

# WITH THE VOICE OF CHILDREN DEPRIVED OF THEIR LIBERTY



Monitoring Report of the conditions and  
treatment in the institutions of custody,  
pre-trial detention and prisons

Supported by



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Monitoring Report of the conditions and treatment  
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TIRANA, DECEMBER 2016



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**The views expressed in this publication are the responsibility of the People’s Advocate and the Child Rights Observatory and do not necessarily reflect those of UNICEF Albania.**

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## II. List of Abbreviations

<b>CEDAW</b>	UN Convention on the Elimination of All Forms of Discrimination against Women
<b>CRC</b>	UN Committee on the Rights of the Child
<b>DCI</b>	Defence for Children International
<b>DCM</b>	Decision of the Council of Ministers
<b>ISCS</b>	Institution for Serving of Criminal Sentences
<b>IT</b>	Information Technology
<b>Observatory</b>	Observatory for Children's Rights
<b>SIJ</b>	Special Institution for Juveniles
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations Children Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime

## Thank You Speech

*“The rights of children guaranteed by the United Nations Convention on the Rights of the Child continue to be violated even today, in 2016. Despite the efforts made over the years, state institutions have failed to guarantee the rights of children in conflict with the law.”*

The above statement is the conclusion reached by the “Strengthening the capacity of the People’s Advocate to investigate and address cases of ill-treatment of children in detention” Programme, which was realised in partnership with UNICEF and implemented by the Observatory for Children and Juvenile Rights in cooperation with the institution I lead, an initiative whose focus was children in conflict with the law.

As a society that is constantly struggling to improve its democratic and development principles, the questions that we have to pose and be really concerned about are: “Do children receive the respect, care and special protection from all members of society?” and “Are the child rights guaranteed by the United Nations Convention on the Rights of the Child being respected?”

The answers to these questions would normally be positive in countries with democratic standards, where human rights are respected and considered as sacrosanct. Unfortunately, this is not the case in our country. All of us have to share from time to time the painful news of violations of human rights, and children are the most vulnerable and unprotected.

Monitoring of the institutions where children are deprived of their liberty has shown that more than one of the rights of children in conflict with the law have been violated, and that violations of their rights occurs repeatedly. Even though we talk about rehabilitation of these children, stigmatised by society, we are far from meeting the minimum standards for their treatment in institutions for deprivation of liberty, and not only there.

*“I would like to send an appeal to all state institutions, and not only to them, to make the necessary efforts to improve the lives of juveniles in conflict with the law. According to International Standards, **imprisonment must only be used as a last resort and only for the shortest period of time**. The state must do more for juveniles in conflict with the law to benefit from rehabilitation and reintegration community programmes, otherwise we should not be surprised with the statistics of reoffending. It is time for the state to prepare and implement preventive strategies to stop juveniles from conflicting with the law.”*

**The People's Advocate would like to thank:**

- UNICEF for supporting the Programme "Strengthening the capacity of the People's Advocate to investigate and address cases of ill-treatment of children in detention" that enabled use to obtain a tableau of the situation related to the respect of the rights of juveniles in conflict with the law.
- Observatory for following every step of the coordination and implementation of the initiative.
- General Directorate of Prisons for enabling us to conduct the interviews and monitor the Special Institution for Juveniles (SIJ) in Kavaja and the Institution for Serving of Criminal Sentences (ISCS) in Shën Koll, Lezha.
- Tirana Local Police Department and its subordinate commissariats for their cooperation and access to their facilities so that we could carry out the components of the project methodology.
- The field experts who were part of the project and the monitoring team who worked in the field to conduct the interviews and make the observations.
- The international expert Ms Moore for the excellent expertise she provided during the entire implementation of the initiative, and also for her participation in the field as a monitor in the IECs in Kavaja and Lezha, and for providing valuable recommendations.



The People's Advocate

**Mr. Igli Totozani**

## Child friendly report

### What is this report?

Children who have been in conflict with the law, in court or prison, are not always treated very well. Because of this, the countries of the world got together to write International Standards about how these children should be treated. The standards are the rules that governments should follow. In Albania there are also other laws that set out how children and people who have problems with the law should be treated.

Children can be in contact with the criminal justice system in various ways. One is if they are escorted, arrested or detained by the police for any reason. Another is if they are charged with a crime and taken to court and have to sit in front of a prosecutor and judge. Afterwards, a child can be taken to a detention centre before being sentenced for a crime or after being punished for a crime. This report sets out the experiences of some children who have been in these situations.

The People's Advocate, or Ombudsman's Office, is an organisation that has been set up to check whether the government is behaving correctly and is providing the things required by the law and the International Standards. The People's Advocate is a body that children can complain to if they don't think they are being treated well. It can also write reports on the situation of people and the conditions they are living in. This is a report that the People's Advocate has written. There are other organisations who inspect the places of detention. For example the Helsinki Committee and other Non-governmental organisations.

### How this report was put together?

A new team of people was set up to look at the places of detention with the People's Advocate Office. This monitoring team went to police stations in the capital city, Tirana and also to two detention centers, one in Kavaja and Lezha. The center in Kavaja is a place specifically for children who were in conflict with the law, whereas the detention center in Lezha also has adult men in it. There was a specific way of working that was developed as part of this project. It used the existing practice of the People's Advocate as well as good practice from the International Standards.

The People's Advocate Office in their inspections of these places would first meet the head of the facility that was being inspected. *During this process, they would look at the condition of the buildings, the environment, if they had a doctor or hospital at their service, if the children received health care, education, if they were able to easily speak to a lawyer and their family, and if they could listen to the radio or watch TV or read the newspaper.* In this way they could understand what was happening in the places of detention. The People's Advocate Office interviewed police officers, prison staff and 21 children, in order to understand their experiences. At the end of each visit, the team of the People's Advocate would also speak again to the head of the facility.



## Children who get into conflict with the law

The majority of children who get into conflict with the law come from families suffering from abuse, violence, or where their parents have left them. The most common crimes that children are accused of are theft, injury, sexual assault, or selling drugs. During the period from October 2015 to September 2016, about 90 children per month were getting into trouble with the law. Most of these children were put into detention either before or after they had been sentenced in court.

Many children who come into conflict with the law end up in detention. There were between 75 (the highest) in November 2015 to 63 (the lowest) in January 2016 of children who were put straight into detention without a trial. Once they have a trial however only a quarter of children are sentenced to detention. The rest of the children (1665 children from June 2009 to June 2014) are released on parole, but are subject to police supervision and periodic reporting, given house arrest or given suspension of detention replaced by performance of work of public interest. The number of children sent to detention after court was at its highest in October 2015 at 14 and at its lowest, at 7, in August 2016.

## The experience of children in police stations

When children are arrested or taken to the police station, the police must tell them why. They must also notify the child's family and the family must be allowed to be present when the children are being interviewed by the police. If the police are interviewing children then the child should also have their lawyer and psychologist with them. The monitoring team found out that this does not always happen and particularly in cases of children from the Roma community. The children seemed to be notified of why they were arrested and of their rights in the police stations.

Children who are taken to police stations are not separated from adults. Although there is an attempt to create ways to separate children from adults, this is not always possible and there are no spaces for children who have been arrested, escorted or detained. Food and water is provided either by the children's families or by the police officers because the police stations do not have any money to provide food and water. Clothes are given to children by their families or by the Local Department of State Police. A doctor is called from the local community, if one is needed. These police stations do not provide education to children. All in all, how children are treated in police stations do not meet the Albanian law or the International Standards.

## The life of children in prison

The monitoring team went to the prison for children in Kavaja and the prison - called the Institution of Execution of Criminal Sentences (IECS) - of Shën Koll in Lezha. In these two places 21 children were interviewed: 14 of them were in Kavaja and 7 in the IECS Shën Koll. Of these children, 16 children were 16 to 18 years old, and 5 were aged between 14 and 16 years. Out of the 21, 7

had been sentenced by the court for a crime and 14 were being investigated while they were in detention. Also, of these 21 children 7 had completed compulsory school and 10 had not.

There are adults as well as children in the prison IECS Shën Koll. The children lived on one floor; some children had a room to themselves, while others had to share it with five children. Because the children in the IECS Shën Koll were together with adults it was unsafe and scary for them. The prison in Kavaja was just meant for children and it had no adult prisoners in it. There were two to four children in each bedroom there.

The majority of children in both prisons were brought clothes by their families because the prisons themselves did not have clothes to give to them.

### Food and keeping clean and healthy

All of the 21 children interviewed said they ate three meals a day. The children in Kavaja were provided food by the prison and those in Lezha were brought food from their families. Families also tended to bring in soap for the children to wash themselves with. The prison in Kavaja was clean however the IECS prison Shën Koll Lezha was very dirty. The team found rubbish, broken glass on the floor in one room, piles of garbage in the corridors and cigarette butts in the corners of rooms and corridors, as well as uneven and broken flooring.

### School and work

There were not very many trained teachers for school or for doing courses. In Lezha there were no courses available. In Kavaja there were professional courses for electricians, plumbing, welding, and carpentry. Of the 21 children interviewed, 12 said there was education and courses available to them, 4 children said that there was school but no training courses, and 5 said there was nothing. Only 9 of the children were going to school as well as a training course.

### Counseling, free time and religion

Of the 21 children interviewed, 17 said they were able to exercise in the prison, and 16 of these said their favorite thing to do was sport. There were more sports facilities in Kavaja than in Lezha. Other children, 8, said they liked to play cards or chess, and 3 said they liked to play on the computer or watch TV. Most of the children (16 out of 21 in total) did not know that there might be any counseling services that they could use, however most of the children (18 out of 21) were able to go to religious services in the prison.

Harm or violence towards children

Overall, 18 out of 21 children said they felt safe in the prison they were in and had good relationships with the staff. When the children were asked if they had been hurt by anyone in the police station or the prison, 9 out of 21 said they had. Four said they were harmed at the police station and five seemed to hint that they were hurt in prison. The rest of the children said they were not hurt in any way in prison. The staff interviewed in SIJ Kavaja said that children were not treated in any harmful way. The team saw that the way the staff treated children in Lezha was not respectful of them and made them worried that the children were being harmed there.

Community, contacts and reintegration

The 21 children interviewed said that they were allowed to have visitors in the prison, as well as weekly or monthly visits. 20 children also said that they were able to use the phone and 14 children said they could watch TV. Most of the children (19 out of 21) had lawyers that they were able to talk to, but none of the children had access to any free legal advice through the prison.

When it is time for the children to go home after their time in prison, they do not receive much help or support. The children in prison were not clear on what happens to them when they get released and there are no official services given to them to help them and their families when they get home.

**What the team thinks the government of Albania should do?**

- There are no proper places for children when they are taken to the police stations so these places should be set up. These new places should meet all of the needs of children in terms of food, warmth and cleanliness. They should create a safe environment completely away from adults who are suspected or accused of crimes.
- There should be special child interview rooms for children who are being interviewed by the police and the latter should make sure that all children, including Roma children, have their family member, a lawyer as well as psychologist with them. There should also be a list of lawyers that children can use in the police station.
- Lezha Prison is not a good or safe place. Children should be removed from there and their section of Lezha prison should be closed. The children should be taken to Kavaje prison immediately.

## III. Introduction

Unfortunately, today, there are about a million children in the world deprived of freedom because they are in conflict with the law. Albania, the country in the focus of the present report, has its share of such children. This report informs us that children in custody are accused of committing an offence, were found to be delinquent or broke the law. Where as in Albania there are no children deprived of liberty for political offences, the children that have fallen into conflict with the law and incarcerated come from poor families, lack parental guidance, education and have experienced abuse. The lack of clear goals and plans for life after completing their sentence makes the situation for these children more unfortunate and should ring alarm bells for the Albanian government and its international counterparts.

We embarked on this monitoring and respective report in order better to orientate the government towards children in conflict with the law by enabling a review and control mechanism that will be held in place through the institution of the People's Advocate (Ombudsperson). This institution and support for it in dealing with such children are the main reasons for developing this baseline report. We hope that the cooperation that developed among the actors while this report was being compiled will continue and become the basis for further reforms and adjustments that will benefit this special category of children. However, we are aware that the recent economic crisis and hardships that Albanian families are undergoing might result in less attention being paid on such children. In the following pages we report data that speak strongly and alert us to the fact that a lot more needs to be done to better the situation in the Albanian penitentiary system and in particular in dealing with juveniles in conflict with the law, while finding ways to address the root causes that bring children into conflict with the law in the first place.

By assessing the needs of this category of children, including provision of services for them, including care and assistance, we try to throw light on issues related to the functionality of a juvenile justice system that must provide these children with a friendly environment, appropriate communication and legal minimal physical restraints.

We began this report aware that the juvenile justice system in Albania relies heavily on the detention of minors in conflict with the law. UN Committee on the Rights of the Child (CRC) concluding observations to Albania (delivered in 2012) recommended that the country investigates and combats ill-treatment of children, particularly those in detention and placed in institutions, that it effectively implements legislation banning corporal punishment, and that it reforms the juvenile justice system to bring it in line with International Standards. The People's Advocate, particularly with the expansion of its competences over the years in monitoring and promoting children's rights through the establishment of a specific office and of a Commissioner for the Protection and Promotion of Child Rights, as well as the appointment of the National Mechanism for the Prohibition of Torture, may play a unique role in uncovering potential cases of child abuse and maltreatment in detention or residential care facilities and therefore influence the investigation and combating of such cases.



The Observatory for Children Rights partnered with United Nations Children Fund (UNICEF) to develop a programme to strengthen the capacity of the People's Advocate to investigate and address cases of ill-treatment of children in detention. It is the hope of the experts team and of the supporting institutions following up on this report—a statistical and evidence-based assessment of the situation of children in conflict with the law—that the People's Advocate strengthens and furthers its monitoring and advocacy role regarding the treatment of minors incarcerated in accordance with International Standards.

The monitoring exercise took into consideration International Standards and the Albanian legal framework related to children in conflict with the law. In the process of collecting information, we employed the highest ethical standards, ensuring protection and respect for children's rights.

The system was monitored implementing a set of quantitative indicators and investigated the data on children arrested over a twelve-month period, including the following: number of children in detention, pre-trial detention, duration of pre-trial and sentence detention, child abuse, death in detention, separation from adults, contact with parents and other members of the family, custodial sentencing and aftercare.

The purpose of the monitoring exercise was to i) obtain facts on the treatment of minors that did not comply with National and International Standards, ii) expose these issues primarily to government officials and public bodies with a monitoring, supervisory, policy-making and prosecutorial role, with a view to taking necessary measures to stop inappropriate treatment and hold the persons responsible to account, iii) provide juveniles in conflict with the law and to children in residential institutions the opportunity to speak out about potential violations of their human rights, iv) expose the issue to Parliament (through the development of a thematic report from the Ombudsperson), v) raise public awareness of the issue, and vi) encourage civil society to exert pressure on government. Meanwhile, the monitoring, as proposed below, allows children to be referred to appropriate services operating in a child-friendly environment.

The monitoring exercise also took into consideration justice indicators as outlined by United Nations Office on Drugs and Crime (UNODC) and UNICEF. These indicators offered the opportunity to develop a baseline that will become essential for planning and monitoring on a national scale. It will engage central and local actors in a process of reporting on children in contact with the law that fall under their responsibility. It will enable the Ombudsperson to advocate with the institutions at the national level for the revision of laws and policies based on evidence, and may feed into a potential alternative report to the Committee for the Convention on the Elimination of all Forms of Discrimination against Women that the People's Advocate might wish to present.



## IV. Executive Summary

In the present report there are three elements that have been researched in order to develop the necessary baseline to provide periodic review of the conditions in which children are held in detention for criminal offences. The first part of the report sets out the applicable laws in the Albanian legal system for children in conflict with the law, including relevant criminal and penal laws, criminal procedural codes, child protection and welfare laws, relevant government policies, circulars, directives, and local by-laws. It was found that there is no specific juvenile justice law in place in Albania.

