

## **Human rights in the administration of justice, including juvenile justice**

*Paragraph 5. Calls upon States to spare no effort in providing for effective legislative, judicial, social, educative and other relevant mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and invites them to take into consideration the issue of human rights in the administration of justice in the universal periodic review procedure;*

Human rights in the penitentiary system are an important criterion for assessing how the state has met international standards regarding these rights. For this reason respect to human rights has been an important objective for prison administration. In this context, there have been taken ongoing legal and administrative initiatives to create the necessary conditions for the implementation of the obligations arising from United Nations standards and national legal framework on human rights.

In order to harmonize the legislation of the penitentiary system with United Nations standards which guarantee the treatment with dignity and respect to human rights of pre-trial detainees and convicts in the penitentiary system, in April 2014 there are approved amendments to the Law no. 8328 "On the rights and treatment of pre-trial detainees and convicts". These amendments stipulate basic principles of treatment of persons deprived of their liberty, under which the pre-trial detainees and convicts are treated without bias and without discrimination.

GDP is currently in the process of drafting a new Regulation of Prisons, which is currently under consultation with stakeholders. Besides the principles of non-discrimination and human treatment, this regulation stipulates the procedural aspects and provides mechanisms that guarantee treatment of pre-trial detainees and convicts according to the standards, and regular monitoring of the penitentiary system. Also there are in the process of adopting two regulations on Prison Police: the Regulation on Internal Rules of Prison Police and the Disciplinary Regulation of the Prison Police. The drafting of these regulations is based also on the recommendations of the Committee of Ministers of the Council of Europe on the European Prison Rules, the Rules of Ethic Code of Prisons Staff etc.

*Paragraph 11. Encourages States to address overcrowding in detention facilities by taking effective measures, including through enhancing the use of alternatives to pretrial detention and custodial sentences, access to legal aid, and the efficiency as well as the capacity of the criminal justice system and its facilities;*

Overcrowding of pre-trial detainees and convicts in prisons, consequences in terms of violation of the standard of floor area and standard of humane treatment; in terms of reducing the time of airing and time of meeting with relatives; individual treatment provided by social care workers and legal counseling by legal staff; various conflicts; and transfer or detention of pre-trial detainees and

convicts in institutions which are less overcrowded, but which are not close to their family residence; also, affects the ratio officer / prisoner. Currently the total capacity of the penitentiary system is 4,537 inmates. While the number of prisoners is average 5,500 people.

In order to reduce the overcrowding in April 2014 on the proposal of the Ministry of Justice and the General Directorate of Prisons, it is adopted the Law "On granting amnesty". Application of amnesty led to a reduction in overcrowding in the penitentiary system. 813 people benefited from the amnesty law in the Penitentiary System and as a result the overcrowding is decreased from 29% to 11%. Nevertheless this measure in the end of 2014 the overcrowding is increased approximately 24% over the capacity of the penitentiary system.

The opening of the new detention and pre-trial detention center in Fier in February 2015, and making soon operational the new pre-trial detention center in Berat, with a total capacity of 880 seats, have affected and will continue to impact positively on improving the conditions in which are held and treated persons deprived of their liberty, but also in general standards of Penitentiary System.

Directorate General of Prisons has continued with other measures to reduce overcrowding in the penitentiary system. Aiming at the application of an integrated inter-institutional policy, to reduce overcrowding in the penitentiary system, the Directorate General of Prisons in cooperation with the OSCE Presence in Albania, are in the process of setting up an working group to develop a strategic document to reduce overcrowding, which will be accompanied by an action plan with specific intervention activities.

*Paragraph 13. Urges all States to consider establishing, maintaining or enhancing independent mechanisms with the mandate to monitor all places of detention and have private interviews with all persons deprived of liberty without witnesses;*

The treatment of juveniles in the places of detention has been monitored on regular basis by international bodies, national mechanisms, as well as prison administration. According to article 74 of Law no. 8328, dated 02.04.1998, "On the rights and treatment of convicted and pre-trial detainees", as amended, the Mechanism for Prevention of Torture, which functions as a separate entity under Ombudsman institution, has been granted the competence to monitor the places of detention any time, without any restrictions or prior consent and have private interviews with all persons deprived of liberty without witnesses. In addition, in every institution are posted free contact numbers of the General Directorate of Prisons and the Ombudsman.

