

Albanian criminal policy in the post-crisis Albania

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Abstract

I accepted with pleasure the invitation to join colleagues and friends across the world in making a contribution to this publication dedicated to prof. Nestor Courakis, as a token of gratitude to his contribution on the field of criminology and penology studies. I chose to contribute, in this publication, with a topic that deals with some aspects of criminal policy in Albania – a country that managed to avoid recession after 2008 global financial crisis, by means of painful fiscal and criminal policies.

Whenever reference is made to crime prevention within the context of implementing programmes that address the mitigation of criminogenic risk factors, the financial means occupy the centre of the discussion. During the period of post global financial crisis, crime and its control, the relation of crime to disparity, unemployment, various opportunities of people are increasingly a part of the agenda of the discussions among experts, practitioners and policy-makers.

During the last two decades, the studies have dealt with relationship of the Albanian economy to the economy of the countries in the

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region, the migration and remittances impact on the country's economy, but, compared to the economic indicators, the study of crime is partial and has mainly dealt from the view of point of the impact of the macroeconomic aspects on the country's security and insecurity, or the impact of corruption on the business climate² and foreign investments.

This paper analysis the criminal policies on a country suffering the consequences of the global financial crisis for the economy and social life. The analysis is performed from three aspects: a) change of the criminality structure; b) criminal policy orientations towards some crime types; c) trends of imprisonment sentence execution and alternatives of imprisonment sentence during the post global financial crisis period. This analysis aims at arguing *firstly*, that the criminality structures, trends and imprisonment sentence are influenced by the criminal policy orientations, judicial system efficiency and crime prevention programs, and, *secondly*, that the latter are influenced by the financial crisis and its consequences on the country's economy and social life.

Key words

Criminal policy, global financial crisis, sentence, imprisonment, alternative penalties.

Albania and the Global Financial Crisis

Albania is a country in the Western Balkans, which, differently from the other former communist countries, was ruled by a hard-fist single-party system. Since the fall of the isolation wall (1990), the country underwent rapid, often chaotic, political, economic and social developments. The transition from a command economy to a market economy, as well as the free movement of goods, services and people, was ac-

² Klaus Schwab: 'The Global Competitiveness Report 2013-2014', Full Data Edition, World Economic Forum. This report can be found at: http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf and 'Business, Corruption and Crime in the Albania: The impact of bribery and other crime on private enterprise', UNODC, 2013, p. 10. This report was published on the internet and can be found at: https://www.unodc.org/documents/data-and-analysis/statistics/corruption/Western_balkans_business_corruption_web.pdf

accompanied by social problems, criminality increase and new forms of criminality, differing little from the criminality in the countries of the region and beyond.

After the period of the 1990s in the XXth century, 1/5 of the Albanian population fled the country during various waves of migration, including “brain” migration, but with a positive impact on the income of Albanian families. Over a long period of time, the remittances (non-return net income sent from abroad) constituted a significant source of income and mitigated the poverty problems of many Albanian families.³ According to Uruçi and Gedëshi,⁴ during the period of 1992-2000, remittances made up 10-22% of the Gross Domestic Product (GDP). According to Open Data,⁵ remittances decreased (2002-2013), especially very rapidly after 2008, as a result of global financial crisis. Given that almost 69% of remittances was used to meet the family needs⁶ (2003), their decrease led to an increase in the number of families living under poverty conditions, although as from 2014, remittances have slightly increased.

