

**Contribution provided by Albanian institutions related the study on arbitrary detention relating to drug policies prepared by The United Nations Working Group on Arbitrary Detention, pursuant to Human Rights Council resolution 42/22.**

1. The Albanian State has a legislation that criminalizes the aspects of drugs and more specifically the following articles are provided in the Criminal Code of the Republic of Albania:

- Article 283, production and sale of narcotics;
- Article 283/a, trafficking of narcotics;
- Article 283/b, facilitation of drugs intake and use;

Article 284, cultivation of narcotic plants;

Article 284/a, organizing and leading criminal organizations;

Article 284/c, production and manufacturing of narcotic and psychotropic substances;

- Article 284/ç, production, trade and illegal use of precursors;
- Article 285, production and manufacturing of narcotic and psychotropic substances;
- Article 285/a, adjusting of premises for drugs use;
- Article 285/b, throwing way or getting rid of syringes;
- Article 286, inducing the use of drug.

2. The State Police carries the investigation on the above-mentioned criminal offenses in cooperation with the Prosecution offices of the Judicial Districts. Regarding the criminal offenses provided by Articles 333/a "The structured criminal group" and Article 334 Commission of criminal offences by the criminal organizations and structured criminal groups", the State Police cooperates with the Special Prosecution Office against Corruption and Organized Crime.

2.1 During the year 2019, 2069 criminal offenses were identified /referred in total in the field of drugs. Out of these criminal offenses, 2819 perpetrators were implicated, out of whom 1295 or 46% were arrested or detained, 1339 or 47% were prosecuted at large and 185 or 7% were declared wanted.

2.2 During 2020, the number of specific criminal offenses in the field of drugs, compared to the total is: 4% of criminal offenses related to trafficking, 70% related to production/sales, 22% related to cultivation and 4% other offenses.

3. With regard to personal use, Article 283 of the Criminal Code specifies that:

- sale, offer for sale, giving or receiving of any form, distribution, trading, transport, sending, delivering, and keeping, besides cases when it is for personal use and in small doses, of narcotic and psychotropic substances and seeds of narcotic plants, in conflict with the law, is sentenced to imprisonment from five to ten years.
- This very offence, when committed in complicity, or more than once, is sentenced to imprisonment from seven to fifteen years. Organization, management or financing of this activity is sentenced to imprisonment from ten to twenty year.

*I. Please provide information concerning the number of people held in pre-trial detention as well as the number of those who are imprisoned pursuant to a conviction for drug-related offences. Please indicate what percentages of the total pre-trial detention population are being held for drug-related offences. Please identify the percentage of the total prison population who have been convicted and imprisoned for drug-related offences. For those convicted of drug-related offences, what percentage of this group have been imprisoned for acquisition, use of possession of drugs for personal use? How many people convicted of drug belong to disadvantaged groups?*

Based on statistical information of the Albanian Prison System of May 2020, in the prison system there are 614 pre-trial detainees for drug related offences and 682 convicted offenders.

The pre-trial detention prisoners held for drug related offences comprise 31 % of the total population of pre-trial detainees.

The convicted offenders imprisoned for drug related offences comprise 26% of the total population of inmates.

The Albanian Penal Code does not have a specific article related to acquisition, use acquisition, use of possession of drugs for personal use. Nevertheless, article 283/1 of the Albanian Penal Code has foreseen that "selling, offering for sale, giving or receiving in any form, distribution, trade, transportation, delivery, as well as keeping except in case of personal use and in small doses of narcotic and psychotropic substances, as well as the seeds of narcotic plants in contrary to the law or in excess of their content is punishable by imprisonment of 5 to 10 years". So, for the article 283/1 there are in the prison system, 26 pre-trial detainees and 16 convicted offenders.

None of the prisoners imprisoned for article 283/1 belongs to disadvantaged groups.

*6. Have there been any cases of torture or other cruel, inhuman or degrading treatment or punishment for persons arrested or detained on drug related offences, with the objective for example to elicit confession or to learn information about other alleged criminal actors or networks? Have there been cases where opioid to elicit a confession, or obtain information concerning other alleged criminal or networks? What procedures exist to prevent torture and other forms of ill treatment of people detained for drug-related offences, and to bring to justice those responsible when it does occur? What monitoring measures are in place to ensure that torture or*

*other cruel, inhuman or degrading treatment or punishment does not take place? What avenues do detainees have for making a formal complaint to an independent authority if such practices occur?*

It has to be pointed out that during recent years there have been no cases of torture or other cruel, inhuman or degrading treatment or punishment in the prison system. The latest report of the European Committee for the Prevention of Torture confirms that no allegation for ill treatment was received".

6.1 The prison system is monitored on a continuous basis, not only by state and local authorities but also by independent institutions, such as:

- European Committee for the Prevention of Torture (CPT) Ombudsman
- Albanian Helsinki Committee
- Commissioner Against Discrimination

*Article 60(1) Constitution of the Republic of Albania* has foreseen that the People's Advocate defends the rights, freedoms and lawful interests of individuals from unlawful acts or omissions of public administration bodies.

