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**Tirana** \_\_\_/\_\_\_/2022

*Subject:*                      *"Recommendation on the improvement of conditions and treatment of persons with mental health disorders under medical measures, as well as legal regulations in the organisational structure at Lezha Penitentiary Institution.*

**To:**                      **Mr. Ulsi MANJA**  
**Minister of Justice**

**TIRANA**

**Ms. Ogerta MANASTIRLIU**  
**Minister of Health and Social Protection**

**TIRANA**

**Mr. Admir ABRIJA**  
**Director General of Prison**

**TIRANA**

**Cc:**                      **H.E. Edi RAMA**  
**Prime Minister of Albania**

**TIRANA**

The Ombudsman in fulfillment of his constitutional and legal mission to protect the rights, freedoms and legitimate interests of citizens, and in its role as the National Mechanism for the prevention of torture, cruel, inhuman or degrading treatment or punishment, hereinafter the National Preventive Mechanism (NPM), carried out an inspection visit to the Lezha Penitentiary Institution, a few months after the transfer from Zaharia Special Facility for Ill Inmates Krujë, of persons with mental health disorders who have committed a criminal offense or for whom the competent court has imposed the medical measure "Compulsory treatment" or "Temporary involuntary placement" in a medical institution.

The inspection visit took place on 17.02.2022 and had as its main goal the evaluation of the conditions in the prison Lezhë in regard to safety, life, health and the creation of recreational facilities aiming the rehabilitation and re-integration for the persons with mental health problems who have committed criminal offenses.

Another aspect of the inspection visit was related to the monitoring of the treatment situation and respect for the rights of persons with mental health disorders transferred to this institution, according to the provisions provided in law no. 44/2012 "On mental health" , the Cooperation Agreement "On the treatment of persons with mental health disorders with medical measures" between the Ministry of Justice (MJ) and the Ministry of Health and Social Protection (MHSP) signed on 23.11.2021, as well as international acts ratified by Republic of Albania for this purpose.

In the following, in fulfillment to our constitutional and legal mission, we present in short, some of the most important findings of this monitoring visit.

Over the years, the People's Advocate has considered of formemost importance the monitoring of the situation of rights and freedoms of persons suffering from illnesses and mental health disorders with medical court decisions, who have been accommodated to the the Zaharia Special Facility for Ill Inmates Krujë, Prison Hospital in Tirana, in the special care sectors within prisons, as well as in hospitals/psychiatric wards with beds.

It is worth emphasizing that, in the national and international acts approved and ratified by the Albanian legislature, it is clearly defined that the patients subjected to court-ordered treatment measures "Compulsory treatment" and "Temporary involuntary placement", must not be accommodated in prisons or structures under the authority of Ministry of Justice, but they must be treated in a Forensic Institution under the authority of Ministry of Health and Social Protection.

Law no. 44/2012 "On Mental Health", has clearly defined that the health treatment for persons with mental health disorders, regardless of the criminal offense they have committed and for whom the competent court has imposed the measure of "Compulsory treatment" or "Temporary involuntary placement", must be carried out in a Special Medical Institution, part of the integrated health system, and not in the institutions of the penitentiary system.

More specifically, in article 28, point 2 of this law, it is determined that: *"The treatment of persons in special medical institutions is the same as the treatment of other patients with mental health disorders." Special medical institutions, defined in point 1 of this article, are part of the integrated health system. The methods and rules for the establishment and operation of these special medical institutions and the security measures for their preservation are determined by the decision of the Council of Ministers".*

This legal definition clearly shows the priority that the law has given to the protection of the health of these persons, regardless of the nature of the criminal offense they have committed, as well as clearly defined the special medical institution and institutional dependency, where their medical treatment should be carried out.

The Committee for the Prevention of Torture in the Council of Europe (CPT) during its visit to Albania in 2018, in the report with recommendations to the Albanian Government, has

emphasized that: "The administration of the new hospital in Lezha prison by the Ministry of Health and Social Protection will enable specialized services for this category, making it possible for these patients to access meaningful activities outside the cells, the necessary human care and contact with specialists (psychiatrists, psychologists, caregivers)".<sup>1</sup>

In order to proactively monitor the respect of the rights of forensic psychiatric patients accommodated in the penitentiary system, the Institution of the People's Advocate, through the NPM in the period 2014 - 2021, has carried out a total of 35 inspections in psychiatric hospitals as well as in Zahari Prison in Kruja. Each monitoring visit has been concluded with the addressing of relevant recommendations based on findings, mainly related to problems in the field of mental health.

