prisons, range from cell phones to cold weapons.)

Regarding the right to file **requests/complaints**, from the special registry are evidenced only requests in which most of them consist of: additional phone calls, meetings with family members, transfer to different cell, etc. However, AHC constantly receives complaints via phone or letters that are addressed by many prisoners for issues related to the treatment in penitentiary institutions or pertaining certain legal matters, which indicates that there are problems with the administration and handling of requests and complaints of persons deprived of their liberty, who are treated in penitentiary institutions.

It was found that the numerous **activities** conducted with prisoners and detainees consisted in board games such as card games and dominoes. However, also individual meetings, group meetings, counseling sessions, or treatment of different topics pertaining hygiene, drugs, alcohol, etc. were also organized. Sporting activities were found not to be frequent, and that for various reasons. Most of the day prisoners spent in the room with the system thus failing to meet the legal provisions that stipulate a different situation.

AHC has placed a great importance to **respecting the right to free health care, without discrimination**. During 2014, AHC has submitted to the Court a request regarding the ensuring of health service and termination of inhuman and degrading treatment resulting from not providing this service⁹. The respective court accepted this request and its decision in 2015, ordered the provision of the necessary health service by GDP in order to terminate the inhuman treatment. Health service lacks psychiatrists who work in this system. Also, there are numerous complaints about the quality of service or medication provided in the penitentiary institutions. According to the statistics generated by AHC, about 30% of the complaints received during 2015 are related to health care in the penitentiary system. The medical services provided in PSHI are very dismal, both in terms of infrastructure of this institution, as well as pertaining the medical services that patients receive. In Tepelena and Durrës prisons etc. there was a lack of issuing health insurance cards to many prisoners, which enables them to benefit from the scheme of

⁹ Decision No. 1/154 Act Dated 10.03.2015 of the District Court of Kruja;

reimbursable drugs. It is ascertained in some cases the absence of secondary medical staff, as well as that of medicines and medical equipment needed for medical examinations.

The disciplinary measure, which is most often provided in monitored institutions was found to be exclusion from joint activities up to 20 days. This measure is later followed by the disciplinary measure of banning from fresh air with others. As regards the procedure followed for deciding of the measure, there have been identified cases, albeit sporadic, of not strict adherence to norms of procedure prescribed by law and regulations, such as the order of the director of the prison for the disciplinary measure contained not expressly the right of appeal of the measure which was given to the Appeal Commission of the Disciplinary Measures.

As regards respect for the right to obtain the rewarding leave, at Ali Demi Prison was evidenced a case in which the director has approved the rewarding leave but the GDP has refused it over the phone and not via an official letter. The competent authority for granting the rewarding leave is the director of the institution and the GDP is to only schedule the leaves¹⁰. Another ascertained problem is seen in the withholding of rewarding leaves for people with foreign citizenship. This is a problem that must be regulated without discrimination in the legislation.

The procedure of remuneration of the work carried out by prisoners, continues to be inconsistent with applicable law, which stipulates that the work carried out should be rewarded. Meanwhile the monitoring showed that currently, the main application is still the reduction of the sentence by 3.9 days per month and granting the monetary benefits, at a minimal amount, which was deposited in the bank account of the person. The by-laws necessary to ensure the right to employment and fair remuneration of labor for prisoners under the applicable legal standards, are yet to be approved.

Residence premises of persons with **mental health disorders** are generally in poor conditions. Most of the time these people spend in the room without taking part in recreational activities. In many cases, agitated or vulnerable persons who belong to this group of patients, are placed in rooms with people who enjoy good health, which creates potential danger for their mistreatment. The physical coercion means are often absent and therefore is practiced only their tranquilization via medications. Persons under the medical measures "Forced medication" are still held unjustly, mainly at PSHI Tirana and in the prison of Kruja. Their number rose to 164, because prosecutors send them there to implement the medical measure in the prison and not on medical institutions as stipulated in the law. AHC has so far had official correspondence with the highest levels of the state, to try to find a quick and stable solution for this group of individuals.

¹⁰ Referring to the Minister of Justice's Instruction No. 103, dated 14.02.2014 "On regulation of some issues related to the procedure of issuing rewarding or special leaves to persons sentenced to imprisonment," *it was found that the director of the prison is the responsible authority for examining the application and granting the rewarding leaves in ordinary and low security prisons. After the legal proceedings is ended related to the application of the request, the Director of the Prison, with a special letter advises the Director General, who decides on planning of the leave.*

The right to family life is ascertained to have been violated in the prison of Fier. Meeting rooms are equipped with separation glass and some telephones are not functional. As a result, prisoners have had problems with hearing and communication with their families.

3. SUMMARY OF THE SITUATION IN PSYCHIATRIC HOSPITALS

In general, it was found that inpatient specialized hospital facilities, do accommodate patients within their legal capacity and in generally good condition. Patients upon admission to the institution underwent a medical examination in conformity with the medical protocols in force. The food was rich in assortments and with diverse seasonal products. The meal for diabetics or for those persons who the doctor had prescribed a special diet, was offered separately from the rest, and proved to be in proper hygienic conditions. Patient-staff relationships resulted generally good. Medical staff is experienced, qualified and has a positive approach to patients.

Psychiatric hospitals, which were rehabilitated/constructed in recent years (PH of Tirana, PH of Shkodra and a part of Vlora's PH), had good standards of accommodation of patients. Generally speaking, their rooms had ample space, natural light and ventilation. In those rooms were accommodated 1 to 3 persons. In most cases, patient's rooms were equipped with televisions, personal lockers and desks, and were painted, maintained and hygienically clean. Each patient had their personal beddings, which were periodically washed in the institution's laundromat.

Vloras' psychiatric hospital is the only institution that kept the registers of cases of physical restraint and involuntary treatment and had a physical restraint room in accordance with appropriate legal standards.¹¹ To ensure the correct implementation of procedures, in 2013 was approved the Protocol of physical restraint by the MoH, based on international standards.

During the monitoring it was found that except for the Psychiatric Hospital (PH) of Elbasan, the legal occupancy of which is 310 but at the day of monitoring were found accommodated about 340 patients, in other psychiatric hospitals monitored the occupancy was within the legal occupancy rate. In all four monitored hospitals (Tirana, Vlora, Shkodra and Elbasan) were approximately 576 hospitalized patients.

The patient was informed verbally and in written about his/her rights, diagnosis and medical treatment that he/she would undergo. Persons subject to voluntary treatment, signed the declaration of acceptance in the medical file. In Shkodra PH was ascertained a lack of medical staff, which consequently caused the legal procedure not to be followed with the signatures of three doctors, in order for the accommodation of persons under involuntary treatment.

¹¹ In the emergency ward of the Psychiatric Hospital of Tirana, there was a register of physical restraints in the absence of standard registers of MoH. The official communications with the Ministry of Health have revealed that these registers are produced by UHC in November 2015 and the Psychiatric Service is supplied with standard registers on 01.03.2016. Regarding the physical restraint chamber, UHC has filed an official request with the Ministry of Health pertaining budget allocation for investment in UHC, including also the rooms used for the physical restraint.

Regarding the infrastructure conditions in Elbasan's PH and in a wing that has still not been reconstructed in PH of Vlora, there is a need for immediate intervention. In general, rooms had enough natural light, were clean and damp free. Patients had the necessary furniture wherein to keep their personal belongings. In the rejuvenated institutions there were rooms for two or three patients, while in the PH of Elbasan or at the ward of chronic patients in Vlora, the rooms were shaped like barracks, equipped only with beds for patients and with a capacity from 10 to 13 patients in a room, whereas in the new building of the hospital, the situation was greatly improved.

A problematic issue is that of holding persons suffering from mental retardation in specialized inpatient facilities in these hospitals. This category of individuals does not belong to psychiatric hospitals, because they do not need treatment with medications in the hospital. Ministry of Social Welfare and Youth in cooperation with the Ministry of Health should take steps to resolve the situation.

Generally speaking, the food was provided by the contracted company and was prepared in the institution. For those who needed a special diet due to their health condition, their food was provided separately in proper hygienic conditions.

Rehabilitation activities were conducted mostly with patients who were able to participate in them, mostly in reconstructed PH, such as ball games, puzzles, walks to town, going to the beach (seldom), watching television programs, board games, reading books, etc. Whereas in PH of Elbasan only a limited number of patients engaged in rehabilitation activities. In supporting homes, girls and women were mostly taking care of their own personal hygiene, they received occupational therapy, cooking classes etc. In this respect the institution of Vlora provided full programs thanks to the new infrastructure which facilitated the carrying out of such daily activities.

AHC observers did not received any complaints from patients about misbehavior / mistreatment by staff to patients, neither were observed any visible sign of violence in patients. It was noticed that care was shown towards patients and that the medical staff was dedicated to its work. A large group of patients do not have a relationship with their families, especially so those that have been in the institution for a long time. Some of them were left in limbo for years by their relatives. Moreover, the latter, in some cases unfairly abuse with the disability payments of these patients.

The physical restriction of the agitated patients, was made in compliance to the standards only in Vlora's PH. The chamber of physical restraint in this institution met the required standards and was monitored electronically. Physical restraint measures were recorded on the register of physical restraint, which was not kept in other institutions.

The procedure for placing a person under involuntary treatment is not always made in compliance to the law. A part of the medical staff did not possess in depth knowledge of the legal procedures about involuntary treatment, forced medication or temporary hospitalization. There was found a lack of documentation in medical records of patients who were in involuntary treatment. Verifications were made of cases when during the court hearings in order to review the request of the institution for involuntary treatment, the jurist of the institution did not show up but the psychiatrist or social worker in his stead. The medical measures "forced medication" rendered by a court, not always was reviewed annually with the court's initiative as provided by article 46 of the Criminal Code. In court decisions there is noted a wrong practice of using terms like "*forced medication*" or "*forced hospitalization*" when the decision is made to process the request for the assigning of a person to involuntary treatment. It was pointed out the exceeding of legal limits for more than a week in many cases that appear in court.

METHODOLOGY OF THE OBSERVATIONS

In the scope of the project "*For more empowered human rights defenders in Albania*", implemented by the AHC with the financial support of Civil Rights Defenders, with funding from the *Government of Sweden*, and within the project "*Together against police and prison torture in Albania*", funded by the *European Union*, during the period July 2015 - January 2016 there were made a total of 45 monitoring visits to police institutions, the penitentiary ones and psychiatric hospitals.

During this period 19¹² monitoring visits were made in penitentiary institutions, specifically in the prison of Elbasan, SIM Kavaja, prison of Fier, PSHI, Ali Demi prison, Vaqarr prison, Durrës detention, Burrel prison, Kukës prison, Kruja prison, Fushë-Kruja prison, Korça prison, Lezha prison, Tepelena prison and Saranda detention.

Have been conducted 22 monitoring visits to police stations and commissariats, specifically in: Police Stations of Delvina, Saranda, Gjirokastra, Berati, Korça, Tepelena, Devolli, Maliqi, Lezha, Kukësi, Burreli, Dibra, Tirana (6 police stations), Kruja and Durrësi.

Were monitored 4 Psychiatric Hospitals: Psychiatric hospital Ali Mihali of Vlora, Specialized Mental Health service with beds in Shkodra, University Psychiatric Hospital "Xhavit Gjata" and the Psychiatric Hospital in Elbasan "Sadik Dinçi" and some support homes on these districts.

The main purpose of monitoring visits is to monitor the respect for freedoms and constitutional and legal rights as well as the rights originating from ratified conventions for persons deprived of their liberty, who are held in the above mentioned institutions. Special attention during the monitoring is given to the respecting of rights and to the proper treatment of vulnerable persons in these institutions¹³. The monitoring visits are guided by the general principles of law,

¹² 15 institutions are monitored, some of them have been monitored more than once;

¹³ Vulnerable persons are juveniles, women, LGBT people, the mentally ill, the elderly, etc.

international standards, the Albanian legislation and recommendations of international organizations active in this field.

Specifically, we list below the basic acts that are taken into consideration during monitoring:

1. The Constitution of the Republic of Albania;
2. European Convention on Human Rights;
3. Directives of the European Union, Recommendations for Albania;
4. The Criminal Code;
5. Code of Criminal Procedure;
6. Law no. 9331, dated 21.04.1998, amended by Law no. 10024, dt.27.11.2009 "On execution of court decisions"
7. Law No. 44/2012, "On Mental Health";
8. Law No. 9888, dt. 10.03.2008 "On some amendments and additions to Law No. 8328, dt. 16.04.1998 "On the rights and treatment of prisoners"
9. Law no. 108/2014 "On State Police"
10. General Regulation of Prisons;
11. Regulation of the State Police;
12. The manual 'On Standard Rules and Procedures for Treating and Securing the Arrested and Detained in Police Units';
13. Recommendations of the Committee for Prevention of Torture, the Ombudsman and AHC;
14. Physical Restriction Protocol of 2013;

To accomplish the missions of observation, there were engaged observers of many years of experience who are of different walks of life, in accordance with professional monitoring requirements, such as lawyers, psychologists, social workers, psychiatrists as well as other specialists. The monitoring groups are composed of two or three observers from different professions. Some of the monitoring visits are conducted in cooperation with the Mechanism for Prevention of Torture, under the institution of Ombudsman.

In fulfilling its mission and concrete objectives of monitoring, AHC, in advance and consistently has trained the group of observers on the observation's methodology, updated issues on the current situation of the police and prison institutions, on both the theoretical and practical plan. Prevention of torture, inhuman and degrading treatment and ill-treatment in places of deprivation of freedom, seen in the light of national and international standards of human rights, was another training goal of AHC observers, which ought to be kept in mind while conducting observations.

AHC experts developed detailed questionnaires that served to structure the monitoring and collection of data and information in accordance with the purpose of observation, leaving room for the monitoring of other important issues.

During observations, the monitoring groups, after introducing themselves in the respective institutions, have met with their leaders and afterwards have conducted their monitoring visits in the inner and outer regimes of institutions. An important part of the observation has consisted in a significant number of interviews with the accompanied / apprehended / arrestees / detainees / prisoners and psychiatric patients. Part of observations has also been the scrutiny and consultation of the documentation in monitored institutions.

In conclusion, the monitoring groups, presented to the leaders of the institutions the most important findings that have emerged from the concrete observation. When it was deemed necessary to take urgent measures at the central level to improve the problems found, AHC has sent official correspondence to top managers of GDP, the GDSP, the Ministry of Justice and the Ministry of Internal Affairs.