The second part of the report outlines the process and journey of a child in conflict with the law, including the bodies and institutions responsible for five areas, as follows:

- A. Arrest or initial contact with the system
- B. Prosecution and investigation
- C. Decision on cases (competent authorities)
- D. Deprivation of liberty
- E. Child welfare and non-custodial measures.

The third part investigates the connections that exist among those five categories. The number of children in custody and serving sentences is relatively small. As a result (1) increasing the effectiveness of the existing legal provisions and (2) measures, and socio-psychological treatment are seen as the key recommendations along with (3) the establishment of regular periodic check-ups for juveniles held in detention.

The present analysis of the situation of children in conflict with the law in Albania presents information on the situation on the ground. It focuses on the police stations and commissariats in the capital city, Tirana, and in two detention centres, in Kavaja and Lezha. The centre in Kavaja is the only institution in Albania specialised in dealing with children sentenced to imprisonment or those detained, while the one in Shën Koll in Lezha is a mixed age population facility.

The present report offers a broad panorama across the rights and standards applicable in Albania to children in conflict with the law and details information on:

- a. living conditions while incarcerated
- b. modes and ways of segregation based on age and gender
- c. healthcare and fitness
- d. education and training
- e. social care, recreation and religious practices.

The methodology describes the methods employed for information gathering. A novel feature is the combination of the existing practices used by the Ombudsperson in Albania updated with International Standards, resulting in an effective tool for information gathering. The team put together to work on this assessment selected a sample of 21 children of whom 7 were being held in the facility in Shën Koll, Lezha, with the rest in the special child-designed institution in Kavaja. This was followed by training sessions on principles for monitoring, including discussions and understanding of the standards to be observed during the visit, for both interviews and inspections.

The monitoring process produced some new findings, particularly regarding instances of abuse of children in conflict with the law, especially in the period immediately before and after trial.

- a. The first instance of contact with the law for such children takes place in the **police commissariat**.
  - i. While age and gender-based separation is observed, there are no facilities in place for children (especially girls), and especially for overnight stay. Arrangements specifically designed for juveniles do not exist in the police departments.
  - ii. In general, it is the family that provides food and drinks during the stay in police facilities.
  - iii. When required, medical staff are generally provided by the local police department.
  - iv. The lack of facilities specifically designed for juveniles is explained by the temporary nature and the limited time that detained individuals are supposed to spend in the police commissariats.
  - v. ***Challenges have been noticed in dealing with Roma populations as the parents are not near to the children for various reasons starting from the impossibility to communicate with them or identify them to the abandonment of the child. More training for the general police staff in how to deal with this group, and also staffing the police with Roma personnel should be considered.***
  - vi. Removal and transfer takes place following the rules and regulations, and in compliance with the set standards.
- b. There were 21 children interviewed for the purposes of this assessment. Sixteen of them belonged to the age group 16–18 years and five to the group 14–16 years.



- i. Seven children, only 1/3 of the sample, had completed mandatory education. Based on this finding and following research completed by the National Directorate of Prisons there seems to be a strong correlation between school non-attendance and conflict with the law among juveniles in Albania.
- ii. For most of the children interviewed both parents were present in the family setting and were the income providers. High levels of poverty and a lack of possibility for parents to be more involved in the rearing of their children were the main factors that emerged during the interviews as causes for delinquent behaviour.
- iii. The Kavaja facility seems to be well staffed and, during the time of the visit, the ratio of staff to juveniles in detention was two to one.
- iv. This cannot be said for the Shën Koll facility. Staff working with the child population there do not seem well trained and especially not trained to work with such children. Living conditions in this facility, especially in terms of maintenance, e.g. lighting and hygiene were sub-standard. This, coupled with the inadequate arrangements for segregation of children from adults, demand immediate closure of this facility as a place of detention for juveniles in conflict with the law.
- v. Fifteen respondents stated that they were informed of their rights upon arrest.
- vi. With only one exception, respondents were given medical information and screening.
- vii. The staff respondents were unable to understand and discuss special psychological care for the children.
- viii. There is lack of regularity in medical examination for incarcerated juveniles. Provisions should be made for individual mental health care and counselling, especially when juveniles experiencing mental illnesses are part of the population in detention.
- ix. Five respondents complained about the sleeping quarter arrangements in terms of lack of space though the others stated that the living and sleeping conditions were adequate. About half of the respondents were in triple-shared accommodation.
- x. While bedding and mattresses were available there were no provisions for clothing. In the Kavaja facility clothing is donated by civil society and

aid-based organisations.

- xi. There is no special diet provided in either of the facilities. Although better food had been requested, the respondents found the food sufficient but not satisfying.
- xii. The Kavaja facility lacked shampoo and tooth paste, and the Shën Koll facility had problems with both hygiene and tidiness.
- xiii. Half of the respondents responded positively about education provisions. Qualified teaching staff to implement courses of compulsory education and vocational training seem to be missing.
- xiv. 17 respondents exercised physically, making use of the facilities and organised activities.
- xv. Religious facilities existed in Kavaja. The places of worship were separated based on religious practice.
- xvi. Nine out of twenty-one children that were interviewed claimed to have been harmed, four of whom in the police commissariat. Twelve of the interviewed children did not report any harm, but the rest spoke of indirect harm and in two cases the harm had been of psychological nature. In one case, the abuse to the child that was carrying out the sentence had been reported to the institutions. Abuse was indicated, and in one case it was reported to the authorities.
- xvii. Harsh treatment and without care for the psychological effects was obvious during the monitoring visits to the Shën Koll facility.
- xviii. Kavaja facility staff were trained by UNICEF and Save the Children in how to deal with children. A working camera system also helped ensure compliance with rules and regulations.
- xix. There were no reports of cruel, inhuman or degrading punishment. Eighteen of the respondents felt safe, though three did not respond to questions about safety.
- xx. Sixteen respondents claimed to have good relationships with others.
- xxi. Respondents had regular family visits, weekly or monthly. They also accessed information via telephone (20) or TV (14).
- xxii. Legal services were not provided free by the institution of incarceration. Of the respondents, 19 were communicating with their lawyers.

The following pages provide an analysis of children that have been deprived of liberty in the detention and pre-detention facilities in the counties of Tirana, Lezha and in the police commissariats. For each facility for deprivation of liberty we assessed the infrastructure conditions, environment and healthcare, access to education and training, as well as to lawyers, and respect of rights. This was followed by structured interviews in a sample of 21 cases that allowed the People's Advocate to process information on i) the child's background, including their familial context and the type of criminal offence committed, ii) demographic data related to the institution of incarceration or where the child was held, and iii) living conditions, education received and opportunities presented, access to medical and psychological care and protection against inhuman treatment. The data collected from each area, thanks to excellent cooperation with the detention centres and police stations were analysed and the findings, together with initial recommendations, are herein presented. The report tries to raise awareness of the issue of respecting children's rights in detention against abuse and their immediate physical separation from the adult prison population in the Shën Koll facility in Lezha.

This assessment aims to deliver an analytical tool that on the one hand provides a detailed snapshot of the phenomenon in selected units of incarceration, while on the other offers policy proposals for interventions and actions at the central level that aim to address the rights of these children by bringing together local government, the media and civil society organisations. Unlike other monitoring processes or studies that have dealt with this issue, we try to provide a novel approach that is closer to the children in conflict with the law, considering them together with their needs while protecting their identity and right to privacy. This report provides a sound baseline for People's Advocate Office further monitoring of the situation and ongoing recommendations. We believe that positive change can take place through implementation of a national information campaign that addresses this issue in all detention centres in Albania, by raising even more the awareness of police officers.

In general life for Albanians seems to have improved significantly over the last 20 years. However, pockets of underdevelopment exist, exacerbated by the prolonged transition. The present report throws light on the issue of children involved in crime and sees it as a direct consequence of social underdevelopment and also a response to dire needs to ensure survival. Responses provided by juveniles in detention make it imperative to develop effective post-detention programmes in order to move such children away from criminality.

The report does not victimise or exploit such children. Instead, we look at their life experiences and try to analyse the effects of the detention process on them and on the society in which they live. We also look at the legality of detention by providing some policy considerations in this area that could have immediate implementation and impact positively on the issue of crime prevention among young people.

The children interviewed and considered in the report demonstrate that detention inhibits their educational and professional advancement. Most have a low level of education and do not plan to return to school after completing their sentences. Furthermore, they do not see themselves as developing a professional life outside of prison. Lack of education and opportunities will have

a negative impact on those who want to reintegrate after completion of their sentences, and society suffers the consequences.

We highlight that cooperation among civil society, international donors and central and local government is key to providing long-term solutions to juvenile criminality and also to addressing issues related to detention. The combination of the expertise of the report team, including experience in dealing with children's issues, as well as undertaking statistical research, helped in identifying and documenting characteristics not previously captured. Developing team approaches to understanding and dealing with juvenile justice seems to be another contribution of this monitoring exercise, showing that a better understanding of a social phenomenon and solutions to dealing with it, when centred at the local level and utilising local resources, need be neither costly nor time intensive. Effective cooperation among state structures, supported by civil society and international partners, using a local-centred approach, will ensure a successful outcome.

## V. Rules, legislation and International Standards on the rights of children in conflict with the law

In Albania, the current legislation on children in conflict with the law is primarily the same as that applicable to adults, though with some exceptions, provisions and stipulations.<sup>1</sup> The United Nations (UN) and Council of Europe International Standards include some focused on adults and others focused on children, including the following:

- UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules)
- UN Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines)
- UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990 (Havana Rules)
- UN Standard Minimum Rules for Non-custodial Measures, 1990 (Tokyo Rules)
- UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, 2010 (Bangkok Rules)
- Recommendation of the Committee of Ministers of the Member States on the European Rules for juvenile offenders, subject to sanctions or measures, 2008
- Guidelines of the Committee of Ministers of the Council of Europe for friendly juvenile justice, 2010

### V.1 Tangible living conditions in places for deprivation of liberty

With regards to living standards, the national legislation stipulates that police station cells dedicated to holding a person for more than a few hours must have a surface area of 7 m<sup>2</sup>, where the distance between the walls must be two or more meters and the floor to ceiling height, 2.5 m<sup>2</sup>. Article 30 of the General Regulation of Prisons provides for even more space, namely that it provides that a volume of no less than 9 m<sup>3</sup> shall be ensured in any case and the residential area shall be not less than 4 m<sup>2</sup> for each detained or convicted person. The facility must be equipped with windows that allow sufficient ventilation and natural lighting normal for reading and working.<sup>3</sup>

<sup>1</sup> The "Criminal Justice for Children Code" has been drafted and consultations are being held at the Parliament.

<sup>2</sup> Article 21 of the General Regulation of Prison foresees this as a desirable rather than a minimum standard.

<sup>3</sup> The standard stipulated in this case is a minimum standard and will be applied despite the specific conditions and means of any particular ISCS.

Regarding International Standards for the necessary accommodation space, the European Committee for the Prevention of Torture has recommended that in any case the foreseen space for a prisoner should not be less than 6 m<sup>2</sup>,<sup>4</sup> though this, too, is considered as unsatisfactory unless accompanied by time spent in outdoor activities. If the person is accompanied by others, the personal space sufficient for accommodation must be 4 m<sup>2</sup>.<sup>5</sup>

European Prison Rules provide that prisoners shall normally be accommodated during the night in individual cells, except where it is preferable for them to share sleeping accommodation.<sup>6</sup> Nelson Mandela Rules hold the same position, stipulating that the sleeping accommodation shall be arranged in individual cells or rooms unless for special reasons, such as temporary overcrowding, where it becomes necessary to make an exception to this rule. However, it is not desirable to have two prisoners in a cell or room. When people are accommodated in the same room, they shall be carefully selected as being suitable to associate with one another.<sup>7</sup>

Domestic legislation also provides that it is forbidden to hold juvenile detainees or prisoners in the same room with adults, or to place juvenile girls with juvenile boys in the same room.<sup>8</sup> Juvenile detainees and prisoners should be placed in separate sections.<sup>9</sup> This stipulation is in accordance with Rule 35.4 of the recommendation on the European Prison Rules.<sup>10</sup> In addition, rules 13.5 and 26.3 and 26.4 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)<sup>11</sup> specify that young female offenders placed in institutions deserve special attention for their personal needs and problems. However, this shall not be interpreted as providing less care and attention to young male offenders, because fair treatment should be ensured in all cases.

The Regulation of Prisons further specifies that pre-trial children should be placed in cells separate from those who have been convicted of criminal offences,<sup>12</sup> and that the placement of children in rooms takes into account their judicial situation, whether this is their first or a repeat offence, the type of offence, the sentence, their age, health condition, medical needs, education level, intellectual and psychological characteristics, special requirements, conflict issues, and whether they are under investigation for the same criminal case as other persons detained by order of the Prosecutor or the Court.<sup>13</sup>

<sup>4</sup> Rod Morgan and Malcolm D. Evans: Prevention of Torture in Europe, CPT standards regarding prisoners, publication of the Council of Europe, 2002

<sup>5</sup> Commentary of the European Rules for juvenile offenders subject to criminal convictions and sanctions, addition to the Recommendation (2008) 28 of the Council of Ministers, publication of the Council of Europe, 2008.

<sup>6</sup> Rule 18.5 of Recommendation (2006)2 of the Council of Ministers to the Member States on the European Regulation of Prisons

<sup>7</sup> Rule 12.1 of the Nelson Mandela Rules

<sup>8</sup> Article 75/1 paragraph 3 of the Law on the Treatment of Prisoners and Detainees, which stipulates that juvenile females are supervised and cared for by persons of the same sex

<sup>9</sup> Article 29 paragraph 3 of the General Regulation of Prisons

<sup>10</sup> Recommendation (2006) 2 of the Council of Ministers to the Members States on the European Prison Rules

<sup>11</sup> Rule 13.5: "Juveniles awaiting trial should be held in a special institution or in a special facility of the institution holding adult prisoners."

<sup>12</sup> Article 83 of the General Regulation of Prisons

<sup>13</sup> Article 293 of the General Regulation of Prisons

## V.2 Environment and health care

The General Regulation of Prisons stipulates that after the preliminary procedures for admission, the newcomer is subjected to a medical examination and is interviewed by the doctor of the institution in order to recognise and prevent the spread of any contagious diseases in the institution, to record any injuries and damage in a timely manner, by observing the principle of confidentiality.<sup>14</sup> This is also set out in Rule 50 of the Beijing Rules.<sup>15</sup> The Regulation also stipulates the obligation to provide 24-hour medical service under the care of medical staff in cooperation with the prison hospital and the relevant national health care bodies, as well as the right of the detained or convicted persons to carry out medical examinations in private hospitals during their stay in the institution.<sup>16</sup>

The Beijing Rules provide in principle that juveniles in institutions shall receive medical care and assistance,<sup>17</sup> and that this assistance and care is extremely important for drug addicts.<sup>18</sup>

They also list the health care requirements<sup>19</sup> through which every juvenile must receive adequate medical care, both preventive and remedial, including dental,<sup>20</sup> ophthalmic and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatisation of the juvenile and to promote self-respect and integration into the community.<sup>21</sup> The medical services provided to juveniles should seek to detect and treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.<sup>22</sup>

Meanwhile, the national legislation stipulates that the health services should ensure the prevention, diagnosis and treatment of diseases, the supply of medicines and medical equipment that are not covered by the mandatory health care in cases of emergency, prophylaxis for diseases, and special care for infectious and contagious diseases. Furthermore, it should ensure the environment has appropriate sanitation and hygiene levels. Every institution should have

<sup>14</sup> Article 13 of the General Regulation of Prisons

<sup>15</sup> Rule 50 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty: "Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention."