The Ombudsman, in its periodic reports to the Parliament of Albania, has constantly drawn attention to the state of mental health care hospitals in Albania, and in particular to Zaharia prison. The emphasis in these reports and recommendations based on fact findings, was to underline the necessity for a Forensic Institution, which would improve the quality of the health service and treatment for this category of people.

Despite the pressure of the Ombudsman, international and local organizations, as well as some efforts by governments over the years, to build a special institution for forensic psychiatric patients, still today no concrete result has been achieved, including the non-approval of the DCM in accordance with Article 28/2 of Law No. 44/2012 "On Mental Health".

At the time of the inspection visit to IEVP Lezhë on February 17, 2022, the People's Advocate found that a total of 349 people were accommodated in the section for people with medical measures, of which 225 citizens with medical measures "Compulsory treatment", 119 citizens with "Temporary involuntary placement" medical measures, and 5 paraplegic patients convicted by court decision.

Meanwhile, according to the construction project for the hospital adaptation of the premises in the two buildings of IEVP Lezhë, the equipment with beds was for the holding and treatment of 184 (maximum 200) citizens with the measure of "compulsory treatment" and "Temporary involuntary placement", in addition to the premises intended as a room for emergencies, laboratories, doctors' medical clinics, nurses' rooms, for support personnel (sanitary and caretakers), as well as premises for administration work.

We bring to your attention that, during the functioning of the "Zahari" Krujë, but also currently in the prison Lezhë, among others, the Institution of the Ombudsman has identified a problem related to the decisions of the competent courts for granting medical measures for persons with mental health disorders, as well as with the execution of criminal decisions under medical measure, accommodating this category in the premises of these prisons and not in a special medical institution, within the integrated health system.

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<sup>1</sup> CPT Report 2019, pg. 7,37,38, 45, <https://rm.coe.int/16809cb571>

The accommodation of these persons with medical measures in the penitentiary system has consequently led to overcrowding of the sections, and the losing of the purpose for which they were created, in accordance with the requirements of law no. 81/2020 "On the rights and treatment detainees and pre-detainees".

Inadequate treatment and accommodation of persons with medical court decisions, the overcrowding of prison Krujë and also of the Prison Hospital, has been repeatedly denounced by the institution of the Advocate of the People, as a flagrant violation of the law and international standards, which brings discriminatory and denigrating treatment of these patients as well as deterioration of their health condition.

People with mental health disorders must be treated by a specialist psychiatrist and a multidisciplinary team, at any time, regardless of their detention regime. However, as it has been mentioned on the recommendations of the Ombudsman institution over the years, the situation of overcrowding, shortages in specialized medical staff as well as in the ranks of the multidisciplinary team (which either has problems with the qualification or is in low numbers), made it impossible to comply with this standard established by international institutions for this purpose.

This issue was also highlighted in the report with recommendations of the CPT, during the inspection visit to Albania in 2018. Among other things, this report states that: *As in 2014, the delegation received no allegations of physical ill-treatment by staff at Zaharia Special Facility for Ill Inmates in Kruja and the Prison Hospital in Tirana. That said, the CPT expresses its serious concern that, despite the specific recommendation repeatedly made since the 2000 visit and contrary to national legislation, forensic psychiatric patients continued to be held in these two establishments and that under conditions which, in the CPT's view, could easily be considered for many patients to be inhuman and degrading. In fact, the living conditions in both establishments had further deteriorated since the 2014 visit (in particular in terms of state of repair and overcrowding), there was an almost total lack of heating and limited access to hot water, and the level of psychiatric care remained clearly insufficient. Overall, the delegation once again gained the impression of 'therapeutic abandonment' of many forensic psychiatric patients. The CPT calls upon the Albanian authorities to provide without further delay a detailed plan for the creation of a forensic psychiatric facility and to take the necessary steps to ensure the speedy setting-up of such a facility<sup>2</sup>.*

It is the People's Advocate judgement that citizens under medical measures have their rights severely violated, since their presence in prisons is unlawful. Added to this is the fact that in years there has not been an inherent improvement in the increase in the number of medical staff, as well as the situation of therapeutic abandonment found by the CPT, has not yet changed. This problem has also had an impact on the overcrowding of Zaharia institution and currently Lezha penitentiary institution, worsening the climate in these institutions.

