



**Organization for Security and Co-operation in Europe
OSCE Presence in Albania**

Rule of Law/Human Rights Department

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Pre-Trial Detention Situation Survey

Methodology

The survey on the situation of the pre-trial detention system in Albania started in June 2003 as an initiative of the Human Rights Unit of the OSCE Presence in Albania. A questionnaire with 25 questions (see Annex I) was prepared and distributed to all the OSCE Presence Field Stations. The Field Stations visited the 25 pre-trial detention sites in Albania during the period July – August 2003.

The visits were conducted based on the following plan:

- The Field Stations contacted the highest ranking Police Chief on duty and informed him about the purpose of the visit;
- They asked the Police the questions included in the questionnaire designed for them,
- Took a tour of the pre-trial detention area;
- Asked for permission to talk to some detainees in private and ask them questions included in the questionnaire designed for them,
- Made a personal assessment of the situation,
- Thanked the Police for their co-operation.

The Field Stations staff were advised to inform police about their visit a couple of hours in advance in order to ensure their availability.

The OSCE staff reported that all the interviews with the detainees were conducted in total privacy. The police officers behavior was described as very efficient and many of them thanked the Field Stations staff for visiting the pre-trial detention sites and appreciated the update of the pre-trial detention survey.

General information about pre-trial detention system in Albania

1. The number of pre-trial detention sites in Albania is 25. They are located close to or inside the respective police commissariats (see Annex II). Although there have been efforts to reconstruct some of those sites, their conditions are very poor. The capacity of all the pre-trial detention sites in Albania is 825, but according to a report by the Ministry of Public Order, the number of detainees that occupied them in June 2003 was 1416 detainees, out of whom 384 were convicted prisoners. (see Annex III)

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2. A Council of Ministers decision, No. 327, dated 15 May 2003 "On the transfer of the pre-trial detention system under the Ministry of Justice"¹ set the grounds for the transfer of the responsibility over those sites from the Ministry of Public Order to the Ministry of Justice. Based on this decision, the Ministry of Public Order and the Ministry of Justice, have signed an agreement to do a step by step process of handing over the pre-trial detention sites. This process, which was supposed to start in August 2003 and finish by April 2004, has only started in September 2003, when the first pre-trial detention site located close to Vlora Police Commissariat was passed under the responsibility of Prisons Police.

Physical conditions of the sites

3. The OSCE staff visited a total of 316 detention cells. The number of detainees in each cell differed from 1 to 19 detainees, according to the size of the cell. However, that principle was not always respected since smaller cells with more inmates than the bigger ones were reported like the case of Saranda. The conditions of the pre-trial detention sites are very poor. The environment is bad aired and smelly. Their infrastructure is old despite efforts done in the last years to reconstruct some of the sites.

4. The pre-trial detention rooms are extremely small, some of them up to 1,5 m x 4m. In many places people inside rooms were forced to lay narrowly side by side and head to feet like in a sardine tin, or even had to sleep in shifts. Very small cells of 2m² with two detainees inside have been reported in Skrapar and Berat, while a very narrow room of less than one meter square has been reported in Përmet. The rooms do not have any furniture or equipment, only simple mattresses and blankets on the floor where the detainees lay down. The cells are extremely hot in summer and very cold in winter time and without ventilation. The overcrowding, together with the bad ventilation and humidity creates a very bad environment for the people inside, especially during the summer time with the temperature over 35 degrees, at the time when the survey was conducted. The worst case has been reported in Shkodra pre-trial detention with at least 19 inmates sharing one cell, with only two small windows and no ventilation. The problems that concern the whole country like power and water cuts, make the situation worse.

5. Although the majority of cells appeared to be generally clean, the sanitary conditions were very bad. Vermin such as cockroaches crawling from underneath the wooden floor boards next to the detainees packages of food have been reported in Durrës. Inmates keep their packages of food sent by their families, next to their bedding. No refrigerating spaces have been reported.