<sup>16</sup> Article 23/9 dh) of the General Regulation of Prisons

<sup>17</sup> Rule 26.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

<sup>18</sup> Commentary of Rule 26.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

<sup>19</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty adopted by General Assembly resolution 45/113 of 14 December 1990 (Beijing Rules)

<sup>20</sup> A provision also found in Rule 41.5 of the Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules, but also provided in Article 105 of the General Regulation of Prisons

<sup>21</sup> Rule 49 of the Beijing Rules

<sup>22</sup> Rule 51 of the Beijing Rules

health and pharmaceutical services to fulfil the needs for disease prevention and health care of the detainees and prisoners. In cases of contagious, or other, disease, the diagnosis and treatment for which cannot be provided under the conditions in the institution, the detainees and prisoners are transferred to the prison hospital, and, when necessary, to Tirana University Hospital Centre and its regional or district hospital institutions. The detainees and prisoners have the right to request to be examined, at their own expense, by a doctor of their own choice.<sup>23</sup>

For juveniles suffering from mental illness or who are drug addicts, the Beijing Rules provide that they should be treated in specialised institutions under independent medical care<sup>24</sup> and that specialised drug abuse prevention and rehabilitation programmes administered by qualified personnel should be in place. These programmes should be adapted to the age, gender and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.<sup>25</sup> The domestic legislation also considers people with mental health problems and those showing signs of drug abuse, or psychotropic substance or alcohol abuse as a separate category and relies on Law No. 44 'On Mental Health' for determining their treatment. Prisoners and detainees in institutions serving criminal sentences and who suffer from mental health disorders are entitled to special health treatment in the special medical sections of hospitals or in the prison hospital.<sup>26</sup> Those that show signs of drug abuse, or psychotropic substances or alcohol abuse are treated according to the health and social programmes implemented in the community outside of the institution.<sup>27</sup>

The Nelson Mandela Rules provide that health care for detainees or prisoners is a State responsibility,<sup>28</sup> and should be provided with the same standards provided to the community without discrimination on the grounds of legal status. This service should be free of charge. Every prison should be equipped with the facilities necessary to provide a health care service that can fully undertake the evaluation, promotion, protection and improvement of the mental and physical health of prisoners.<sup>29</sup> Following this example, the Law 'On the Rights and Treatment of Prisoners and Detainees' has stipulated that health care services should be provided by the Directorate General of Prisons for the entire duration of a prisoner's stay in an institution and that they are covered by mandatory health care insurance under an applicable scheme. Detainees and convicted persons fall in the category of economically inactive persons, and, therefore, should benefit from all the services provided by the health insurance scheme according to this law, free of charge. The prison administration should also provide the conditions, equipment and staff for proper protection of prisoner health.<sup>30</sup>

Pursuant to the Nelson Mandela Rules, medical staff should prepare and maintain necessary up-to-date information and equipment. It should also maintain individual medical files on each

<sup>23</sup> Article 33 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'

<sup>24</sup> Rule 53 of the Beijing Rules

<sup>25</sup> Rule 54 of the Beijing Rules

<sup>26</sup> Article 33/1, Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'

<sup>27</sup> Article 33/1 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees' foresees other categories of people carriers of infectious diseases, HIV virus, detainees and convicted people suffering from chronic diseases, etc.

<sup>28</sup> Rule 24.1 of the Nelson Mandela Rules

<sup>29</sup> Rule 25.1 of the Nelson Mandela Rules

<sup>30</sup> Article 33, Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'



patient, who should be granted access to their files or who may appoint a third party by proxy to access them.<sup>31</sup> Every prison should provide emergency services, though if specialised treatment or surgery is required, the subject must be transferred to a specialised institution or civil hospital.<sup>32</sup>

### V.3 Education and training

#### A. Education and vocational training

Based on the Law 'On the Rights and Treatment of Prisoners and Detainees,' education, vocational and cultural training are done through schools and is compulsory for juveniles, under professional course providers according to the applicable systems. Distance courses are also encouraged. The prison administration should encourage and create the conditions for vocational training within and outside the institution. Special attention must be paid to the cultural and vocational training of detainees and prisoners younger than 25 years. In addition, prisoners and detainees who are members of ethnic groups or language minorities that do not understand or speak the Albanian language must be provided with materials in their own language or one that they understand well.<sup>33</sup> Penitentiary institutions and correctional facilities should provide adequate and necessary facilities and tools for prisoners and detainees to carry out the work, schooling and vocational education, recreational and cultural activities, and any other joint or individual activities that they require. In addition, the institutions should be equipped with a library and periodical publications.<sup>34</sup>

The standards related to the area of education and vocational training are also provided by International Standards. Beijing Rules,<sup>35</sup> Nelson Mandela Rules<sup>36</sup> and European Prison Rules<sup>37</sup> recommend that efforts should be made to provide juveniles, at all stages of the proceedings, with all the necessary assistance for education, vocational training, employment and any other necessary assistance, helpful for the rehabilitation of juveniles.<sup>38</sup> The aim is to provide care, protection and vocational training in order to educate them and enable them to have a productive role in the community. These rules also require that, as far as possible, the education of prisoners should be integrated with the education system of the country so that following their release juveniles may continue their education without difficulty.<sup>39</sup>

Such education should ideally be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers. The diplomas or educational (school) certificates awarded to juveniles while in detention should not mention or indicate in any way

<sup>31</sup> Rule 26.1 of the Nelson Mandela Rules

<sup>32</sup> Rule 27.1 of the Nelson Mandela Rules

<sup>33</sup> Article 37 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014

<sup>34</sup> Article 39 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'

<sup>35</sup> Commentary of Article 24 of the Beijing Rules

<sup>36</sup> Rule 104 paragraph 1 of the Nelson Mandela Rules

<sup>37</sup> Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules

<sup>38</sup> Article 24 of the Beijing Rules

<sup>39</sup> Commentary of Article 24 of the Beijing Rules

that the juvenile has been institutionalised.<sup>40</sup> Also, the facilities should be equipped with a library that is adequately stocked with both instructional and recreational books and the juveniles should be encouraged to make full use of it, a provision which is stipulated by the domestic legislation, too.<sup>41</sup>

In order to achieve these goals Beijing Rules recommend the implementation of semi-institutional arrangements,<sup>42</sup> which include agreements with educational institutions, training centres and other agreements that help the reintegration of children into society.<sup>43</sup>

### **B. Work**

The General Regulation of Prisons provides that all detainees and prisoners are entitled to work in accordance with their physical and psychological abilities, and health. Prison work shall never be used as a punishment but as a form of rehabilitation and reintegration,<sup>44</sup> a provision based on the recommendations of the European Prison Rules.<sup>45</sup> Meanwhile, the employment of juvenile detainees or prisoners is based on the legal criteria stipulated in the Labour Code.<sup>46</sup> These provisions are also found in the Law 'On the Rights and Treatment of Prisoners and Detainees,' which further details that the work should be organised by the directorate both within and outside the institution using the help of other entities.<sup>47</sup> It also specifies the conditions, which should be similar to those in the free society, so that the prisoners can benefit from vocational skills to facilitate their reintegration into society.<sup>48</sup> Detainees and prisoners who show abilities in scientific, cultural, artistic or craft activities may be permitted to exercise these activities at their own expense. The duration of the work may not exceed the limits set by the Labour Code.<sup>49</sup> The work is payable and is included in the national social security system for purposes of retirement.<sup>50</sup>

All protective national and International Standards applicable to child labour and young workers should apply to juveniles deprived of liberty.<sup>51</sup> Regarding the proper vocational selection, and with due regard to the requirements of the institution's administration, Beijing Rules provide that juveniles should be able to choose the type of work they wish to perform.<sup>52</sup> Every juvenile who performs work should have the right to equitable remuneration.<sup>53</sup> Vocational training should, if possible, be carried out within the local community in order to enhance the possibility of finding suitable employment on return to the community. The organisation and methods of work offered in detention facilities should resemble as closely as possible similar work in the community, so

<sup>40</sup> Rule 40 of the Beijing Rules

<sup>41</sup> Article 39 paragraph 2 of the Law on the Rights and Treatment of Prisoners and Detainees

<sup>42</sup> Rule 29 of the Beijing Rules

<sup>43</sup> Rule 29.1 of the Beijing Rules

<sup>44</sup> Article 54 of the General Rules of Prisons

<sup>45</sup> Rule 26.1 of Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules

<sup>46</sup> Article 57.7 of the General Rules of Prisons

<sup>47</sup> Article 34 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'

<sup>48</sup> Article 35 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees'

<sup>49</sup> A recommendation also provided in Rule 26.15 of Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules

<sup>50</sup> A recommendation also provided in Rule 26.17 of Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules

<sup>51</sup> Rule 44 of the Beijing Rules

<sup>52</sup> Rule 43 of the Beijing Rules

<sup>53</sup> Rule 103 of the Nelson Mandela Rules also provides that every country should have a system in place for the fair remuneration of the work of prisoners.

as to prepare juveniles for the conditions in normal occupational life.<sup>54</sup> Under no circumstances should the interests of the juveniles and of their vocational training be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to him or her on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use, to indemnify the victim injured by his or her offence, or to send to his or her family or other persons outside the detention facility. These provisions are also set out in Rule 103 of the Nelson Mandela Rules.

European Prison Rules recommend that work may be provided by the prison authorities in cooperation with private contractors inside and outside the prison; therefore such cooperation should be encouraged.<sup>55</sup>

## V. 4 Psychological and social care, recreation and religious practices

### A. Psychological and social care

Provision for psychological and social care is set out in the Law 'On the Treatment of Prisoners and Detainees' with the purpose of developing an individual prisoner's skills and habits to reintegrate into society.<sup>56</sup> The General Regulation of Prisons stipulates that a psycho-social file should be opened at the moment of admission,<sup>57</sup> a provision that is in compliance with the requirements of the Beijing Rules,<sup>58</sup> and that a psychological assessment should be considered during the preparation of the individual's rehabilitation and re-integration plan.<sup>59</sup>

Nelson Mandela Rules foresee psycho-social services as part of the health care service and consisting of an interdisciplinary team composed of psychologists and psychiatrists.<sup>60</sup> The obligation to provide psychological assistance is also provided by Rule 26.2 of the Beijing Rules and Rule 103.5 of the European Prison Rules.

### B. Recreation

The Law 'On the Rights and Treatment of Prisoners and Detainees' provides that cultural, recreational and sports activities should be organised during the prisoner's free time in order to maintain and develop their physical, spiritual and psychological condition. Special programmes should be developed in collaboration with juvenile offenders for their inclusion in cultural, creative and sport activities. The prison administration should cooperate with other institutions and non-

<sup>54</sup> Rule 45 of the Beijing Rules

<sup>55</sup> Rule 26.9 of Recommendation (2006) 2 of the Council of Ministers to the Member States on the European Prison Rules

<sup>56</sup> Article 32 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014

<sup>57</sup> Article 32 paragraph 2 of the General Regulation of Prisons

<sup>58</sup> Rule 27: 'Every juvenile should be interviewed as soon as possible after admission and a psychological and social report shall be prepared identifying any factor related to the specific type and level of care and programme required by the juvenile.'

<sup>59</sup> Article 86.1 of the European Prisons Rule

<sup>60</sup> Rule 25.2 of the Nelson Mandela Rules

profit organisations for cultural, creative and sports activities, within and outside the prison,<sup>61</sup> ensuring adequate facilities to carry out these activities.<sup>62</sup> This provision is in compliance with the Beijing Rules, which recommend that every juvenile should have the right to a suitable amount of time for free daily exercise, in the open air, weather permitting, during which time appropriate recreational and physical training should normally be provided. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.<sup>63</sup>

### **C. Religious practices**

The General Regulation of Prisons guarantees, in principle, the freedom of religion and the practice of religious rites for prisoners and detainees,<sup>64</sup> for which the prison should provide specific facilities. The detainees and prisoners have the right to contact representatives of religious communities appointed by agreement between the General Directorate of Prisons and the legally recognised religious communities.<sup>65</sup>

Beijing Rules also provide that every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending services or meetings in the detention facility or by conducting his or her own services. They must be allowed books or items of religious observance and instruction for his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and to decline religious education, counselling, or indoctrination.

## **V.5 Community, contacts and reintegration**

Detainees and prisoners are allowed to hold meetings and correspond with family members and other persons.<sup>66</sup> According to the national legislation, juvenile detainees or prisoners are entitled to eight meetings per month with their families.<sup>67</sup> Every detainee or prisoner is entitled to maintain correspondence, the confidentiality of which should be ensured.<sup>68</sup> Juvenile detainees

<sup>61</sup> Article 38 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law no. 40/2014, dated 17.4.2014

<sup>62</sup> Article 39 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014. Depending of the treatment needs, the penitentiary and correctional institutions should provide the appropriate and necessary facilities and means to carry out the work, education and professional education, recreational and cultural activities and any other shared or individual activity.

<sup>63</sup> Rule 47 of the Beijing Rules

<sup>64</sup> Article 23/9 of the General Regulation of Prisons

<sup>65</sup> Article 42 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014

<sup>66</sup> Article 41 of Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014

<sup>67</sup> Article 70 of the General Regulation of Prisons

<sup>68</sup> Article 43.1 of the General Regulation of Prisons

and prisoners are allowed 16 phone calls per month.<sup>69</sup>In cases where the detainee or prisoner has no financial means to make phone calls with their family, the phone call is provided by IECS once a month for up to five minutes, at the expense of the institution.<sup>70</sup> This is in accordance with the Beijing Rules, which stipulate that the presence of parents or guardians, and communication with them, is in the interest and well-being of the institutionalised juvenile.<sup>71</sup>

<sup>69</sup> Article 44.1 of the General Regulation of Prisons

<sup>70</sup> Article 44.2 of the General Regulation of Prisons

<sup>71</sup> Article 26.4 of the Beijing Rules

## VI. Methodology

The Observatory for Children Rights in collaboration with a team of the People's Advocate developed a specific monitoring methodology to carry out the present programme. This methodology combined the existing practices of the People's Advocate in monitoring penitentiary institutions with the International Standards that cover places where children are deprived of their liberty. The monitoring methodology was developed by local experts with the assistance and contribution of the international expert Ms Marianne Moore. The main reference for the development of this methodology was the document Practical Guide—Monitoring places where children are deprived of their liberty, developed by the Defence for Children International (DCI) in Belgium.

Firstly, a multidisciplinary team of observers consisting of lawyers and social workers was established and then trained. The observers were selected from the staff of the Institution of the People's Advocate as they have a mandate in this field, specialists on the penitentiary system and criminal law, with previous experience in monitoring police commissariats and institutions for serving of criminal sentences.

The monitoring' team was trained in:

- the national and international legal framework on the rights and treatment of children deprived of their liberty;
- basic monitoring principles and standards;
- ethical principles, communication skills with children and techniques for interviewing children in the context of deprivation of liberty;
- the methodology to perform a monitoring visit in practice and interview the staff members and directors of places where children are deprived of their liberty.

The basic principles upon which the monitoring was based, are the principles of:

- objectivity and impartiality;
- 'do no harm' to the child;
- the best interests of the child;
- acknowledgment of standards;
- transparency;
- respecting the national authorities;

- confidentiality and protection of personal data.

### **The standard visits undertaken by the monitoring team in all institutions where children were deprived of liberty consisted of the following steps:**

- Meeting with the head of the institution or the person authorised by him or her, in order to:
  - a) introduce the monitoring team and to inform the representative of the institution about the visit: objective, programme, interviews with children and staff, visits to the facilities, review of documents and records, explanation on how the information gathered during the visit will be used, the final report;
  - b) obtain information on the issues and objectives of the monitoring, the staff, schedule and regime, conditions, treatment of children, educational programmes, potential problems that the management of the institution faces, his or her suggestions for improvements, including any issues, concerns or problems regarding a specific child, a particular group of children, a violent incident or any claim of abuse by them;
- Interviews with children using a questionnaire individualised according to the categories of the interviewee as a child taken into custody, detained or arrested in the act, detainee or prisoner;
- Interviews with staff members using a questionnaire individualised according to category, namely police commissariat or institution for serving of criminal sentences (detention and prison);
- Inspection of premises and observation of the conditions of the facilities where children are deprived of their liberty;
- Verification of records and other documents kept and administered in the monitored institutions where children are deprived of their liberty, such as ingress–regress records, medical files, psycho-social files, legal files, folders, disciplinary measures;
- Closing meeting with the director of the monitored institution or the person authorised by him or her in order to inform them about the main findings and key issues of the monitoring and to receive relevant views, suggestions and comments that the representative of the institution considers reasonable to provide.