It is worth noting that the AHC, on issues such as taking measures to reduce overcrowding in the prison system and holding people with the medical measure "Forced medication" in penal institutions in flagrant violation of international standards and domestic legislation, addressed in official correspondence the highest state instances such as the President of the Republic, the Speaker of the RA Parliament, the Prime Minister, the Attorney General, the Chairman of the Supreme Court, the relevant committees of the Assembly of the RA, Minister of Justice, Minister of Health, etc. Consequently, a group of members of the parliament took the initiative of conducting a shared monitoring with AHC in penitentiary institution of Zahari, Kruja, from where they reconfirmed once again the findings of previous monitoring conducted by AHC, and the need for immediate intervention for improvement of the situation in this institution.

Of particular importance during observations was placed on the treatment of vulnerable groups, that are held in police stations or penitentiary institutions. Differentiated treatment that ought to be provided to these groups with specific treatment needs, derives from the law and reflects the added care that the police structures and those of prisons should show in relation to these persons.

This report summarizes the findings, conclusions and recommendations of the monitoring visits, from an objective and impartial vantage point, guided by the common sense and cooperation with the monitored institutions, in full respect of the hard and dynamic work that State Police administration and Prison administration perform.

1. Findings Pertaining the Respect for the Rights of Persons Deprived of Liberty in Police's Institutions

1.1 THE RIGHT TO DIGNIFIED TREATMENT

1.1.1 TORTURE AND MALTREATMENT

Torture, inhuman and degrading treatment, in the Criminal Code of the Republic of Albania is envisaged as a criminal offense that poses very high risk to society. The Albanian government has ratified the Conventions "Against Torture and Other Cruel, Inhuman or Degrading Treatment", "European Convention on Human Rights", etc. By ratifying these international acts it is committed to take all necessary measures to prevent torture and ill treatment or cruel and humiliating punishment on one hand, and to condemn the violators whenever they are found guilty.

Under Article 10 of the Convention "Against Torture and Other Cruel, Inhuman or Degrading Treatment" it is stipulated that: "Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment."

During the monitoring, in Korça Police Station, one of the arrestees claimed to have been transported from the scene to the Police Station of Korça, **in the trunk of the car**, Jeep making, in the administration of the police authority. The transport had taken over 2 hours. During the meeting with him, he claimed that despite being left in the trunk of the car during his transportation, his hands had been cuffed and due to this situation he had felt himself short of breath and his health had deteriorated.

The situation appeared unchanged in the Police Station of Saranda, compared with the findings of a year ago. It was found that an accompanied person claimed he was slapped during transport to the police station. Also, during the monitoring of the Saranda prison¹⁴, from persons accommodated there was claimed that were heard "screaming" of persons who were being mistreated. The screaming came from the police station and that in some cases were mistreated also people who had mental disorders. In Saranda's prison, a detainee told us that against another detainee with mental health problems, was exerted physical violence, and that he had gotten hit in the head by police officers of Saranda Police Station. The person who allegedly was violated was not in the institution anymore, but there were claims from other detainees that the person had arrived with signs of violence on the upper limbs. Director of the institution had arranged for an EEG examination in the city's hospital but the tests turned out negative.

The monitoring in SIM Kavaja, revealed claims of violence, suffered while the persons (convicted juveniles) were staying at Police Station no. 5 in Tirana and in the Police Station of Elbasan. In

¹⁴ Saranda's prison and police station of Saranda are located in the same building, but have separate entrances.

Korça's Police Station there were also claims of being slapped in the face and punched in the stomach by the police during the time of arrest in commission as well as during the interrogation procedure of detainees.

The convention stipulates that: *"Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture"*.¹⁵

Moreover the use of violence against citizens during the interrogation procedure, during arrest, transportation, etc. in some cases contains elements of the offense of "torture"¹⁶ and not just those of the offense "arbitrary acts"¹⁷ which is in reality different from what judicial bodies have categorized it. AHC has developed and published a unique study in Albania, in order to address exactly the problems associated with this offense, which can be found at the official version online on the website of AHC.

The same approach is found also in the annual report of the Attorney General in 2013 which states that it has requested from the prosecution bodies of judicial districts, a more active role in respect of human rights and specifically: *"When during the preliminary investigation or during the trial, there are claims of violence perpetrated by public officials or obvious signs of violence are found, the prosecutor must take actions to conduct the necessary verification and initiate criminal proceedings; Efforts must be made for the right qualification of the offenses established by Article 86 of K.P "Torture" and Article 250 of K.P 'arbitrary actions'. The cooperation with the Internal Audit Service of the State Police and the Prison Police should be enhanced in order to identify these cases."*¹⁸

1.1.2 USE OF FORCE

To be part of the State Police structures is a job that entails difficulties and challenges, and requires professionalism and continued dedication. In exercising the functional duties, the police officer is legitimate in the use of proportionate force when it is necessary and only if all other measures are unsuccessful or impossible to be applied. **Force is used in accordance with the**

¹⁵ Convention "Against Torture and Other Cruel, Inhuman or Degrading Treatment" Article 11.

¹⁶ **Penal Code, Article 86** "Carrying out intentional acts by which a person is caused severe suffering, whether physical or mental, by another person who exercises a public function, or at his instigation or consent, overt or implied, in order to:

a) to obtain from him or another person information or a confession; b) to punish him for an act committed or allegedly committed by him or another person; c) to intimidate or to put pressure on him or another person; d) for any other reason based on any form of discrimination; e) any other inhuman or degrading treatment; is punishable by four to ten years."

¹⁷ **Penal Code, Article 250:** "Committing acts or giving arbitrary orders by officials holding a state function or public service while exercising his duty and which tamper the freedom of citizens, shall be punished by a fine or imprisonment of up to seven years.

¹⁸ 2013 Annual Report of the Attorney General, p. 15; http://www.pp.gov.al/web/raporti_2013_855.pdf

principle of proportionality.¹⁹ The police officer choses the necessary level of force to use between options which, *inter alia*, include verbal persuasion, physical restraint, battering gear, but always must warn that it will use force before he does. **This warning may not be issued if the circumstances do not allow, especially when immediate use of force is necessary to prevent a real and prompt danger.**²⁰

AHC welcomes the issuance of the Order of the Director of State Police no. 678, dated 14.09.2015, by which is approved the standard operating procedure, "Technical Rules on Police Accompaniment". People who were accompanied to the police station signed a document, that was put together as a form, and among other things, there was noted whether or not violence was perpetrated against the person accompanied by police officers, or any additional comment on this respect. This form is filled out in two copies, one of which is kept by the person himself whereas the other copy was kept by the police station. This practice was examined in the Police Station of Berat and Korça. In the Police Station of Berati was also kept a register where these accompaniment documents where submitted to the Secretariat of the Police Station. We hope that through the implementation of this sublegal act, the respect of citizens' rights by employees of the State Police will be enhanced.

In Police Station no. 6 in Tirana was found that such a practice was applied, where the head of the institution phone-called the people to whom the police station had provided services (e.g. persons who had filed a denunciation) after a certain period of time. The list of contact numbers and related data such as the personal data and the relevant service provided by staff, was prepared by institution's staff. Contact numbers were chosen at random. It had turned out that in most cases, the impressions of citizens were positive.

AHC has processed one case in 2015, in which violence against a young 18 years old at the time of his arrest was perpetrated by several police officers not in uniform. Signs of violence were confirmed by forensic medical examination conducted after the case was reported and prosecuted in court.

1.1.3 INTERROGATION PROCEEDINGS

The interrogation procedure is an important moment in the criminal proceedings. Monitoring showed that generally speaking the legal procedures are adhered to, but were also found instances in which this procedure was not carried out in accordance to these rules. **The penal legislation provides that methods or techniques of influencing the freedom of the will or to alter the ability of recalling or assessing the facts cannot be used, not even with the consent of the defendant.** *"Before the interrogation starts, the defendant is explained his right to silence and that even if they remain silenced, the proceedings will continue"*²¹.

As mentioned above, cases have been identified in which arrestees or detainees have claimed that violence was used in order to extract information from them. We note that during the

¹⁹ This principle for its own importance has explicitly considered as one of the main principles that ought to guide the work of the State Police, and that specifically in Article 5;

²⁰ Referring to Law No. 108/2014 "On State Police", Article 133;

²¹ Referring to Criminal Code, Article 38;

monitoring that the AHC conducted in SIM Kavaja, several juveniles were interviewed, and one of them claimed that he was hit by the police during the procedure of interrogation in police station of Elbasan, while his hands were tied behind. The minor claimed that he was violated in the police station and after the officers were told that the person was a minor, had quit the use of violence.

A safeguard to guarantee the curtailment of such illegal forms of performing the duty would be the audio-video recording of this procedure, as it was implemented recently in Durrës' Police Station. According to CPT standards²² and repeated recommendations of the monitoring bodies, the electronic recording not only avoids the abuses, but brings along advantages also for the police work. In official communications with the GDSP, AHC is informed that the realization of investments in this direction will be carried out simultaneously with the future investments for the reconstruction and the creation of adequate facilities in those police units that have not benefited yet from such investments.

Regarding the interrogation of minors, a very important role, is played by the mandatory presence of a psychologist. The observation showed that at the structures of local police departments, the work position of the psychologist was merged with that of the institution's lawyer. Criminal Procedure Code, states clearly and explicitly that in case of a criminal proceeding where the alleged offender is a minor, the presence of a psychologist during interrogation must be ensured.

By the monitoring carried out it was found that in most cases, there is not a special room for interrogation of the accompanied persons, but that usually people were questioned in the offices of the police officers. Generally speaking, the detainees / arrestees were interrogated during the day, but there were also cases of interrogation of the detained / arrested during the night, for several hours.

Another important element is linked to the term of stay of the accompanied in the police premises. Referring to Law no. 108/2014 "On the State Police"²³ specifically in Article 109, it turns out that the deadline for accompaniment for the reasons provided for in the law is no more than 10 hours. There was found a case of exceeding the limit of accompaniment in the Police Station of Tepelena, where from the review of records it was found that an accompanied person proved to have been held for 12 hours in the police station.

²² Referring to the standards of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment, 2015, p.7 Point 39/2; <http://www.cpt.coe.int/en/documents/eng-standards.pdf>

²³ http://www.punetebrendshme.gov.al/files/documents_files/LIGJI_I_POLICISE_SE_SHTETIT_-_2014.pdf

1.1.4 THE RIGHT TO REQUEST/COMPLAINTS

The right to address a request or a complaint, is expressly provided for in Article 115 of the Law "On the State Police". *"Each person accompanied, detained or arrested in the police facilities, as well as any other citizen, toward whom police officers perform actions under the provisions of this law or that are affected in the course of these actions, is entitled to file requests / complaints verbally or in writing to the heads of police or other state institutions....."*

The monitoring showed that the majority of requests or complaints were addressed verbally to the officer stationed at the security room and that efforts were made for them to be resolved expeditiously. Requests / complaints were mostly about meetings with family or lawyer. There was a case in which the police station was found to not practically possess a register of complaints and request, as was the case in the Police Station No. 4 in Tirana. When there were complaints, they were recorded on the register of entries and exits. In the Police Station no. 2 in Tirana was observed that the registry of complaints and request was blank.

By interviewing accompanied persons, we were told that their requests were fulfilled without delay and in this regard they had no complaints. But in cases of alleged maltreatment by the police officers, people have preferred not to file a written complaint, because they think this can aggravate their procedural situation. This indicates a strong lack of confidence in the police structures that have to take appropriate steps in order to enhance public confidence to respond to violations of their rights.

1.1.5 TRANSFER PROCEDURE

In the criminal procedural legislation in force, it is provided that in the cases when there is no order for immediate release, the prosecutor, within **forty-eight hours** of arrest or detention, requires evaluation of the measure at the local court of the district where the arrest or detention was made. Failure to meet this deadline makes the arrest or detention to lose force. Court decides the hearing of validation as soon as possible notifying the prosecutor and defense counsel. Arrest or detention shall be ineffective if the court decision for validation is not announced within **forty-eight hours** from the moment that the prosecutor's request is filed in court.²⁴

The monitoring showed that, generally, people stay within the legal limits on the premises of the police stations. There are still issues in the cases of transfers to the prisons where they will serve their time, or personal security measure "jail arrest". In order to resolve this problem, the General Directorate of Prisons and the State Police Directorate have concluded the cooperation agreements no. 2157\1, dated 17.03.2015 *"For increased security in the prisons, securing the prisoners and detainees that are granted leaves, respecting the rights of persons deprived of their liberty in police facilities and documentation of criminal activity"*.

²⁴ Referring to the Code of the Criminal Procedures, Article 258 and 259;

In this regard, violations were evidenced in Police Stations No. 1, No. 2 and No. 3 in Tirana. A good relationship in the implementation of these procedures was observed in Dibra's Police Station. In the Police Station No. 1 in Tirana was found that a person who was given this jail arrest security measure on 27.9.2015, on 30.9.2015 he was still on the premises of the police station. In the Police station No. 2 in Tirana, a person who was convicted in absentia, was arrested on 16/09/2015, and was still in the premises of the police station for about 13 days. In the police station No. 3 in Tirana, was found a case in which the transfer delay procrastinated for 5 days. Based on the above-mentioned findings, we conclude that there has been a violation of the legal terms, since with the final form decision, these people should have been sent immediately to the premises of prisons, or detention and the same applies to persons who are convicted in absentia. Police authorities brought up as the cause of these delays the overcrowding of prisons and detentions that are under the authority of the GDP.

1.1.6 INFRASTRUCTURAL CONDITIONS

As enshrined in the Constitution of the Republic of Albania, the rights and fundamental freedoms are indivisible, inalienable and inviolable and **are at the core of the entire juridical order**. The organs of public authority, in fulfillment of their duties, must respect the human rights and fundamental freedoms, as well as contribute to their realization.²⁵ Law No. 108/2014 "On the State Police" in Article 2 states that: "The State Police has the mission of maintaining public order and security guaranteeing the rule of law, **in accordance with the Constitution and international acts**, while respecting the human rights and freedoms".