The global financial crisis led to a decrease of economic growth in Albania. The World Bank Group Report 2015 points out that, as a result of the crisis, the rate of the economic growth in Albania decreased, the poverty reduction ceased and income convergence with the EU stopped. Compared to its annual average level of 6% during the 2002-2008 period, the economic growth of Albania decreased at an average of 3% in real terms per year during the period between 2009-2012, and

³ World Bank Group, *Shqipëria: Gjenerata e Ardhshme, Dignozë sistematike e vendit*, April 2015, p. 3. This report can be found at: <http://pubdocs.worldbank.org/en/948311453293073611/SCD-Executive-Summary-Albanian.pdf>

⁴ E. Uruçi & I. Gedeshi: ‘Role of Remittances in the Social Economical Development of the Country’, p. 5. This paper can be found at: https://docs.google.com/viewerng/viewer?url=http://www.bankofalbania.org/web/pub/Gedeshi_Uruçi_819_1.pdf

⁵ *Remitancat në Shqipëri*, ODA. This study was published at: <http://open.data.al/sq/lajme/lajm/lang/sq/id/1443/Remitancat-2002-2014-origjina-sipas-vendeve>.

⁶ E. Uruçi & I. Gedeshi: ‘Role of remittances in the social economical development of the country’, cited work p. 11.

in 2013 and 2014, it reached the level of 1.7%.⁷

Foreign investments, mainly from neighbouring countries such as Greece and Italy, brought an economic development and created jobs, despite the employee payment levels and profits. The stranglehold of the global crisis in these countries had a direct impact on the Albanian economy and on the welfare of the families living mainly with the migrant funds, or working on such businesses.

According to the World Bank, Albania is characterized by a strong relationship between the economic growth and the increase of poverty level.⁸ The global financial crisis increased and worsened poverty and its gap,⁹ at a regional, rural and urban level, accompanied by an increase costs for food consumption, a decrease of costs for education, etc. The decrease on remittances, the slow steps on creating new jobs, the large informality level on the economic sector, especially agricultural sector, have led to high levels of unemployment.¹⁰

Crime Study and Control – Reflection Needs

The criminological research studies encounter difficulties due to the lack of financial support and complete and reliable statistics in Albania – a country with an insufficient budget to cover the needs for such vital areas as health care, support of social programmes, etc., especially so after an economic and financial crisis. The major part of the criminological studies in Albania is carried out either on the context of achieving scientific degrees and titles, or on the completion of advanced university studies, without any financial support by the universities, or

⁷ World Bank Group, *Shqipëria: Gjenerata e Ardhshme, Dignoza sistematike e vendit*, April 2015, cited work, p. 3.

⁸ *Ibid.*, p.3.

⁹ INSTAT & World Bank Group, 'Shqipëria: Trendi i varfërisë 2002-2005-2008-2012', 2013. This article can be found at: http://www.instat.gov.al/media/206688/shqiperi-trendi_i_varferise_2012_.pdf

¹⁰ According to INSTAT, the unemployment rate, during the 2013-2015 period, was about 17.1% (2015). For more information, see 'Shqipëria në Shifra 2015', p. 19. For more information, see the report on the website: http://www.instat.gov.al/media/330710/shqiperia_ne_shifra_15.pdf

they are carried out by organizations or experts within the projects funded by various donors or limited budgets from the institutions.

Some crime types are studied systematically, as for instance: measurement of corruption perception by the public, violence against children, domestic violence, etc., whereas studies on other crime types or aspects related to criminality prevention are carried out partially and non systematically. The prevention against traditional forms of crime and the fight against organized crime need to be preceded and guided by scientific studies.

1. Criminological studies preceding criminal policy

A decade ago, in Albania, the number of studies and research in the field of criminology, penology, victimology was low, including comparison of crime at regional and international level and the number of persons engaged to carry out this work. Nowadays, both the participation in the international studies and the circle of persons involved in them have increased. However, the emerging need to fight against the new forms of organized crime and global threats, the use of “zero tolerance” policy for specific crimes defined as priorities of the criminal policy, have influenced the aggravation of criminal policy, the increase of contacts of the people with the judicial system, as well as prison population.

Under such conditions, a few questions arise: were the frequent changes of the penal code preceded or based on the study of criminogenic factors? Is a sharper criminal sentence the best choice, while unable to build effective institutions for the implementation of public policies, other than criminal policies? Does the use of “zero tolerance” policy for specific crimes criminalize more vulnerable groups in the society, as assert the critics of such policy,¹¹ or does it have an equal impact on the citizens, regardless of their social position, education or status?