6. The overcrowding seems to be one of the main problems in PTD. During the survey the number of inmates in Fier PTDC has been reported to be three times more than the capacity of the facility with approximately 144 detainees in a facility of a capacity of 48 detainees. Due to the overcrowding, the small number of cells and the big number of convicted prisoners, the police cannot separate minors from adults, or unconvicted from convicted prisoners. There have been reports of minors sharing the cell with adults who had committed serious crimes like murder and armed robbery.

7. Usually there is a lack of proper medical service. The extreme humidity and the very poor ventilation cause breathing difficulties, especially for elderly detainees. Many of them

¹ See Fletorja Zyrtare no. 46, June 2003

complained that access to medical treatment was extremely difficult. Some of them reported that they could not afford to pay for treatment, or that they had encountered difficulties to gain access to even basic examinations or treatment. One detainee claimed that he had no family to support him and therefore could not get the necessary medical treatment for his allergies that started since he was arrested. It has also been reported that some policemen had sometimes purchased medicine for the detainees with their own money. Allegations that detainees have to pay bribes to receive medication or medical attention have been reported as well.

8. The issue of detainees that present mental problems remains a serious one. There have been reported six detainees with mental problems in Fier, while in Kruja there was an inmate with mental disorder that was kept in pre-trial detention cells since 2001. The Police had taken this person in hospital for medical treatment several times. One case of concern was the one of a detainee in Mirdita who was arrested three years ago and soon after pronounced mentally ill by the court. Even though the court decided that he had to be sent to the secure psychiatric unit in Kruja, Mirdita police were still awaiting the order for his transfer. Since this detainee could not be kept in the pre-trial detention cells, because he became disturbed and agitated, he was kept under guard in the local hospital. The Chief of Commissariat and his colleagues considered this both a drain on their human resources and an inappropriate manner of keeping a prisoner for a prolonged period of time.

9. The food served in pre-trial detention has been reported to be bad. The inmates receive food three times per day. There is no variety of food and the daily menu contains something like soup and potatoes with only 20 grams of meat per day. As a result, the majority of the inmates consume the food provided by their families. There is no proper place to consume the food and the inmates have to eat sitting directly on the floor.

10. There is a total lack of entertainment for the detainees and insufficient open air time for them. They do not have access to media nor do they have contacts with religious institutions or religious representatives. Life conditions are very hard and the inmates have only the possibility to smoke, talk and sleep.

Sanitary facilities

11. There are usually 1-2 toilettes in each pre-trial detention site. The detainees are allowed to use them three times a day. According to the Pre-Trial Detention Regulation, they can use bathrooms more often if they need, but in some places like Kukës, no additional allowances are made, even for persons with medical problems like diarrhea. The toilets were relatively clean, but their infrastructure was very poor and they had not been restored in the last years.

12. There is usually one shower facility in each pre-trial detention site that the detainees can use approximately once in ten days. The infrastructure of the showers is very poor with sometimes water running from one hole in the wall. They usually were in unclean conditions. There have not been reported shower facilities in Permet, where detainees had to use cups with hot water to "shower" themselves. Even if the pre-trial detention authorities express their good will to permit the detainees shower more often, the fact that there is only one shower for a hundred people, does not leave room for any improvement.

13. It has been reported that detainees may shave approximately once a week and have hair cut once in one or two months. They are allowed to use soap and toothbrushes and have access to all the sanitary facilities before court appearances.

Physical Exercise

14. There is no physical exercise set on the daily schedule. The only change is the daily walk in the airing room or the yard of the police station for 30 minutes to one hour per day. The airing room consists of a space surrounded by high walls up to three meters covered with wires. This space can very easily be defined as a cell without a roof. In many places the humidity of this space makes the environment of the airing room not more healthier than the rest of the cells. The airing room in Elbasan serves also as a shower facility.