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<sup>2</sup> <https://rm.coe.int/16808ae48f> "Report to the Albanian Government on the visit to Albania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)" from 2 to 9 February 2017 CPT/Inf (2018), pg.4.

In response to the recommendations and communications that the Ombudsman has had, within the framework of monitoring the implementation of the recommendations of the CPT, the Ministry of Justice and the Ministry of Health and Social Protection have informed that, for a long time, these institutions had planned to sign cooperation agreement between them, "On treatment of persons with mental health disorders under medical measure" for the establishment and put in operation of a Special Medical Institution, where the obligations and responsibilities of each institution, would be foreseen throughout this process<sup>3</sup> within the framework of a solution that would significantly improve the quality of the conditions and treatment of these persons. *However, this agreement was not drawn up or agreed upon over the years, despite the promises made by the MJ in response to the Ombudsman's response to the CPT report, until its finalization in November 2021.*

Regardless of the time of signing this agreement, it is worth mentioning the fact that, in November 2018, with funds from the state budget,<sup>4</sup> works began on the reconstruction and adaptation according to the technical and medical parameters of a forensic hospital, in two of the buildings located within the territory of IEVP Lezha.<sup>5</sup>

In the report with recommendations of the CPT (published in 2019), the Albanian Government has committed<sup>6</sup>, to the construction and adaptation of buildings for persons with medical conditions in prison Lezhë, as well as the transfer of the administration of health personnel under the jurisdiction of the Ministry of Health, until at the end of 2019. Within this time frame, the transfer of persons with medical measures from Zahari, Krujë, to the new buildings in prison Lezhë was also included.

In implementation of these measures, by Order of the Minister of Justice no. 8927/1, dated 27.09.2018 "On the classification of Institutions for the Execution of Criminal Decisions", Zahari Institution Krujë, went into conservation (temporary closure), in order to not accept the hospitalization of persons with medical measures beyond the accommodation capacities, as a precautionary measure until their transfer to prison Lezhë, but this measure was not implemented by the law enforcement bodies and those for the execution of criminal decisions. The institution continued to be functional and overcrowding marked significant deterioration during the years 2018-2021. With an official accommodation capacity of 190 persons, the overcrowding for year 2018 was of 100 people; year 2019, 100 people, year 2020, 103 people; and the year 2021, 118 people.

In the framework of the monitoring mission for the implementation of the recommendations of the CPT, the Ombudsman, the Commissioner and a working group of the NPM, inspected in June and December of 2019, the progress of the works for the construction of the new

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<sup>3</sup> <https://kmd.al/wp-content/uploads/2019/02/Vendim-nr.-255-date-19.12.2018-A.B-kunder-MSHMS.pdf>  
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<sup>4</sup> <https://drejtesia.gov.al/institucion-i-posacem-per-te-denuarit-me-masa-mjekesore/>

<sup>5</sup> <https://kmd.al/wp-content/uploads/2019/02/Vendim-nr.-255-date-19.12.2018-A.B-kunder-MSHMS.pdf>  
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<sup>6</sup> <https://rm.coe.int/16809cb571/> Raporti me rekomandime i CPT 2019 dhe përgjigjet e Qeverisë Shqiptare. <https://www.drejtesia.gov.al/newsroom/lajme/rikonstruktiohet-spitali-i-burgjeve-kushte-dinjitoze-per-sherbimin-shendetesor-per-te-denuarit/>

buildings at prison Lezhë, where it was evident that the works were interrupted by the contracting entity. According to the staf that was due to the non-realization of the works according to the deadlines set in the enterprise contract and the non-allocation of funds by the Ministry of Justice, for this purpose.

The COVID-19 pandemic period (year 2020-2021), also influenced the slowdown in the implementation of the process of transferring persons under medical measures, as, by order of the General Director of Prisons, one of the reconstructed buildings was turned into a hospital for the hospitalization of prisoners in the prison system infected with COVID-19.