¹¹ McLaughlin, E.: ‘Zero tolerance’, in Eugene McLaughlin & John Muncie (eds.) *The Sage Dictionary of Criminology*, SAGE Publication, 2001, pp. 322-323.

The international organizations¹² underline the need of criminological studies to precede the criminal policy preparation and changes. Despite the progress made in Albania, the criminological studies do not always precede or guide the changes in the criminal policy, although this issue has been addressed and discussed long over a long period of time¹³. Prof. Ismet Elezi¹⁴ points out that one of the most serious problems encountered in the preparation and amendment of the criminal legislation in Albania is that such changes are not preceded by the research in the field of crime and efficiency of legislation and criminal justice system. During my work as a lawmaker in the Parliament, when discussing legal initiatives on changes to made in the Albanian criminal legislation, there are cases that such legal initiatives in the criminal area are not accompanied by preliminary studies. In such a situation, there is a need of reflection both by the policy-makers and the employees of law enforcement and control agencies.

2. Study of criminal policy—methodological difficulties, both objective and subjective

The criminal policy analysis encounters difficulties mainly because of the indicators provided by the official crime statistics. Although the use and validity of the official statistics, especially police statistics, is a

¹² Recommendation (96) 8 'Europe in Time of Change, Crime policy and Criminal Law', Council of Europe, 1999.

¹³ V. Hysi, 'Future criminological research in Albania', in *Surveying Crime: A Global Perspective*, held in Rome, Italy, 1998, UNICRI& INSTAT, f 257-257. This was published on the internet and can be found at: http://www.unicri.it/services/library_documentation/publications/icvs/publications/surveying.pdf and V. Hysi, 'A njihet realishtkriminaliteti? Refleksione dhe mundësi për matjen më të mirë të kimit në Shqipëri', *Studime juridike*, by Faculty of Law, no. 1, 2010, Tirana, 273-303; V. Hysi, 'Criminal policy in Albania: realities and challenges. The need for studies and scientific reflection', published in A. Kuhn, P. Margot, M. Aebi *et al.* (eds.), *Criminology, Criminal Policy and Criminal Law in an International Perspective*, Stampfli Editions S A Berne, 2013, pp. 573-596.

¹⁴ Elezi, I.: 'Disa probleme në lidhje me Kodin penal', *Jeta Juridike*, by School of Magistrates, 2005, no.1. 61-62.

problem at an international level,¹⁵ in Albania they have a number of problems.

When I decided to choose the subject of this article, many ideas crossed my mind, but a quality analysis presented many challenges. The coherence of crime statistics over the years, including data quantity and quality for specific crimes, remains an unsolved problem. *Firstly*, the classification system of the criminal offences in the police statistics has changed over the years, mainly with the purpose of approximating them with the European standards of crime measurement and comparison. The dynamics of changes makes it more difficult to study the trends of specific crimes over the years. *Secondly*, the definitions for some criminal offences have changed, especially with the amendments on the criminal code in 2012 and 2013. *Thirdly*, the police statistics do not give detailed data, for every reported criminal offence, regarding the profile of the victims, data on social and economic status of the perpetrators, and such statistics are not systematically published on annual basis, in official publications. *Fourthly*, the statistics of the prosecutor's office have improved, but they provide few data on the social-economic status of the perpetrators and victims. *Fifthly*, court statistics are published regularly since 2003, but information content in the statistical annuals often lacks coherence, lacks detailed data on the perpetrators, especially about women, children and young people and victims, social status, recidivism, etc.¹⁶ *Sixthly*, statistics on imprisonment sentences and alternatives to imprisonment sentences contain more data than few years ago, but they are not prepared according to the international standards for the development of a system of criminal