According to the Manual "**On the rules and standard procedures for treating and securing the arrested and detained in Police Units**",²⁶ the interdicted and arrestees are provided with living conditions similar to those of life of other free citizens. The monitoring found that in some of the newly renovated stations, in rooms for a person, there were actually accommodated more than one detainee/arrestee due to overpopulation. Consequently the detained/arrested, in some cases, sleep on the floor in the **absence of beds**. Such situation was found in the Police Stations No. 1, 2, 3 and 5 in Tirana, as well as in the Korça Police Station and Kruja Police Station.

According to the standards set by the CPT²⁷, desirable parameters²⁸ for a person standing in a police detention room for a few hours, the surface area of his/her residence should be around 7 m², with a distance between walls 2 or more meters and between floor and ceiling 2.5 meters. In many cases, **security and accompaniment** rooms, did not meet the legal standards of space per

²⁵ The Constitution of the Republic of Albania, Article 15;

http://www.parlament.al/web/pub/kushtetuta_perditesuar_15171_1.pdf

²⁶ Approved with Order of Director General of State Police No.763, dated 27.09.2011;

²⁷ The Committee for Prevention of Torture is a body of the Council of Europe, established in order to monitor the rights provided in the "Convention on the Prevention of Torture or Inhuman and Degrading Treatment or Punishment" in 1987. This body monitors the detention places in the member states of the Council of Europe.

²⁸ Referring to the CPT standards, Section 43, P. 8, <http://www.cpt.coe.int/en/documents/eng-standards.pdf>

person. There was evidenced a case where the room was almost 4 m² and in there were laid on the floor 2 mattresses, which served for sleeping the detainees or arrestees, thus occupying the entire surface of the room (found in Police Station No. 1 in Tirana as well as in the Police Station of Korça). In Korça's Police Station was found that a person was sleeping with his head right next to the door of the toilet, due to insufficient space in the room for two people.

In Saranda's Police Station there was a lack of specific accompaniment rooms. In the Police Station no. 6 in Tirana, in cases when verification activities were carried out with the persons accompanied, they are kept at the administration's offices or in the corridor of the security rooms. In Burrel's Police Station was found a room used for interviews with accompanied persons, which had no windows nor the necessary furniture, and locked with an iron door.²⁹

Most of the monitored police stations did not possessed a special room for minors, nor a room for female persons. In some cases there was only one room for both these categories, and in some cases there was no such room at all.

Meanwhile, in most of the institutions monitored, we found that **the living conditions in the rooms where citizens deprived of their liberty were held**, were not in good condition. There was presence of dampness, the plaster of the walls was damaged, insufficient lighting (Police Station No. 4, 5 Tirana, Police Station of Kruja, Police Station of Lezha, Police Station of Saranda, Police Station of Dibra and that of Burrel). In some of the above mentioned institutions, hygiene was very dismal. The Police Station of Dibra lacked a janitor position in the organogram of the institution and therefore, this function was carried out by the officer on duty. Police Station No. 6 in Tirana operates in a very old building, albeit in good hygienic conditions.

There was noted the **lack of detergents** that are important both to keep clean shared facilities, also for personal hygiene of the accompanied/detained/arrested persons held in these institutions. Often these detergents were purchased by the police officers on their own³⁰ (Police Station No. 5 Tirana, Police Station of Durrës, Police Station of Korça, etc.)

The monitoring showed that in some cases, **toilets or showers** were very dismal in terms of hygiene, lack of lighting and high depreciation of their equipment (Police Station No. 1, 2, 4 and 5 in Tirana, Police Station of Kruja and that of Burrel). In the Manual of the Security Rooms, it is defined that in order for creation and maintenance of the hygiene and cleanliness in this environment, their cleaning ought to be done several times a day and once a day also the chlorination of WC.³¹ The situation was exacerbated by **the lack of running water** in some police stations (Police Station No. 4 Tirana, Police Station of Lezha, Police Station of Kukës) and the lack of **hot water** (Police Stations No. 1, 2, 5 Tirana, Police Station of Kruja).

AHC is of the opinion for the closure of some accompaniment or detention rooms in some police stations. It has also ascertained that the same procedure continues to apply not according to the law, pertaining the way of their closure. On closing of the rooms should be applied the legal

²⁹ The staff explained that in this facility were interrogated persons that exhibited aggressivity;

³⁰ Tools and detergents, such as buckets, mop, soap, etc.

³¹ Referring to the Manual "For Rules and Standard Procedures for Treating and Securing the Arrested and Detained in Police Units", Point 3/3.4;

procedures in force, that is: secured with a lock, wax and sealed, and which should not be opened up again until the improvement of the situation (rooms out of use were found in the Police Stations No. 1 and No. 6 of Tirana).

The lack of the necessary material base for the successful performance of duty by police structures was raised as a concern in many cases. Specifically there was pointed out the lack of equipment such as copiers, printers, computers, stationery, etc. In Tepelena's Police Station was voiced the concern about the lack of fuel supply, as this directly impacts their daily work.

1.2 RIGHT OF INFORMATION FOR REASON OF ACCOMPANIMENT/ DETENTION / ARREST; NOTIFICATION OF FAMILY

Any individual who is detained for reasons stipulated in the law, is entitled to the right to be informed of the reasons for his/her accompaniment / detention / arrest, from the first moment of deprivation of liberty. If we refer to the Criminal Procedure Code, Article 256 provides that: *"The prosecutor interrogates the arrestee or detainee in the presence of the chosen or appointed lawyer. He shall notify the arrested or detained the reason why he is being proceeded and the reasons for the interrogation, showing proof of evidence against him and in those cases when this would not impair the investigation, even the sources of that information"*. By this provision it results that this is the moment of notification about the reason of detention. The Article 5 of the European Convention on Human Rights provides that: *"Everyone who is arrested shall be informed promptly, in a language which he or she understands, of the reasons for his arrest and of any charge against him."* Republic of Albania's Constitution goes even further, as it provides that **any person deprived of liberty has the right to be informed immediately....**³²

Overall, the monitoring found that people are informed by the judicial officer of the reason for detention at the time of interrogation. In some cases it was found that their rights have not been communicated from the moment of first placement in isolation, as was the case in Police Station of Saranda and Police Station of Kukës and Korça. Whereas in the Police Station of Dibra the monitoring showed that people were immediately informed of the reason for their deprivation of liberty, and were provided with a copy of the statement of their rights.

*The legislation in force stipulates that the detained / arrested should be provided and left with them a copy of the detention / arrest minutes of the personal check up and a copy of the statement for recognition of their rights.*³³ In most of monitored institutions it was found that people were provided with the declaration of rights. However, it was noted the lack of information in some Police Stations such as Police Station No. 1, Police Station No. 5 and Police Station of Kruja, Police Station of Lezha where the people were not provided with a copy of the declaration of rights.

³² Referring to the Constitution of the Republic of Albania, Article 28;

³³ Procedures Manual and Standard Rules for the Treatment and Security of Persons Arrested and Detained in Police Units, Point 1/1.14;

AHC welcomes the fact that in all monitored police facilities, there were posted statement of rights of persons held in those areas for reasons provided by law. These rights, in the form of advertisement stands, were posted in almost all environments of relevant institutions, in hallways, in the lobby and in the security rooms.

Notification of family members was generally made by the police (usually by the information officer) and in many cases via their personal phone. In some cases it was found that the juvenile's families were informed by the judicial officer themselves.

1.3 THE RIGHT TO COUNSEL

*The Constitution of the Republic of Albania provides in its Article 28 that: "The person deprived of liberty shall be informed that he has no obligation to make a statement and has **the right to communicate immediately with his lawyer, and be given the opportunity to exercise his rights.**" Article 31 further expands guarantees envisaging that during criminal proceedings everyone is entitled to the right to defend himself or call for the assistance of legal counsel of his own choosing; to communicate freely and privately with him, and be provided free lawyer when he does not have sufficient means to hire himself one. This legal provision goes in line with Article 6/3/c of the European Convention on Human Rights.* ³⁴

In the Police Station no. 5 Tirana was contacted a person, who claimed that during the interrogation procedure had asked to be represented by a lawyer, but it was not made possible for him. The Police Station of Lezha, by the contact obtained from the arrested persons, it was claimed that they were not made aware that they are entitled to be represented by a lawyer during the interrogation procedure. At the same police station, one of the inmates, stated that he had not had a lawyer during interrogation, but the minutes of the interrogation showed that he was indeed interrogated in the presence of a lawyer, which he claimed he had never seen nor met.

All police stations possessed a list of lawyers which was given to them by the Chamber of Advocates of the district, in order to assist thereby the persons who could afford a private lawyer. It was found that a good cooperation existed with the Chambers of Advocates of the districts, chiefly in terms of the appointment of attorneys. In the monitored police facilities, there were found to be special facilities for the meetings with lawyers, which served also for meetings with prosecutor.

³⁴ The Criminal Procedure Code Article 255/1 provides that: "The officers and agents of the judicial police informed the detainee or detainees the right that he has to choose counsel and immediately notify the selected defense lawyer or, where appropriate, the one appointed by the prosecutor".

1.4 THE RIGHT TO HEALTH SERVICE

The right to health care is a constitutional right that should be guaranteed to each individual. The competent authorities ought to take all necessary measures to provide this service as one of the state's positive obligations to its citizens, especially those who are under treatment and accountability of state institutions.

According to the Handbook of Rules and Procedures for Handling Standard Procedures and the Securing of Arrestees and Detainees in Police Units, section 7 it is provided that: *“Before accommodation in the security rooms, a police officer of first management level in the service of the public order ... and the doctor, conduct interviews, verification and external examination of the arrestee / detainee if there are signs of violence, maltreatment, various diseases that need medical assistance or other complaints of this nature. Necessarily, in this moment as soon as possible, but no later than 12 hours after detention / arrest, the person is visited / examined by a doctor or assistant doctor of the directorate/police station. If the person refuses, it should be documented. In the case of minors, this control / visit is carried out with the consent of the parents or guardian of the minor.*

The monitoring showed that, since the health care was provided by a doctor or assistant doctor of the Local Police Directorate, many subordinate police stations, were found not covered by medical service, because the medical staff could not address all medical needs in all subordinate structures. This became more evident, especially when the police stations were too distant from the headquarters of Local State Police Directorate. In some cases, such as in the case of the Kruja's Police Station, when it was necessary, the doctor was called in from the city hospital to provide health services. In the Police Station of Burrel, for urgent cases the health services was provided by the doctor of the Burreli's prison and when necessary the people were sent to the Regional Hospital of Burrel, having a separate room to provide health service to persons held in police station of Burrel. Also, for emergencies, it was found that there is a good cooperation between police stations and respective hospitals.

AHC emphasizes the necessity of filling the vacancies in the staff of the police institutions, such as in the case of the Police Station of Korça in which the doctor had quit his job. Such functions are strictly necessary for the institution and therefore should be completed as soon as possible in always compliance with legal requirements for their office. By monitoring the Police Station of Kukës it was found that the organogram and the needs were for a doctor, but a nurse was hired instead.

AHC recommends that more necessary measures be taken by the relevant structures to improve health infrastructure in the premises of the police. By monitoring it was showed that this aspect is very dismal. Quite important is the supply of necessary medications, in order to address the needs for health services to persons held in police stations and State Police Directorates. During the monitoring in the Police Stations of Gjirokastra it was found that there was a serious lack of supply of medicines and other medical accessories, which were supposed to be found in the first aid kit.

1.5 OTHER FINDINGS

Legal standards for the rights of detainees/arrestees in police premises, provide that they should be granted the right to **fresh air**, no less than 2 hours a day³⁵. The monitoring showed that, in many cases, there is no adequate infrastructure in order for this right to be fulfilled. In some police institutions the fresh airing was not offered when weather conditions were not favorable since the facility was inconvenient and not covered. It was found respect for this right only in Station No. 1 of Tirana Police Station and that of Burrel.

Regarding **food** supply service³⁶, a good solution was the use of the catering service, provided by the respective companies, three times a day. However, there were found cases that the food was cooked in the prison, as in the case of the Police Station of Kukës, because it was in the same premise with Kukës prison and cooked in the same kitchen, despite that the police had his own cook in its staff. Overall, food quality was considered good by the detained / arrested. However, during the monitoring, in Korça's Police Station was evidenced by the monitoring group that lunch brought by the company concerned, consisted of a sandwich of very simple assortments (a small roll with a small fried egg in it cannot be considered a quality meal nor food with the necessary nutrition values), and was ultimately rejected by detainees. Claims for improper quality of food were made also in the Burrel's Police Station. In the CPT's standards it is explicitly defined, that a full meal should be something more than a sandwich³⁷.

Regarding the **male and female ratio of the staff of the institutions that were monitored**, there was noted an increase in uniformed female employees. The number of female employees in the institution ranged from 2 to 30. A good practice that is worth mentioning, is that of the Police Station of Berat in which, recently, were employed 17 female workers. The Police Station of Durrës was reported an increase of the female employees by about 50% of the total.

As mentioned above, a special attention is paid to persons who suffer from **mental health disorders**. The monitoring has shown that in police stations there were physical restraint means for people who have mental disorders and are in agitated moments, as well as facilities adjusted for their treatment. Likewise, there are no written procedures governing differential treatment of this vulnerable group of our society.

I. RECOMMENDATIONS FOR IMPROVEMENT OF RESPECT FOR THE HUMAN RIGHTS IN POLICE INSTITUTIONS

Following the findings presented above, AHC offers some recommendations for improving the situation of respecting the human rights of persons held in these facilities.

³⁵ Referring to "Manual for Standard Rules and Procedures for the Treatment and Securing of Persons Arrested and Detained in Police Units";

³⁶ Idem 1 / 1:16 states that: "The arrested / detained person has the right to be provided food three meals a day according to the norms in force for this purpose."