15. Sometimes the Police limit the airing time to less than 30 minutes for security reasons. In Bajram Curri, detainees could go out only individually or by two at a time, due to issues related to blood feud, since some detainees were allegedly involved in murdering other detainees relatives, or even stealing property from other detainees families.

Family visits

16. Detainees receive family visits once in 10 days. While the Pre-Trial Detention Regulation provides for meetings with family members that should not last more than 15 minutes, the duration of visits vary from 3 to 30 minutes. No objective criteria has been reported related to the duration of the visit. The meeting facility usually consists of a room with a table and few chairs with a policeman outside watching. Usually the detainees and visitors are separated by a wall or by two iron bars. Cases when the visitors are met at the entrance², or at the entrance bar³ had also been reported.

17. In Bajram Curri the detainees talk to their families through a small wicker-gate (a hole in the wall of the exercise yard). Most of the detainees complained about Police presence during the visits. One of the detainees (incidentally, the one with the longest period of detention) saw his family at the door of the detention facility. While in Kukës all inmates complained that the visiting scheduling was far from satisfactory with some visitors regularly having to wait many hours in order to have a ten-minute visit. Strong complaints were also registered with regard to the actual *modus operandi* and visiting facilities, which took place in the exercise yard and consisted of inmates talking to visitors through a very small hole in a solid steel gate. For their part, the visitors were kept a short distance from the solid steel gate by a chicken wire door. The strongest complaints came from inmates who were unable to see their children as a result of the restricted vision.

Access to lawyers

18. All the interviewed inmates stated that they had access to a defense lawyer. The usual time for meeting with the defense lawyers is from 08:00 to 18:00 hrs. Some of the inmates stated that they generally had access to a lawyer and that they could speak privately with him, however in some cases, the room in which they could see their lawyer always had a policeman watching, who could then overhear the conversation. Some detainees said that

² Reported in Tepelena pre-trial detention

³ Reported in Përmet pre-trial detention

they did not see their lawyers any longer because they were unable to continue to pay them. They appeared unaware that the state may pay for a lawyer when there is a need. One inmate in Durrës stated that he had as yet not seen his lawyer as he was from Peshkopi and no one was interested in his case.

The situation of the convicted prisoners in pre-trial detention

19. There are convicted prisoners serving their punishment in all the pre-trial detention sites of Albania. In some sites this number constituted 70 – 80 % of the total number of the detainees. The majority of convicted prisoners had stayed in pre-trial detention after the final court verdict for several months, but there were a lot of them that have stayed longer than one year. There have been reported two detainees in Lushnja who had spent three years in pre-trial detention after their sentences (18 and 13 years imprisonment, respectively). Another detainee, sentenced for life imprisonment had already spent 6 months in detention cell with other detainees who were either convicted or not.

20. Sources that did not want to be identified stated that some prisoners had been asked to pay bribes in order to get transferred to prisons. The OSCE staff, while visiting Elbasan pre-trial detention, were told that during the last months 3 or 4 detainees were transferred due to their "special connections".

Foreign detainees

21. There have been reported several foreign detainees in pre-trial detention in Albania. One Italian citizen in pre-trial detention in Durrës, charged with drug trafficking claimed that his embassy had not been informed. In the same pre-trial detention sites there have been three other foreign citizens, one from Bangladeshi and one Syrian, that claimed that even if they had met with their defense lawyers once, they were not aware of the charges against them, since they were also unable to understand Albanian and no one spoke their language. A Bulgarian citizen, a Canadian one and also two people from Kosovo have been reported to be in pre-trial detention during the time of the survey.

Age of the detainees

22. The minimum age of the detainees has been reported to be 14 years old. The detained minors that have been under 16 have been accused of having committed serious crimes, which is totally in accordance with Albanian legislation. The maximum age has been reported to be 70 years old.

Origin of the inmates

23. The detainees have been reported to be mainly local. Some of the detainees that were not from the places where the pre-trial detention site is located have reported to the Field Stations that they did not know the reason why they were in another location rather than their place of residence. According to the police, they had been placed there because this was the place where they had committed the offence.