Since 2010 a working group has been established in the General Directorate of Prisons, regarding the following and implementation of the recommendations of the Ombudsman. Main responsibilities of the working group include: 1. Maintaining a database system and detailed statistics for: a. number of inspections carried out by the Ombudsman; b. number / percentage of recommendations proceeded; 2. Conducting thematic inspections in penitentiary institutions by multidisciplinary

groups to meet the Ombudsman recommendations; 3. Setting deadlines for meeting the Ombudsman recommendations, that are in process; 4. Respecting the institutional terms on responding to monitoring reports of the Ombudsman, as well as the implementation of recommendations.

A cooperation agreement is signed with the Commissioner for Protection from Discrimination with special focus to the protection from discrimination of the juveniles.

Independent monitoring are carried out by international organizations such as the Committee for the Prevention of Torture (CPT), representatives of international organizations in the country as the OSCE, as well as domestic and foreign NGOs. These organizations are permitted at any time to conduct inspection of detention and pre-trial detention facilities and obtain direct contact to inmates with disabilities, in confidentiality.

*Paragraph 14. Recalls the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment in international law, and calls upon States to address and prevent detention conditions of persons deprived of their liberty that amount to torture or cruel, inhuman or degrading treatment or punishment;*

Detention institutions and especially pre-trial detentions in a significant extent have an amortized infrastructure inherited from the past. In order to improve the conditions of detention, measures have been undertaken for the implementation of investments for maintenance of current infrastructure and for the reconstruction partially or generally of the pre-trial detention and detention institutions. As a result of these measures, is in the process of partial reconstruction the pre-trial detention "Jordan Misja" with the state budget funds value 500,000 euro; during 2014 is put into efficiency, the new detention and pre-trial detention institution in Fier, and is in the process of putting into efficiency the new pre-trial detention institution in Berat. In September will be completed the reconstruction of facilities for juvenile pre-trial detainees in Lezha Institution, which will improve treatment standards for this category in this institution. Other measures are expected to be addressed following the mid-term plans for improving conditions in the penitentiary system.

General Directorate of Prisons is in the process of drafting an important policy document for vulnerable groups in the penitentiary system, including persons belonging to the national ethnic minorities, and cultural and linguistic minorities. This document will contain a detailed analysis of the situation of these groups in the penitentiary system, with relevant statistical data and will address the priorities of GDP for treatment of these categories without discrimination. The document will be accompanied by an Action Plan for the specification of intervention activities and the respective costs for each activity.

In 2015, GDP has planned the design of a protocol on the prevention of racial discrimination of national ethnic minorities, as well as cultural and linguistic minorities, which will be followed by training of multidisciplinary staff on this protocol.

*Paragraph 15. Calls upon States to investigate promptly, effectively and impartially all alleged human rights violations suffered by persons deprived of their liberty, in particular cases involving death, torture and cruel, inhuman or degrading treatment or punishment, and to provide effective remedies to the victims;*

In each case of the allegation of ill-treatment, violence or excess use of force by police officers in the penitentiary system, or violence cases found during the admission process of the inmates in penitentiary institutions, Directorate General of Prisons performs immediate establishment of an inspection group to verify the case. In cases of abuse found, penitentiary institutions immediately notify the competent authorities for prosecution and investigation of the case, according to legal procedures. Also in each case it is notified the institution of the Ombudsman.

*Paragraph 16. Notes the work of the open-ended intergovernmental expert group on the revision of the United Nations standard minimum rules for the treatment of prisoners reiterating that any changes should not lower any existing standards but should reflect recent advances in correctional science and best practices as well as human rights standards, and, in this regard, invites the expert group to continue to benefit from the expertise of the United Nations Office on Drugs and Crime, the Office of the High Commissioner and other relevant stakeholders;*

General Directorate of Prisons in the resent legal and sublegal initiatives undertaken have had as reference the international legislation on rights and treatment of pre-trial detainees and convicts in the penitentiary system, particularly the United Nations standard minimum rules for the treatment of prisoners.