¹⁵ Kauko Aromaa: 'Policy relevance and crime data', in Matti Joutsen (ed.) *New Types of Crime: Proceedings of the International Seminar held in connection with HEUNI's thirtieth anniversary, Helsinki, 20 October 2011*, HEUNI, 2012, series no. 74, pp. 143-149. This material can be found at the official website of HEUNI, at: http://www.heuni.fi/material/attachments/heuni/reports/6KEvU4ThP/HEUNI_report_no.74_final.pdf

¹⁶ V. Hysi, 'Do we really know the criminality? Reflections and possibilities of better measuring crime in Albania', *Legal Studies*, Law Faculty, Tirana University, no.1, 2010, pp. 273-303.

justice statistics.¹⁷

Alongside objective difficulties, statistics in Albania show also subjective deficiencies, such as: inaccuracy in data processing and interpretation, change of table and data format. To get real knowledge on crime is also difficult, since there is no any systematic study that measures the crime rate¹⁸ for many of the criminal offences. One of causes that was pointed out by the practitioners in the field is the lack sufficient financial resources for developing software to enable crime data recording, processing and production over the years, as well as alignment of police, prosecutor's office, court and prison statistics. The difficulties encountered in creating an effective criminal measurement system and the need to improve it, as well as *track records* for specific forms of crimes, are issues that have been systematically discussed in the European Union progress reports on Albania under the context of European enlargement.¹⁹

The Criminality Trends in Albania during the Post-global Financial Crisis Period

The evaluation of crime trends is a challenge not only for Albania, but also at international level. As we mentioned earlier, the official police statistics is not the best crime measurement²⁰ also for Albania.²¹ The

¹⁷ *Manual for the Development of A System of Criminal Justice Statistics*, UN, 2003, New York. This manual was published on internet and can be found at: http://unstats.un.org/unsd/publication/SeriesF/SeriesF_89e.pdf

¹⁸ V. Hysi, 'Criminal policy in Albania: realities and challenges. The need for studies and scientific reflections', botuar në A. Kuhn, P. Margot, M. Aebi *et al.* (eds.), *Criminology, Criminal Policy and Criminal Law in an International Perspective*, Stampfli Editions S A Berne, 2013, pp. 573-596.

¹⁹ *Albania Report 201*, EU, Brussels, 10.11.2015 SWD (2015) 213 final, pp. 15, 18, 54. This material can be found at the official website of EU, at: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

²⁰ Marcelo F. Aebi, Galma Akdeniz, Gordon Barclay, Claudia Campistol, Stefano Caneppele, Beata Gruszczyńska, Stefan Harrendorf, Markku Heiskanen, Vasilika Hysi, Jörg-Martin Jehle, Anniina Jokinen, Annie Kensey, Martin Killias, Chris G. Lewis, Ernesto Savona, Paul Smit & Rannveig Þórisdóttir: *European Sourcebook of Crime and Criminal Justice Statistics 2014*, 5th edition, HEUNI, 2014, p. 23. This pub-

crimes presented in the police statistics may reflect the criminality situation in a certain period and the track records of crimes referred or recorded by the police. The crime rate, public confidence to the police and the level of police performance are factors that have an impact to the reported crimes. The difficulties in comparing the crime trends are also present in the international comparative studies due to the accuracy and reliability of the collected and processed data, as well as different criminal systems.²² Difficulties are also encountered in the study of relationship of crime towards per capita income, unemployment and its duration, the household conditions of the persons involved in the crime, since the full and accurate data in the criminal justice statistics in Albania is missing. Hereafter, the crime trend analysis is based on the indicators provided in the official statistics.

The crimes recorded by the police, criminal prosecution conducted by the prosecution body and the criminal cases ruled by the court have increased during the period of 2003-2015. According to police statistics, the number of crimes per 100 000 inhabitants is increased to 96% during 2007-2011²³ from 49% during the period of 2003-2007,²⁴ whereas

lication can be found at: http://www.heuni.fi/material/attachments/heuni/reports/qrmEoCVTF/HEUNI_report_80_European_Sourcebook.pdf

²¹ V. Hysi, 'A njihet realisht kriminaliteti? Refleksione dhe mundësi për matjen më të mirë të krimit në Shqipëri', *Studime juridike*, Faculty of Law, no. 1, 2010, Tiranë, pp. 273-303.