At the end of each monitoring mission and under the guidance and supervision of the specialised monitors, all the data resulting from the completion of the questionnaires were recorded in the system, including the answers given by the staff of the institution and the interviewed children. The experts processed and analysed these data, which constituted the main foundation upon which the findings and recommendations are presented.

## VII. Main findings

### Findings based upon UNODC and UNICEF indicators

In this section we report the findings emerging from the measurement of quality and policy indicators outlined in the *Manual for the Measurement of Juvenile Justice Indicators* (2006) co-produced by UNODC and UNICEF. In preparing the table below information was processed through desk-review analysis and interviews undertaken during the lifetime of the project.

No	Indicator	Findings
	<b>Quantitative indicator</b>	
1	<b>Children in conflict with the law</b>	During the period October 2015–September 2016, we examined the data on children in detention and pre-detention as published on the website of the National Police Directorate, Albania. The overall monthly number of children in conflict with the law remained at 90 for each month.
2	<b>Children in detention</b>	During each month from October 2015–September 2016, the number of children in detention ranged from 14 (highest, October 2015) to 7 (lowest, August 2016).
3	<b>Children in pre-trial detention</b>	During each month from October 2015–September 2016, the number of children in pre-trial detention ranged from 75 (highest, November 2015) to 63 (lowest, January 2016).
4	<b>Duration of pre-trial detention</b>	Typical pre-trial detention, including trial, is long, explaining the large number of cases of pre-detention. The common pre-trial detention was from 3–12 months, with many completing their sentence in pre-sentence detention.
5	<b>Duration of sentence</b>	No data were available.
6	<b>Child deaths in detention</b>	There were no recorded episodes of death of a child while in detention from October 2015–September 2016.
7	<b>Separation from adults</b>	Separation from adults was observed both in detention and pre-trial: <ol style="list-style-type: none"> <li>1. In police stations and commissariats corridors and other ad hoc solutions were used to secure separation.</li> <li>2. In the facility in Shën Koll, Lezha, separation was not realised as children were only separated from adults by blocking a separate floor for detained children.</li> <li>3. Full separation was achieved in the Kavaja facility, which is a specialised facility for children. Gender separation also took place.</li> </ol>



8	<b>Contact with parents and family</b>	All children interviewed reported that they had regular contact with their parents and families following rules and regulations. Family visits ranged from weekly to monthly depending upon the respondent.
9	<b>Custodial sentencing</b>	The number of children in custody referred to above represents one-quarter of those that are sentenced. For those outside detention or in pre-trial, alternative forms of sentence have been practised including: <ol style="list-style-type: none"> <li>1. Release on parole;</li> <li>2. Release subject to police supervision and periodic reporting;</li> <li>3. House arrest;</li> <li>4. Suspension of detention replaced by performance of work of public interest: 1,665 cases over the period June 2009–June 2014.</li> </ol>
10	<b>Pre-sentence diversion</b>	No provision and no data were available.
11	<b>Aftercare</b>	There are no rehabilitation or reintegration services for children completing their sentences. State obligations require State Social Services to inform local government units about the release of children from prison in order to offer school enrolment support or professional training.
<b>Policy indicator</b>		
12	<b>Regular independent inspection</b>	A system is in place that guarantees regular independent inspection of places of detention by the Ombudsman and Helsinki Committee, as well as by other NGOs working in the area of children's rights. All places of detention have received an inspection in the last twelve months.
13	<b>Complaints mechanism</b>	There is no specific complaint mechanism in place, despite legal provisions in the Law 'On Legal Aid'.
14	<b>Specialised juvenile justice system</b>	Albania does not operate a specialised juvenile justice system.
15	<b>Prevention</b>	A national plan for the prevention of child involvement in crime does not exist.

Further detailed findings related to processes of arrest, prosecution and investigation, trial decision and sentencing (deprivation of liberty) are reported in the following chapters. We have tried to divide the information by place of pre-trial and detention. For pre-trial we pay attention to the issue of separation of children from adults, providing information on the physical setting and conditions related to the detention, arrangements, food and other services provided for the children. Ethnicity is also discussed. For post-sentence we examine the data on children in detention in more detail and provide a holistic view and more detailed information.

## VII.1 Respecting the rights of children in conflict with the law in Police Stations

### ***a) Preliminary notes***

During 2016, the monitoring team visited six police stations. The objective of their missions was to inspect the standards employed with regard to detained and arrested juveniles and those escorted to police stations, in order to evaluate compliance with the legal standards in these institutions and to recommend appropriate measures.

The legal framework which serves as a basis for monitoring the compliance of the inspected police commissariats with those standards are the Constitution, the Criminal Code (as amended) and the Code of the Criminal Procedure (as amended) of the Republic of Albania, as well as Law No. 108/2014 'On State Police' (as amended), Law No. 44/2012, dated 08.05.2012 'On Mental Health', Law No. 9887, dated 10.03.2008 'On Protection of Personal Data,' as amended, DCM No. 750, dated 16.09.2015 'On Approval of the State Police Regulation', and the Manual for Standard Rules and Procedures for the Treatment and Security of People Arrested and Detained in Police Units, approved by Order of the Director General of State Police No. 763, dated 27.09.2011.

The monitoring team initially contacted the director of each institution with the aim of informing them of the purpose of the visit and to gather general information on the situation in the institution, the number of juveniles, their status, and the required legal standards. The monitoring team requested the willingness and availability of the institution and its entire staff in order to fulfil all its requests.

The police commissariat monitoring focused primarily upon verification of the legal standards in such aspects as infrastructure, the environment, health care, access to education and training, access to rights and justice, movement and transfer, among others.

For preparation of the present report, the monitoring team obtained information from various sources, including staff, juveniles, who provided information through interviews held in private, on-site verification of the conditions, verification of the documents in the institution, and cross-checking off acts obtained from various sources.

After gathering and ordering the information, cross-checking it against the legal requirements,

and making conclusions on the findings, the report ends with a set of recommendations and conclusions, constituting the end of the monitoring process.

### ***b) Infrastructure conditions***

In verifying the legal standards with regard to holding juveniles separate from adults (by age), and of juvenile males from juvenile females (by gender), the information obtained shows that this standard is in general upheld by the staff of the institutions, but through improvisations because, in fact, there are no special facilities for such purposes. Generally, there are no special facilities in police commissariats to hold escorted, detained or arrested juveniles separate from adults.<sup>72</sup>

Escorted juveniles are commonly held either in the administration offices of the institution, or in the corridors, because there are no specific juvenile cells in which they can stay.<sup>73</sup> These offices have windows, but they are not holding rooms adapted for juveniles.

Generally, there are no custody or escort rooms for children in the police commissariats. The monitoring team found in their verifications that there are no special facilities in the commissariats to escort and interview juveniles, though the escort rooms for adults have been improvised to serve as such,<sup>74</sup> while in other cases the offices of police officers in the commissariats serve as places for juveniles to be interviewed.<sup>75</sup> Likewise, the team found that there are no specific environments to hold and interview juvenile females that have been escorted, detained or arrested.<sup>76</sup>

With regard to the physical conditions of the improvised facilities that serve for interviewing juveniles, the team found that even these do not meet the minimum conditions for interview: there is no heating or sufficient space in these facilities, which are entirely inappropriate for conducting interviews with juveniles.<sup>77</sup> The team also found that in addition to the lack of special escort rooms for juveniles, the rooms that were improvised were not equipped with a toilet.<sup>78</sup>

The gathered information shows that, in general, the police commissariats do not provide adequate conditions for sleeping arrangements for detained or arrested juveniles. This situation has arisen because compliance with these criteria depend upon the existence of a special facility for holding juveniles. In these conditions there are no beds, mattresses, sheets, pillows, covers, or blankets, constituting a violation of the legal standards of the obligation to provide appropriate conditions for juveniles.<sup>79</sup>

The respondents admit that when juveniles are arrested, since there are no special facilities for them in the commissariats, they are transported to the local police department.<sup>80</sup>

<sup>72</sup> Ardit Elmazi, Chief of Commissariat No. 3, from the inspection of 24 November 2016

<sup>73</sup> Inspection, dated 17.11.2016

<sup>74</sup> Inspection, dated 17.11.2016

<sup>75</sup> Inspection in Commissariat No. 2 Tirana, dated 21.11.2016

<sup>76</sup> Inspection, dated 17.11.2016; answer to question 1.6

<sup>77</sup> Inspection in the Commissariat No. 2 Tirana, dated 21.11.2016

<sup>78</sup> Inspection, dated 24.11.2016

<sup>79</sup> Inspection, dated 17.11.2017 and 24.11.2017.

<sup>80</sup> Claims of staff during the inspection dated 17. 11 2016 and of 24.11.2017

***c) Environment and healthcare***

In general, the police commissariats in Albania do not have special facilities for escorted, detained or arrested juveniles, or facilities for their interrogation, though, in some cases, escort rooms for adults serve as rooms for juveniles<sup>81</sup> or in other cases even the administration offices.<sup>82</sup> It is commonly conceded that, since there are no special facilities for juveniles in the commissariats, after arrest they are transported to the local police department<sup>83</sup>. Meanwhile, the escorted juveniles are either held in the administration offices of the institution, or in the corridors of the police commissariat, but despite having windows, these environments are not accommodation cells adapted to the children.<sup>84</sup>

During their stay in the police commissariat, escorted, detained or arrested juveniles are provided with food and water or soft beverages, mainly by their families, though if they cannot provide it, food and water is personally financed by the police officers, but not the institution, because such provision is not a spending item in the budget.<sup>85</sup> As a rule, juveniles should be provided each day with three meals and drinking water.<sup>86</sup> Usually, the clothing of the juveniles is provided by the family members and in some cases by the local department of the state police.

The police commissariats do not have a doctor in their organisation, and one visits from the local police department according to the need and demand. Moreover, it is conceded that the police stations do not have appropriate conditions to provide a medical service to juveniles.<sup>87</sup> The detainees/ arrested are provided with a health care service, meantime the escorted are provided with this service only when they request it.

The juveniles can be subject to medical examination as necessary and according to their condition. If the juvenile is found to suffer from mental health problems, they are provided with medical care in special or psychiatric hospitals.<sup>88</sup>

***d) Access to education and training***

From the information gathered by the staff, an escorted juvenile is not entitled to time outdoors—a right that is accorded only to an arrested person—due to the short time that the person stays in the commissariat. Arrested juveniles are allowed to go out for fresh air for a limited time.<sup>89</sup>

According to the statements of staff interviewed in the commissariats, juveniles are allowed to contact their families during the period of escort, detention/arrest and with lawyer. Also, in their statements, it's not allowed the access to information with the external world (radio, television, newspapers, magazines etc) because their case is under investigation and access to the external

<sup>81</sup> Inspection, dated 17.11.2016

<sup>82</sup> Inspection in Police Commissariat No. 2 Tirana, dated 21.11.2016

<sup>83</sup> Statements of staff during the inspection dated 17.11.2016 and of 24.11.2017

<sup>84</sup> Inspection, dated 17.11.2016

<sup>85</sup> According to statements of staff interviewed on 21.11.2016 and 24.11.2016.

<sup>86</sup> Interviews with staff of commissariats monitored on 17.11.2016 and 24.11.2016

<sup>87</sup> Finding of the monitoring of 17.11.2016

<sup>88</sup> Inspection, dated 24.11.2017

<sup>89</sup> According to information of inspection dated 17.11.2016

world can affect the evidence and investigation of the case.<sup>90</sup>

Although the respondents claim that juveniles are provided with the possibility to communicate with the outside world or their family, the conditions to fulfil this right are limited. However, the juveniles in the commissariats are allowed to make phone calls using the private mobile phones of the police officers or commissariat staff or those of the operations room (communication centre).<sup>91</sup>

Juveniles detained / arrested in commissariat or local or central police department, due to the short time of staying (48 hours) in these institutions, are not provided with educational services, as well as qualified religious service or literature<sup>92</sup>.

#### ***e) Access to rights and justice***

It is obligatory to notify the family when a juvenile is taken into custody, detained or arrested and escorted to a police commissariat. The juvenile is interrogated by an assistant specialist of the forces of law after the parent or a lawyer has been notified. Problems arise when juveniles from the Roma community are taken into custody and interrogated, because it is difficult for police officers to identify and contact the parents of children belonging to this community due to the lack of contact information, home address, phone number, etc.

The data show that interrogation of detained or arrested juveniles from the Roma community is not always carried out by the police officer in the presence of a lawyer or a psychologist.<sup>93</sup>

Juveniles are provided with a psychological counselling service through the local police department in Tirana. A psychologist is called in such cases, and their presence is ensured during the process of interrogation by judicial police officers. The juveniles confirmed that there was almost never a psychologist present during the interrogation.

The commissariats maintain regular official documents and records, which were inspected and found to be accurate with regard to the date, admission and timing of release of escorted, detained or arrested juveniles.

Such juveniles are informed of the reason their freedom has been restricted and of their rights. Although in some cases while facts for which a juvenile was escorted to the police were clarified, a child was held in the commissariat even after the clarification of the circumstances, and was later released, but within the legal deadline of ten hours.

It was claimed that police officers do not use handcuffs on escorted juveniles, but in cases where a juvenile is arrested they use standard metal handcuffs.

<sup>90</sup> Inspection, dated 17.11.2017

<sup>91</sup> Finding mentioned in paragraph 1.18 of the summary form

<sup>92</sup> Answers of the questions posed to staff during the interviews dated 17.11.2016 and 24.11.2016

<sup>93</sup> Statements of staff given during the inspection carried out on 17.11.2016

One of the objectives of the monitoring team was to assess the professional preparation of the staff and their further specialisation in order to be professionally prepared in interactions with juveniles in conflict with the law. It turns out that not all police commissariat staff have been trained in such relations with these children<sup>94</sup>.

Also, the team found that the training received in this area was sporadic with no constant training to increase the professional knowledge of the staff in this area or simply to update the knowledge that they do possess<sup>95</sup>.

#### ***f) Removal and transfer***

Every police commissariat keeps a register, and every movement, entry or exit of an escorted, detained or arrested juvenile is recorded in the escort and detention and arrest book, in which the date, time and full name of the juvenile are recorded. Usually, arrested juveniles to the commissariats are, as a rule, transferred to the local police department until a security measure.

## **VII.2 Respect of the rights of children in conflict with the law in institutions for pre-trial detention and for serving of criminal sentences**

Article 5, paragraph 3 of the Law 'On the Rights and Treatment of Prisoners and Detainees' stipulates that ***"Juvenile detainees and prisoners must have their fundamental rights and freedoms upheld. Their treatment must be based up on the best interests of the child and of their social integration and education, and prevention of re-offending"***.

The monitoring team conducted three monitoring missions: one to the Institute of Juveniles in Kavaja and two missions to the Juvenile Detention Section of the IECS in Lezha. The international expert Ms. Marianne Moore joined the monitoring team and the local experts in two of these monitoring visits.

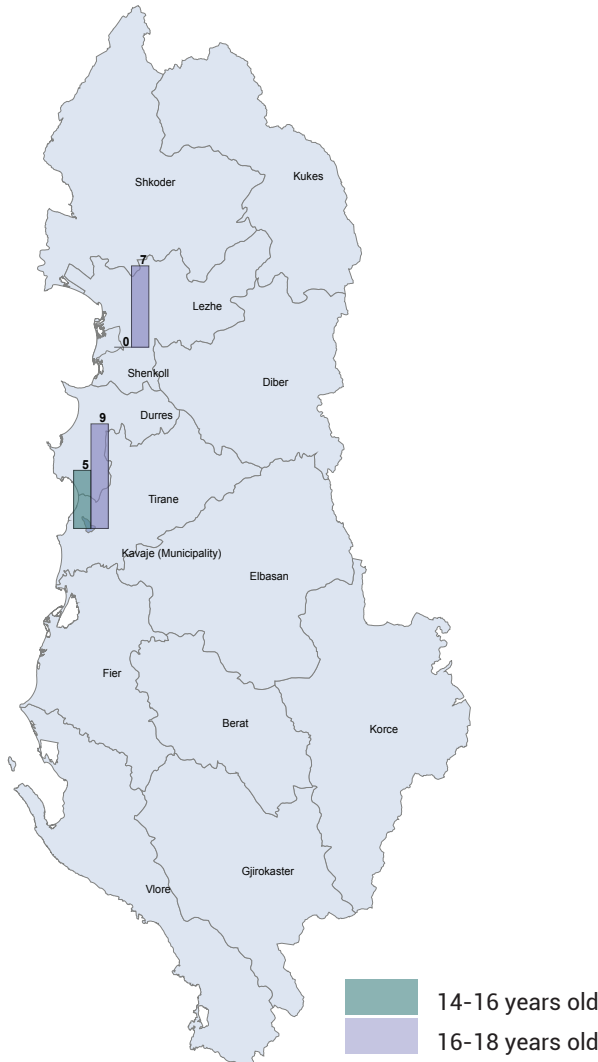
#### **a) Information on the respondent: background of the child, the family and social context, age and criminal offence for which they are accused or sentenced**

A sample of 21 children was interviewed: fourteen children in SIJ Kavaja, and seven in IECS Shën Koll. Of these, 16 were between 16 to 18 years of age, while five were between 14 to 16 years of age.