The People's Advocate finds unjustified the prolonged delays. In our assessment, it was possible to take appropriate measures to avoid the conditions of therapeutic neglect in which were the persons under medical measures. Their situation has been significantly affected by the lack of family visits for more than 16 months (March 2020-July 2021).

At the insistence of the Minister of Justice, Mr. Manja, from the beginning of his ministerial mandate, the investment for the reconstruction of the buildings in I EVP Lezhë and the completion of medical equipment and hotels, was made possible in October 2021.

As result of the repeated recommendations of the Ombudsman, international organizations such as the Committee against Torture of the Council of Europe (CPT) and non-profit organizations operating in the country (Albanian Helsinki Committee KSHH, OSC Perthyerje, etc.), on 23.11.2021 the Cooperation Agreement between the Ministry of Justice and the Ministry of Health and Social Protection " On treatment of persons with mental health disorders under medical measure " was concluded.

Pursuant to the Order of the Minister of Justice no. 8927/1, dated 27.09.2018 "On the classification of Institutions for the Execution of Criminal Decisions", the General Director of Prisons approved the Plan of Measures with no. 1240 prot., dated 18.11.2021 "For the transfer of citizens with medical measures Penitentiary Institution Krujë to Penitentiary Institution Lezhë", enabeling the responsible structures of security and those of health within General directory of Prisons, **to carry out the transfer of persons with a medical measure, to the premises created in the new buildings, on November 27-29, 2021.** The finalisation of this process has been welcomed by the Ombudsman.

With regard to the situation and problems encountered by the persons accommodated in Zahari penitentiary, in November 2021, the Ombudsman sent a recommendation to the responsible state authorities, where, among other things, expressed its concern regarding the accommodation capacities of the new structure in I EVP Lezhë, as well as reiterated the need for the completion of additional health staff that the new structure should have, according to health standards and protocols for the treatment of people with mental health disorders.<sup>7</sup>

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<sup>7</sup> *In response to this recommendation, the Ministry of Justice with letter no. 6667/1 prot., dated 17.01.2022 addressed to the Ombudsman, has expressed its agreement with the issues raised by the AP and emphasizes that: "Measures are being taken in cooperation with the MHSP, in accordance with the obligations of the cooperation agreement".*

Despite the recommendations of the Ombudsman, in the inspection visit to Lezhë penitentiary institution only 3 months after their transfer from Krujë, it was evident that the situation was quite problematic. In our opinion, the current health structure, but also the supportive staff (sanitaries and caregivers) of IEVP Lezhë do not meet the requirements for providing this service to people with mental health disorders. The capacities are too small to accommodate the people newly transferred to this institution, but also inappropriate for their treatment based on the health protocol.

As we noted above, our institution positively evaluates the Order of the Minister of Justice for the transfer of citizens with medical measures from Zahari institution, to the new facilities created in Lezha penitentiary. The agreement concluded between Ministries, is accompanied by a Joint Action Plan where some of the steps for the establishment of a Special Medical Institution are defined.

However, what we found during the inspection visit is that the operating regulation of the Lezhë Transit Institution has not yet been updated (according to the action plan it should have been implemented in December 2021), but also the new premises in the Lezhë institution, specifically buildings 4 and 5, were still not equipped with all the necessary medical infrastructure and material base, specialized multidisciplinary medical personnel, as well as psycho-social staff for the treatment of the persons under medical measures.

As foreseen in the law no. 44/2012 "On mental health", the management of this hospital should be completely under the administration and care of the Ministry of Health, to provide the relevant help and specialized treatment. This measure currently taken, remains far from fulfilling this legal obligation.

During the inspection visit on February 17, 2022, it was found that, in both buildings, a total of **349 people with medical measures were accommodated**, while the official capacity is for 184 people, **in an overcrowding situation of 165 people over the capacity for their medical treatment**. In each of the rooms there were almost 2 times more people than the capacity, making the conditions unsuitable for their treatment and rehabilitation. Despite the overcrowding, the accommodated persons were all equipped with beds and none of them slept on mattresses on the ground.