²² A. Del Frate, 'Crime and criminal justice statistics challenges', in Stefan Harrendorf, Markku Heiskanen, and Steven Malby (eds.), *International Statistics on Crime and Justice*, HEUNI & UNODC, 2010, pp. 167-175. This material can be found at: https://www.unodc.org/documents/data-and-analysis/Crime-statistics/International_Statistics_on_Crime_and_Justice.pdf

²³ Marcelo F. Aebi, Galma Akdeniz *et al.*, *European Sourcebook of Crime and Criminal Justice Statistics 2014*, cited work, p. 32.

²⁴ M. F. Aebi, K. Aromaa, B. Aubusson de Cavarlay, G. Barclay, B. Gruszczynska, S. Harrendorf, V. Hysi, V. Jaquier, J. M. Jehle, M. Killas, O. Shostko, P. Smit & R. Pórisdóttir, *European Sourcebook of Crime and Criminal Justice Statistics – 2010*, 4th edition, WODC, p. 37. This publication can be found at: <https://english.wodc.nl/onderzoeksdatabase/european-sourcebook-4e-editie.aspx>

during the period of 2013-2015²⁵ the total of crimes has grown every year from 13,6% to 35%. According to the prosecutor statistics, the total number of penal proceedings and the number of defendants increased significantly after 2008, especially during 2012-2015.

The crimes against property occupy the first place, followed by the infringement of road traffic rules, domestic violence, economic and financial crimes and crimes in the area of drugs, mainly drug production and drug dealing. The increasing trends of these crimes in a country that suffers the consequences of the financial crises require a careful analysis of the factors, which are not necessarily linked to directly to the economic crisis. The analysis of the criminological factors and especially criminal policy guidelines, is necessary in order to understand the reaction of the society and the criminal justice institutions against crime in a society coping with economic and financial difficulties and social problems.

The Criminalization of New Crimes and Sharper Criminal Sentences

The Albanian criminal policy has been very dynamic, with frequent and numerous interventions in the criminal code, especially after 2001. The main reasons of change may be summed up into three groups: *Firstly*, as a response to the new forms of criminality and change of criminal phenomenology under the conditions of market economy and a new political system; *secondly*, as a need of approximating the legislation and criminal policy according to the European criminal policy guidelines and engagements taken by the Albanian governments within the framework of European integration; *thirdly*, as need of regional and international cooperation against the global threat of organized crime and terrorism, and the need to prevent the authors of the crime to avoid investigation and judgement.

Domestic violence – a social problem that has long existed but which has increased, and was reported during the last decade in Albania – was criminalized as a separate crime in 2012. In 2013, the policy-makers reviewed the criminal policy regarding the crime of domestic

²⁵ 'Shqipëria në shifra', cited work, p. 11.

violence making provisions to include long-life sentence when the criminal act has caused the death of the victim. Special forms of violence against children, of sexual violence, hate crimes or other discriminating motives, cyber crime, foreign fighters, were criminalized during the recent years.

For some crimes, the penal code provides for the security period (added article 65/a of CC, in 2012), according to which the convicted person cannot profit a reduction of the sentence or release on bail, without completing a part of its imprisonment penalty and, for some crimes, until the full duration of the criminal sentence. After the abrogation of death penalty (1999), life imprisonment was provided for a number of crimes. The changes in the criminal code, in 2012 and 2013, have extended the range of the criminal offences, for which a life-long sentence is provided. The imprisonment penalty varies from 5 days to maximum of 35 years, from 25 years provided before 2012.