*Article 19/1, of Law No 8454 of 4.02.1999 "On the People's Advocate"*, as amended, authorizes an independent, comprehensive and complete monitoring and investigation activity for any torture, inhuman and degrading treatment, guaranteeing access to any environment or office, to any official, and any documentation even classified by the public administration bodies.

*Article 74/1 of law no. 8328 dated 16.04.1998 "On the Rights and Treatment of Prisoners and Detainees"* as amended, provides that the "National Mechanism for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment, which oversees the implementation of the law for the protection of human rights, acts as a separate structure under the authority of the People's Advocate that submits recommendations to the relevant bodies in order to improve the conditions and treatment of prisoners.

6.2 By the Order of the Director General No. 499 dated 16.01.2019 a specific structure within GDP has been appointed for monitoring and overseeing the implementation of the recommendations of Ombudsman. An action plan has been drafted for the implementation of the recommendations during 2019.

6.3 Nongovernmental organizations have been given access to monitor the situation of prison and respect of fundamental rights. 9 cooperation agreements have been signed with NGO-s in 2019.

16 cooperation agreements have been signed with non-governmental organizations, which have a mission to protect human rights and fundamental freedoms. These organizations are allowed to inspect prison conditions at any time. Representatives of these organizations are allowed to visit the premises, view the relevant documentation and get in direct contact with the inmates without

the presence of police officers. Also, the cooperation with non-governmental organizations is extended in consultation with the action plans and the design of joint programs for strengthening the rehabilitation system and the implementation of the rule of law in prison institutions.

6.4 In each of the reports of these bodies, there has been unequivocal progress in the prison system in implementing the legal requirements for the rights and treatment of prisoners. The European Committee for the Prevention of Torture (CPT) concluded in its monitoring report (of 2019 for 2018) that:

- A fruitful cooperation found with the prison administration in all institutions visited, reasoning that this very efficient cooperation consisted in:
- Providing quick access to all institutions planned to be visited by the CPT, including those not notified in advance;
- Access to conducting private interviews with persons deprived of their liberty: Access to all information required to fulfill the monitoring mission;

Regarding violence and ill-treatment of prisoners, conditions etc. the CPT report gives statements as never before underlining:

- The delegation received no complaints of physical mistreatment of prisoners by staff in institutions;
- Mutual violence among prisoners is not a frequent occurrence in the institutions visited, while staff are taking steps to prevent such incidents and address them adequately if they occur;
- The delegation generally found satisfactory material conditions, capacity, lighting, detention ventilation;
- The delegation welcomes the measures taken to build the new facility, which will provide high standard conditions, a recommendation addressed over the years by the CPT;
- The delegation acknowledges the efforts made by the Albanian authorities to renovate the two detention facilities in Lezha Prison to accommodate the psychiatric medical patients of the Zahari Prison in Kruja and the Prison Hospital.

6.5 The Ombudsperson Institution, in the framework of periodic inspections at the IECD, has followed up the reports on the conclusions of the inspections at each IECD which records progress compared to the previous report. In addition, the People's Advocate also conducts unwarned inspections by requesting data and/or site visits for specific cases (based on complaints addressed to them) or for issues as a whole such as case analysis, deaths in prisons, etc.

6.6 The Albanian Helsinki Committee has also carried out on-site and distance inspections (requesting data on special cases) and has cooperated with the GDP.

The General Directorate of Prisons cooperated with the Albanian Helsinki Committee and the Albanian Center for Trauma and Torture Rehabilitation for the implementation of the Torture and

Violence Prevention Program in the Prisons System, which consisted of monitoring the system according to OPCAT standards, advocating for improving human rights treatment practices in conflict with the law, capacity building for mid-level multidisciplinary staff and prison directors in relation to the implementation of the Istanbul Protocol and the rules of the European Committee for the Prevention of Torture, and sharing experiences with countries in the region through study visits.

6.7 Inspections and verifications were also carried out by the Commissioner against Discrimination.

GDP for each recommendation from these institutions has responded positively and in a spirit of cooperation by giving clear clarifications and developing action plans for continuous improvement.

6.8 Following the measures for the prevention of ill-treatment in prisons, with the Order of the General Director from May 2019, the platform for the general inspection of the Institutions for the Execution of Criminal Decisions has been approved. Through this platform, institutions are instructed, as well as the inspection staffs to conduct comprehensive inspections, along with having the primary purpose of assessing the fulfillment of standards of rights and treatment of prisoners, planning and implementation of security objectives and rehabilitation, human resource management, staff training and motivation.

6.9 Since 2015, inspectors of the Internal Control Service, who report to the Minister of Justice on the implementation of legal and sub-legal acts on the management and functioning of the penitentiary system, have been added to the structure of the staff of penitentiary institutions. Also, other law enforcement agencies in the country, such as the prosecution, monitor the execution of criminal decisions and the treatment of persons with limited freedom in prisons.