³⁷Point 42/3 P. 7 <http://www.cpt.coe.int/en/documents/eng-standards.pdf>

1. We recommend that measures be taken to improve the infrastructure conditions, especially the security and accompaniment rooms. Infrastructure conditions ascertained in some police stations, constitute bases for inhuman and degrading treatment of persons who are accommodated into.
2. There must be found a way to supply the necessary hygiene items, such as different detergent, chlorine, soap, washcloth to wash the floors with, etc. More precautionary measures should be taken in order to prevent various infections and transmittable diseases.
3. From the findings that resulted from the monitoring activity conducted by AHC's experts, it was ascertained the phenomenon of impunity for those guilty of committing offenses and violating other citizens' rights. It is recommended that police authorities examine any violation in this regard and evaluate each case with responsibility and accountability, so that the administrative and legal violations of the state police staff, are dealt with properly by law enforcement authorities.
4. AHC recommends that, following the example of the Durrës police station, audio-video equipment be set up in the premises of the interrogation of persons by police in all police institutions. This would avoid possible cases of abuse during the process.
5. To guarantee the right of obtain health service by persons who are held by the police, to take measures to meet the needs for financial, human resources, medications and equipment necessary for the offering of this service.
6. AHC also recommends that an effective solution be found in order the right to effective psychological service be ensured, especially in cases of treatment of juveniles that are held in police premises. We also recommend the immediate discontinuation of the practice of swapping of jurist position to that of a psychologist, since they are two different professions that require specific educational background.
7. Also, it is recommended the raising of the awareness of police officers to communicate clearly and accurately citizen's rights, from the first moment of deprivation of liberty as well as the reasons for accompaniment / detention / arrest. Moreover, it is recommended that the detained / arrested obtain a copy of the declaration of human rights during their stay in police facilities.
8. All police commissariats and police stations should have a special register wherein to record requests and complaints. There must be a high awareness of the staff to note any complaint or request in special registers, as well as to address them fairly and impartially.

9. Measures should be taken by the competent state authorities to avoid delays in the transfer of persons sentenced in absentia, and persons against whom it is given a personal security measure 'arrest in prison'.
10. Basic and continuous training of employees of the state police, especially with the object respect the rights of citizens who come into contact with these bodies, should be an ongoing and serious process and in function of increasing their professional capacities process. AHC recommends that officers of different levels of management, all across the country, engage periodically in activities that enhance their professional capacities.

CHAPTER II SITUATION IN DETENTIONS AND PRISONS

2. FINDINGS PERTAINING THE RESPECT OF THE RIGHTS OF PERSONS DEPRIVED OF LIBERTY IN PENITENTIARY INSTITUTIONS (PRISONS)

After the monitoring missions in penitentiary institutions, AHC has concluded in some findings which we are presenting separately, and topically, as follows.

2.1 OVERPOPULATION

Overpopulation³⁸ is an issue that has received more attention during monitoring missions in prison. In the prison system, there are currently 6282 people³⁹, while the capacity is 5484 persons, which means 798 persons or about 14.5% are over capacity.

It is noteworthy that in Saranda's detention, which has a capacity of about 31 people at the time of our monitoring we found accommodated 61 people; in Zahari prison of Kruja, which has a capacity of 180 people, we found accommodated 244 people; in Lezha prison, with a capacity of about 667 people, we found 836 prisoners, and so on. Overcrowding in prisons, in addition to other issues, incurs an increased financial cost to the state budget. From the data published by the GDP it is found that the cost for covering the needs of a prisoner per day reaches 12.3 euros and 14.63 euros a day for detainees, while for the sick this figure rises even more reaching up to 46 euro a day.

An analysis of the situation shows that some of the factors that have caused overcrowding in prisons are: 1. The tightening of prosecution policies for certain offenses, which previously were not sentenced to imprisonment; 2. The promotional campaign of the government leaders for the application of prison sentences for some categories of offenses. 3. Implementation to a low degree of alternative sentences by the courts"; 4. Mass rendering of personal security

³⁸ Overcrowding was found to be a major problem in the analytical document "Detailed Information by Sectors of the Justice System", Pg. 87;

³⁹ Official Webpage of GDP, data for January 2016 These figures have resulted from application of the law "On Amnesty" on the basis of which 968 convicts were released, <http://www.dpbsh.gov.al/newweb/?fq=brenda&m=shfaqart&gj=gj1&aid=580>

measures of "Jail Arrest"; 5. Unfair holding in prison of people under the medical measure of "Forced Medication" and "Temporary Hospitalization", etc.

In Article 47 of the Criminal Code it is stipulated that: *"... In determining the sentence for the defendant, the court considers the gravity of the offense, its perpetrator, the degree of guilt, as well as mitigating and aggravating circumstances"*. Article 230 of the Criminal Procedure Code provides that: *"Jail arrest may be imposed only when other measures are inadequate because of the dangerousness of the offense and of the defendant"*.

While our legislation provides some alternative sentences such as: Article 58 of the Criminal Code "On Parole", Article 59 / "On House Arrest", etc.⁴⁰ The data from the Probation Service shows that during September (*latest report published in the official website of this institution*) it is found that most often, courts have applied Article 59 of the Criminal Code, which is related to the suspension of the execution of the imprisonment sentence and the probation of the prisoners and Article 63 of the Criminal Code relating to community service. Meanwhile, since the beginning of operation of the Probation Service and to the end of 2014, it is given only a court decision of parole and 237 sentences of 'house arrest'.

Our monitoring found that due to overcrowding, but also as a result of the mismanagement of prisons there have been cases that in the same room are accommodated prisoners sentenced to life and others with a low sentence of up to five years imprisonment. The latter, according to the normative acts, should have been accommodated in low security prisons. This case is evidenced in Peqin prison⁴¹. There are also ascertained cases when in the same room were accommodated pre trial detainees and prisoners against whom there is a final form court decision⁴².

The opening of the new institutions of Fier and Berat played a role in **reducing somehow the overcrowding during the second half of 2015**. Also the reopening of Jordan Misja pretrial detention in Tirana contributed to its reduction. Moreover the entry into force of the amnesty law, adopted in January 2016, allowed about 968⁴³ convicts to leave these institutions. However, the phenomenon of recidivism which is found to be widespread in Albania, has some prisoners who benefit from amnesty returning to prison after committing new offenses. This is an indicator that shows the educational and rehabilitation work which takes place in prisons, is not very efficient.

AHC appreciates the measures taken by state institutions to reduce overcrowding in prisons, but considers that for this phenomenon the most efficient solutions must be found and medium and long term actions be taken, in order to avoid this problem, because the overcrowding in prisons,

⁴⁰ Referring to data from Probation Service from the Report of September 2015, for the period 01.09.2015 - 30.09.2015, were given 343 alternative sentences. Until 30.09.2015 it is found that in total there are 8,779 convicts under observation by the Probation Service. http://www.sherbimiproves.gov.al/images/pdf/Raport_Shtator_2015.pdf

For 2014 there are rendered 4003 alternative sentences; <http://www.sherbimiproves.gov.al/index.php/al/aktiviteti-yne/te-dhena-statistikore>

⁴¹ In the monitoring day we were informed that out of the capacity of 620 of the institution, in it were accommodated 780 convicts.

⁴² Lezha prison;

⁴³ The official website of GDP <http://www.dpsh.gov.al/newweb/?fq=brenda&m=shfaqart&aid=571> ;

inter alia creates also circumstances that may lead to inhuman and degrading treatment for prisoners.

2.2 THE LIVING CONDITIONS IN PENITENTIARY INSTITUTIONS

According to the European Prison Rules, "*Prison conditions that violate human rights for prisoners, cannot be justified by lack of financial means and resources of state authorities*".

Law No. 8328, dated 16.04.1998 "On the rights and treatment of prisoners and detainees, provides that: "*Prison premises must have **ample space** for the joint activities, and meet individual needs of detainees and convicts*"⁴⁴. *The environment in which the detainees and prisoners live should have sufficient space, **the needed natural and artificial lighting**, in order to make possible the living, working and active recreation, and to be **ventilated and equipped with hygienic services**. Where climatic conditions require, **the heating of the premises must be provided**.... For each of detainees and convicts is provided a separate bed and a proper set of beddings.*⁴⁵

The monitoring showed that some of the observed institutions⁴⁶ were in pretty deplorable conditions with **depreciated** premises (such as is the case of Kruja Prison and PSHI). In Kukës detention, the rooms in the inner regime were about 1.5m below ground, with no sufficient ventilation or natural lighting. In the official communications with the GDP, we were informed that in order to improve the situation of the depreciated building of PSHI, there is cooperation with the organization Hope for Albania and the Christian Association of Albanian Prisoners. It is underway the implementation of the project for reconstruction of the PSHI premises, which will consist in upgrading infrastructure and improving accommodation capacity of this institution. Meanwhile, measures are taken to repair showers and toilets. Currently, institution's roof insulation was made. The order has been issued for the immediate supply of blankets, bed sheets, mattresses etc., in the warehouses of GDP.

Hygiene is another important factor, but that is found to be problematic in the institutions. The monitoring showed that there are, in some cases, dirty environments. This condition is found in the rooms of the inner regime, in the special meeting rooms, activity rooms, etc. In terms of the lack of hygiene among the most problematic institutions were found the prison of Lezha, and the prison of Kruja in which was evidenced the presence of swarms of insects. It was noticed that, in general, institutions are not sufficiently supplied with necessary detergents in order for the prisoners to maintain the personal hygiene of prisoners and that of the facilities in general. A problem was also the lack of 24 hour running water supply in some institutions.

In a number of cases was ascertained the problem of **water supply**. There were convicts who due to the lack of running water used purchased bottled one in order to meet their various needs⁴⁷.

⁴⁴ Article 23;

⁴⁵ Article 24;

⁴⁶ According to the Progress Report on Albania 10/11/2015, p. 58 it is stated: "More efforts are needed in order to improve prison conditions and to address overcrowding in prisons and detentions.

⁴⁷ In Kukës detention, during the summer there was a lack of 24 hour water supply and the problem was alleviated

More problematic in this regard appeared the situation in SIM Kavaja. In this institution was made use of water from a well, in which the tests had found the presence of Escherichia coli bacterium and therefore ought not to have been used for human consumption as it constitutes a potential source for the spread of dangerous diseases. In the prison of Korça there were many people who complained about the running water that was colored and smelly, which they considered unfit for drinking.

The monitoring showed that in many cases, the rooms do not meet the **standards of space** for prisoners. In two rooms of Peqin and Lezha prisons, it was found that there were accommodated, respectively 15 people (Peqin prison), where 3 of them slept on mattresses laid down on the floor whereas on the other prison, there were 16 people in a room, and 2 of the inmates slept on the mattress laid down on the floor in a room with a surface area of about 28m². CPT states that the minimum norm of space per person, in such institutions is 6m² for single rooms and 4m² for a two plus rooms. In these norms it is not taken into account the surface area of the toilet, which can be located inside the room. Also, according to the CPT standards, it should be respected also the distance between the walls of the rooms, which ought to be no less than 2m between the walls of the room and not less than 2.5 m from the floor to the ceiling of the room.⁴⁸ This standard was violated in the detention of Saranda, the Prison of Kruja, PSHI, the prison of Lezha etc. In some institutions it was found that the **prisoners slept on the floor** on just a thin foam mattress. Of concern are also the broken glass of the windows, which were found in the prisons of Kruja, Burrel, Lezha and Korça.

Also in regard to guaranteeing the heating of the premises we evidenced problems, which are carried over from previous periods, especially in Lezha Prison and PSHI. For more than 2 years PSHI was not supplied with fuel. Its current premises used to be part of the Mother Teresa University Hospital Center and continue to have joint heating supply network. However, since 2 years, the institutions' (UHC and PSHI) directors, who are under different administrative authorities and that operate on different budgets, have failed to reach an agreement between them to solve this problem. This concern is addressed to the Ministry of Justice and Ministry of Health. Problems with the heating system were found in the prison of Lezha, where inmates covered windows of rooms with blankets to protect themselves from the cold.

Generally, **showers and toilets** were found to be in deplorable condition. Showers in some cases were not even functional (e.g. in one sector of the detention of Durrës). Some institutions lacked shower heads and toilets had broken and rusted doors. These facilities were pretty damp and were often dirty, posing a risk for outbreak of infections and other diseases.

in part by bringing in a water tank truck. In the Elbasan detention, detainees in the special care unit, stated that they bathed with bucket and bottles in the toilet of the room due to lack of water supply 24 hours;

⁴⁸ Decision No. 437, dated 20.05.2015 "On approval of the General Regulation of Prisons", Article 30 provides that: "In the incarceration of detainees or prisoners are taken into account the conditions and concrete possibilities of each prison, but in any case ensuring the provision of no less than 9m³ and residential area no less than 4m² for each person detained or convicted, and windows that provide sufficient ventilation and natural lighting to read and work".

In the prison of Kruja were found cases in which **the access to the toilet** was not immediate and therefore, personal needs were relieved in a bucket, which was kept in the room. Observation's room toilet in SIM Kavaja was found to be dirty because the minors had refused to do its cleaning. In Lezha prison's toilets, the sewage from the floor above were leaking, and to the shower stall, prisoners had on their own put plastic in the upper part of the ceiling, to be protected from sewage leaking from the toilets of the above floor. Such conditions are intolerable and create circumstances for the inhuman and degrading treatment of prisoners.

Regarding the **food**, AHC has repeatedly received complaints from inmates concerning its quality. A large proportion of prisoners do not consume food prepared in the institution, thus wasting a substantial part of it. Generally speaking, conditions of food preparation in the kitchen in the premises of the institutions, resulted in good condition. In many cases, during monitoring AHC has been present during the distribution of lunch and has had the opportunity to verify the variety of food offered. As a positive example we can mention the PSHI, where food is served packaged and well-arranged during distribution (in the form of catering). In this institution were offered food rations for diabetics or people with other illnesses, according to the doctor's prescriptions. Grievances about the lack of diversity and quality of food have been made in Tepelena prison, the Prison of Fier, of Korça, etc...⁴⁹. The verifications of the records has shown that for 4 months in a row, in Kruja's prison was offered the same menu.

2.3 SAFETY AND SECURITY

Security and safety in penitentiary institutions are very important elements for the maintenance and best management of them. The directors of the institutions must take all measures to prevent and manage situations that affect security. Law No. 8328, dated 16.04.1998 "On the rights and treatment of prisoners and detainees" in its Article 22 provides that "*The prison police's mission is to maintain order and security in prisons, as well as during transfers and transportation of detainees and prisoners to the courts or to other institutions, in accordance with the law, in full respect of human rights and freedoms*".

A disturbing case that AHC deemed best to bring to attention in this report is that pertaining the allegation of a convict in the prison of Zaharia of Kruja, who had allegedly been sexually abused by another convict, held in the same institution. Regarding this incident, the convict in question addressed also the prosecution office. Despite the acknowledged investigations / procedural actions undertaken by the prosecutor of this case, it should be noted that this is a claim that should be considered most seriously by the prison authorities and should encourage, at least, an increased attention to the phenomenon and measures to guarantee the security and safety in penitentiary institutions.