<sup>94</sup> According to the statements of staff interviewed during the inspections dated 17.11.2016 and 21.11.2016

<sup>95</sup> According to the statements of staff interviewed on 21.11.2016 and 24.11.2016

Map 1: Interview samples



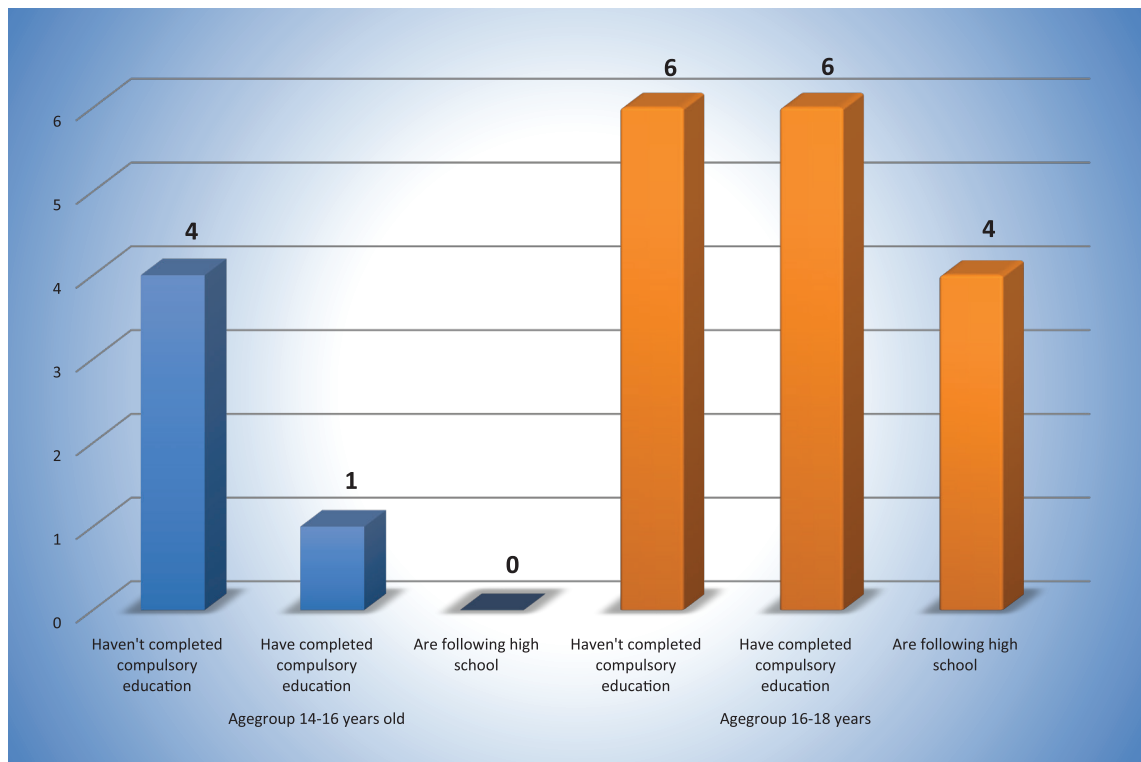
The involvement of children in illegal activities stems from specific personal, family and social factors that must be considered in relation to one another. Previous studies, existing records and interviews conducted with children in conflict with the law show that some of them come from problematic families with a history of divorce, violence, absent parents or emigration.<sup>96</sup>The statistics and qualitative data obtained and processed from the interviews with juveniles in conflict with the law show that some of the children in IECS Lezha, and SIJ Kavaja, come from families with social and economic problems and have deficiencies in terms of their education and schooling. The employees interviewed in SIJ Kavaja stated that children tend to come from families with social problems, with divorced or unemployed parents, or both, and living in difficult economic conditions.

<sup>96</sup> Paper of the General Directorate of Prisons *Juveniles in conflict with the law—Analysis of the risk factors that influence in the criminality of children*

The interviews conducted with legal and social professionals show that the most common offences for which juveniles were accused or convicted of are crimes against people, such as intentional fatal offences, intentional non-fatal non-sexual offences, sexual offences, property theft, and criminal offences against public order and safety.

Of the children interviewed, 7 claimed to have completed compulsory education, while 10 stated that they had not finished it. Of these, 4 were 14–16 years of age, while the other 6 juveniles were 16–18 years old, and 1 turned out to have completed only three grades of schooling. This highlights that there is a high incidence of non-attendance of school by children before they reach the penal institutions. The data reported in the following chart depict the education situation of the interviewed children prior to entering the penitentiary institution.

**Graphic 1:** *Juvenile education by age group*



When asked about whom they were living with prior to the arrest, 15 of the juveniles said that they lived with both parents, 2, with one parent, 1, with his grandmother, 1, on his own, and 1 lived with a friend, while there was no information for one juvenile. Asked about the source of their income prior to entering the institution, 15 of the juveniles stated that their incomes were provided by their family. In 9 of these cases they said that these incomes were provided by only one parent, with the other unemployed, or because the juvenile was living with only one parent. 5 of the juveniles said that they were providing for themselves, 2 of these were 14–16 years old, while 1 child stated that his grandmother was providing for him.



**b) Regime schedule, demographics, staff and reception** (admission, registration and movements across institutions)

According to Article 17, paragraph 1 of the Law 'On the Rights and Treatment of Prisoners and Detainees' women and juveniles normally serve their sentence in special institutions reserved for them, or if this is not possible in separate sections of other institutions with particular criteria.

The Institute of Juvenile Reintegration in Kavaja opened in October 2009. This institute was conceived as a rehabilitation, counselling and education centre for detained and convicted juveniles. The Institution of Execution of Criminal Sentences in Lezha was established in 1981 as a penitentiary institution. Between the years 1989 and 1991 it operated as a correctional school for juveniles. It was reconstructed from 1997–2005, during which time no convicted persons were held on the premises. After 2005, the institution was categorised as a common security institution and a special detention section for juveniles was established and began operations.

The capacity of SIJ is 40, specifically 21 juvenile detainees and 19 convicted juveniles. During the monitoring visit 35 juveniles were accommodated in this institute, of whom 14 were detainees, and 21 were convicted. The capacity of the section of juvenile detainees in Lezha is 24 people and 10 were accommodated in this institution during the monitoring. All the juveniles that were placed in these institutions were males.

Information provided by the SIJ Kavaja staff showed that this institution employed 79 people. The ratio of employees per juvenile was 2:1. Of the staff members, 47 were uniformed and 35 were civilians. Given that this institution was reconceived as a rehabilitation and counselling centre and a school for juveniles, it is clear that there are too many uniformed staff in comparison with the number of civilian employees. The latter play a crucial role in the rehabilitation and reintegration of children into society. There were six members of staff in the social service sector, a director and five specialists, two members in the legal matters sector, and seven in the health service sector. The other member of staff was ten employed in human resources, four in logistics and two in finance. The staff of the legal matters and social service sector stated that they had been trained by the General Directorate of Prisons and national and international organisations, such as UNICEF, Albanian Helsinki Committee, Save the Children, and Dutch experts, among others. Meanwhile, the medical staff had not received any specialist training.

The contacts with the director of the Lezha institution told us that the organic structure of this institution constituted of 43 civilian employees (9 in the Directory of Human Resources, 4 in the Directory of Legal Matters, 10 in Social Service, 12 in Health Service, 7 in Logistics, 2 in Finance) and 281 uniformed employees. Only one psychologist worked specifically with juveniles. In comparison with SIJ, there is a disproportionate and insufficient coverage of staff at the institution in Lezha, because it accommodates also a considerable number of adult detainees and prisoners. It should be noted that the Lezha institution has a capacity of 700 persons and has almost the same number of civilian employees as the Kavaja institution. This affects specifically the treatment of juveniles in this institution as they cannot have sufficient care and attention because of the small number of staff, in comparison to the number of detainees and prisoners.

Moreover, in the organogram of the institution there were shortcomings also with regard to a doctor and the director of a health service. The persons deprived of liberty were visited twice each month by the doctor from the IECS in Rrogozhina.

The interviews conducted with 21 juveniles showed that 7 had been convicted with a final decision, while the other 14 were still under investigation or at trial and were detained under the security measure 'arrest in prison'.

The average length of stay among the sample of interviewed convicted juveniles in the closed institution(s) was 8 months; the longest, 2 years, and the shortest, 1.5 months, while that of juvenile detainees in the closed institutions was 5.2 months; the longest, 12 months (in 2 cases) and the shortest 0.5 months.

There was a larger number of juveniles in pre-trial detention compared to those convicted. The arbitrary use of detention pending trial or of prolonged detention of juveniles not only contravenes International Standards, but also negatively affects the psychological and social development of the children, deprives them of their right to grow up near their families, to get education similar to the other children, and also makes them vulnerable to criminal influence. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) stipulate that detention pending trial shall be used as a measure of last resort and for the shortest possible period of time. These rules encourage the application of alternative measures of 'detention pending trial'.

Of the 21 juveniles interviewed, 20 stated that the first closed institution in which they were placed after being detained or arrested in the act was a police commissariat. 1 juvenile was detained in customs premises and subsequently transferred to a police commissariat. In 17 cases the juvenile stated that their detention or arrest in the act and their escort to a police commissariat was carried out by uniformed staff. In some cases juveniles claimed that they were detained or arrested by a very large number of uniformed police (from 4–10). In 2 cases, juveniles said that they were escorted by police officers without uniform. 2 of the juveniles said they turned themselves into the commissariat, where in 1 case a juvenile was escorted to the police station by his parents.

Asked whether special security measures were taken for them during their transfer from the commissariat to the penitentiary or between penitentiary institutions, 9 of the juveniles claimed that special security measures were taken, and 3 said that they were handcuffed.

Article 30, paragraph two of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that **"The authorities of the institution immediately provide written information to the detainees and prisoners about the rules in the institution, their rights and obligations"**. Asked whether the staff of the institution had informed them of their rights and obligations on admission to the penitentiary, 15 of the interviewed juveniles said that they had been informed, 5 of them claimed that they had not been informed, and there was no information for 1 of the juveniles. This same provision also stipulates that **"After admission into the institution, the newcomer is immediately subjected to a medical examination and interviewed by the**

***doctor of the institution in order to know of and prevent the spread of any contagious disease in the institution, suicide, and to record any injuries and damage in a timely manner***". 1 of the juveniles in IECS Lezha confirmed that he had not met the doctor of the institution.

Legal services, social affairs and health care employees said during their interviews that all the procedures provided by the law and the regulations for the admission of juvenile detainees and prisoners were upheld, and that the juveniles were informed of their rights and duties in accordance with the legislation. During the reception of juvenile detainees and prisoners by the multidisciplinary reception commission established by the institution, it was noticed that the newcomers were intimidated and afraid, and had no knowledge of the institution. In order to complete the juveniles' files that are administered in the institution, the commission asks them about their age, the criminal offence for which they are charged or convicted, their education level and special skills, among others.

### **c) Living conditions in the place of deprivation of liberty**

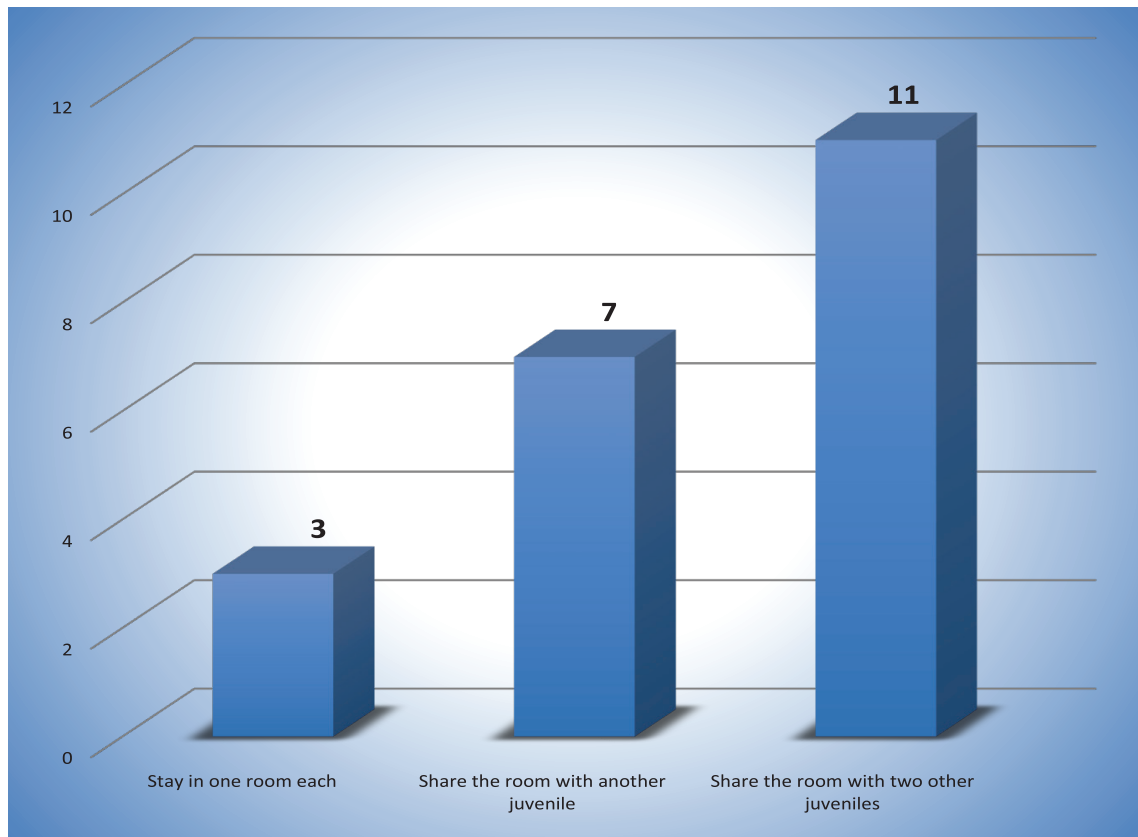
Article 24, paragraph 1 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that "The living spaces of the detainees and prisoners should have sufficient space with the necessary natural and artificial lightning to enable stay, work and active leisure, and be ventilated and equipped with sanitation services. Heating should be provided for the spaces if the climate conditions require it".

This law, as well as the General Regulation of Prisons, which was approved by the Council of Ministers, do not set out any specific provisions on the standards that should be met by the facilities where juvenile detainees and prisoners stay and sleep, including the equipment. We consider that the lack of such provisions in laws and bylaws does not ensure effective implementation of the principle of the best interests of the child. This legal gap leaves a wide range of discretion to the state authorities charged with the construction and maintenance of the premises where children are deprived of their liberty.

Article 30, paragraph 1 of the General Regulation of Prisons stipulates that "The specific conditions and possibilities of each IECS must be taken into account while accommodating detainees and prisoners, but, in any case, a space volume of no less than 9 m<sup>3</sup> and a residential area of not less than 4 m<sup>2</sup> per prisoner or detainee shall be provided to them, with windows allowing adequate ventilation and natural lighting for normal reading and working". Asked if the sleeping facilities had enough space for the number of people staying in the room, 16 of the juveniles interviewed said that they had enough space, while 5 of them claimed the space was insufficient.

