

**TOWARDS AN ENHANCED RESPECT OF HUMAN RIGHTS FOR WOMEN
AND CHILDREN UNDER POLICE CUSTODY**

**European standards for women and children in police custody: which
steps are urgent, which ones are still needed in Albania**

**PAMECA IV Perspective
16 December 2013**

Madam Chair,
Ladies and gentlemen,

I would like to firstly make a brief presentation of PAMECA IV, the main areas of its work as set out in the project's workplan and the methodology applied.

I will then continue by highlighting the European standards for safeguarding the human rights of women and children in police custody.

I will conclude with a detailed description of the project's component devoted to Protection of Human Rights.

**I. PAMECA IV. MAIN AREAS OF WORK,
METHODOLOGY**

Consolidation of Law Enforcement Capacities in Albania, PAMECA IV is a EU funded technical assistance project supporting the Albanian Ministry of Internal Affairs, Albanian State Police (ASP) and General Prosecutor's Office (GPO) as its direct beneficiaries in order to increase their organisational, human and financial resources capacities and therefore, enhance their cooperation and performance in carrying their constitutional and legal functions in compliance with EU best practices and Albania's European Partnership commitments. The project is implemented by Ministry of Interior of Italy as lead partner in consortium with Ministry of Interior of France and Federal Ministry of Interior of Austria and with the support of Hungary and the United Kingdom.

PAMECA IV project started in June 2013 and will continue until October 2016 according to a workplan that will be renewed on semi-annual basis. The workplan is organised in five components reflecting the five areas of

intervention for the assistance to be provided by PAMECA IV. Component 1 addresses the organizational, administrative, technical and resource management capacities of the Albanian State Police. Component 2 focuses on organised, serious crime and anti-corruption investigations capacities of the Albanian State Police structures and their coordination with the General Prosecutor's Office and other relevant agencies. Component 3 concentrates on human rights protection and community policing. Component 4 deals with General Patrol services and Traffic Policing and Component 5 addresses the Integrated Border Management capacities.

The methodology applied by PAMECA IV consists in six successive steps. An initial gap analysis for each activity planned is performed allowing –as a second step- for identification of critical issues. Further, advisory support/implementing assistance is provided, followed by the monitoring of the absorbing capacities. Mix activities are delivered as a fifth step, and eventually a review of all the steps will complete the assistance cycle.

II. EUROPEAN STANDARDS FOR SAFEGUARDING THE HUMAN RIGHTS OF WOMEN AND CHILDREN IN POLICE CUSTODY

A number of international conventions, universal (UN) and regional (Council of Europe) address the rights of women and children in police custody both in general- as an aspect of protection of human rights,- and in particular -as safeguard of basic rights for specific vulnerable groups that need special protection.

International mechanisms and instruments –including monitoring and reporting systems - are also put in place to verify the actual implementation of commitments taken by the signatory states and to effectively ensure the respects and protections of human rights enshrined in those conventions.

I would mention in here the following relevant UN conventions and legal instruments:

- Universal Declaration of Human Rights
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Convention on the Elimination of All Forms of Discrimination Against Women
- UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment

- UN Convention on the Rights of the Child
- UN Rules for the Protection of Juveniles Deprived of their Liberty
- UN Guidelines for the Prevention of Juvenile Delinquency

In Europe, in addition to the UN instruments, there are other legal instruments and mechanisms established mainly in the framework of the Council of Europe that have consolidated a set of standards and best practices that offer further protection and safeguards for the rights of women and children in police custody.

I will only mention in here:

- the Convention for the Protection of Human Rights and Fundamental Freedoms (known as European Convention on Human Rights),
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- the Convention on Preventing and Combating Violence Against Women and Domestic Violence

I would like to highlight:

- the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment- as the legal instrument that have created an adequate international mechanism to monitor and report violations of human rights of persons deprived of their freedom: -the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) created in 1989.

The CPT recommendations in its General Reports have become over the years the standards that CoE member states must follow.

While CPT does not set out to create standards, they emerge and are crystallized from its empirical findings and recommendations in the visit reports.