Given that the situation of overcrowding in this institution is evident, for reasons of managing the conditions in which they are due to overcrowding, the director of Lezha penitentiary was obliged to increase the number of beds and persons in the rooms from 2 to 4 or 7 persons, even adapting to residential rooms the premises that were provided for the work of the administration staff and support staff.

The People's Advocate, in its annual reports to the Parliament of Albania regarding the treatment of persons with medical measures, has suggested increasing the accommodation capacities of the institutions of the penitentiary system to support the increasing number of the decision of the courts in granting medical measures to persons with mental health

disorders. AP has identified as a problem the lack of cooperation between the prosecution bodies at the judicial district courts and those of appeal with the General Directorate of Prisons, for the correct implementation of the law "On the execution of criminal decisions in the Republic of Albania. Specifically, for the legal implementation of court decisions related to the medical measure "Compulsory treatment in a psychiatric institution", for the timely exchange of information between them on the factual capacities of penitentiaries, which are classified for the accommodation of to these persons with medical measures.

In addition to the problems with the infrastructure, inadequate treatment and the lack of recreational conditions for people with medical conditions (for which the institution of the People's Advocate will prepare a report with specific recommendations), it was also evident that in Lezha penitentiary, there was not a specific organigramme, to administer and treat in appropriate conditions the pre-detainees and the citizens with medical measures. The medical and security staff were still in the organigramme of Zahari, Krujë and did not correspond to the number of people accommodated in Lezhë penitentiary. The staff was performing duties as acting persons by order of the General Director of Prisons, until the approval of the new organic structure (organogram charter) for this institution.

The human resources related to health, supporting and psychosocial staff, presents serious shortcomings. Further the situation becomes more problematic in view of increasing number of persons' subject to a compulsory medial measure accommodated in the penitentiary institutions. Approved fulltime resources at the moment of inspection was as follows:

- 6 medical doctors: 2 psychiatrics, 1 cardiologist, 1 general doctor, 1 dentist and 1 chemist;
- 11 secondary medical staff: 1 head nurse and 10 nurses;
- 10 supporting staff: 5 caretakers and 5 sanitary workers;
- 8 psycho-social staff 6 social workers and 2 psychologists.

The lack of physical capacities, therefore the construction of a special medical institution, due to the lack of sufficient financial resources to cope with this situation is part of the obligations that have a material character. In our judgment, the state should take immediate measures for the final solution to this problem, based on the commitments that the Albanian Government has made to the CPT and the European Court of Human Rights.

Whereas, the lack of will of the administrative capacities in completing and increasing the capacities of the health staff for the medical treatment of these persons, is not justifiable, and in this case this is the responsibility of the Ministry of Health and Social Protection, according to the legislation in force.

As we mentioned above, over the years this category of people has suffered and lived in undignified conditions and in violation of national and international acts, where the Albanian state has also been punished for this problem. Specifically, on January 21, 2020, Albania lost the trial at the European Court of Human Rights, in the "Strazimiri v. Albania"



case”<sup>8</sup>. The ECtHR found in particular that there had been a long-standing failure by the Albanian authorities to establish a special medical institution for the mentally ill, who had been deprived of their liberty in cases of compulsory medical treatment ordered by the domestic court.

In all relevant reports that have been prepared and the recommendations that have been addressed in this field, has been underlined the importance to create a Special Medical Institution under the Ministry of Health, in accordance with international standards and Albanian legislation, in order to garanty adequate treatment for persons with medical measures and to enable them to conduct a life with dignity and in respect for human rights.

In the European Prison Rules 9 approved by the Committee of Ministers of the Council of Europe on February 12, 1987 <sup>10</sup> the common principles of penal policy among the member states of the Council of Europe are established. The Committee of Ministers recommends the governments of the member states to be guided by the principles of the "European Prison Rules" in their legislation and internal practice in the field of prisons. Although these rules do not have a legally binding character in international law, they constitute a code of standards and practice that are based on the general consensus of all those countries that have adopted the rules from a political or legal point of view.

In this respect, locking up persons with mental health problems in special institutions within the penitentiary system constitutes a serious violation of their rights, as it somehow places them in a lifelong form of deprivation of liberty<sup>11</sup>. This is because the state of mental irresponsibility in the chronically mentally ill can last throughout their lives, and therefore, even isolation in special institutions would be lifelong.