Regarding the distribution of juveniles in rooms, in both institutions, 3 juveniles each had a separate room, 7 shared a room with another juvenile, and 11 shared a room with 2 other juveniles. 2 of the juveniles aged between 14 and 16 years shared a room with juveniles aged 16–18 years, while there is no such information for 2 of the juveniles. The conditions for juveniles in the accommodation and sleeping facilities in the IECS at Lezha gave the impression of a hierarchical treatment that was even favourable for some. For example, 2 juveniles shared one room, 5 shared another room, and 3 other boys had individual rooms.

Graphic 2: Distribution of juveniles in rooms



In the SIJ at Kavaja, the employees from legal services, social affairs and health care that were interviewed stated that the living and sleeping spaces were sufficient. The living and sleeping accommodation for juveniles in this institution were arranged and divided into four sections. In general, the physical condition of the sleeping facilities, canteen, toilets, showers, yards, and other facilities where juveniles stayed or took education classes, were adequate. Problems that were observed consisted of damp in classrooms and hallways, and lack of heat, as the heating system only operated if temperatures dropped below 5°C. The isolation rooms used for disciplinary measures for juveniles had no heating or cooling system. The monitoring team assessed that the conditions of the mattresses and beds were inadequate, and all the facilities indicated that the level of hygiene was unsatisfactory.

The children in the IECS at Lezha, which has a special section for juveniles, were separated from adults. However this separation was not real separation as required by International Standards. The juveniles had their own accommodation and sleeping areas, corridor and own floor. However, adults were housed on the ground and first floor of the same accommodation block and used the same entranceway. Adults can be seen from the children's windows and it appears that the majority of recreation activities are carried out alongside adults, enough to enable the children 'get to know the adults quite well'.<sup>97</sup> We were informed during the monitoring that the children were going to be moved to a new separate facility in a couple of months. However, when we monitored this new accommodation facility, it did not look like it could be completed within two

<sup>97</sup> Quote of staff consulted in Lezha on 7 November 2016

months, and it was still located within the grounds and the walls of the prison. Therefore, these new facilities will not provide sufficient separation of the children from the adults. Indeed, as the observers walked to this block they were heckled by the adults from the windows of their accommodation serving to prove how close the adults were to the children and how unsuitable the environment was for them.

The fact that the children are not separated from adults violates International Standards. Rule No. 26.3 of the Beijing Rules states that “Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults”.<sup>98</sup> In addition, the Havana Rules state that “Juveniles in all detention facilities should be separated from adults, unless they are members of the same family”<sup>99</sup>. General Comment No. 10 of the Convention on the Rights of the Child explains that “A child deprived of his or her liberty shall not be placed in an adult prison or in any other facility for adults. There is abundant evidence showing that the placement of children in adult prisons compromises their basic safety, well-being, and their future ability to remain free of crime and to reintegrate”<sup>100</sup>. The monitoring inside IECS at Lezha clearly identified that juveniles in this institution are insufficiently separated from adults. Because the accommodation of juveniles is extremely close to that of adults it is also noisy and chaotic, and does not in any way create a rehabilitative environment.

In IECS Lezha there is no electric lighting in the corridor outside of the boys’ sleeping rooms and it was dark even during the daytime. In addition, the floor was not entirely flat and one has to walk with care to avoid tripping. There were uncovered electric wires on the walls of the corridor, the boys’ accommodation and sleeping spaces, and in the common rooms used for activities. Some of the boys had covered the lights in their cells with material when sleeping, claiming that they were lit throughout the night. The noise, the darkness and proximity to adults in conflict with the law makes the environment for juveniles in this institution unsafe and intimidating.

Article 25, first paragraph of the Law ‘On the Rights and Treatment of Prisoners and Detainees’ provides that “Each detainee and prisoner shall be provided with clothes and other personal items in sufficient quantities, in good and tidy condition, such as to ensure the fulfilment of normal living conditions”. Asked if the clothes provided by the institution were appropriate and in accordance with the weather conditions, 10 of the juveniles stated that they had received them from their families, implying the inadequacy of the clothing of the institutions, 6 stated that they were appropriate, and 4 did not know. 1 juvenile stated that he had asked the institution to provide him with clothing appropriate for the season, but was told that the institution had no clothes available in stock. This juvenile fulfilled his needs for clothes through his friends in the institution. The bedding and the cells for the juveniles in IECS Lezha were in a poor condition. The juveniles had bedding, but it appeared there were not enough mattresses.

The legal services, social matters and health care employees that were interviewed in SIJ Kavaja said that the clothes of the juveniles lacking financial means were provided by various associations

<sup>98</sup> Article 26.3 of United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) adopted by the General Assembly resolution 40/33 of 29 November 1985

<sup>99</sup> Article 29: United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990 (Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

<sup>100</sup> Article 85 of General Comment No. 10 (2007) Children’s rights in juvenile justice, Committee on The Rights of The Child, 44th session, Geneva, 15 January–2 February 2007

and donors and not from the budget of the institution or the General Directorate of Prisons.

Article 27 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that "Detainees and prisoners shall be provided with healthy and sufficient food, appropriate for the age, health, work, climate, and season. [...] In special occasions and with the permission of the director of the institution, the detainees and prisoners can prepare and consume food personally". When asked about the meals and their source of food, all of the interviewed juveniles said they regularly consumed three meals a day. 6 juveniles claimed that their food was provided by their families. 3 juveniles claimed that they had a special diet, 2 said that they had no special diet, 15 responded "I don't know", and there was no information for 1 juvenile. The health care employees interviewed in SIJ Kavaja stated that there was no special diet for juveniles. This was also observed in the field survey. The monitoring of the kitchen facilities at the institution showed that the sample of conserved food was kept according to the rules, medical inspections were performed and recorded in a special register, and the health booklets of the kitchen staff were posted. The quality of the food in this institution was assessed as adequate, but not satisfying. The quality of kitchen cutlery in this institution was evaluated as inadequate.

The juveniles were asked about what improvements could be made to their situation in the institution and 3 of them said that they had no specific needs and they considered the conditions and treatment by the staff as positive. 3 juveniles responded that they wanted better conditions, more activities, and better service from the staff of the institution, including health care. 9 of the interviewed juveniles requested a television in their room and a refrigerator, or both. There was no information for 6 juveniles.

#### **d) Health care and environment**

Article 33 of the Law 'On the Rights and Treatment of Prisoners and Detainees' stipulates that the health care service is provided by the Directorate General of Prisons throughout the entire stay in the institution and is covered by the mandatory health care insurance. The organisation and implementation of the health service is carried out by the administration of the institution, in cooperation with the prisons' hospital and the relevant national health care agencies. The health services should ensure the prevention, diagnosis and treatment of diseases, supply of medicines and medical equipment in case of emergency, environmental sanitation and hygiene education for detainees and prisoners. This provision also stipulates that the medical staff carries out daily visits to sick detainees and prisoners and to those requesting it verbally or in writing, as well as periodical checks for all detainees and prisoners, according to a schedule prepared by the management of the institution.

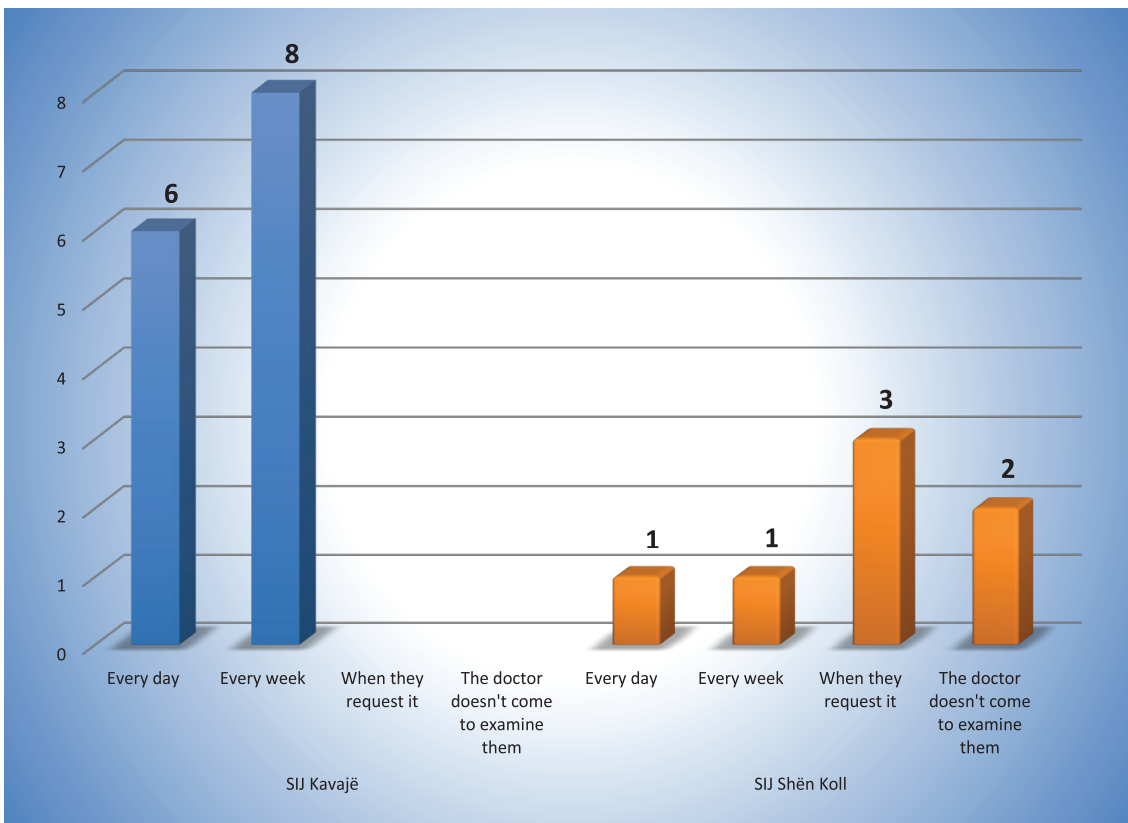
Asked whether they were able to maintain personal hygiene and were provided with appropriate items for maintaining personal hygiene, 13 of the juveniles answered "yes" and 6 said that sometimes they were provided with these items and sometimes they were not. There was no information for 2 of the juveniles.

Lack of hygiene, tidiness and clean facilities were noticed in the IECS at Lezha. In the premises that were monitored, the observers found rubbish, broken glass on the floor in one room, piles of rubbish in the corridors and cigarette butts in the corners of rooms and corridors, uneven and broken flooring, and a broken and hazardous boulder covering the drainage system outside the children’s accommodation block.

Asked about the provision of necessary items to maintain hygiene, the staff of SIJ Kavaja replied that they were not fully ensured. Body detergents such as shampoo and items for mouth hygiene, such as toothpaste, were the main shortages noted. Field monitoring at SIJ Kavaja showed that the amount of detergents in this institution was not sufficient.

Asked about how many times they were examined by a doctor, 6 of the juveniles interviewed in SIJ Kavaja responded that examinations were carried out on a weekly basis, and that they had regular daily contacts with the doctor of the institution. Also, 8 of the juveniles in SIJ Kavaja and one juvenile in IECS Lezha claimed that they were examined on a weekly basis but gave no details on daily contact. 1 of the children in Lezha claimed that he had daily contact with the institution doctor. 3 of the juveniles in Lezha claimed that the doctor came and contacted or examined them when requested, implying the absence of periodic examinations. 2 juveniles in IECS Lezha claimed that the doctor did not come to examine them.

**Graphic 3:** *Contacts between children and doctor*





The health care staff interviewed in SIJ Kavaja recommended that a psychiatrist be employed in the institution, which should also have an ambulance. The most common diseases affecting juveniles in this institution were seasonal viruses. The monitoring found that there was no patients ward, referring hospital or health clinic. The institution did not have the medical staff or capacity to offer health care to juveniles suffering from mental illness. The monitoring found no irregularities in this institution in terms of administration of medical files, or problems related to medicines and the environment of the rooms where medical examinations were performed. Sterilisation of the equipment of the dental ward was carried out in private laboratories or clinics, while the dental surgeon was also employed in Kavaja community hospital.

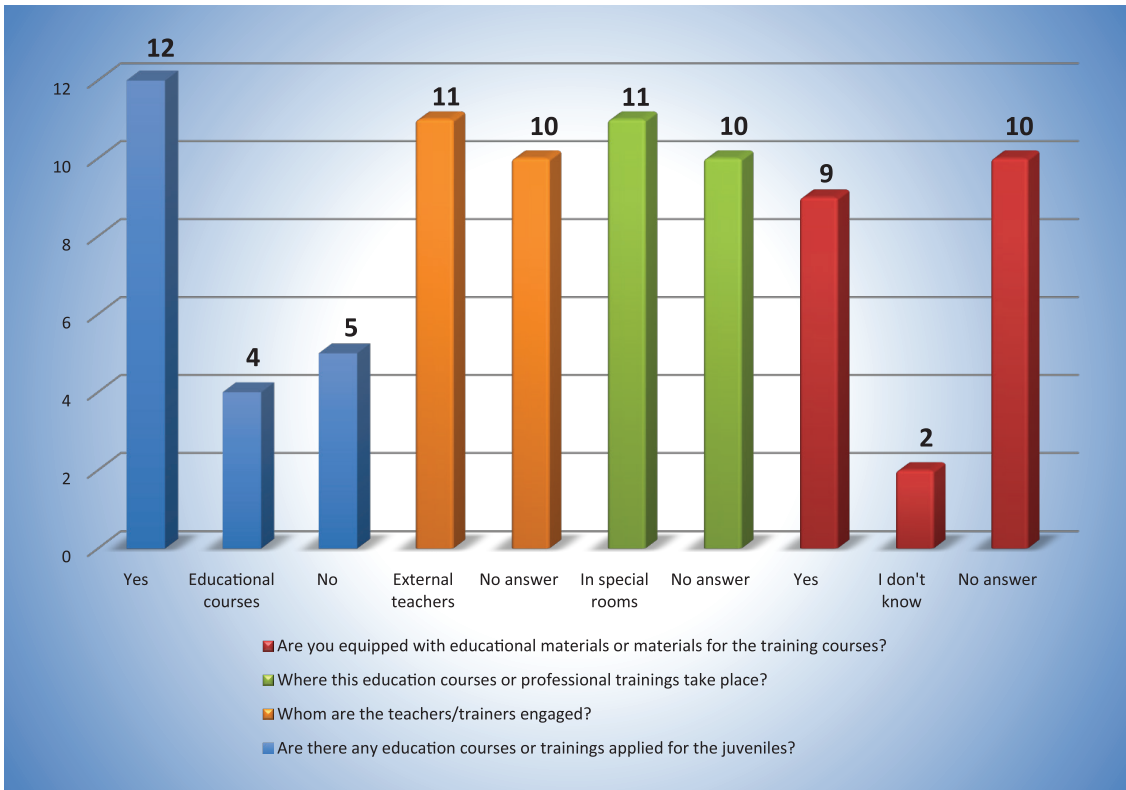
#### **e) Education, vocational training**

Article 37 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that "Education and vocational and cultural training is done through the organisation of school, which is compulsory for juveniles, as well as professional courses according to the applicable systems. The attendance of professional studies through distance courses is urged and favoured. The prison administration encourages and creates the conditions for vocational training within and outside the institution. Special attention is paid to the cultural and vocational training of detainees and prisoners younger than 25 years of age".