24. There have also been reported cases when the detainees are kept in pre-trial detention sites away from their places of origin due to the overcrowding of those pre-trial detention sites, like the example of detainees from Durrës being kept in Kruja, or detainees from

Kavaja, Elbasan and Laç being kept in Librazhd. Also detainees from places where there are no pre-trial detention facilities were kept away from their places of origin.

Police attitude

25. Even if the detainees complained a lot about the conditions in pre-trial detention, the bad sanitary facilities, or the problems that concern the transfer of convicted prisoners in prisons, the relation with police was reported to be good. They were not seen at fault concerning the conditions in pre-trial detention. The bad conditions are usually related to the bad and poor infrastructure and not to the way the pre-trial detention was managed.

26. On the other hand, police themselves blamed the central government for not creating better infrastructure and conditions in the cells, as this was their main concern. They also complained that they were doing a job which was not theirs and were looking forward to hand over to Ministry of Justice.

27. There have not been reported any complains regarding any mistreatment done by the police towards detainees. However, it is very difficult for the police to maintain order in the cells at all times, taking into consideration the big overcrowding and the mental conditions of the detainees. An example could be the outbreak of violence that happened in Shkodra in early June last year, which led to violent altercations between the police and some inmates. Several police officers were injured, and there were reports that detainees also sustained injuries. This was followed by a hunger strike which lasted for several days. The inmates were protesting about the substandard conditions in the cells, but also in some cases about long delays in the transfer of convicted prisoners to jail. However, a small number of inmates alleged that they had witnessed or been subjected to beatings in the cells recently, particularly subsequent to outbreaks of violence between inmates.

28. On the other hand the police on duty in the cells have stated that they try and do their best when prisoners get aggressive, but they admitted that it was not always the case that they could be treated "well", but they try and observe correct behavior and to treat them accordingly.

Other issues

29. There has been reported a case in Lushnja where a convicted prisoner who had to be released following the completion of his sentence still had to spend more days or even months due to the fact that he is in pre-trial detention and the police could not authorise his release. The State Police is not the competent institution to order such a release, it should be done by the General Directorate of Prisons and the Prosecutor's Office.

30. Several hunger strikes have been reported to have taken place in pre-trial detention sites in Albania, like in Shkodra, Vlora, Lushnje, Përmet and Elbasan. Detainees in hunger strike have been claiming for better conditions, problems related to overcrowding and the lack of transfer to prisons

The process of handing over pre-trial detention sites

31. As mentioned above, the process of handing over pre-trial detention from the Ministry of Public Order to the Ministry of Justice has already started with the site in Vlora being the

first one to have been transferred. However, at this stage the process seems to have been suspended due to disagreements between the State Police and the Prisons Police. According to the Director of Prisons Police Piro Lutaj, the variant approved by the Council of Ministers for the transfer of such a responsibility is not the best one, and brings into light problems that would be easily solved if the process was done in a different way, rather than giving under their responsibility only the internal security service for pre-trial detention. This variant does not secure the transfer under the Prisons Police of other services such as, medical service, legal service and providing food.

32. Together with the General Director of Prisons Mr. Ramadan Hasanaj, Mr. Lutaj stressed that the variant that can work better is the one originally recommended by the General Directorate of Prisons, but not approved by the Council of Ministers, for the creation of pre-trial detention sites based on prefecture's divisions. In this way, parts of already existing prisons, that have far better conditions than every existing pre-trial detention site in Albania, could be adapted to be used as pre-trial detention sites. In this way, not only the inmates would have better physical conditions of the place where they are staying, but the already existing non-security related services, could be accessible for them. According to the General Directorate of Prisons, restoring the existing pre-trial detention sites in Albania, will require a high financial bill and a lot of bureaucracy and, as a result, will be time consuming. Based on the calculations done by this Directorate, only the financial bill to secure basic acceptable conditions in the pre-trial detention site of Vlora Police Commissariat amounts up to 5 million lekë.