*14. Does your state provide drug treatment to people in custodial or pre-trial detention, or who have been imprisoned following a conviction? Do these drug treatment services include harm reduction services? Please describe what types of drug treatment and harm reduction services are available to detainees and imprisoned people.*

All penitentiary institutions provide health services 24 hours a day, with the assistance of doctors and medical assistants who are part of the organizational structures of each institution. The health service offered by each institution is subject of monitoring/ supervision by the General Directorate of Prisons, through a dedicated sector part of its structures named "Health Sector-comprised of doctors and pharmacists.

14.1 According to the established procedure, all the prisoners who declare that have been users of narcotics before imprisonment, since the entry in the prison they take immediate consultation by the prison doctor.

14.2 All prisoners (former drug users) who declare that they are being treated with Methadone are referred for consultation with a Toxicologist specialist and are treated according to the recommendations of this specialist.

These prisoners are constantly consulted by service doctors, as well as specialist doctors, toxicologists of regional hospitals and the Mother Teresa University Hospital Center. This whole process is regularly documented on each person's health card.

A specialized health service for prisoners is provided in public health structures, in all Regional Hospitals that have a Toxicologist.

14.3 Also, information is obtained from the Aksion Plus Association, which has a database on the registration of all citizens, drug users and which are treated with Methadone. As mentioned above this association completes the treatment of prisoners with Methadone.

All the former drug users are consulted by toxicologists and treated according to their recommendations with Methadone, a medicament which is provided free of charge by the Aksion Plus Association.

The General Directorate of Prisons, in cooperation with the Aksion Plus Society, has continuously trained the health staff on the treatment and management of former drug users.

14.4 Currently, in all penitentiary institutions are 80 prisoners, former drug users who are treated with Methadone.

*15. Are juveniles (those under the age of 18) detained or imprisoned in facilities for children in conflict with the law who are under 18, or are they detained or imprisoned in facilities for adult?*

In the Albanian Prison System there is a special institution for the juveniles who are in conflict with the law, pre-trial detainees and convicted offenders. This institution is located in the city of Kavaja and serves as the only institution in the country for the treatment of this category. The capacity of this institution is 40 places. As to the latest data, in the prison system has been imprisoned 12 pre-trial detainees and 1 convicted offender juveniles. There are no juveniles imprisoned for drug related crimes.

*Paragraph 7, 12, 13:*

1. Such procedure for compulsory/involuntary substance abuse treatment of a civil person does not exist and consequently there are not services that provide this type of treatment do n. The same status for involuntary substance abuse treatment of pregnant women.

2. It is important to underline that only in cases where substance abuse is accompanied by a severe mental health disorder, a disorder that limits a person's ability to understand or control his or her behavior and without involuntary treatment endangers the life, health or safety of oneself or others and the existing opportunities for community mental health treatment have been exhausted and the necessary treatment is provided only through hospitalization in specialized inpatient mental health services, in accordance with the principles of the least restrictive alternative. The entire procedure of involuntary treatment is addressed in Law No. 44/2012 "On Mental Health".

3. Meanwhile, for penal person, the Penal Code provides the obligation to undergo medical treatment for the cessation of alcohol or drug use, as an alternative to imprisonment. In Article 60/a, "Obligation to avoid the use of alcohol or drugs", the Court, against the convicted persons in probation services, who is in conditions of chronic dependence on alcohol or narcotics, imposes the obligation to undergo medical treatment for the cessation of alcohol or drug use. Medical treatment for the cessation of alcohol or drug use is done in the specialized medical institution, according to the determination made by the Ministry of Health, which in this case is the Service of Adictology and Clinical Toxicology at the University Hospital Center "Mother Teresa" Tirana, based on Probation Service requirement. The Probation Service supervises the execution of the court decision and immediately reports to the prosecutor when the convicted person does not fulfill the obligation established according to the provisions of article 60 of this Code.

*Paragraph 8:*

As regards to topics treated in this paragraph, the Ministry of Health and Social Protection informs that the medical treatment of drug users by non-public centers is provided only by the Non-Governmental Organization "Aksion Plus", implementing the Program of the Ministry of Health and Social Protection and the Global Fund.

The function of this typology of medical treatment is based on the relevant protocols of the NGO "Aksion Plus" (based on WHO guidelines), and also implementing the Order no.646, dated September 11, 2019 "On the approval of clinical guidelines for the provision of therapy Methadone Maintenance Therapy (OST)".

The privacy of clients is ensured and the treatment is carried out on voluntary bases by signing informed consent for the treatment. Human rights conventions and terms are fully respected in the OST network. No coercion measures exist for those who want to leave the treatment. They enter OST therapy willingly and can leave therapy at any moment they want to.

OST is individualized based on the special needs and requirements for each client, in cooperation with the doctor and the psychologist. The monitoring process of the activity of this organization is implemented at three levels:

- internal monitoring by the staff of "Aksion Plus ";

- Monitoring by the Ministry of Health and Social Protection and by the Program Implementation Unit, which is carried out on a regular basis (every month), in order to assess the continuity of the provision of therapy. Part of the monitoring process is to verify the way the therapy is given, which includes the prescription of the daily dose of methadone, which is done by the center's doctor, and that the dose to be tailored to individual needs and also to be in accordance with the recommendations of WHO for the daily dose;
- International consultants hired by Global Found headquarters.