Asked if there were any education courses or trainings applied for juveniles in the monitored institutions, 12 of the respondents answered "yes", 4 juveniles said that there were courses for compulsory education, but no training courses, while 5 answered "no". Asked if they were attending any educational or professional course in the monitored institutions, 9 juveniles answered "yes", 2 specified that they were also attending professional carpentry courses. 1 of the juveniles claimed to have previously attended a twice weekly vocational welding course, which he had completed. 4 said they did not attend such courses, and there was no information for 7 juveniles. Asked about the teachers or trainers engaged in the educational courses, 11 of the juveniles claimed that they were external teachers or trainers, while there was no such information from the other 10 juveniles interviewed. Asked about where these education courses or professional trainings take place, 11 of the juveniles stated that they were carried out in special rooms or facilities, which were not the juveniles' dormitories, while there was no information from the 10 other juveniles interviewed. Asked if they were equipped with the necessary materials for these courses, 9 juveniles responded positively, 2 responded that they didn't know, while there was no information from the other 10 juveniles.



Graphic 4: Juvenile education services



The legal services, social matters and health care employees interviewed in SIJ Kavaja stated that courses for compulsory education (grades 1 to 9) and vocational training were provided for juveniles. The vocational training courses were for professions such as electrician, plumber, welder and carpenter. These courses were offered on a daily basis by external teachers and were conducted in specific rooms at the institution. The monitoring identified that there was a lack of qualified teachers to implement courses for compulsory education and vocational training. Also, the juveniles were equipped with education materials that had been in some cases donated by private schools. It was found that the quantity of educational materials was unsatisfactory. A greater variety of vocational training courses is recommended and should not necessarily be related to manual labour or the physical strength of the juveniles, and should include subjects such as IT, secretarial, assistant, foreign language courses. The institution had a library of books, though the observation team regarded the stock as insufficient. In some cases, the juveniles recommended a greater variety of books for the library.

The observation of the facilities where education programmes were carried out—called classrooms—in IECS Lezha found that they were clean but cold, and furthermore, they had the appearance of a place that was not used regularly. The children contacted in this institution did not seem to attend school or education and at the time of the observation were locked in the dormitories (their residence and sleeping facilities). It was not clear where the juveniles who were missing from these dormitories were as they were not in the classroom of the institution either. Also, there was no evidence that the children in the special section attended any vocational training courses.

**f) Psychological and social care, free time and religious practices**

Article 37 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that, among other things, "The objectives of the psychological and social treatment aim to develop the personal skills and habits to reintegrate into society through the involvement of the detainees and prisoners in programmes of education, vocational training, employment, cultural activities, sports, and psychological and social counselling. The social and educational treatment of the detainees and prisoners is carried out through individual actions and educational activities. This treatment is carried out by the staff of the institution that have the relevant educational background and professional skills, in cooperation with other employees of the institution".

Meanwhile, Article 38 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that, among other things, "The organisation of cultural, recreational and sports activities should aim at preserving and developing the physical, spiritual and psychological skills of the detainees and prisoners. A special programme is developed for juvenile offenders in collaboration with them for their inclusion in cultural, creative, and sport activities".

Asked whether they have time to carry out physical exercises in the institution, 17 of the juveniles answered positively, 2 responded "yes", specifying also that they have no interest in such exercises or prefer not to do them, while 2 juveniles said that they do not have time for exercise. Asked whether the younger juveniles have the same opportunities as older juveniles for participating in sports and recreational games, 19 responded positively, and 1 claimed that younger juveniles do not want to engage in such activities. 1 of the juveniles responded "no" and 1 other "I do not know". The legal services and social matters employees interviewed in SIJ Kavaja said that the juveniles in this institution do have time to undertake physical exercise and younger juveniles have the same opportunities as older juveniles to participate in sports and recreational games. Asked about the types of sports and cultural activities, the staff of SIJ Kavaja said that juveniles engage in football, volleyball, Ping-Pong, go to the gym, play cards, listen to the radio and watch TV. The answers that were given do not reflect a diverse range of cultural activities for the juveniles in this institution.

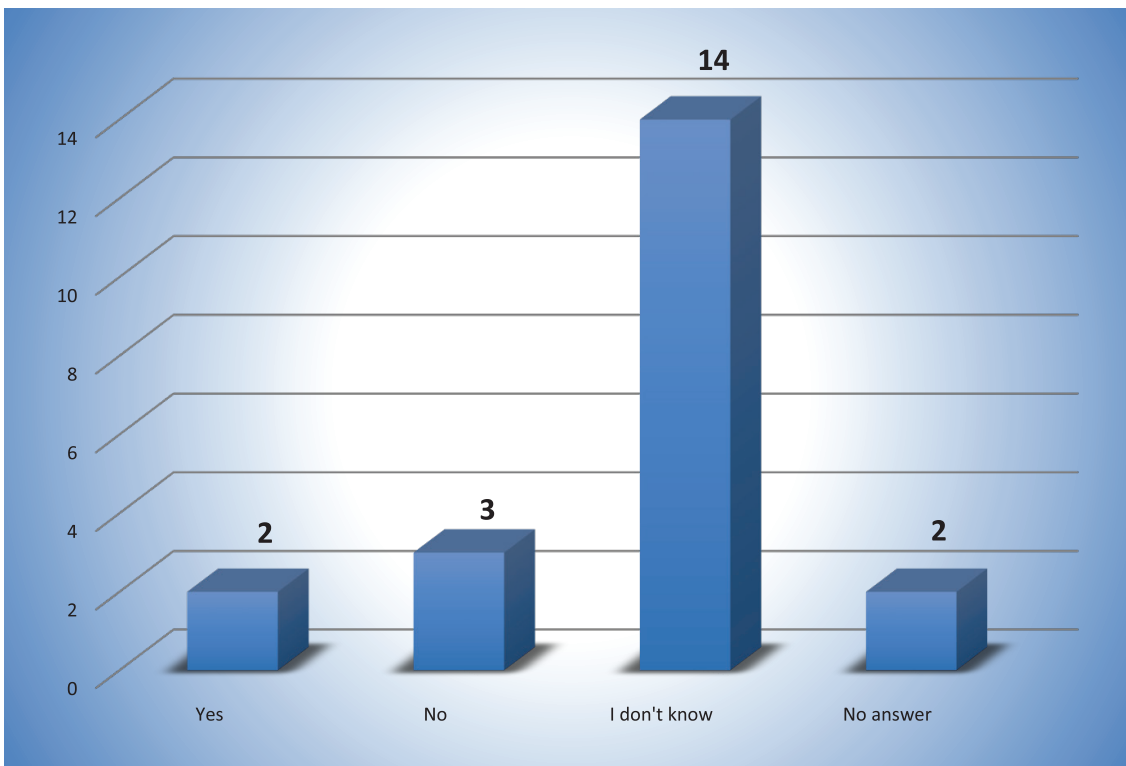
Asked about which sport or cultural activities are most appropriate, 16 juveniles stated that their favourite or one of their most preferred, activities was sport. 2 juveniles in IECS Lezha complained of the lack of a gym or equipment to play sports (e.g. there was no ball, which they had to obtain from the family) and the rare times that these sports would take place. 8 juveniles stated that their favourite, or one of the most preferred, activities was playing cards or chess, and three stated a preference for computers, television and other games.

Articles 10 and 11 of the Law 'On the Rights and Treatment of Prisoners and Detainees' outline the need for the individualisation of the treatment of a person deprived of his or her liberty by assessing the individual's psychological, social status, age, health, sexual orientation or gender identity, cultural and economic situation, the environment where the detainee or the prisoner is housed, the risk factors and the motivation to engage in the activities organised in the institution. After the evaluation process, the treatment programme is completed in cooperation with the

detainee or prisoner. A reintegration plan is prepared for each detainee and prisoner, while a personal treatment programme is developed for special categories of detainees and prisoners taking into account their specific needs. Special importance in this regard is paid, among other things, to the psycho-social and social treatment of juvenile detainees and prisoners. In SIJ Kavaja it was found that there were no individualised treatment plans for juveniles, except for one juvenile who suffered severe mental health problems.

Asked whether special care is provided to children with psychological problems or needs, 2 juveniles responded positively and 1 of them said that he was shaken when he arrived in the institution and that conversations with the psychologist had made him feel better. 2 of the juveniles stated that there was no special treatment, and 1 of them also specified that he didn't have good relations with the uniformed personnel responsible for the security of his room, implying the need for support from the education employees. 14 of the juveniles interviewed answered "I don't know", and there was no information for 2 juveniles. These answers imply that juveniles do not have complete information on what special care and psycho-social treatment mean, and that it cannot be confined to a conversation with a psychologist but should also involve inclusion in other group therapy and recreational activities.

**Graphic 5:** *Juvenile psycho-social treatment*



Although the staff in IECS Lezha stated that the children's area for recreational activities is separate from those of adults, it was in fact separated by only a walkway and a metal fence, and that there was no visual separation between them. A staff member who identified himself as a psychologist said that he carried out therapeutic activities with the children every day. However, he described these activities as playing cards and football and he did not appear to be undertaking any counselling or real therapeutic activities. He mentioned that he was the psychologist for the entire prison (for both juveniles and adults) with a capacity of approximately 800 men.

Article 42 of the Law 'On the Rights and Treatment of Prisoners and Detainees' stipulates, among other things, that "The detainees and prisoners have the right to freedom of religion and the right to practice religious rites. The institution provides special facilities for the practice of religious rites". Asked whether the institution where the juveniles are accommodated provides religious services, 18 of the interviewed juveniles said that they did, while 4 specified that they did not attend such services. 2 of the juveniles said that they didn't know. 1 of the juveniles said that he had asked to attend eight months ago, but his request was rejected. Asked about the religious services, the staff of SIJ Kavaja said that the institution has two separate facilities for practising religion. The Christian and Islamic religious representatives were allowed to perform pastoral visits with the juveniles of their religion in this institution at suitable hours.

#### **g) Protection from torture, inhuman or degrading treatment and violence in general**

Article 5/1 of the Law 'On the Rights and Treatment of Prisoners and Detainees' stipulates the immediate provision of protection and support measures and legal counselling for the rehabilitation of detainees and prisoners who have experienced physical, psychological or sexual abuse before or during their stay in the institution. This article also provides that in all cases of abuse in the institutions for serving of criminal sentences the authorities of the institution promptly enable the initiation of an independent investigation by the relevant structures and bodies mandated by the law, upholding the principles of privacy, protection and personal safety.

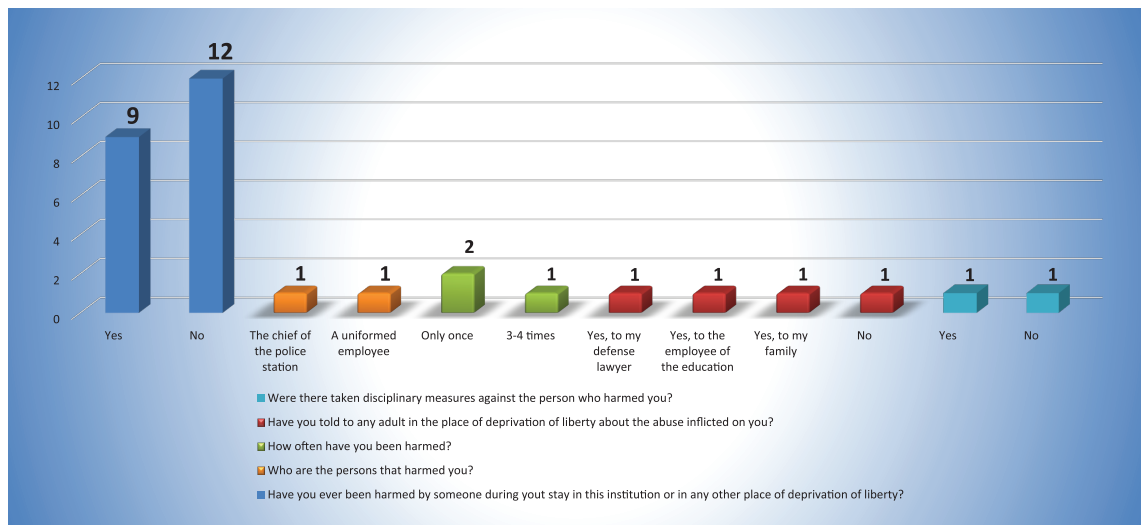
Article 57 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides that "The use of physical force against detainees and prisoners is not allowed, unless it is necessary to stop acts of violence, attempts of escape from the institution, and to subdue resistance, even if it is passive, to follow the issued orders. [...] The means of physical restraint cannot be used as punishment, but only in cases expressly stated in the regulation and to avoid attempts of escape from the institution, violence against persons, damage to items, as well as to ensure the health of the detainees and prisoners themselves. The use of physical restraint should be limited in time and after a period of 72 hours the institution must obtain the approval of the prosecutor. During the physical restraint, the detainee and the prisoner should be under constant supervision of the health care service". Meanwhile, article 58 of this law prohibits the use of means of force and restraint, of those that constitute weapons or narcotic substances in the sense of the Criminal Code, and those of a torturous or hypnotic nature. This provision is recommended to be reviewed and to comply with the Convention of the Council of Europe on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as the Convention of the United Nation Organisation against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

For this reason, the phrase 'cruel, inhuman and degrading' is suggested to be added after the word 'torturing' in Article 58 of the law.

Article 33/1 contains a provision on the health care for specific categories. This article stipulates that "Women and girls that have experienced physical, psychological or sexual abuse are subjected to health care programmes for their treatment and rehabilitation". Taking into consideration the number of juveniles in the penitentiary system, particularly males, and given that this category is also highly vulnerable to various forms of violence, we would suggest that the health care programmes for their treatment and rehabilitation be also offered to detained and imprisoned boys. This would require the revision of the provision to include this specific category, too.

Asked if they had ever been harmed by someone during their stay in this institution or in any other place of deprivation of liberty, 9 of the interviewed juveniles responded that they had been harmed. 4 of these juveniles claimed that they had been abused during their stay in the police commissariat. For the others there was the implication that they had been abused during their stay in the penitentiaries and 2 of them stated that they had been victims of psychological abuse. 12 juveniles stated that they had not been harmed during their stay in the institutions. 2 juveniles answered the question on the identity of the persons that had harmed them, saying that they were the chief of the police station, and a uniformed employee. Only 3 of the interviewed juveniles answered the question about the frequency of harm inflicted on them. 2 said that they had been abused only once, while the third said he had been abused 3–4 times. Only 4 juveniles answered the question of whether they had told any adult in the place of deprivation of liberty about the abuse inflicted on them. 3 answered in the affirmative, while the other hadn't told anyone. It appears that one of them told his defence lawyer, one had told to an employee in the education section in the institution and one had told his family. Only 2 juveniles answered the question of whether disciplinary measures had been taken against the person who had harmed them. 1 juvenile stated that his lawyer had denounced the violence during the trial, and that measures had been taken against that person, but he did not specify the type of measure. The other juvenile stated that he hadn't told anyone of the abuse he had suffered and, therefore, no measures had been taken against the person who had abused him.

Graphic 6: Juvenile violence



The way the staff interacted with the children in the IECS at Shën Koll left room to suspect that they may be mistreated. One staff member gave a small shove to one child as he was being escorted down the corridor in front of the observation team, and laughed in a way that suggested that this bullying treatment is typical and not even acknowledged as abusive or intimidating. This was extremely concerning. Many officers crowded around the children when the observation team asked them questions and the children tended to look at them before answering our questions, as if they wanted to be sure they were saying the right thing. This behaviour paints a picture of an environment in which children's rights and needs are not being sufficiently catered for and that they are afraid of being rebuked if they do not say the right thing.

The employees of the legal services and social matters in SIJ Kavaja were interviewed and asked whether there had been incidents of abuse of juveniles, or abuse of a juvenile by another juvenile in this environment. They responded "yes". Mostly, the juveniles were victims of psychological and verbal abuse, though there were also cases of physical abuse. These violent incidents occurred among the juveniles themselves, though there were also cases of physical and verbal abuse by the security staff of the institution. Nevertheless, the staff reported that such incidents were rare. Asked about the measures taken against the abusers, the respondents stated that they were unaware of any measures taken against the institution employees, though in one case the Internal Affairs and Grievance Service had become involved. In cases when the abuser was a juvenile, disciplinary measures were taken, including exclusion from shared activities, separation and retention in certain environments, penalties to obtain reward permits, or special permissions.