⁴⁹ For example, in the prison of Burrel from the food registry verification it was found that almost the same food was served every day, confirming the claims of some of the prisoners that were interviewed;

Regarding attempted suicide, there were some such as the cases in detention of Durrës, Kruja's prison, the prison of Lezha, the prison of Saranda, Tepelena prison, the prison of Vaqarr and Fier prison. From the cases reported, it is ascertained that the majority of people who have attempted suicide, suffer and are treated for mental health disorders. It was found that these cases were not given the maximum attention from relevant sectors and that the measures that are taken have not always been appropriate nor in accordance with the protocols in force. Specifically in Tepelena's prison, a prisoner claimed that, after attempting suicide through a razor blade, he was rushed to hospital in Gjirokastra for emergency aid and then transferred to PSHI Tirana, where he received the help needed and where he was kept in chains, for 7 consecutive days, lying in bed. Currently he is held in a room with 8 other people, under very difficult living conditions. Besides airing he did not participate in any physical activity. This is a serious, and it contradicts the policy which the General Directorate of Prisons is implementing for this vulnerable group nor with the special policy for the treatment of persons with mental disorders.

The scrutiny of the register of disciplinary measures showed that in almost every institution monitored, due to the phenomenon of the introduction and use of prohibited items by the prisoners, disciplinary measures were taken against them. This data is closely linked to security in these institutions. The monitoring showed that prohibited items often are cell phones, but there is also a case that the officers have found knife or other sharp objects that can cause serious health damage. Lack of scanners, in some prisons, at the checkpoints of foods, family and friends who come to meet prisoners and of the staff of the institutions, makes possible the smuggling in these institutions of prohibited articles. Persons deprived of their liberty have claimed that this "service" is rendered by corrupted staff members in exchange of a bribe. Such a case was found in the prison of Korça, and was made public by the media. During December 2015, the Criminal Code has undergone an amendment, which toughens sanctions related to the punishment of persons who attempt to smuggle or use prohibited items in prisons.

2.4 TREATMENT OF PRISONERS REHABILITATION AND REINTEGRATION; INDIVIDUALIZATION OF THE SENTENCE; THE DAILY PROGRAM

One of the goals of closed penitentiary institutions is the reintegration into society of persons, after they are released from prison. European Prison Rules provides that the regime that is applied for all prisoners includes a balanced program of activities. This regime allows all prisoners to spend as many hours a day outside their cells, as the need may be, for an adequate level of human and social interaction.⁵⁰

In general it is observed that in most of the monitored institutions, there are not **many recreational or sports activities** (ball games such as football and basketball). However, there were also institutions such as Durrës prison, Ali Demi prison, SIM Kavaja, in which was noted

⁵⁰ The European Prison Rules Point 25.1 and 25.2; <http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/EPR/EPR-Albanian.pdf>

that these activities were conducted on a continual basis. In some other institutions, such as SIM Kavaja, Fushë Kruja prison and in Lezha prison, were offered both physical activities and the gym hour. These activities were organized according to a well-defined monthly schedule, specifying which persons will participate. Most problematic in this regard was found the case of the prison of Saranda, due to the lack of space and overcrowding and the detention of Kukës whose hall of activities was converted into a room for prisoners again due to the overcrowding. Regarding the recreational activities, it was observed that in prisons and detentions those that most often took place, were the board games, as individuals can play in their room, or even in airing facilities (card games, dominoes and chess). Also, individual counseling sessions were provided for prisoners who requested them.

A special example was that of the PSHI, in which the social staff bought newspapers and gave to read to patients in this institution the articles that they deemed suitable and useful for the treatment of each of them. In this institution took place also musical therapy as supplementary therapy with mentally ill persons, which is thought to help in improvement of the patient's health. Good example for the realization of recreational and vocational activities were also found in the prison Ali Demi and SIM Kavaja.

Individualization of the sentence is a work obligation deriving from the law, yet unrealized to the case of most prisoners, in almost all institutions monitored by AHC. It is so mostly due to the lack of material resources of institutions, the lack of facilities and concrete opportunities the existing ones offer. Many employees of multidisciplinary teams, but especially those of the social sectors, run into difficulties when it comes to designing a program for individual prisoners, applicable to the institution.

Cooperation with non-profit organizations that ought to be praised, consisted in the realization of various entertainment activities such as festive activities with songs and musical instruments, as well as in providing helps such as clothes, books etc. The institutions it is found to have collaborated with CAAP, Merida Center, the Catholic Church, the Orthodox Church, the Muslim community, Jehovah's Witnesses, Mother Teresa Sisters Association and the state institutions such as the Municipality of Fier.

2.5 THE RIGHT TO COMPLAINT AND REQUEST

The right to request and complaint is of a crucial importance in terms of the persons deprived of their liberty. This right is guaranteed by the highest international acts. Law No. 8328, dated 16.04.1998 states that: "*Prisoners and detainees have the right to submit requests and make complaints regarding the implementation of the law and internal rules in the manner set forth in this law and on an individual basis*⁵¹.

⁵¹ Article 8 of the law;

The monitoring has shown that prisoners and detainees exercise their right to address requests/complaints and are informed about it at the time of admission to the institution. From the review of the relevant registry, there were found registered only requests. This registry is supposed to document requests, but also complaints of any kind. These requests proved to have been regularly entered in by the respective staff and that this was not neglected.

In SIM Kavaja it was noted that this register was not the same with the model of the standard registry and regardless it had been used this way for years already. In it was lacking a column where to note the way the request or complaint was received, as well as the column that would note how these requests/complaints were addressed. It would be good that all institutions have a single form register, according to the model defined by GDP.

The requests were directed verbally or in writing, and generally were addressed within 2 days. As regards the scope of those requests we found that they consisted in: requests for rewarding leaves, meetings with family members, request pertaining the dynamics of the time in prison, requests for additional phone calls, meeting with lawyers, meeting with the psychologist, hospital visit, changing room, special meetings, transfer, employment or application for purchase of equipment such as TV or refrigerator. However convicts do not hesitate to file complaints to all entities that monitor these institutions. This behavior of prisoners indicates that prisoners do not feel free to complain directly to the institution, or its superior bodies.

2.6 THE HEALTH SERVICE

The right to health care is an important right that should be guaranteed to each individual with restricted liberty, without exception and without discrimination. The competent authorities ought to take all necessary measures in order for this service to meet the highest standards, and be more efficient in view of the health of the beneficiaries. European Prison Rules states that: "*The prison authorities maintain the health of all prisoners who are under their care. Medical services in prison are organized in close cooperation with the health administration of the community or the state. Inmates are provided medical, surgical and psychiatric services including those available in the community*"⁵².

AHC finds worrisome the situation in PSHI because this institution did not always guarantee the **obtaining easily of health care by prisoners or detainees** from the UHC Mother Teresa, which is adjunct. For this reason was signed a memorandum of understanding with protocol no. 4764 dated 27.06.2014 between the Ministry of Justice (MoJ) and the Ministry of Health (MoH). This memorandum is not fully implemented by the Ministry of Health, regarding the provision of examinations and surgical interventions, when the need arises. In other penitentiary institutions of other districts, it was found that there was a good cooperation with regional hospitals, to resolve medical emergencies, when they called for a more qualified and immediate health service.

⁵² European Prison Rules, points 39, 40.1, 40.5;

It was also found that in the prison of Tepelena, Durrës etc., the prisoners were not provided with health cards. It was claimed that a relatively high number of prisoners who had no ID card deposited at the prison, could not be provided with the medical card and could not benefit from the drug reimbursement scheme. This is a preposterous claim because the GDP, since as part of the highest state administration it has all capabilities that through a unified electronic state system to resolve this issue.

There are filed many complaints against the **dental services**. This is because in many cases was offered the sedation of pain, but not dental treatment of teeth cavities or infections, thus limiting the provision of dental services to only extraction of molar teeth, or to relieving pain through sedatives. A positive case was that of minor's institution in Kavaja, where the dental service was complete (however we reiterate that the water in this institution was infected with Escherichia coli). Regarding the medical infrastructure, there were found many problems in Lezha's prison, where the equipment was much depreciated, in the Elbasan's detention, where there was no dentist armchair wherein to provide the service, etc.

The monitoring showed that there are institutions that have **job vacancies** in their healthcare staff (the prison of Kruja, PSHI, etc.). Such staff shortages have a direct impact on the quality and coverage of health services and in order to avoid such situations, immediate measures should be taken for staffing as there may be emergencies that health staff cannot handle and the ramifications can be serious. A serious commitment of local institutions and GDP was ascertained to resolve these problems as soon as possible. AHC welcomed the measures taken by the management of the prison of Saranda for hiring a full-time doctor since the previous doctor was only a part-timer.

In the prison of Kruja, the lack of a psychiatrist was solved in an alternative way by providing this service by 2 psychiatrists from PSHI and the prison of Durrës, who performed medical examinations 2 times a month, in coordination with each other. In this institution it was found that because one of the doctors was with disabilities and worked only 6 hours a day, the rest of the staff had to work extra hours to cover the work load. Head of Health carried about 4-5 services a month of 24 hours for which was paid only for the official schedule and the evening hours for work difficulty. The rest of the medical staff performed up to 9-11 services a months from 24 total hours. In this institution, in the monitoring period, there was a staff shortage of two nurses and a custodian. Lack of sufficient caregiver staff severely tampers the right to be ensured of obtaining health care.

Regarding the ensuring of the right to health care AHC recalls a court case represented by our organization regarding the guaranteeing of health care in prisons. The complainant, a convict in the prison of Kruja, claimed that he had not been granted proper health care, causing him to suffer inhumane and degrading treatment, since this has greatly aggravated his physical and health condition. The complainant, due to his wounding and the consequent fractured bone in his left thigh, which was caused by gunfire at the time of the arrest, underwent a surgery which was not successful. Later, over the years, the wound became infected. As a result based on the forensic documentation it is found that the injured leg is shortened by 15 cm, which impedes his normal walking. The wound caused also other injuries related to the vascular system, blood

circulation etc. Finally, the examinations determined that he has lost the limb's function by 70%. The complainant in the institution was treated with medications that only temporarily calmed the pain. In these circumstances, the forensic report concludes that, due to this medical treatment he received in the prison of Kruja, the health condition of the prisoner has deteriorated more and more and that the applicant is in need of a surgical intervention and be guaranteed as soon as possible an appropriate medical service and periodic checkups and specialized treatment. **In its decision, the Court stated that it has been the duty of the state authorities of prisons to ensure that the applicant serve his sentence in conditions which are compatible with human dignity, and that the manner and method of serving the sentence do not subject him to distress or labor intensity of such level that goes beyond the inevitable suffering created by the stay in prison. Finally, the Court concluded that the health conditions of the applicant has aggravated and deteriorated, causing considerable suffering, which is considered inhuman and degrading treatment, in violation of Article 3 of the ECHR and Articles 25 and 55 of the Constitution of the Republic of Albania.**

In institutions, due to the large number of prisoners, the need for medical staff is obviously considerable. Not only there should be no staff reductions, but all ways must be considered in order for additional staff to be added to them. In the Fushë Kruja prison it was found that the health sector was reduced in number, while from the communication with staff and based on the requests from prisoners it would be good to increase the medical staff.

There was found a lack in medicaments in the prison of Durrës⁵³, the prison of Kavaja, the prison of Lezha, the prison of Fier, and the prison of Tepelena. In the prison of Saranda, due to the lack of a licensed pharmacist, prisoners cannot benefit reimbursed drugs. The head of the prison informed us that he was in negotiations to hire a licensed pharmacist. Often the monitored institutions were found to lack a variety of medications, as well as their proper quality, especially in terms of drugs used for the treatment of mental diseases, such as was the case in Lezha prison and the prison of Burrel. Most prisoners stated that they received their medication from their family members.

Institutions were not provided with adequate amounts of funds needed for conducting medical tests⁵⁴ as well as offering health service⁵⁵. This shortage rendered inapplicable the legal provision that stipulates that every prisoner at the time of admission is subjected to medical examinations.⁵⁶ In one institution it was observed that there was no ambulance to take patients to the respective district's hospitals⁵⁷. It was noted that there was also a lack of supply of medical files. The latter were photocopied by the medical staff.

Medical infrastructure was found problematic. The visit rooms did not have sufficient space, the bed of medical visits was not of adequate quality and in many cases, it was observed

⁵³Through official correspondence, we were informed that after our monitoring visit, the prison of Durrës is supplied with medical and emergency materials.

⁵⁴ There was a lack of test tubes, sample tubes, etc.

⁵⁵ In the Ali Demi prison there was no sterilizer (an AirSteril that was out of use, was turned into a flower pot in the premises of the institution), no test strips for glucometer nor diagnostic lamp, etc.;

⁵⁶ For example in the prison of Durrës, the prison of Kruja, the prison of Kavaja;

⁵⁷ For example the prison of Burrel;

depreciation of facilities and equipment. In Lezha's prison it was found that, in addition to the doctor's room being cramped, there was also a lack of proper hygiene.

2.7 THE DISCIPLINARY POLICY IN THE LOCAL PENITENTIARY INSTITUTIONS

Those who are held in the penitentiary institutions are entitled not only to rights but have also obligations. In case of violation of these obligations, which are provided by the legislation in force that regulates this area, they are necessarily subjected to the respective sanctions. For disciplinary violations are applied measures such as: 1. Individual counseling; 2. Admonishment in the presence of other prisoners or detainees; 3. Exclusion from particular joint activities up to 10 days; 4. Exclusion from the joint fresh air activity but not more than 20 days; 5. Exclusion from all joint activities for up to 20 days; 6. Refusal to grant the person leaves⁵⁸.

The monitoring showed that disciplinary measures applied, vary. **The measure that is most often given in the monitored institutions was found to be "exclusion from joint activities for up to 20 days"**. This measure is later followed by disciplinary measure of exclusion from fresh air in group. On the other hand the measure applied the less it is found to be **"admonition in the presence of other prisoners and detainees"**. AHC recommends that the measure **"admonition in the presence of prisoners"** and **"individual counseling"** be applied more when circumstances allow it.

In terms of the application of the disciplinary measures by scrutiny of relevant documentation, it was found that the reasons for it were: **strife among prisoners, physical attacks on uniformed staff, discovery of prohibited items, the use of insulting words, damage to the property of the institution, disobedience to the orders given**, etc.

