

Victimisation of Juveniles Deprived of Their Liberty over the Transition Period in Albania**Florim Salihu, Candidate for PhD.**

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Abstract: In this paper are treated the victimization of juveniles, detained in Albania during the period of transition. So, in special focus is the manner that how the juveniles are treated by the juridical authorities in legal factual aspect. Here are treated the forms of victimization of the juveniles where is a suspicion that are in contradiction with laws. This research has for the object of treatment, the way through which one juvenile goes, since the time of his arrest, staying at the police stations and holding cells, their behaviours, conditions of staying, up to the announcement of final verdict by the juridical authorities, the lack of on re-education institution for juveniles that is in contradiction with law.

Keywords: Victimization discriminates tortures, mistreatment, lack of the alternative sanction measures, and lack of the education institution.

Introduction

In every single day, the modern societies encounter the growing of delinquent phenomena at young generations. Committed crimes by minors have no difference from adults, either by use of tools and methods of committing crime or the weight of crime. Prevention and treatment of minors to whom their actions are against the law have been considered as a challenge of justice system of any state and society, especially for countries which are in a fragile democracy such as the Republic of Albania. Albania had a ferocious communist regime which did not show interest regarding freedoms and human rights. With the installation of the pluralist system during the early 1990's, changes were obvious in terms of legal structure by approving the internal laws in harmony with the most important international acts which refer to human rights and freedom. It has also ratified and accepted all conventions and laws that corresponding children rights and freedoms, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules (1987), etc. Despite the fact that laws referring children rights have been approved and many important international acts occurred, the situation of juveniles deprived of their liberty during the transition period in Albania continues to be in a severe situation. The aim of this paper is to elaborate minor justice system in Albania, from their first contact with law enforcement until their return in freedom after serving the sentence. In other words, the goal of this topic is to realize how the minors deprived of liberty are persecuted in the Republic of Albania with a clear contravention of existing national laws and most important international acts referring to freedoms and rights of the child, and in particular those who are in conflict with the law.

Forms of Victimization of Juveniles deprived of their liberty in the Republic of Albania

Juveniles, who are suspected of being in conflict with the law in the Republic of Albania, during the criminal procedure in order to argue guiltiness or innocence in many cases they have suffered, from first contact with law enforcement and continuing until serving the sentence. The problem commences at the stage of association with the police forces, form of detention or imprisonment. While serving in the Police Stations for

verification, there was violation of the procedural rights in the examination without the presence of a guardian, lawyer, psychologist and use of torture against minors⁶⁶. For more than 20 years various measures against minors were applied by justice system. In detention centres which were dependent on the Internal Ministry Affairs, minors were treating in the same way as adults, residing in the same environments with adults, while in the centres dependent on Ministry of Justice, minors were treating differently from adults. According to the criminal legislation of Albania and all acts that refer to implementation of international children rights and freedoms, minors and adults in not any circumstances are allowed to live in the same prison environments. In Albanian detained centres, minors were not segregated from adults, even a murder, or in some situations from mentally ill person⁶⁷. Living together with adult prisoners who have committed serious crimes, in some cases, juveniles are abused by such criminals and this has influenced them to commit crimes after they won freedom. The concerning reality is that when one of the detention representatives in his speech at an international conference mentions that despite the legal basis and regulations for the special treatment of minors, we are aware of regardless of what is done, we fail to keep minors segregated from adults or from those who have committed serious crimes⁶⁸. These cases have been highlighted at the Police Stations which are under the Internal Ministry of Affairs. Juveniles deprived of their liberty are abused in various severe forms by law enforcement. In one of the reports of the Ombudsperson describes a very severe victimization of a minor who was not even as criminally responsible, considering it was only 11 years old, while the Albanian Criminal Code charges criminally responsible person who has attained the age of 14 at the time of the offense. In Saranda city, police had detained an orphan (E. Sh.) who was living in an orphanage on suspicion that he has stolen a mobile phone. He was interrogated without the presence of either a guardian or defender. As a result of torture inflicted on him by hitting with rubber stick, knife in left hand and a cigarette off his body, E. Sh., admitted that he was the author of the act. However, later it was realized that 11-year-old was not the guilty and the offense had been done by someone else, but under the influence of torture he admitted the offense. For this reason, the Albanian Embassy in Canada (Ottava) alerted through receiving several letters of Canadian citizens (members of Amnesty International) which reported the case and asked for appropriate measures by the state for putting authors before the justice. But this situation exacerbates even more the fact that the authors of this act were never found⁶⁹. There have not been few cases where juveniles detained in police stations have also died and the authors of these crimes were never found! One such case was that of 17 year old, Erigert Ceka, who was detained by police on suspicion that he had stolen stuff in a religious premise. Such person on 5 July 2004 was wounded to death in police detention rooms in Mirdita and two days later died in a hospital in Tirana (capital city). Forensic expertise showed that the victim had bruises on the head caused as a result of collision of the head on the wall. The police described the incident as conflict for banal reasons among the detainees. As a result of an investigation of the prosecution two policemen suspended from work, but no one was charged with this crime⁷⁰. Such tragic cases give the explanation to us that it is very essential intervention into Albanian Police in order to ensure

⁶⁶ Conditions of Detention and Prisons in Albania, Albanian Helsinki Committee, Tirana, 2002. p. 107.