As it will be further analyzed, the increase of new criminal offences and the increase of penalty had an impact on the number of convicts and prison population. On the other hand, the provision of criterias and conditions for the application of alternative penalties for specific crimes brought an increase in the number of persons convicted with imprisonment.²⁶

'Zero Tolerance' for Crimes with an Impact on the Country's Economy

Over two decades, the crime of corruption, drugs related crimes, the crime of driving a vehicle in a drunk condition or without a driving licence, theft of electric power, construction without a permit, tax eviction, modern slavery in the form of exploitation at work of the employees, especially in the private sector, services sector, etc., are a concern to the public order and security, the country's economy and democracy, as well as human rights. However, over a long period of time, the number of those convicted for these crimes was low.

²⁶ V. Hysi, 'Politika penale për veprat penale kundër grave dhe fëmijëve', *Studime Juridike*, Faculty of Law, UT, Tirana, 2014, no. 2, pp. 33-64.

The criminal policy during the period of post global economic crisis aims at preventing the crimes with an impact on the economy, the economic sustainable development and the social life of the citizens. In Albania, the criminal policy guidelines are established by the Council of Ministers. Nowadays, it is oriented towards such directions,²⁷ as: the fight against organized crime, trafficking, drugs, cyber crime, corruption, stoppage of crisis on the energy sector, under a strategy that provides criminal and non criminal measures, among which increase of penalty for the crime of energy theft, for the crime of fiscal evasion and informal employment, environment protection against constructions without a permit, through a 'zero tolerance' policy, prevention of road accidents by more severe sentences for those persons driving under the effect of alcohol or narcotics, or without a driving licence.

On the other hand, as referred above, the global financial crisis does not enable a sufficient funding for the prevention of such crimes, including the non criminal and social programmes and administrative measures, as long as the inherited debts, for example in the energy sector the unpaid tax obligations were such as to drive the country in a more severe recession as that of the neighbouring country, Greece.

As part of the crime prevention strategies, the government established as a necessary measure to make more severe the sentence for many of the crimes mentioned above.²⁸ The zero tolerance towards such crimes was applied after the changes in the criminal code in 2012 and 2013. *Firstly*, fine penalty for most of the crimes was abrogated; *secondly*, the minimal and maximal imprisonment sentence was increased; *thirdly*, task forces were set up, which enabled a better screening of the crimes, the increase of reports of crime to the police, the increase of criminal prosecutions and the number of convicts.

²⁷ Recommendation for the General Prosecutor's Office in the Fight against Criminality for 2014 and 2015, Ministry of Justice.

²⁸ The Council of Ministers, through the Minister of Justice, set up guidelines for criminality prevention at the beginning of each year. The Parliament, after hearing the General Prosecution's Office report on the criminality situation during the previous year, prepares a resolution containing recommendations on the criminal policy to be followed by the prosecution body.

Criminal Policy Changes Towards Some Crimes – Reaction to Public Pressure

The analysis of some crime trends recorded in the official statistics, in particular after 2012, can lead to inaccurate conclusions if the priorities of the criminal policy and public attitude towards crime are not known. Since 2001, the Albanian criminal policy has changed in response to its approximation with the European criminal policy guidelines, but, in a considerable number of cases, also as a response to the public reaction towards events which were largely discussed in the media. The criminal policy has changed also thanks to a the need for a severe reaction towards some crimes that existed for a long period of time in the Albanian society, but which lacked the proper attention. Thus, the abduction of a child in 2012 and failure to find him or his body, the discussion of this case in the media as a paedophile case, served as an argument to increase imprisonment minimal and maximal limits and to increase the maximum imprisonment penalty from 25 years to 35 years for some crimes.²⁹ More severe sentences in the case of murder of police officers or due to family relationships, penalties for carrying arms illegally or driving under the effect of alcohol or narcotic substances, was a reflection towards the hard reaction of the public for public order and security in the country.