Generally, the procedure concerning the communication of the disciplinary measure was implemented, giving prisoners who had committed the offense a copy of the relevant authority's decision. But there have also been cases in which this procedure is not performed. In the prison of Korça, during an interview with an inmate in the isolation room, the latter stated that no copy of the decision was given and that he was not communicated the right to appeal to the Commission of the Appeal of Disciplinary Measures under the General Directorate of Prisons. In Lezha's prison was found a case where the order of the Director for the issuing of the disciplinary measure did not contain explicitly the right to appeal the measure at the Appeal Commission of Disciplinary Measures. It was noted that in a part of the staff there was a misconception, they stated that a copy of the decision was to be given only if required by the sanctioned person.

⁵⁸ Article 53;

2.8 REGARDING LEAVES AND SPECIAL LEAVES

Based on Law No. 8328, dated 16.04.1998 it is stipulated that the rewarding leaves are granted when there is an improvement in the attitude of inmates in terms of his behavior and participation in activities during their stay in the institution⁵⁹. While special permits are granted for reasons such as: serious illnesses, important family events, death, birth, marriage and school examinations of prisoners⁶⁰. It is understood that for the prisoner to benefit rewarding leaves or special leaves there must be met the legal provisions listed in the law.

The monitoring showed that, in general, the standards in this regard were upheld, however, in a case in the Ali Demi prison there were violation of this right. The female prisoner had applied for rewarding leave and had received approval from both the institution concerned as well as the police station. From contact with the health sector it was found that the prisoner suffered from mental health disorders, but according to the doctor her situation had improved despite the fact that her disease still persisted. These facts were verified by the review of documents that the institution possessed. It was found that all legal documentation was completed according to legal requirements, but later it turned out that after the request was sent to the GDP, the reply to reject the application was communicated **over the telephone**.

Referring to the Instruction of the Minister of Justice No. 103, dated 14.02.2014 "On Regulation of a Number of Issues Pertaining the Procedure of Issuing Rewarding or Special Leaves to Persons Sentenced to Imprisonment" it is found that the director of the prison is the authority responsible for examining the application and issuing of rewarding leaves in normal and low security prisons⁶¹. After ending the legal proceedings relating to the application, the Director of the prison, **with a special letter** advises the Director General, who decides on planning of that leave⁶². The above shows that the head of the institution is the competent authority for issuing the leave and the GDP decides on planning of that leave.

It should be understood that when the preconditions are met for the issuing of the rewarding leaves this has a very positive and motivating impact on the person. If the authorities concerned claim that there might be a legal violation or that the criteria set in law are not met etc., always taking into account the powers conferred by law, their response must be supported by arguments and **in writing**.

Another factor identified by AHC is related to denial of leaves to persons who do not enjoy the Albanian citizenship. Such a case was found in the prison of Lezha. From contact with the authorities of the institution we were told that persons who are foreign nationals are not eligible for being awarded a rewarding or special leave. Referring to *Law No. 8328, dated 16.04.1998 "On the Rights and Treatment of Prisoners and Detainees"* as well as the General Regulation of Prisons, approved by Decision no. 437, dated 20.05.2015, there is found no such legal ban. It is understood that **foreign persons who reside in Albania are entitled to the same rights as the Albanian**

⁵⁹ Article 59;

⁶⁰ Article 60;

⁶¹ Point 1;

⁶² Point 4;

citizens. No other bylaws are in force to regulate this situation. AHC recommends that this problem be in the attention of the competent structures in order for the rights of everyone eligible be guaranteed to them.

2.9 EMPLOYMENT

Law No. 8328, dated 16.04.1998 "On the rights and treatment of prisoners and detainees" in its Article 34 stipulates that: "*All detainees and prisoners are entitled to work. Work organized by the directorate of the institution, inside and outside the institution, utilizing the help of other entities. Work does not have a punitive nature and is remunerated according to criteria established by a separate decision of the Council of Ministers*". Actually it is found that this right is not regulated specifically through a DCM. Prisoners who work, continue to be remunerated with a reduction of their sentence by 3.9 days per month, and 90 Albanian Lek which are deposited in their bank accounts. Progress Report on Albania for 2015⁶³ states that: "*The few prisoners who work receive reduction of sentence and not remuneration.*" Bylaws regarding the compensation of work performed by prisoners, ought to be improved. The law provides that work is remunerated and the payment is given as a compensation in proportion to the work performed, according to rules to be defined by DCM. Currently is applied a very old DCM which does not reflect current legal standards.

2.10 TREATMENT OF VULNERABLE GROUPS: MINORS, WOMEN, MENTALLY ILL ETC

AHC during its work, it has paid special attention to the vulnerable groups such as minors, women and persons with mental health disorders or other disabilities. Below we present the approach of the monitored institutions regarding their treatment, especially with regard to involvement in social activities and reintegration plans. Our particular focus has been the guaranteeing of health care to people with mental health disorders.

a. Treatment of prisoners with mental health problems

The people who suffer from mental health problems due to their illness, need special attention, particularly by the multidisciplinary team of penitentiary institutions. For this purpose, in prisons are established **special care units**. AHC has been one of the promoters of providing this service to this group of individuals in prisons. For this purpose, during the monitoring we have paid special attention, to the work done in this regard. With regret AHC experts have concluded that the infrastructural conditions of the premises, where are located this category of people are not different from the rooms where prisoners and other detainees are usually accommodated. There were no comprehensive treatment programs for this category of prisoners and they spent most of the time in the room. Also, there was ascertained no element of special treatment for

⁶³ P.58 paragraph 5;

therapeutic purposes, risking that these sectors be perceived with stigmatizing elements. In the official correspondence with the GDP, AHC has stressed the importance of providing specialized treatment for this category of prisoners and has provided that institution contemporary experiences and materials, which can be used for proper treatment of persons with mental disorders in these kinds of institutions.

The monitoring showed that the situation in the prison of Kruja appeared quite disturbing. From interviews with prisoners and from the review of documents it was shown that in this institution there were offered almost no sports activities for this group of individuals. From contact with staff, initially was confirmed that prisoners did not participate in ball games because that constituted "a threat to the internal security of the institution". Most prisoners spent their time outside of the rooms just in the fresh air. In the institution's regulation, in its Article 11/2 it is provided that "*prisoner's rehabilitation activities are offered at a time length of 4 hours a day*"⁶⁴. Another problem was that 90% of people were not visited by their family and the institution made no effort to mediate in this regard.

Of concern is the accommodation of persons suffering from mental disorders who are placed in the same room with people who enjoy good health. In many cases, this category is not welcomed and is despised by the rest of prisoners, because they are bothered by them and state that if placed in the same room, they will need to take care for them. Such a problem was identified in the prison of Lezha. For this category of prisoners, special attention for the accommodation in the rooms in accordance to all criteria stipulated in the legislation in force for this category of persons, in order to avoid even serious consequences.

It remains problematic the imprisonment of persons against whom medical measures "**Forced medication in a Psychiatric hospital**" is given. Their number has reached up to 164 people. Most of them is held in the prison of Kruja and in PSHI Tirana. AHC addressed with an official letter the country's most important institutions such as the President of the Republic, the Parliament of Albania, and several of its committees, the Prime Ministry, Attorney General, relevant ministries etc. There was feedback from the majority of institutions that were informed, but particular interest was shown by the Subcommittee on Human Rights of the Parliament. Encouraged by the problems presented by the AHC, it was conducted a joint monitoring, attended by representatives of AHC and some members of this Subcommittee, to watch closely the current situation in the prison of Kruja, with the aim of cooperating to improve the situation and taking urgent measures.

AHC has consistently expressed its concern regarding the urgent need for the construction of a separate institution for this category of people that are under a medical measure, who must absolutely not be accommodated in prisons, because against them there is no criminal sanction of imprisonment. Our organization has always been active to promote concrete actions of state institutions to address this situation. AHC has been informed that to the Ministry of Justice (Directorate General of Prisons) and the Ministry of Health, the government has designated two

⁶⁴ Internal Regulation of the Kruja prison, Approved by Order of the Minister of Justice No. 5324, dated 07.06.2010;

plots for construction of two institutions that will serve people with mental health problems, both persons under a medical measure and also those that while imprisoned have been effected by mental illnesses. AHC encourages the relevant state structures to accelerate procedures for the construction of these institutions, in order to address these groups of individuals to meet minimum standards of humane treatment.

b. Treatment of Minors

Minors constitute a specific group, which is considered a priority group of focus for the GDP in recent years, but so also for other law enforcement structures. Currently, the offenses committed by juveniles are tried in specialized sections for minors, which have been established in the courts. One of the debates of recent years is regarding the establishment of specific juvenile courts, where the criminal acts committed by this category of offenders will be tried. This recommendation is presented also by high level experts in the scope of the reform in the justice system⁶⁵. It is noted that there is an increase in the number of juvenile offenders in recent years⁶⁶. It remains problematic the lack of an institution for the execution of pedagogical measures against juveniles under the age of criminal responsibility.

The only specialized institution for minors sentenced by the court, is SIM Kavaja. While there are juvenile detention sectors in other institutions such as Lezha prison, Korça prison and the Vlora prison. AHC welcomes the special attention that is given to treatment of this category of prisoners in the penitentiary institutions, as for years it has strived to improve respect for their rights in these institutions. In this context, it is worth noting the recent initiative that AHC is undertaking as part of a project⁶⁷ implemented by the Dutch Helsinki Committee, funded by the Dutch Foreign Ministry, which inter alia, aims at the complete rehabilitation of the juveniles into society after their release from penitentiary institutions. One of the basic pillars of this initiative is an educational approach offered to juveniles in penitentiary institutions by the well-trained staff, so that they change behaviors that have brought them into conflict with the law.

One of the institutions that partly applied this approach is also SIM Kavaja. There were provided vocational training for minors such as plumbing, electrician, wood work and welder. The juvenile participants in these courses were very enthusiastic about this opportunity and having completed one of the courses, enroll in other ones. Problematic is the situation with the supply of raw materials for the realization of practical work in these courses, e.g. timber. Juveniles had created various wood works and were desirous to do even more, but were faced with the lack of supply of timber that serves as their raw material. Chairs and benches of the institution, for the most part, were built by minors who had attended the relevant vocational course. There were also organized painting courses, in which, the juveniles that showed interest were aided by a professor of the art school in Kavaja. Juveniles played 2 hours daily football and went out for

⁶⁵ The highest number of juveniles held in the institutions was recorded in 2012 with 232 children versus 199 minors in 2013 and 201 minors in 2014. The dominant criminal offense committed by juveniles is theft, followed by trafficking of drugs, P.74 http://www.drejtesia.gov.al/files/userfiles/statistika/VJETARI_2014_FINAL.pdf

⁶⁶ Idem; The trend of recidivism is inclining, out of 28 recidivists in 2012 to 35 in 2013, reaching the highest number in the past three years of 59 in 2014. P. 75;

⁶⁷ "Improving conditions for reintegration of juvenile prisoners in Albania, Macedonia and Kosovo", CoPROL Matra Program" funded by the Ministry of Foreign Affairs of the Netherlands";

airing for 3 hours a day, and were free to take a shower every day. Some of them were regularly practicing the Muslim religion, and attended every Friday in the makeshift mosque premises. In Lezha prison it was found that there were produced artworks such as sculptures, miniature wood houses, etc. In this institution there were claims from some juveniles that they were not enabled to participate in sports activities and that the only activity for them was the fresh air.

Regarding the relationship with families, institutions tried to facilitate as much as possible this process. Not all juveniles had periodic meetings with their relatives, sometimes due to the geographical remoteness of their families, or the difficult economic situation, or the alienation between the family members and juvenile prisoners. A certain percentage⁶⁸ of juveniles had not family members or relatives in Albania.

Relations of juveniles deprived of their liberty with the staff that works with them, were positive. There was noticed a spirit of cooperation and open communication between them. In SIM Kavaja it was shown that upon the request of the minors, director of the institution conducted periodic visits with them, going into their rooms. He took care to closely assess their condition.

In SIM Kavaja there was an educational program for 4 groups of students, two of which belonged to elementary and two to secondary education. The school was on every day from 08:15 to 13:00 for the secondary cycle and from 8:15 to 11:45 for elementary cycle. In the prison of Korça and Lezha too was provided education to juveniles who have not completed compulsory education.

Monitoring showed that the educational and disciplinary measures for minors were applied. Based on the documents that were examined it was evidenced that there was a frequent application of the TIME OUT method, which allows minors to reflect on their inappropriate behavior. Also, for minor disciplinary violations, the administrative guideline for minors was applied.⁶⁹ There was a tendency to seldom give disciplinary measures, when it was necessary and in cases of severe violations and even then, they did not last longer than a few days in isolation. These sanctions were recorded in the registry of disciplinary measures.

Health service was quite good in SIM Kavaja. For every minor there was a medical file which was periodically filled out in the institutions where this category of prisoners was held.

c. Training of female prisoners

Currently, women who are detained or sentenced, are held in the Ali Demi prison. Upon monitoring it was found that there were 60 female detainees and 48 convicted. If there are female

⁶⁸ Staff working with juveniles did not keep statistics for this group.

⁶⁹ Referring to the Administrative Guidelines in the Albanian prison system, p.6. This administrative guideline is the result of an initiative taken several years ago by AHC supported by OSI Budapest, together with a working group of GDP and local penitentiary institutions.

minors, detained or incarcerated, they are placed in separate rooms from adults (2 minors were found).

Infrastructure plays a very important role in the rehabilitation of persons deprived of their liberty. Despite that, in some respects the institution has achieved progress, for example in implementing the program of distance parenting by creating the conditions necessary for this purpose, we think that there is an urgent need for building a new institution for women. The premises of their present institution were built many years ago, they are depreciated and positioned improperly for life and recreational activities of the community rehabilitation for women deprived of liberty. It is necessary to build a new institution for women in view of respecting the legal standards in every respect.

The living conditions in the rooms of SCU appear to be relatively good. They are clean, with paintings on the walls, each room has 2 beds, TV, desk, lights. The toilet of SCU was quite dirty. Airing facilities in SCU were quite appropriate. In it were planted some citrus trees. However it was found that the electrical installations were not protected and the wires of the lamps were left hanging.