33. However, also the variant proposed by the General Directorate of Prisons may create problems and, in a way, does not guarantee compete respect for the rights of all the inmates. In Prefectures such as the one of Kukës, it is very difficult for inmates from Bajram Curri town, to stay in pre-trial detention in Kukës, not only because it will take time and efforts and require police forces to bring the inmates before the tribunal each time, but also, the inmates themselves will be far from their place of residence and their families. On the other hand, the variant presented by the General Directorate of Prisons, may work perfectly for other Prefectures where the Prefecture's center is easily reachable by the surrounding towns.

34. According to the General Director of Prisons, taking over the pre-trial detention site in Vlora, was a really difficult process. The Prisons' Police is providing for the internal security of the site, but it is the State Police that provides its external security, as well as the medical service and the food for the inmates. Still many improvements have been noted in this pre-trial detention site. Installing two security cameras, changing some very old door of the cells, the immediate transfer of convicted prisoners to prisons, as well as the complete separation of juvenile detainees from adults, have been the achievements reached in this site.

35. After taking over the responsibilities over Vlora pre-trial detention, the General Directorate of Prisons, adopted the "Regulation for the Organization and Functioning of the Pre-trial Detention System", that guarantees more respect of the rights of detainees and is in line with international standards for the treatment of prisoners.

Recommendations

A) For the Council of Ministers

The decision of the Council of Minister no. 327, dated 15.05.2003, should be amended in order to reflect the current situation and needs of pre-trial detention system, the human and financial resources as well as the geographical situation of the country. The possibility to use a mixed system of pre-trial detention by taking also into consideration the proposal of the General Directorate of Prisons for the creation of pre-trial detention sites based on prefecture's divisions, in places where there are already penitential sites that can be adopted, while in other places the already existing sites will be used, all of which will be under the responsibility of the Ministry of Justice. Such a system would, not only guarantee more respect for the human rights of people in detention, but would also make the transfer of responsibilities from one ministry to the other in a smoother way, and also reduce the financial bill of such a process.

B) As long as the transfer of pre-trial detention is not completed the following recommendations concern the Ministry of Public Order

B.1) Improvement of physical and hygienic conditions

- a) The hygienic conditions should be improved by washing blankets and mattresses more often, since dirty bedding create conditions for vermin and skin sickness to be spread among detainees.
- b) The possibility to have refrigerating spaces should be taken into consideration. Detainees should not keep their food inside their cells.
- c) Special arrangements should be done with water and power enterprises to alleviate the situation of power and water cuts in pre-trial detention, since power cuts also represent a security concern.

B.2) Application of Human Rights standards

- d) A better division of the detainees should be done according to the size of cells, their age and the criminal offence that each one has allegedly committed.
- e) The detainees should be clearly informed about their right to have access to a defense lawyer, even when they can not afford one.
- f) The foreign detainees should be treated with respect and, in accordance with the law. It should be made sure that they are informed about the allegations against them in a language they understand and they understand the content of the documents they sign. Their respective governments should also be promptly informed.
- g) Medical service should be effective and fair. Mentally sick pre-trial detainees should be sent in hospitals that provide for professional mental health care. (*refer to para no. 8*)
- h) Pre-trial Detention Regulation of the Ministry of Public Order is not in line with the international minimum standards for the treatment of prisoners. For example this Pre-trial Detention Regulation limits the time of meetings with family members up to 15 minutes per ten days by leaving room to abuses, so the detainees are permitted to meet with their families only for a couple of minutes. This Regulation should be brought in

line with the new "Regulation for the Organization and Functioning of the Pre-trial Detention System" adapted by the Ministry of Justice.