In terms of strengthening of cooperation with experts from the United Nations, at the request of the Directorate General of Prisons, it was established a cooperation with the United Nations Office on Drugs and Crime in Albania, for the implementation of a project with focus strengthening the capacity of the penitentiary staff to implement an appropriate rehabilitation program for pre-trial detainees and convicts, based on their needs. This project is being piloted since 2014 in Fushe-Kruja Prison and will serve for sharing this successful practice in other penitentiary institutions.

*Paragraph 17. Recognizes that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of justice, and calls on States parties to the Convention on the Rights of the Child to abide strictly by its principles and provisions;*

The goals of treatment of juveniles in conflict with law in Albanian Penitentiary institutions, is based on the approximation of the legal and institutional framework with international standards related to child's rights in the penal justice system, such

as the Convention on Rights of the Child, the United Nations Guidelines for the Prevention of Juvenile Delinquency, Standard Minimum Rules of the United Nations for the administration of Juvenile Justice, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty etc.

Amendments approved to the Law no. 8328, date 16.04.1998 "On the rights and treatment of prisoners", have affected important aspects of the treatment of juveniles in penitentiary system, such as the concept of *principle of best interest of the child*, which is integrated into all procedures and bylaws and administrative acts, as well as in all policies, programs and projects applied in the field of juvenile justice.

These amendments sanction among others many rights of child, such as: psycho-social treatment and re-integration process for juveniles in cooperation the juvenile; implementation of the individual treatment plan for the juveniles; providing special health care programs and services to juveniles according to their age and gender; providing special care to the female juveniles that have experienced physical, sexual and psychological abuse; implementing a special disciplinary policy according to the juveniles' needs, based on the principle that the disciplinary measure serves as the last resolve.

In relation to child labor, penitentiary legislation provides protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, such as forced labor and employment of children under 16 is prohibited. In practice the labour process in penitentiary system is linked with the vocational training process. Juveniles are engaged in different vocational courses such as wood work, plumber, gardening etc.

*Paragraph 20. Stresses the importance of including reintegration strategies for former child offenders in juvenile justice policies, in particular through educational programmes, with a view to their assuming a constructive role in society;*

In the line of the preparation for release and reintegration of juveniles, a memorandum of understanding between the Ministry of Justice and the Ministry of Social Welfare and Youth has been signed in November 2014, after a process of consulting with the NGO-s active in the area of the juvenile justice in Albania.

A new manual on Risk Assessment and Reduce of the Recidivism has been approved in September 2014. This manual will help the penitentiary staff working with the juveniles on how to identify the risk potential dynamic factors and how to address them in order to reduce recidivism in the category of juveniles.

A new manual on the rehabilitation and re-integration, and also on the motivation system of juveniles has been compiled in November 2014. Staff working with the juveniles has been trained on the implementation into practice of this manual.

The General Directorate of Prisons has continued to cooperate with the international agencies operating in the field of children's rights such as UNICEF and Save the Children (SCH), for carrying out rehabilitation and re-integration programs for juveniles before and after their release from prison.

In cooperation with SCH, for the reintegration of juveniles in society during 2014 there were managed on the ground 82 cases of juveniles from 5 penitentiary facilities, of which 46 juveniles have succeeded in re-integration process. More concretely, 19 of them are enrolled in school and 21 in vocational training courses. 6 juveniles have benefited from training in the Workplace (Inter-ship Scheme) and employment in the workplace after completing training. They received financial support from the contract of employment for about 6 months after enrollment in specific businesses.

A further important aspect is to increase the capacity of the Prison staff working on instruments for preparation for re-integration of juveniles in conflict with the law. During 2014 were conducted trainings attended by 88 representatives of the referral system in the region as Labour Offices, Vocational Training Centers, Child Protection Units, business community, Probation Service etc.. In this context meetings have been held with 96 representatives from government and non-governmental institutions and also business community.

The General Directorate of Prisons has signed memorandums of understanding with national NGO-s, which are active in the field of protection of juveniles' rights. These NGO provides services on conflicts resolution, diversion and restorative justice, psychological and legal aid and also prisons' staff capacity building on juveniles' rights.