The staff interviewed in SIJ Kavaja stated that the juveniles were not subject to cruel, inhuman or degrading punishment or treatment. Asked if they have or used means of physical restraint of juveniles—handcuffs, chains and strait jackets—SIJ Kavaja staff replied that they do possess such equipment, but do not use it and do not keep it on the premises. Asked whether the means of physical restraint were used only in exceptional circumstances (e.g. as a last resort to prevent injury to oneself, injury to others or destruction of property), the staff responded that there had

been no such cases, but that they would use these means if such cases occurred in the future. Security cameras in the institution were operational and the staff had been trained by UNICEF and Save the Children in conflict management and resolution.

Asked if they feel safe in the penitentiary and if they have good relationships with the staff of the institutions, 18 of the interviewed juveniles said that they did feel safe and had good relations. There was no information for 3 juveniles. Asked whether they had good relations with other juveniles deprived of their liberty, 16 juveniles, 14 of whom were in SIJ Kavaja and 2 in IECS Lezha responded affirmatively. 3 juveniles in IECS Lezha claimed that they had had conflicts with other juveniles, but 2 of them said that these arguments were rare. There was no information for 2 of the juveniles.

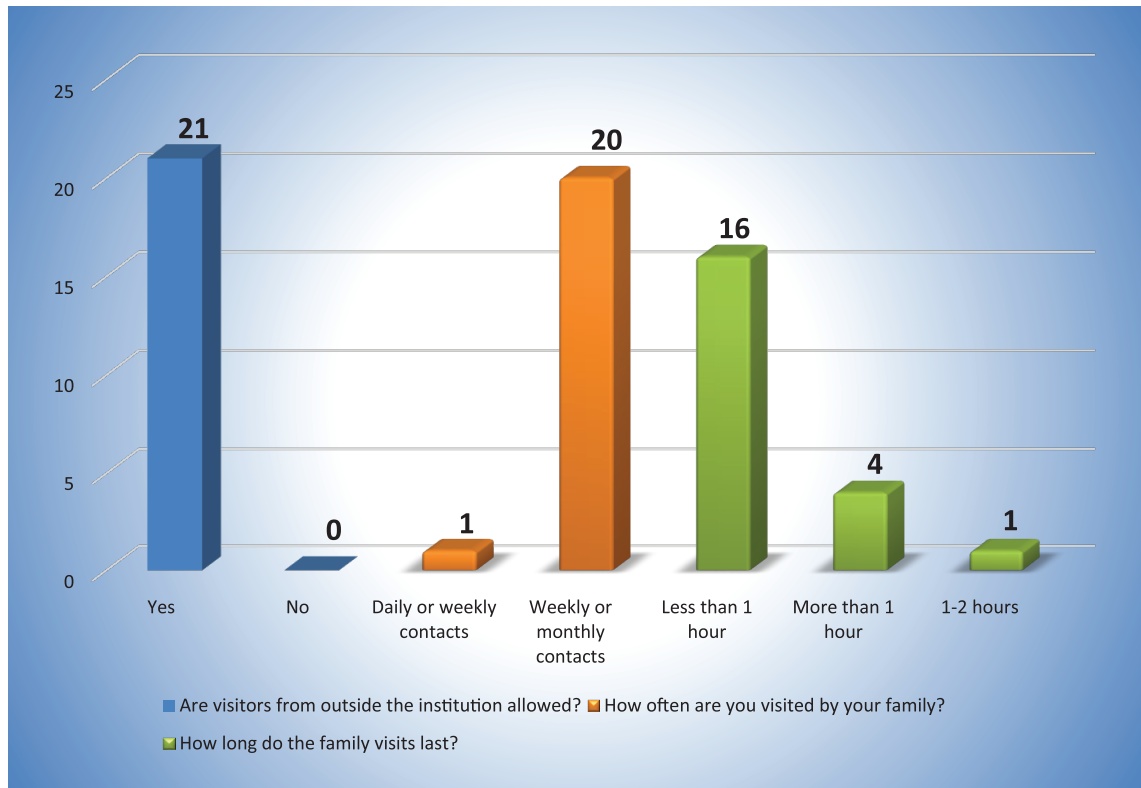
#### h) **Community, contacts and reintegration**

Article 30 of the Law 'On the Rights and Treatment of Prisoners and Detainees', provides that communication with the outside world and family is encouraged, and provided according to personal and group programmes. Interviews with the juveniles in the penitentiaries and even those with the staff of these institutions found no particular favourable treatment regarding the contacts of juveniles with their family members and relatives. In fact, this is a special obligation provided for in the last paragraph of Article 40 of this law, stipulating that "A special and favourable programme to contact their families is prepared for juvenile detainees and prisoners and for women with young children". The same favourable treatment as pertaining to correspondence and meetings with family members is also provided for juvenile detainees and prisoners in the final paragraph of Article 41 of this law.

All the juveniles answered "yes" to the question if visits from outside the institution were allowed. 1 juvenile said that, although visits were permitted, he had had no contact with his family and his grandmother. Asked about the frequency of visits, most juveniles confirmed that they had weekly or monthly contact with their family, with 1 saying that he had daily or weekly contact with his family. Asked about the permitted duration of the stay of visitors, 16 juveniles claimed that they meet their families for less than an hour, 4 juveniles stated that they were allowed to stay longer than one hour with their family if they sought permission, and 1 juvenile said that he met his family members for a duration of 1–2 hours. The legal services and social matter employees interviewed in SIJ Kavaja confirmed the regular and periodic contacts of juveniles with families, lasting one hour on average.



**Graphic 7:** *Communication of the juveniles with the family*



As stated above, Article 41 of the Law ‘On the Rights and Treatment of Prisoners and Detainees’ stipulates that “Favourable treatment is applied to juvenile detainees and prisoners regarding phone calls and meetings with families”. Meanwhile, Article 40 of the General Regulation of Prisons provides that detainees and prisoners have the right to meet family members, relatives and friends four times a month. Children have the right to meet their family eight times a month. The Director of IECS may grant justified additional meetings to detainees and prisoners. It is recommended to include in the General Regulation of Prisons the highest minimum limits of the frequency of visits to juveniles by their families and also to establish high minimum limits of the duration of the meetings. In this way, the bureaucracy related to seeking permission would be avoided and the broad discretion of the directors of the penitentiaries would be limited.

Asked about the means of communication with the outside world, 20 of the juveniles interviewed said that telephone was one such means. Fourteen of the juveniles stated that television was one of the means, sometimes combined with telephony devices. Juveniles did not state that they used any other means of communication: newspapers, magazines or radio. The legal service and social matters employees interviewed in SIJ Kavaja confirmed that the main communication means were television and telephone. Apparently, newspapers and magazines are to be purchased by the juveniles themselves. The final paragraph of Article 41 provides that Prisoners are allowed to keep newspapers, magazines and books that are sold freely outside and to use other permissible means of information. Newspapers, magazines, literature and educational books should be free of charge for juveniles in conflict with the law in the penitentiaries. Also, it is recommended



these institutions promote the writing and publication of newspapers or periodicals dedicated to juveniles that feature articles of the institutions' staff and stories of juveniles deprived of their liberty, serving as a means of education and re-integration of juvenile offenders.

Asked if they could easily communicate with their lawyers, 19 of the juveniles interviewed responded positively. 1 stated that, initially, a state lawyer was appointed to him, but they did not seem professional enough so he hired a private lawyer. 2 juveniles said that they had had no contacts with lawyers. The first said that he did not know if he had a lawyer and, therefore, had never met him or her. The second said that he had not asked for a lawyer and had had no contact with his family either. The legal service and social matters employees interviewed in SIJ Kavaja confirmed that juveniles can communicate freely with their lawyers. Both institutions that were monitored did not have a legal office to provide free legal services to juveniles. The requests of juveniles in SIJ Kavaja for legal counselling were fulfilled by the legal practitioner of the institution.

Article 8 of the law on the rights of prisoners and detainees sets out their right to submit requests and to file complaints regarding implementation of laws and internal regulations in the manner set forth in this law, and individually. Such complaints in SIJ Kavaja were handled through the social services. The institution has a separate register for requests and complaints and usually replies are provided verbally to the juveniles.

Article 9 of the Law 'On the Rights and Treatment of Prisoners and Detainees' provides for their rehabilitation and reintegration. Pursuant to this provision, the treatment of detainees and prisoners aims at rehabilitating them for their reintegration into family, social and economic life. Preparation for reintegration begins in detention, continues during the duration of their sentence and following their release from prison. The preparation for the reintegration of juvenile detainees and prisoners is carried out in cooperation with them, the social worker, and his or her family or guardian. This article also stipulates that "The institutions for serving of criminal sentences, in cooperation with the probation service, social welfare services, local authorities and non-profit organisations, develop pre-release reintegration programmes to address gender issues". Cooperation between institutions and organisations should be provided by the law, not just to address gender issues, but also to address other issues related to vulnerable groups such as juveniles by encouraging such cooperation in terms of education, training, and integration into the family and community. The staff of the institution in SIJ Kavaja was asked if events for juveniles are planned there to help them return into the community, family life, education and employment after release, and they answered that the institution sends a letter to the relevant municipalities. This is an obligation provided for in the Law 'On the Rights and Treatment of Prisoners and Detainees', specifically, Article 75/2, which states that, among other things, "In cases where the released detainee has no housing or transportation possibilities for his family, the director of the institution, in cooperation with local institutions and other organisations, provides the housing and transportation". The legal obligation set out in this provision should be broader, related not only to housing and transport, but also to other needs that juveniles have, especially upon release. Also, this obligation should not be limited to penitentiaries and local authorities, but should extend to central institutions and, in particular, to ministries that deal with compulsory and vocational education, sports and other matters of a social nature.

## Main findings

Asked if they were aware of any restrictions that may be placed upon them upon release, 7 of the interviewed juveniles answered "No", 1 answered "Yes", while there was no such information from the other juveniles. Asked if they were aware of the possibility of applying for release on parole or alternative sentences and the supervision performed by the probation services as pertaining to these sentences, 7 juveniles answered "No", 1 answered "I do not know", and there was no such information from the other juveniles.



## VIII. Recommendations

- Separation between juveniles and adults is one of the most important principles in the juvenile justice System. For children in detention, in particular, it is essential that they are separated from adults, because adult criminals can have a very destructive effect on children and the latter need to be protected from them.
- The country needs to ensure a fair process with a view to guarantee that the rights of the children are being respected. Most police commissariats were implementing the right procedures for interrogation, for instance children were accompanied by parents, a lawyer and a psychologist, but Roma children were less likely to have these conditions met. Their parents weren't being contacted and therefore the rights of Roma children weren't respected and treated in the same way.
- Children of Lezha prison should move to Kavaja SIJ and the juvenile session in Lezha needs to be permanently closed.
- Data on juvenile justice should be collected and reported, in order to inform the government for necessary policy changes and commitment to improve the situation of the children on the ground.
- Putting children in the prison is a trauma. This is more likely to hurt and make them less able to make a living with dignity and in respect of the law. Indeed, there is compelling evidence to suggest that detaining children is likely to push them to commit other offences when they leave the prison.
- The sentencing for those children that are in detention needs to be used in the most effective way by helping them to become the best people they can be when they leave the prison. In order to do this, a system needs to be put in place to support their growth and development, through professionals who work there and with them.
- The state needs to allocate funds and dedicate resources to enhance the training and professionalization of the police, prosecutors and prisons personnel, in order for them to feel confident and happy to work with juveniles.
- Professionals in the justice system, social services, accommodation/ housing and health services must work together and try to find joint solutions.
- There should be a clear and individual plan of action developed for every child, based on a full assessment of the situation and background of the child. The Plan should indicate an effective roadmap for the entire duration of the sentence should envisage education and vocational training opportunities and help children to build good relationships with the staff.

In this way, children should be supported to address the core factors that pushed them to commit an offense and hopefully to refrain from breaking the law again in the future.

- The monitoring of the People's Advocate pointed out that, in general, the situation for juveniles in conflict with the law is satisfactory. However, urgent action is needed to remove the child population from the Shën Koll facility.
- Given that many police stations have experienced challenges with Roma children, measures should be put in place to ensure effective communication with these children, stemming from the absence of parents in the pre-trial detention and custody processes, as evidenced in this report.
- Institutional cooperation should take priority, with a view to reach to effective and immediate solutions related to education and vocational training opportunities in the facility of Kavaja.
- The police commissariats do not, in general, have the necessary specific facilities for interviewing or holding children. Even when efforts are made to adapt premises these are still inadequate to hold juveniles. Therefore measures should be taken to ensure full compliance with the legal framework in force. These facilities should ensure the required standards of natural lighting, airing, hygiene and heating are met.
- In order to comply with the above findings, it is recommended that the commissariats should be properly equipped with such facilities for children that ensure age and sex separation. It is recommended that the construction or adaptation of such facilities should observe there quire physical conditions, such as natural lighting and airing, ventilation, sanitation and heating.
- The interviewing and interrogation of children in police commissariats is not carried out in adequate and appropriate premises, but rather in improvised places, causing their intimidation.
- This is a violation of the normative standards in force. It is recommended that measures are taken to equip police commissariats and departments with appropriate facilities for interviewing children.
- In particular, the interviewing of Roma children is especially challenging. Pursuant to the legal framework in force, interrogation by a judicial police officer should be carried out in the presence of a psychologist or a lawyer, whereas the monitoring pointed out that the presence of the lawyer or psychologist is not always ensured. This is a serious violation, as it also interrogates the child without the latter being provided with the adequate legal information. Consequently, it is imperative to post a list of lawyers in the premises of police commissariats with the purpose of avoiding such situations.
- Interviews with all children, including Roma children, should be carried out according to the national and international standards. In addition, it is recommended that the rights of escorted, detained and arrested persons be clearly displayed in the premises of the commissariats, along with a list of lawyers and their phone numbers.

## IX. Appendices

**Annex A:** Information on the monitoring of SIJ Kavaja and IECS Lezha, police stations and Tirana Police Department in the framework of the initiative “Strengthening the capacity of the People’s Advocate to investigate and address cases of ill-treatment of children in detention”.

### *Inspections and observations at SIJ Kavaja and IECS Lezha*

No	Institution	Date	Interviewers and Observers
1.	SIJ Kavaja	8.11.2016	Marianne Moore, Irismilda Gjoni, Iva Bregasi, Ervin Pupe, Ira Papagjika dhe Matilda Tyli
2.	ISCS Lezha	7.11.2016	Marianne Moore, Eridjona Kica
3.	ISCS Lezha	18.11.2016	Iva Bregasi, Ira Papagjika, Matilda Tyli

### *Inspections and observations at five police stations and Tirana Police Department*

No	Police Station	Date	Interviewers and Observers
1.	No. 1	17.11.2016	Irismilda Gjonaj, Iva Bregasi, Matilda Tyli, Ira Papagjika
2.	No. 4	17.11.2016	Irismilda Gjonaj, Iva Bregasi, Matilda Tyli, Ira Papagjika
3.	No. 2	21.11.2016	Irismilda Gjonaj, Matilda Tyli, Ira Papagjika
4.	No. 6	21.11.2016	Irismilda Gjonaj, Matilda Tyli, Ira Papagjika
5.	No. 3	21.11.2016	Irismilda Gjonaj, Iva Bregasi, Matilda Tyli, Ira Papagjika
6.	Police Department	24.11.2016	Irismilda Gjonaj, Iva Bregasi, Matilda Tyli, Ira Papagjika

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General Regulation of Prisons, articles 13, 21, 23/ par. 9, 27, 29/ par. 3, 32, 43.1, 44.1, 44.2, 54, 57.7, 70, 83, 86.1, 105, 293

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Law No.8328, dated 16.4.1998 'On the Rights and Treatment of Prisoners and Detainees', as amended by Law No. 40/2014, dated 17.4.2014 (Articles 32, 33, 33/1, 34, 35, 37, 38, 39, 39/ par. 2, 41, 42)

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United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990 (Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990 (Article 29)

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by General Assembly resolution 45/113 of 14 December 1990 (rule 24, commentary of rule 24, rule 26.2, commentary of rules 26.2, 26.3, 26.4, 29, 29.1, 40, 43, 44, 45, 47, 49, 51)



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