Isolation rooms did not meet the legal standards in terms of space. They were found to be of a surface area of about 3 m² (1.50m width by 2 m. in length) and did not meet the appropriate standards for natural lighting. It was found that these areas were very clean and the staff informed us that they were rarely used.

Regarding **health care, we found** that women detainees, prior to being admitted to the institution, underwent a gynecological and ECHO examination in order to determine their reproductive status, in addition to other health examinations. According to the institution's doctor, the chronically ill were regularly monitored and treated by the medical staff. Chronically ill are regularly monitored and treated by medical staff. In the institution, the health care is covered for 24 hours by a nurse. The routine visits are made in the nursing room of the detention and that of the prison by the doctor of the institution. The cases, for which are required specialized visits, laboratory and radiological examinations, are referred to specialized doctors. For medical emergencies, first aid was given in the institution, and transportation to a more specialized center was made by the ambulances of PSHI.

Relationships with family members were generally considered to be good for most of female prisoners, but they are often interdependent by type of offense with which these women are charged. Stigma and prejudice of society, are reflected also in the family relationships of female detainees or prisoners, and affect directly the quality of these relations.

The institution applied the distance parenting program, for the realization of which measures were taken to create appropriate conditions in the respective premises of the meeting room. The room was in good condition, with paintings appropriate for creation of a pleasant environment also for the children. The institution has also established contacts with several organizations to provide different materials such as informative brochures on the rights of children and minors, different toys, etc. This program started implementation in June 2015 and is attended by 35 detainees / convicted. Also distance parenting is applied for up to 8 hours a day, but on average mothers stay with their children for up to 2 hours a day. The latter meet their children in the

meeting rooms. The crèche was in optimal conditions for the stay of mothers with children and they were assisted by the supporting staff.

Regarding **the activities that were offered**, those consisted on card games, dominoes, ball games, cinema that is organized once a week, art therapy, occupational therapy, etc. The institution has for many years now put to use its greenhouse, where some women are employed and take care of various flowers or vegetables. Each month, the social staff created the monthly plan of topics and free discussions or individual conversations. Topics of these discussions pertained family relationships or the communications between prisoners.

Referring to the registry of the disciplinary measures, it was ascertained that in January-July of 2015 there were imposed 6 disciplinary measures, and was found that for a prisoner this was a repeated case. It was also found that the institution tried to create a collaborative atmosphere between prisoners, helping to resolve conflicts amicably. In this regard it was noted that there are not frequent cases of violation of rules nor of imposing disciplinary measures. Persons who were under disciplinary measure, were supervised by the institution and by the psychologist.

The institution has for many years **good cooperation with some NGOs**, to meet needs that cannot be covered by the small budget of the institution. These collaborations have consisted in organizing vocational courses such as tailoring, hairdressing, English language or secretarial vocational courses. Among some of the NGOs above-mentioned are the CARITAS, CAAP, "Save the Children", etc. It is worth mentioning an initiative undertaken by "Save the Children" which made possible the realization of a program of pre-release and post-release for female prisoners, in order to support the women released from prison.

2.11 OTHER FINDINGS

From the monitoring of the prison of Fier also based on many complaints that the AHC has received from the prisoners of this institution, it was found that the meeting rooms are structured in such a way that the regular communication with families is hampered, and the direct contact with their families is prevented. There were claims from convicts, particularly those with hearing difficulties, who state that the glass in the meeting room which separates them from the visitors, hinders communication between them. In these conditions there is a violation of Article 8⁷⁰ of the *European Convention on Human Rights*, on **respect for the right to family life**.

The monitoring showed that there are claims for violent acts by security groups of the GDP. These claims are presented as problematic in the previous report and persist to be so also during

⁷⁰ Everyone is entitled the right to respect for his private life and family life, for his habitation and correspondence. 2. The public authority cannot interfere with the exercise of this right except to the extent provided by law, and when necessary in a democratic society, in the interest of the public security and for maintenance of the public order, health and dignity or for the protection of the rights and freedoms of others http://www.echr.coe.int/Documents/Convention_SQL.pdf

2015. AHC reiterates that every task assumed by any state official has to be implemented in accordance with the law and the principles of justice and equality. Violent actions are punishable, in cases when they are not in line with the proportional need for resolution of the conflict. Security structures under the GDP should be a good model for respecting the law and the rules of the institution.

Cooperation between different sectors in a penitentiary institution is one of the key elements that helps in reaching the goal of penitentiary institutions. The organization of social and cultural activities, nor the health service cannot be comprehended without cooperation between all sectors, health care, social sector and those of the police of the institution. This cooperation has a direct impact in the rehabilitation of the prisoner, to the quality of health care and guaranteeing security in the institution.

The retention of staff in the penitentiary system is crucial to the progress and improvement of work of institutions. It was found that the staff was not motivated and there was a frequent shifting of job positions. On the other hand, the continual training of the staff leads to increased professionalism. The combination of work experience with participation in various trainings, brings about a more rehabilitating and humane treatment of persons deprived of their liberty. The investment already made in terms of raising capacities of the staff, needs continuity in order to yield visible results later on. The staff must be motivated to perform their task and for that is needed staff retention.

II. Recommendations for Improving Respect for Human Rights in Penitentiary Institutions

The imprisonment causes the limitation of certain rights of individuals, especially that of individual liberty and freedom of movement, but they nevertheless ought to enjoy the rest of the fundamental rights and freedoms of human beings and be treated with respect for their human dignity, because they are human beings.

AHC, based on the findings and conclusions of monitoring in institutions of the Albanian prison system, as well as after discussing these findings, with the managing authorities of the local institutions and with the managing GDP authorities, presents below some recommendations that will help to improve the situation.

1. In order to reduce and prevent overcrowding in prisons, the competent institutions of the justice system need to communicate and cooperate better among themselves. An efficient solution in this regard, is the implementation of alternative sentences, and the increase in the number of people that are kept under electronic surveillance, the reduction of cases of application of the security measure "Prison detention", as recommended by the international organizations operating in our country such as Presence of OSCE in Albania.
2. AHC recommends that concrete measures be taken to align budgeting of GDP to the concrete needs of prisons and detentions, in order to respect all legal and international

standards for the treatment of prisoners and detainees, especially the minors, persons with disabilities and women.

3. There needs to be an increased care for hygiene and cleanliness in the premises of the sector and in the area of sports activities, fresh air, etc. need to be organized. It is recommended that the medical staff, as sanctioned by law, engage periodically in inspection of hygiene and cleanliness in these institutions, guaranteeing the maintaining clean of the facilities, outside and inside institutions.
4. AHC recommends a differential treatment and in accordance to the needs of vulnerable categories of prisoners. Also, in addition to cooperation and capacity building of staff of the Albanian prison system, AHC recommends conducting continuous training for the prison's and detention's staff, in order to enhance the capacity of multidisciplinary teams through the use of useful instruments for individual assessment of detainees / prisoners with mental health problems, as well as the drafting of initial treatment plans and ongoing treatment guiding plans for these people. AHC recommends that these instruments become part of everyday work practice with these patients in all prisons.
5. Despite the positive initiative taken for the opening of SCUs, AHC recommends that towards these patients be shown special care as regards the living standards of the rooms wherein they will be accommodated, towards their personal hygiene, their beddings and personal clothing, and for their surrounding environment.
6. The health service needs to improve its quality both in terms of the periodic visits, so also in terms of the treatments offered to people with mental health problems. Particular attention should be paid to stigma and prejudice that may arise from prisoners or staff of institutions for the treatment of this category of persons deprived of their liberty.
7. A very disturbing problem is holding in prisons of the persons with a court decision "Forced Medication in a Medical Institution" and "Temporary Hospitalization" which is a flagrant violation of the law and the rights of these persons. AHC calls upon all relevant state institutions to find quick and effective solutions in accordance with the law, in order to restore the rights of this group of individuals that are continuously and flagrantly violated when they are held in prisons.
8. The medical staffing with psychiatrist, according to the needs of institutions, is of paramount importance in a time when in prisons are held about 164 people with the medical measures '*Forced Medication in a Medical Institution*' and '*Temporary hospitalization*'. Mental health service coverage in the prison of Zahari in Kruja by the doctor of PSHI Tirana and Durrës Prison, is not an optimal and definitive solution. We recommend that, in close cooperation with the Ministry of Health, are found ways of creating institutional incentives for hiring full time psychiatrists both in prisons and in detentions.
9. Immediate measures be taken for the hiring of sufficient caring staff in the prison of Zaharia in Kruja, as their absence leads to creation of circumstances that constitute

inhuman and degrading treatment of persons with mental or physical disabilities that receive treatment in these institutions.

10. AHC also recommends that concrete steps be taken to improve legislation on remuneration of work performed by prisoners, and also the resolution of problems related to their payment, as provided in the law.
11. AHC recommends that proper attention is paid to solving the issue of issuing rewarding leaves to prisoners of foreign nationalities. They ought to enjoy the same rights as the Albanian citizens, except those rights stipulated in special provisions.
12. With regard to the treatment of juveniles, AHC recommends that particular attention be given to the improved maintenance of hygiene in some of the rooms / facilities where minors are held. Definition of concrete objectives in terms of their individual sentence plan of each juvenile and further the work of multidisciplinary teams with them, would be a positive factor for achieving these objectives. Implementation of formats of social skills techniques as a highly practical and useful technique, would help to enable minors to acquire social skills, to learn to care for themselves and how to live together in community, etc.
13. Important for this age group of prisoners, is the inclusion of family members / relatives of minors in the process of drafting individual sentence plan, and during the treatment of juveniles in institutions where juveniles are detained.
14. AHC recommends ongoing training of staff working with juveniles in terms of the implementation of pedagogical and disciplinary measures taken against juveniles, to have a similar understanding and correct implementation of them in practice by uniformed and civil staff altogether.
15. With regard to the treatment of female prisoners, AHC encourages the state authorities to accelerate plans for the construction / reconstruction of the institution where imprisoned women will be held. In this regard, the needs are pressing.
16. AHC also recommends that the Ali Demi prison take measures for the immediate improvement of the isolation rooms, which do not meet the required standards, in accordance with the legislation in force. Keeping women under disciplinary measures in these facilities, constitutes inhumane treatment.
17. AHC stresses once again the importance of cooperation between different sectors of prison work and that of the work in multidisciplinary teams. Also, the stability in labor relations for employees is an important element for compliance with quality and professionalism of their functional duties.

Chapter III. THE SITUATION IN PSYCHIATRIC HOSPITALS

3. Findings in Terms of the Respect of the Rights of Persons Suffering from Mental Health Disorders in Psychiatric Hospitals

To evidence the current situation in psychiatric hospitals were monitored four institutions, namely: Elbasan Psychiatric Hospital, the Psychiatric Hospital of Tirana, Psychiatric Hospital of Vlora and the inpatient Specialized Mental Health Service in Shkodra, as well as some support homes under the authority of these institutions. The focus of the monitoring has been monitoring the respect for the rights of people with mental health problems who are accommodated in these institutions. In the monitoring missions were engaged 12 observers such as doctor, jurist and social worker with experience in the field of human rights. The monitored institutions facilitated the realization of monitoring missions by giving access and necessary facilities in order for a successful monitoring mission to take place.

3.1 THE MEDICAL STAFF

The medical staff that is employed in these institutions faces various difficulties, but they manage the difficult situations with professionalism. By monitoring these institutions we have found that in many cases, there are additional difficulties to their work due to lack of staff. In this regard most problematic was the situation ascertained in the institutions of Shkodra and that of Elbasan. It was found that the medical staff in the institution of Elbasan was insufficient compared to the number of patients. In the whole institution there were 3 psychiatrists. In a ward there were accommodated about 70 patients for whom there were 3 medical staff appointed for their care in each shift including a doctor and a nurse. Compared to other institutions the psychiatric hospital of Vlora was found to have sufficient medical staff including nurses. Shkodra's institution was found to have one psychiatrist who covers all mental health services. Having only one doctor caused problems regarding the implementation of legal procedures for involuntary treatment.

3.2 ADMISSION IN THE INSTITUTION

The monitoring showed that patients generally were referred to the hospital by the family doctor, district doctors and psychiatrist of Community Mental Health Center. The patients who were initially admitted as emergency cases, were then accommodated in the respective wards for acute or chronic patients. Patients had their own medical file and in the institutions there were made periodic medical examinations according to the protocols in force.

On the first day of admission to the institution, the patient undergoes routine examinations as well as more detailed examinations depending on the issues found. The doctor informed the patient about the medical diagnosis and relevant treatment. Patients sign the declaration of consent in the medical file. The monitoring showed that in most cases, the patient or his custodian were not given a copy of this statement. If the patient did not want to voluntarily be hospitalized, it was proceeded according to the procedure of involuntary treatment. Initially, the

patient's case was assessed by the doctor together with the psychologist and social worker, and then the treatment plan was implemented.

3.3 ACCOMMODATION

In the monitored institutions there were observed different standard of accommodation. Psychiatric hospitals, which were reconstructed / constructed in recent years (PH Tirana, PH Shkodra and a part of PH of Vlora), had good standards in terms of patient accommodation. Generally speaking, their rooms were of ample space and with sufficient natural light and ventilation. The rooms accommodated from 1 to 3 persons. In most cases, patient rooms were furnished with TV sets, personal lockers and desks, and were painted, maintained and hygienically clean. Each patient had their personal beddings, which were periodically washed in the institution's laundromat.

Tirana Psychiatric Hospital provided also psychiatric services to minors and adolescents. Conditions in this particular building were quite good. The windows allow ample natural light and the rooms were ventilated. Cleanliness and order were noticeable since at the entrance of the institution, in the rooms and the shared facilities. Each room was furnished with the necessary equipment. Patients had their cupboards to place their personal items in. The beddings were found to be clean and new. The toilets were outside the rooms and equipped with the necessary detergents. The building was equipped with a heating system which functioned normally. However, were noticed improper colors used for the living areas of this age group of patients.

The opposite was the situation ascertained in the old institutions (such as PH of Elbasan and in the ward of the chronic patients in Vlora) where rooms were in the form of dormitories, and in their most extreme cases accommodated up to 13 beds per room. In PH of Elbasan it was found that there were 30 patients over capacity. Often, patients did not have their personal clothes, but they shared those of other patients, according to the 'instructions' of the staff. Also, the rooms had only the beds of patients and nothing else. The toilets were damp and with putrid air. The showers were not fully functional.