The General Directorate of Prisons is drafting programs with the focus on juveniles' reintegration, through:

- Further developing their individual capacities with the final goal of a personal and professional empowerment, as well as employment skills;
- Strengthening the role of local stakeholders, Child Protection Units, Regional Employment Offices and Penitentiary Institutions during the process of reintegration of children and juveniles in conflict with the law in Albania;
- Strengthening the Regional Groups contacts with JPU representatives at municipalities and towns, Employment Offices, Vocational Training Centers and other governmental and non-governmental partners, with the aim of facilitating the rehabilitation process;
- Strengthening the network, providing assistance for specific cases and raising community awareness about the importance and function of the related institutions;
- Building bridges of cooperation between the sources of assistance in the community and the families of the juveniles;
- Signing cooperation agreements between the responsible institutions for the central and local delivery of services to this target group.

*Paragraph 25. Invites Governments to provide for human rights training on the administration of justice and juvenile justice, including anti-racist, multicultural and gender-sensitive and child rights training, for all judges, lawyers, prosecutors, social workers, immigration, correction officers and police officers and other professionals working in the field of administration of justice;*

The policy pursued by the GDP for the treatment of categories with specific needs in the penitentiary system aims the prevention of discrimination, violence and abuse for these categories. As regards preventive measures, an important aspect is staff training on communication skills, treatment and non-discrimination of pre-trial detainees and convicts, particularly those that constitute the most vulnerable groups within the categories with specific needs, such as juveniles, persons belonging to the LGBT community, persons belonging to national ethnic minorities and cultural minorities. The training and assessing process is conducted based on the "The regulation of the training center", which is an important document approved in November 2014. Trainings have been held in cooperation with native and international organizations. During 2011-2015 there are trained 4780 persons from police and multidisciplinary staff. In the manual "Communication in prisons" drafted in cooperation with Albania Helsinki Committee, for prisons' personnel, it is included the module on "Non discrimination". Annual Training Plan contains specific training modules for the treatment of pre-trial detainees and convicts belonging to these communities.

*Paragraph 26. Calls upon States to consider establishing or strengthening existing independent and child-friendly national monitoring and complaints mechanisms to contribute to safeguarding the rights of children deprived of their liberty;*

In every penitentiary institution functions the Commission of Admission at the time of admission of a prisoner to the penitentiary institution. This commission composed of psycho-social, health, security and legal staff, informs the juvenile about his rights and how to report and address complaints (and requests) according to legal procedures.

Penitentiary institutions implement an administrative protocol on requests and complaints and the relevant formats, including the format of addressing complaints to Ombudsman. The juveniles have the possibility on daily basis, to submit written requests or complaints to the Minister of Justice, the Director General of Prisons, Ombudsman, Prosecutor, Judge, or other state institutions and non-public agencies.

In cooperation with Save the Children, GDP is drafting some leaflets on informing of the juvenile at the moment of his admission in a penitentiary institution on how they can address their requests and complaints, thus contributing in increasing the juveniles' knowledge on their rights.

*Paragraph 27. Stress the importance of paying greater attention to the impact of the imprisonment of parents on their children;*

From 2014, General Directorate of Prisons has been implementing the programme "Parenting in distance" in some of the penitentiary institutions aiming at strengthening the parent-child relationship and reducing the effects of imprisonment to this relationship. GDP has taken adequate measures to adjust the infrastructure in these institutions as to creating a child friendly atmosphere for children who come to visit their detained parents.

*Paragraph 28. Urges States to take all necessary and effective measures, including legal reform where appropriate, to prevent and respond to all forms of violence against children within the justice system;*

Penitentiary legislation prohibits any form of intentional violence which causes denigration and discrimination of pre-trial detainees or convicts, particularly to juveniles. The personnel which treat the juvenile prisoners, is trained on techniques of communication and treatment of this category. The juvenile pre-trial detainees and convicts which have had experiences of physical, psychological and sexual violence before or during their accommodation in penitentiary institution are offered immediately protective measures and legal counseling aiming at their rehabilitation.

Since 2012, all penitentiary institutions are implementing the Istanbul Protocol and respective formats on documenting cases of violence.

*Paragraph 29. Invites States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations agencies and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice, encouraging States to provide adequate resources to the secretariat of the Panel and to its members;*

The General Directorate of Prisons is very committed to cooperate in strengthening the reform in the Albania penitentiary system and particularly in promoting a friendly juveniles justice system. GDP is willing to cooperate in this field with United Nations agencies and programmes.