The widely accepted European standards for the safeguard of rights of women and children in police custody can be found in the following CPT reports:

- The 9th General Report (1998) which contains a substantive section on Juveniles deprived of their liberty;
- The 18th General Report (2007/2008) which contains comments on the draft European Rules on Juvenile Offenders Subject to Sanctions and Measures;

- The 19th General Report (2008/2009) which contains a substantive section on safeguards for irregular migrants deprived of their liberty and includes a few paragraphs on additional safeguards for children.
- 10th General Report [CPT/Inf (2000) 13] which contains a substantive section on safeguards for prevention of ill-treatment of women deprived of their liberty

CPT has identified and advocated for three basic rights for persons detained by the police:

1. **the right of access to a lawyer**
2. **the right of access to a doctor**
3. **the right to have the fact of one's detention notified to a relative or another third party of one's choice.**

In addition, according to these standards it is imperative that:

- persons taken into police custody are **expressly informed of their rights** without delay and in a language which they understand.
- **conditions of detention in police cells** must meet certain *basic requirements*

And finally, the **inspection of police establishments by an independent authority** can make an important contribution towards the prevention of ill-treatment of persons held by the police and, more generally, help to ensure satisfactory conditions of police custody/detention.

Specific Safeguards against the ill-treatment of juveniles

1. A best practice is to place police officers under a formal obligation themselves to ensure that an appropriate person is notified of the fact that a juvenile is held in police custody, regardless of whether the juvenile requests that this be done. Police officers should not be entitled to interview a juvenile unless such an appropriate person and/or a lawyer is present.
2. Juveniles in detention should as a rule be accommodated separately from adults in order to prevent any abuse, risk of domination or exploitation.
3. Mixed gender staffing is another safeguard against ill-treatment in places of detention, in particular where juveniles are concerned.
4. The arrest, detention or imprisonment of a child must be in conformity with the law and shall be used only as a measure of last resort and for

the shortest appropriate period of time. (UN Convention on the Rights of the Child Art.37c)

Specific Safeguards against the ill-treatment of Women

1. Mixed gender staffing

It is an important safeguard against ill-treatment in places of custody.

2. Separate accommodation

3. The specific **hygiene health care** needs of women should be addressed in an adequate manner

Advanced training of police personnel in human rights combined with the setting of a complaint mechanism for receiving all allegations of ill treatment/torture or non respect of human rights will contribute to a better protection of women or juvenile in police custody. The European standard requires an effective investigation leading to identification and proceeding (disciplinary and criminal) of the responsible for ill-treatment.

III. PAMECA IV COMPONENT ON HUMAN RIGHTS PROTECTION (AND COMMUNITY POLICING)

As mentioned in the first part of my presentation, Component 3 of the project is devoted to Human Rights Protection and Community Policing with the expected result to strengthen *Human Rights Protection and Community Policing*.

This component includes six major groups of activities, five addressing human rights of persons deprived of their liberty and one, community policing.

Allow me to briefly describe them and highlight those relevant to today's workshop. They address the following issues:

- Ill Treatment in Police Commissariats
- Detention conditions

- Compliance with the CoE relevant Conventions in particular the European Convention for Prevention of Torture (CoE) and United Nations Standard Minimum Rules for the Treatment of Prisoners
- Recommendations of Ombudsman and HR CSOs
- Anti-corruption

Activity 3.1- Support to human rights protection and antidiscrimination, prevention of ill treatment/torture of persons deprived of their liberty-with a **special focus on protection of vulnerable groups -juveniles, women, ethnic and sexual minorities, persons with disabilities**

Under Activity 3.1 PAMECA IV will identify critical issues, will assess the level of implementation/absorption and will also identify outstanding recommendations from other organisations /projects.

The activities planned under Activity 3.1 are:

- Development of a template for recording alleged **ill-treatments of juvenile detainees.**
- Training on /sharing EU member states best practice/ expertise with ASP Training Projects Unit and other bodies/organisations/NGOs and
- Promote the EU guidelines on human rights defenders and violence against women (TAIEX)

The Reports from specialised international and local organisations monitoring detention such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Ombudsman's Office , PAMECA III, indicate that progress is made with regard to legal, regulatory and institutional framework in this area. However, as underlined in recommendations: further efforts are required from ASP and other stakeholders in order to fully align the legal framework with the international/EU standards and fully implement them, and to ensure an effective protection of HR and prevention of any form of discrimination, ill-treatment/torture of citizens deprived of their liberty and held in police premises.