The monitoring showed that the psychiatric hospital of Elbasan had a closed structure. In this hospital received treatment about 340 patients, of whom 80 had mental retardation. This institution that was constructed in 1964, does not meet current standards of infrastructure for handling psychiatric patients. Law "On Mental Health" stipulates that one of the most important principles in mental health services is to provide health care for people with mental health problems in an environment as less coercive as possible, mainly at community level, in order to avoid at the maximum their dislodging from the family environment and to facilitate social integration and rehabilitation.

A concerning issue that was ascertained was that of the holding in hospitals the psychiatric patients with profound mental retardation who do not need treatment with medications, and

that are not supposed to be hospitalized. Most of them are abandoned by their families. Often, psychiatric hospitals run into difficulties in terms of finding a solution to this problem which overloads the work of all the staff and specialists. Ministry of Social Welfare, as the line ministry that is responsible for the care given to these patients, ought to take concrete steps to accommodate them in special facilities outside the psychiatric hospitals.

3.4 INVOLUNTARY TREATMENT AND FORCED MEDICATION

According to Law no. 44/2012 "On Mental Health", it is found that **subject to involuntary treatment** is a person who is **involuntarily** hospitalized in mental health **inpatient specialized** services or after **voluntarily hospitalized is then involuntarily held**, in accordance to the decision of the specialist physician. **The decision for involuntary treatment** of a person with mental health problems is initially made by the **specialized doctor** only after he has personally conducted the patient's examination⁷¹.

The monitoring showed that the medical staff was aware of the legal deadline for the placement of a patient in an involuntary treatment and of the legal procedure to be followed in such cases. Mostly, it was the legal staff, which worked under the institution's governing body, that followed up this issue with the competent courts, but this staff was found to be lacking the legal knowledge in this regard. As a result, often, prosecuting cases in court continued beyond the legal time frame and in violation of the procedure provided by law, tolerating also other violations of the rights of patients who undergo this procedure.

Due to the lack of medical staff, in some cases was not applied the legal procedure for placing a person in involuntary treatment, a practice for which are required the signatures of 3 physicians who perform together the assessment of the state of patient's health. In the institution of Shkodra was employed only one psychiatrist, which, contrary to the law, was the only one to decide for persons who would be subjected to involuntary treatment.

⁷¹ The doctor that decides for the involuntary treatment in the inpatient specialized mental health care service describes in detail in the medical file all procedures followed and makes sure that the head of the service is notified for the patient's involuntary placement within 24 hours. Head of service, no later than 24 hours after placement in involuntary treatment, orders in a written form in the medical file, the reassessment of the health status of the person hospitalized involuntarily. The reassessment is made by medical staff that did not participate in the initial procedure that determined the involuntary hospitalization and treatment. After the reevaluation of health status, the medical staff fills out in the medical file all the necessary information and reports to the head of the service pertaining whether the involuntary treatment is grounded or ungrounded, or whether or not the reasons to hold the person in such conditions are removed. If, after reassessment, the head of the service determines that the reasons to hold this person in these conditions of involuntary treatment still persist, the person then continues to receive involuntary treatment in this service. Following this decision, within 48 hours, the head of the institution which provides the inpatient specialized service of mental health, informed by the head of service, addresses the district court to evaluate the procedure that was followed. A single judge examines the request submitted by the head of the institution where the inpatient specialized mental health service is provided, for the assessment of the involuntary medication, no later than 48 hours from its filing.

From the review of the relevant materials in the medical files of patients that are under involuntary treatment, in most cases it was found that there was a lack of necessary legal documentation such as: request to the court for placement in involuntary treatment; request for revocation of involuntary treatment; etc.⁷² In most part, the patient or guardian was not given a copy of the declaration of admission in the institution, nor the decision for voluntary or involuntary treatment.

From examination of court decisions regarding patients admitted to the institutions monitored, were found instances of non-correct use by the courts of the legal concepts related to medical measure of "Forced Medication in a Health Institution" or "Forced Hospitalization" and the principle of "Involuntary Treatment." During the monitoring we were informed that there are delays by the courts, in reviewing applications submitted by health institutions, exceeding the deadline for reviewing applications that the law has stipulated to last for a maximum of 48 hours, from the moment of their filing.

There are recorded cases in which the court hearings were attended by the institution's doctor or its social worker. Despite different circumstances, it is not the duty of the doctor nor of the social worker to repeatedly attend court hearings. The jurists of these institutions must fulfill their work with professionalism and accountability.

In the medical file of a person under the medical measure "Forced Medication in a Health Institution", was not found the decision for reevaluation of the measure given, despite the fact that the one year time limit had already passed. This person was in PH of Vlora since 2006. The hospital's authorities claimed that the court had never reviewed the measure taken against him, despite that the legislation obliges the court to perform this assessment no less than once a year.

3.5 PHYSICAL RESTRAINT

The monitoring showed that the Psychiatric Hospital of Vlora is the only institution that has registers for physical restraint and involuntary hospitalization and physical restraint room of appropriate legal standards.⁷³ These registers were filled out in all their sections with correct

⁷² In the official communications with the Ministry of Health it was found that based on Law no. 44/2012 "On Mental Health" and the recommendations of the Committee for the Prevention of Torture and the National Mechanisms for Prevention of Torture, the Directorate of UHC issued the internal order No. 104 dated 10.04.2015 "On the Drafting of a Standard Procedure for the Management of Individual Files on Court Procedures for Involuntary Treatment of Patients in the Psychiatric Service" and the work group drafted on 20.05.2015 the "Regulation on the Procedure Documentation of Involuntary Treatment and Management of Individual Patient Files." This Regulation is presented to the Emergency staff of this service, i.e. the medical staff, that is legally bound for its implementation.

⁷³ In the emergency ward in PH of Tirana in the absence of the standard model of MoH was improvised a register of physical restraint; The official communications with the Ministry of Health have revealed that these registers are produced by UHC in November 2015 and the Psychiatric Service is supplied with standard registers on 01.03.2016. Regarding the physical restraint chamber, UHC has filed an official request to the relevant office within the Ministry

information. In the Institution of Elbasan and that of Shkodra was found that there was no physical restraint rooms and that they had no means of physical restraint. In the Psychiatric Hospital of Tirana there were 2 rooms that were used for this purpose⁷⁴, but were sub-standard and posed a danger to the lives of agitated patients as they resembled the prison rooms. The staff of PH of Tirana had established a working group regarding construction of these rooms according to the appropriate standards.

3.6 THE RIGHT TO FOOD

The monitoring team found that there were no grievances about the quality of food. Meals were suitable for the season of the year and were big enough for a person. There was variety of food and in the main meal was provided also fruit. In this regard, Tirana Psychiatric Hospital was a good example⁷⁵. The food was generally prepared and brought by the company contracted and consumed in the hospital premises. Breakfast was served at 08:00 AM, then every day at 09:00 was served coffee for all patients, in the premises of the institution. At 12:30 was lunch and at 16:00 PM was offered a snack (fruit or something cooked) and dinner was provided at 19:00⁷⁶. The meal for diabetics or for those persons who the doctor had ordered a special diet, was provided separately from general food, which proved to be in proper hygienic conditions. In almost all institutions monitored, this was pretty much the schedule of serving the meals.

Food, upon arrival at the institution, underwent control by a working group to assess its quality which also signed in the respective protocol. The monitoring of warehouses where food was kept, it was found that there was enough supply to meet the needs of the institution in food items such as jam, coffee, sugar, pasta, etc.⁷⁷ The cafeteria facilities were in adequate conditions to serve the necessary food commodities in clean environments, with natural light, tables and chairs.

3.7 REHABILITATIVE ACTIVITIES

Implementation of various rehabilitation activities plays an important role in the rehabilitation of persons suffering from mental health disorders in these institutions. The monitoring showed that there are organized different activities such as board games, sports activities such as ping-pong, ball games, walks in the city or in different places such as the beach during the summer, reading books, creative classes as well as watching various television programs⁷⁸. But, generally, patients who engage in these activities accounted for a relatively low number compared to the total number of patients.

of Health pertaining budget allocation for investment in UHC, including also the rooms used for the physical restraint

⁷⁴ Men's ward;

⁷⁵ There were served dishes of spinach, potatoes, cakes, cabbage and carrot stew, rump steak, compotes, etc.

⁷⁶ Referring to Inpatient Specialized Mental Health Service in Shkodra;

⁷⁷ Id;

⁷⁸ In this regard it was shown that social activities were conducted more complete and more often in the Psychiatric Hospital of Vlora;

For patients who could manage it physically were organized sports activities, which they organized up to 4 times a week, and that lasted 2-3 hours. Generally the persons that stayed in supporting homes could go out unaccompanied by guardians if their condition allowed it. With the doctor's approval the patients could spend the weekend at their family.

In the supporting homes under these institutions was applied the psychological and educational program. This program consisted in patients cleaning the premises by themselves, they took care of their own hygiene, were involved in occupational therapy, in cooking, etc. Men in the summer played in a mini-football pitch once every two weeks⁷⁹. In the supportive homes in Elbasan, for people who had mental retardation were organized reading and writing classes⁸⁰. At the supporting home in Shkodra was opened a social car wash where patients during the summer were engaged in washing vehicles with lower cost than the market.

In psychiatry service for children and teens, at the University Hospital Center Mother Teresa, there were 2 activity rooms, well equipped and adjusted to the age of patients who stay in this institution. Juveniles were involved in creative work, doing puzzles, painting, etc.

3.8 PERSONAL HYGIENE AND CLOTHES

Patients at hospitalization, were supplied with clothes, slippers, sportswear and pajamas. Sheets were changed twice a week (in exceptional cases even more frequently)⁸¹. In each bed there were sufficient sheets and blankets to cope with the cold. The institutions had laundromats in which were washed patient's clothes, sheets and blankets⁸². The clothing warehouse was observed in which were evidenced stacks of blankets, jackets, slippers and various other necessary clothing. In Vlora's institution was hired a seamstress to repair damaged clothes of patients. It was found that there was a supply of detergents needed to keep the environment clean and also the personal beddings such as laundry detergent, floor detergent, insect repellents etc. In Elbasan's Psychiatric Hospital was found that some patients were clothed with the same clothes, which looked very old and worn out. Patients can use their own clothes, but the hospital also provided them clothes at the first moment of arrival at the premises. It was found that generally there was a sufficient supply of garments such as everyday clothes as well as blankets.

Patients generally were found to be clean and orderly with the exception of persons who were in a very grave health condition and could not care for themselves. Patients could shower without a problem on daily basis when they needed it. There was not found a lack of water supply.

⁷⁹ Referring to Inpatient Specialized Mental Health Service in Shkodra;

⁸⁰ This activity takes place since 2 years now as part of a Dutch Project;

⁸¹ In Vlora, the sheets were changed daily and the mattresses were wrapped in plastic in order to maintain the hygiene of patients;

⁸² Was ascertained in Shkodra and Vlora;

3.9 RELATIONS TO THE OUTSIDE WORLD

Relations with family members appear not good for many patients. Most of those who have been for years in these institutions are forgotten by the family. The rest of those hospitalized in these institutions for short periods have contact with the family.

The monitoring pointed out as an issue that patients' pensions were being withdrawn by their families. People hospitalized in these facilities have the capacity to act (except those whose right is not forfeited or restricted by the court's decision) and can self-administer these revenues. As long as it is the institution that takes care for this category of patients, it is not lawful for their pension to be withdrawn and spent by their relatives.

3.10 STAFF-PATIENT RELATIONS

No claims were presented to physical or psychological violence by patients against staff employees. The medical staff was found to be experienced, qualified and with a positive attitude towards patients. This was observed in all the monitored institutions. There was found a good relationship between staff and patients. Even when the patients appeared to be agitated or were for the first time admitted in the institution with prohibited items, it was found that these situations were dealt with professionally and in close cooperation with the police when necessary.

III. Recommendations for Improving Respect for the Rights of People with Mental Health Problems in Psychiatric Hospitals

- While welcoming the interventions for improvement of infrastructure in the psychiatric hospitals of Tirana, Shkodra and Vlora (in part), we recommend that such are carried out, as soon as possible also in Elbasan and in the chronic patients ward in PH of Vlora.
- AHC recommends that infrastructural conditions be continuously improved, with an approach of individualized treatment for patients and providing the latter with a more comprehensive treatment plan.
- The role of psychiatrists is key in the treatment of mental illnesses. In order to have an effective psychiatric service that is compliant to applicable laws in force there must be employed sufficient medical staff (doctors and support staff) in institutions that need it. The Ministry of Health should increase the number of doctors who specialize in this direction because the needs are growing.
- AHC also recommends that courts should examine carefully and within the period prescribed by law, cases of involuntary treatment in PHs, while ensuring the due legal process and including as much as possible the mentally ill persons themselves during the examination their case.

- Finally, AHC recommends an ongoing training be made of the medical staff (at different levels), the legal staff and the social services staff, in order to obtain in-depth professional knowledge of the legal concepts of the 'Involuntary Treatment', 'Forced Medication Induced in a Health Institution' and 'Temporary Hospitalization'. These trainings would help the PH's staff to observe the legal procedures in these areas, to ensure the essential guarantees for the rights envisaged in the law for this category of persons.

THE LIST OF THE MONITORS OF THE INSTITUTIONS

1. Albana Misja - Jurist
2. Alban Muriqi - Jurist
3. Anita Pilika - Doctor
4. Andi Muratej- Jurist
5. Andia Haxhi - Jurist
6. Ariana Rreli - Doctor
7. Ardit Çota - Jurist
8. Besim Ymaj - Doctor
9. Doruntina Krraba- Psychologist
10. Ela Tollkuçi - Psychologist
11. Elton Frashëri - Jurist
12. Edis Ibrahimimi - Jurist
13. Ervis Çota - Human Rights Activist
14. Fatmire Haliti - Jurist
15. Gëzim Myftari - Doctor
16. Ilir Mica - Doctor
17. Iva Bregasi - Jurist
18. Irismilda Gjonaj - Social Worker
19. Jelena Mirkov - Jurist
20. Klejda Ngjela- Jurist/Social Sciences
21. Klodian Gjermani - Jurist
22. Liljana Palibrk- Jurist
23. Neda Chalovska - Jurist
24. Petro Thanasi - Doctor
25. Skerdian Kurti - Jurist
26. Valbona Tahiraj - Doctor
27. Voislav Stojanovski- Jurist