An appropriate solution for providing the necessary health service to these people would be the establishment of legal psychiatric treatment centers (Forensic Psychiatric Centers), as a structure under the Ministry of Health. These centers would function as separate units for the provision of comprehensive assessment, treatment and rehabilitation programs for prisoners with mental health disorders. In order to ensure the most competent treatment and the closest to the needs of the persons with mental health problems, the programs offered in these centers should focus on two main lines of action:

- a) provision of specialized medical and clinical assistance;

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<sup>8</sup> This case concerned the detention of a man, who had been exempted from criminal responsibility due to mental illness, in a prison instead of a medical facility. The Applicant complained in particular that the conditions of his detention, including the provision of medical care, were inadequate. He also considered that he had been placed in a prison even though the courts had ordered his confinement in a medical facility, that he had not been given the opportunity to have the legality of his detention quickly determined by a court, and that domestic law had not provided him an enforceable right to compensation.

<sup>9</sup> Referred to Recommendation 2006 (2) of the Council of Ministers to member states on European Prison Rules, approved by the Council of Ministers on January 11, 2006 at the 952nd meeting of the Deputy Ministers. This document was distributed to all Albanian prisons on 13.04.2012.

<sup>10</sup> Albania has been a member of the Council of Europe since 1995.

<sup>11</sup> Albrecht, H.J. Plenary speech - Proceedings of the second annual conference of the Max Planck Partner Group on Balkan Criminology, 'Imprisonment in the Balkans', 17-19 September 2015, Sarajevo, Bosnia and Herzegovina.

- b) provision of community-based treatments that enable their monitored placement in semi-open environments.

As mentioned above, the People's Advocate evaluates the signing of the Cooperation Agreement between the Ministry of Justice and the Ministry of Health and Social Protection as a positive step for the improvement of the conditions and treatment of persons with mental health disorders which have committed a criminal offense, for which the competent court has ordered treatment in a medical institution.

We also note that this agreement expresses the bilateral commitment through taking measures to address the recommendations of international and national monitoring mechanisms, as well as the decisions of the European Court of Human Rights, in this field.

In the Joint Action Plan, the fact that Lezhë penitentiary institution is considered a "transitional institution" is important, until the steps for the establishment of the Special Medical Institution are concretized.

But, referring to the joint action plan, despite the fact that it is foreseen to carry out assessments for each patient, it results that the Ministry of Health and Social Protection has not increased the presence of medical staff in Lezha penitentiary Institution.

In the National Health Strategy 2021-2030 (still in the process of approval after public consultation), the Ministry of Health has not defined concrete measures for the treatment of persons with mental health disorders for whom the competent court has given medical measures. Also, there is no act to fulfill the legal obligation for the construction of the Special Medical Institution, on the basis of which funds will have to be planned for budgetary support in the following years, or in the medium-term budget of this ministry.

Under these conditions, when the situation of overcrowding and the lack of approval of the new organic structure is evident in the Lezha penitentiary institution, it is required that the responsible state authorities, such as the Ministry of Justice, the Ministry of Health and Social Protection and the General Directorate of Prisons, immediately carry out a study based on the number of persons under medical measures in the prison system, in order to evaluate the need to increase the number of medical staff, as well as to increase the physical capacities of this institution, in order to treat these persons according to health protocols.

#### *Honorable decisionmakers*

The Ombudsman, as per above, draws the attention of the state authorities to the lack of drafting of this study, which should have been completed before the transfer of these persons from the "Zahari" Krujë to the Lezhë Penitentiary Institution. This study should focus on increasing the accommodation capacity for people with medical conditions and at the same time should identify the need for the increase of medical and support staff for this category, since the physical capacity of the two new buildings and the current medical staff transferred from Zahari, Krujë, are insufficient to accommodate and treat people with medical

measures, according to the standards defined in international and national acts, for this purpose.

Referring to the experience of the countries of the region, specifically the Republic of Kosovo, since August 2014 this country has established the Institute of Forensic Psychiatry, which is under the management of the Clinical University Hospital Service of Kosovo, with a capacity of 36 beds. This institute accommodates persons who have committed a criminal offense in a state of mental incapacity or essentially reduced mental capacity and are subject to the order of the competent court for mandatory psychiatric treatment, or even for psychiatric evaluation in a health institution.