Criminal Policy Priorities and Their Impact on the Crime Trends

The changes in the criminal code and the criminal policy priorities have an impact in the recorded crime rates and their trends. The relationship between criminal policy priorities and trends of the prosecuted crimes is more than evident in the case of Albania. Following, there are some crimes with a priority in the criminal policy during the recent years.³⁰

²⁹ Law 144/2013 'On some addenda and amendments in the Criminal Code of RA', changed the terms of imprisonment sentence for the crime of child abduction and sexual acts with them and changed the application criteria for the aggravated circumstances.

³⁰ The source of information: *General Prosecutor Office Statistics*, 2015.

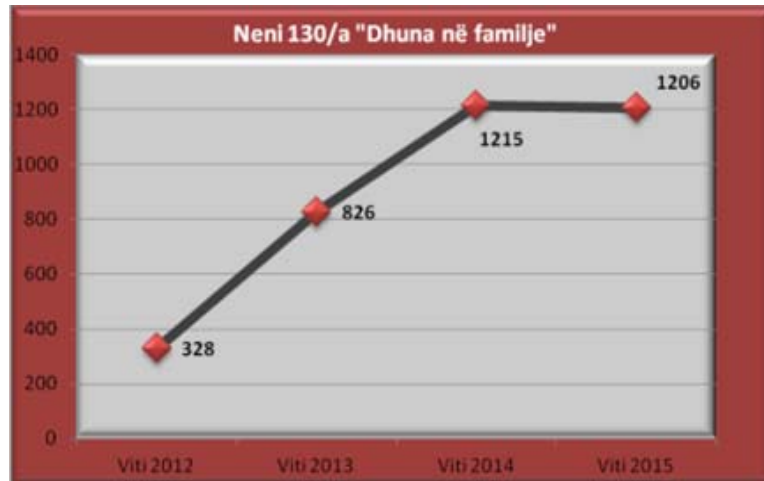


Chart 1: Domestic violence

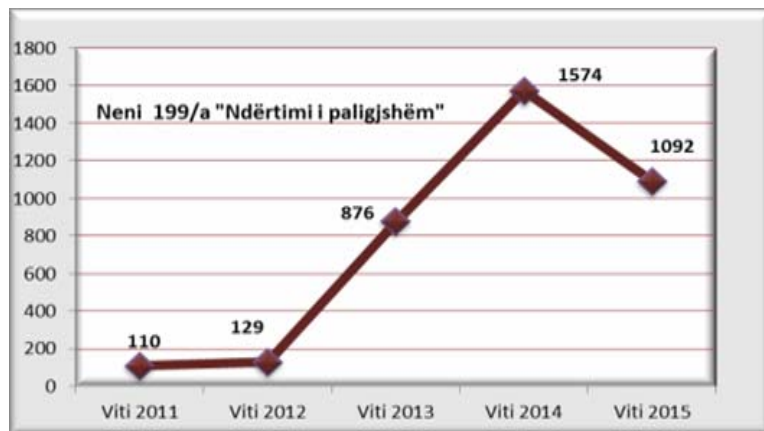


Chart 2: Illegal construction

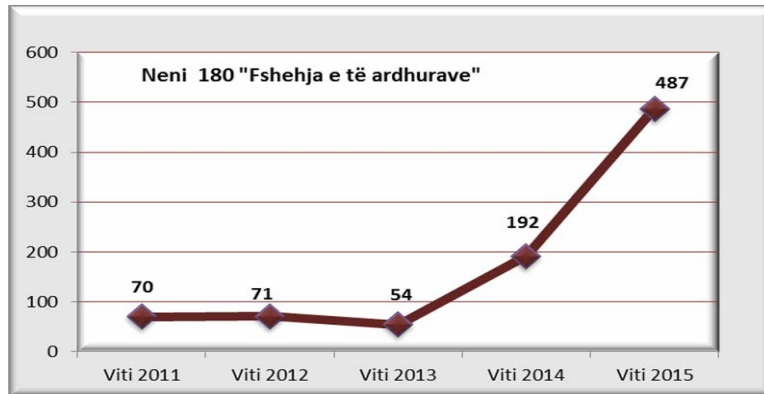


Chart 3: Concealment of income

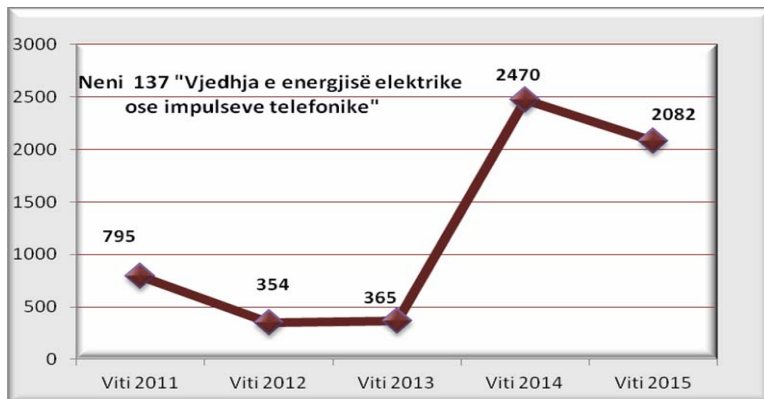