⁶⁷ The Albanian Helsinki Committee, Albanian penitentiary system and the role of civil society in its improvement, Tirana, 2002, p. 38.

⁶⁸ Ibid.

⁶⁹ Republic of Albania, Annual Report of the Ombudsperson, Tirana, 2001, p. 35.

⁷⁰ Albanian Centre for Rehabilitation of Trauma and Torture, Alternative Annual on the Situation of Torture in Albania (July 2005), p. 119.

professional expertise considering as a fundamental reform in the justice system of the Republic of Albania. Educational performance as a preventive measure against minors in conflict with the law in Albania. Delinquency of minors is a concern and challenge for every society and state because it is growing from year to year and expanding in serious proportions. Dynamics, forms, methods and wide-ranging extent of this phenomenon has resulted with very difficult challenges for societies and democratic states in particular, those which are under developing countries as Albania. Given the fact that we are dealing with a specific category of people who are following a rapid development of bio-psychic experience, as the teenage phase, therefore the treatment of this category of society and the state requires a special approach. But what is the educational framework dedicated to minors as a preventive measure that Albania has followed?! For people who are not criminally responsible, under 14, the Albanian Penal Code has provided an educational measure which means the placement of minors in an educational institution⁷¹. It is unacceptable that in 2011, in Albania, there is lack of educational institutions of juveniles in conflict with the law, namely whether the measure is imposed, there is no place to run. There have been cases where minors have used such situation and have committed crimes. For instance, the 12-year-old E. S. from Korça had stolen stuff in some cities, until he reached age 14. This child was very peaceful during the arrest after he had been aware of there is no institution to which he could be sent to, given that he was under age 14⁷². Educational framework in Albania dealing with minors in conflict with the law is in level zero which led to commit crimes as the lack of adequate educational treatment. In modern penitentiary system the purpose of punishment is not retribution, but re-socializes the person in conflict with the law as an important one for the society. In other words, the "efforts" today is how to re-foster such category of society in order to have healthy family and society, but not revenging or punishing them so badly when the delinquent person is a child⁷³. According to the Convention on the Rights of the Child in all actions dealing with children, either undertaken by public or private institutions, courts of law, authorities or legislative organisms, the most interest should be focused on the children rights. Thus, according to this Convention which Albania has accepted, it is obliged, whether minors are in conflict with the law in all circumstances, their personality and interest should be considered as the first instance. Issued decisions by Albanian courts against children are not in harmony with national laws and international acts. This best demonstrates a report of 2007, where 291 decisions that are imposed on minors, 157 of them were prison sentences⁷⁴.

⁷¹ Penal Code of Albania, Tirana, 2001, article 46, paragraph 3, Nr. 1.

⁷² Top Chanel (TV) News, 19:30 pm, on 29/03/2011.

⁷³ Convention on the Rights of the Child, Section 3, pg. 3, Approved by Assembly

⁷⁴ Respect of the minor rights in the criminal process, the study of the forms of criminal judgments issued by the courts of judicial districts, 2055/2007, Tirana, April 2007.

The following tables show the diversity of measures and penal sanctions applied against juveniles who are against the law in Albania. This fact represents a certain policy which is not in favour of children welfare and to all the society indeed.

Table 1. Law dealing with juveniles

Implementation of Article 52: Exclusion of juveniles from a sentence	0
Implementation of Article 59: Suspension of execution of the imprisonment	103
Implementation of Article 63 – Public interest work: Suspension of execution of the imprisonment and obligation to perform work for the public interest.	1

Table 2. Variety of Punishments

Type of Punishments	No. of applied punishments
Imprisonment	148 penalties
Penalty	40
Penalty and Imprisonment	9
Application of alternative measures	94

Table 3. Security Measures

Types of security measures	No. of measures
Jail custody	98 measures
House arrest	42
Obligation to appear	67
Prohibition and obligation to appear	14
In absence	1
Under free circumstance	25
No any measures applied in a decision	28

This pictures show an obvious lack of alternative punishments, in particular, working in the public interest which would be very helpful for minors and for society, indeed.

Conclusions and Recommendations

Albania has given a poor example regarding the treatment of minors deprived of their liberty, treatment by state and society that imposes to this category is not in harmony with international democratic standards. By not putting aside some efforts which have brought some positive changes in relation to minors, the situation of children in Albanian prisons is severe enough. This proves that there are many abuses and mistreatment by law enforcement against minors. It is therefore essential that penal policy against children in Albania should be changed fundamentally in both educational-preventive and repressive in terms of the imposition of penalties. Firstly, it is unjustified how Albania has not an educational institution for minors yet, which institution would play a key role in prevention of delinquency phenomena. Also, the adoption of the Penal Code for Minors, which lacks in Albania, is needed. Training of police and judiciary who deal with minors in conflict with the law are very important and reforms in these sectors appear to be necessary. Particularly, importance should be given to imposing penalties on minors, by avoiding imprisonment as far as possible, and by applying as many alternative sentences if they are in favour of minors and society; in one word, if these measures serve the justice.

References

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