In relation to the number of people accommodated in this institute, the health personnel consist of 26 doctors/ nurses/ social workers (general psychiatrist, forensic psychiatrist, social worker, psychologist, etc.), as well as 17 administrative staff and support, with a total of 43 employees.

As above, it is evident that for a low number of beds, the health and social staff, as well as the assistants, who perform the service and health care for these people with medical measures, is approximately in the ratio of 1 health staff/1 patient.

The experience of Kosovo is a very good example, the best in the region, since in this country, although the law on mental health came into force in November 2015, the Institute of Forensic Psychiatry was effective since 2014, with the support of the office of WHO with headquarters in Pristina.

***While Albania still does not have a special medical institution, we are faced with the fact that in Lezha penitentiary 349 people with medical measures have been accommodated, with an overcrowding of 165 people over the capacity of the buildings. This institution has a modest number of health personnel, which is not able to cope with either the current or the growing flow of people hospitalized with medical measures.***

In conclusion, from what we presented above, based on the meetings held by the Ombudsman institution in the General Directorate of Prisons and the interviews held with the managers and medical staff at Lezha penitentiary institution, we underline that it is necessary and mandatory to increase the number of health personnel with general medical doctor, psychiatrist, cardiologist, biochemical clinical laboratory physician, nurses, sanitarians and caregivers for patients with medical conditions, as follows:

- a. *The health sector in the section of medical measures from 18 current health personnel, to become 36 doctors and nurses.*
- b. *Sanitary staff for patients with medical measures from 5 employees, to become of 10 sanitary personnel.*
- c. *Caregivers and janitors for patients with medical measures from 5 employees, to become 10 caregivers and janitors.*

This new organigramme would be modest, but it would help in improving the treatment quality and in coping with the difficulties of providing health and social services, which over the years are not finding solutions for this category of people. It would be necessary for the Ministry of Health and Social Protection, as part of the action plan, to consider the request for additions to the budget, for this category, and in addition to the basic salary, to offer bonuses to the health and psycho-social personnel, which work in prisons, due to job specific difficulties.

For the above, in support of point 3, article 63 of the Constitution of the Republic of Albania, which states that: "*The People's Advocate has the right to make recommendations and propose measures when he notices a violation of human rights and freedoms by public administration*"; as well as article 21, letter "b" of law no. 8454 dt. 04.02.1999 "On the Ombudsman", amended, where it is stated: "*The Ombudsman submits recommendations for the replacement of the violated right to the administrative body, which, according to him, has caused a violation of rights and freedoms*;

### **RECOMMEND:**

1. Until the establishment of the Special Medical Institution, **shall take immediate measures** for the drafting /approval of the regulation on the functioning of Lezha Transitional Institution.
2. To take immediate measures, for the approval as soon as possible of the organisational structure of Lezha Penitentiary Institution, based on a clear and concrete study conducted by the Ministry of Health and Social Protection in cooperation with the Ministry of Justice<sup>12</sup>, to increase the medical service capacities and support services of this institution, in order to enhance the quality of services to persons under medical measures.
3. To take immediate measures, in the framework of investments of the Albanian Government for Reconstruction, which are planned to be carried out for the reconstruction of other buildings in the territory of Lezha Penitentiary Institution, to build and adapt one of the buildings, due to the growing number of persons under medical measures with mental health disorders, located in the institutions of the penitentiary system.
4. Ministry of Health and Social Protection, in cooperation with the Ministry of Justice, based on the Joint Action Plan for the treatment of persons under medical measures, should detail specific activities with concrete deadlines for these persons, according to the commitments made in the joint agreement, pursuant to the requirements of law no. 44/2012 "On mental health" and law no. 81/2020 "On the rights and treatment of prisoners and pre-trial detainees".

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<sup>12</sup> Referred to the annex of the agreement regarding the Joint Action Plan for the improvement of the conditions and treatment of persons with mental health disorders with medical measures.

For your remarks and the measures that you will take to address this recommendation, kindly reply within the 30-day deadline, in accordance to Article 22 of Law no. 8454 dt. 04.02.1999 "For the People's Advocate", as amended.

*Thanking for your understanding and cooperation.*

**PEOPLE'S ADVOCATE**

**ERINDA BALLANCA**