- i) Agreement should be made between the State Police and the General Directorate of Prisons regarding the release of convicted prisoners who have spent all their punishment in pre-trial detention. (*refer to para no. 29*)
- j) All convicted prisoners should be immediately removed from pre-trial detention sites and transferred to prisons. Such a transfer should be effective and transparent. Cases of alleged bribes given to be transferred in prisons should be investigated and prosecuted. (*refer to para no. 20*)

Conclusions

The situation of pre-trial detention in Albania continues to be problematic. The physical conditions of the sites seem to deteriorate. The overcrowding also continues to be a big obstacle to ensure a basic normal treatment for the detainees. These problems, along with the treatment of juveniles and women, seem to be easier to be solved if the Ministry of Justice would have the responsibility over all the pre-trial detention system, since the decisions would have to be taken in a vertical way i.e. within the same ministry, and not in a horizontal way i.e. from the Ministry of Justice to the Ministry of Public Order and back. The Ministry of Justice has also more means to train police officers that deal with detainees than the Ministry of Public Order. But this process should be done in conformity with the situation of penitential system in Albania, and in a way that requires a normal financial bill.

Annex I

Pre-Trial Detention Situation Survey Questionnaire

1. Name of Commissariat:
2. Director of Police:
3. Chief of Commissariat:
4. Number of Policemen:
5. Number of Policewomen:
6. Number on duty at any one time:
7. Number of detention cells:
8. Number of inmates in each cell:
9. What is your general assessment of the conditions:
10. Total of male detainees:
11. What offences are the men charged with
12. Total of female detainees:
13. What offences are the women charged with:
14. Total of minors detainees:
15. What offences are the minors charged with:
16. Have the inmates access to a lawyer? Is there privacy of meetings with the lawyer?
17. Are there any convicted prisoners? If yes, when were they convicted.
18. What sanitary facilities are there and do the detainees have access to them?
19. Are there any foreigners? What nationality?
20. How old are the inmates, youngest and oldest.
21. What is the longest period of detention?
22. Do they have family visits? How often?
23. How much exercise do the prisoners have every day?
24. Are the inmates local, and if not where are they from and why are they there?
25. Any other comments, or complaints about treatment, complaints by the police?

Annex II

Police Commissariats that have Pre-Trial Detention facilities.

1. Berat
2. Skrapar
3. Durrës
4. Krujë
5. Dibër
6. Mat
7. Elbasan
8. Librazhd
9. Gramsh
10. Fier
11. Lushnje
12. Gjirokastrë
13. Përmet
14. Tepelenë
15. Kukës
16. B. Curri
17. Korçë
18. Pogradec
19. Lezhë
20. Mirditë
21. Kurbin
22. Shkodër
23. Pukë
24. Vlorë
25. Sarandë

Police Commissariats that do not have Pre-Trial Detention facilities.

1. Kuçovë
2. Bulqizë
3. Peqin
4. Mallakastër
5. Has
6. Ersekë
7. Devoll
8. M. Madhe
9. Tiranë
10. Kavajë
11. Delvinë

Annex III

The statistics of the pre-trial detention situation as of 2 June 2003

Police Commissariat	Capacity	Present number	Convicted prisoners	Minors	Foreigners
Berat	55	47	16		
Skrapar	14	16	9	2	
Durrës	80	184	10	12	8
Krujë	30	48	22	3	
Dibër	30	25	22		
Mat	30	30	14	1	
Elbasan	70	84	34	4	
Librazhd	20	22	16	2	
Gramsh	12	16	8		
Fier	50	146	30	13	
Lushnje	35	71	26	6	
Gjirokastër	30	40	10		
Përmet	14	15	8		
Tepelenë	25	20	6		
Kukës	40	72	22	6	
Tropojë	15	27	4	1	
Korçë	45	100	40	5	
Pogradec	30	34	15	2	2
Lezhë	24	45	7		
Mirditë	12	15	5		
Kurbin	24	51	4	8	
Shkodër	50	105	22	6	1
Pukë	22	35	13	1	
Vlorë	42	106	13	7	
Sarandë	30	42	8	1	
TOTAL	825	1416	384	79	11