Activity 3.2 - Support to improve detention conditions in Police Commissariats, in line with international and EU standards

PAMECA IV action will focus on the outstanding recommendations on the improvement of detention conditions in the police commissariats.

We will also review the admission procedures, with a special attention to the medical check system.

Among the outstanding issues to be addressed under this Activity are:

- the need to reduce as much as possible the length of time the arrested person stays within the police station holding cells and
- the need for ASP to have a rational approach to increasing the detention facilities capabilities in order to reduce the overcrowding .

PAMECA III recommended ASP to consider the creation of a special inspection/audit unit to verify adherence to set standards, and selection criteria and specialized training for the staff assigned to the security rooms.

Other needs identified are:

- to draft a protocol on the procedure for transferring the detainees from police detention facilities to prison establishment;
- to develop a template / log recording the injuries observed upon admission to prison;
- to review/update and (re) distribute the Manual on the Treatment of Persons in Police Custody to all police detention facilities;
- to prepare a refresh training of police stations staff on the Manual.

PAMECA IV envisages the preparation of an advanced training of police staff, focused on the HR and prevention of ill treatment in police detention facilities.

Activity 3.3 Support to comply with European Convention for Prevention of Torture and Inhuman or degrading Treatment or Punishment and United Nations Standard Minimum Rules for the Treatment of Prisoners

Under this activity PAMECA IV will prepare :

- Training curricula -reassessed against the background of human rights
- A concept note for establishing a network of human rights trainers in cooperation with the Police Development Centre, taking into consideration the relevant CTP recommendations.

Activity 3.4 Support to implementation of recommendations from the Ombudsman and the civil society organizations specialized in monitoring of detention.

The focus of this activity will be the Annual Reports of the Ombudsman's Office and other Civil Society organisations, in particular the recommendations addressed to the ASP. During the initial Workplan, (September 2013-February 2014) this activity will identify the recommendations of the 2012 Ombudsman's Annual Report with a particular focus on the state of implementation of the specific recommendation: "*ensure a regular and timely access by People's Advocate to all places of detention without limiting its visits to onsite inquiry into allegations of abuse, and without prior consent to the visit by the respective authorities*".

Activity 3.5 Support to implement a “0 tolerance” policy regarding active/passive corruption cases in detention premises of the Police commissariats.

Under this Activity it is envisaged inter-alia to:

- Conduct Gap analysis, Identification of critical issues
- Conduct an Assessment of toll free numbers
- Develop a track record of phone reported corruption cases that are investigated, prosecuted and judged.
- Produce a report with a set of recommendations
- Support the increase of inspections by the Professional Standard Unit
- Identify practices and procedures prone to corruption.
- Conduct Risk analysis of corruption incidence linked to police internal management and distribution of tasks in the police premises
- Assess regulatory framework and structure in place for the lodging and treatment of complaints followed by the development of a concept note on the methodology for the handling of corruption complaints received.

This activity will be complementary to current and future EU funded projects.

Activity 3.6 Support community policing in strict collaboration and coordination with other projects (Sept 2013-Feb 2014)

The initial action under this activity includes:

- Networking and cooperation with civil society organisations to exploit training opportunities, to promote exchange of information, expertise and experience.

- Assist ASP in identifying actions/activities aimed at increasing public awareness of specific community-related issues

Component 3 will of course be developed and adjusted according to the priorities of ASP and the findings and issues that will be raised by Human Rights specialised bodies and civil society organisations. Activities like today's workshop allow us to learn about the work being done, the concerns there related and the challenges that we all have to ensure effective and full protection of human rights for all members of our society and in particular these in vulnerable situations.

I would like to thank you and at the same time to commend the European Institute of Tirana for today's workshop as a contribution to bring Albania and the Albanian society closer to the European standards in protection of human rights.