Chart 4: Energy theft

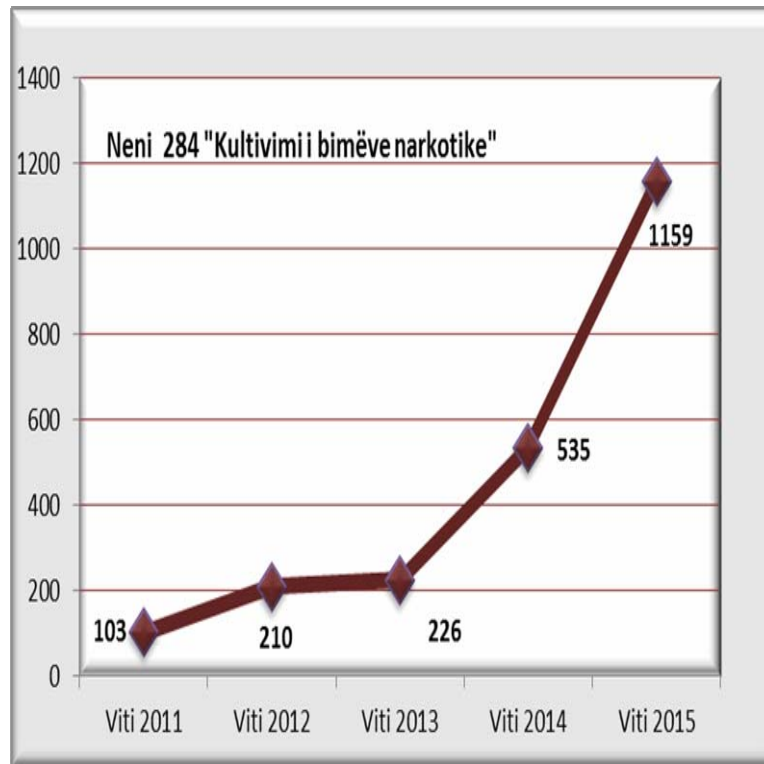


Chart 5: Cultivation of narcotic plants



Chart 6: Laundering of proceed from crime

The data of these charts show: *Firstly*, the number of the prosecuted crimes has a direct link to the criminal policy guidelines and its applications, as is the case of energy theft, illegal construction and driving without a driving licence or in drunken condition.

Secondly, the increase in the number of some crimes is a direct consequence of the criminal policy that was followed, but is also connected to reporting of crimes. As shown in chart no. 1, domestic violence is affected by its criminalization as a separate crime in 2012, with the public awareness performed by the civil society and the media, as well as with the creation of local support mechanisms for the victims of violence.

Thirdly, the increase of criminal prosecutions for some crimes such as energy theft (chart no.4), does not always have as a criminogenic factor the lack of economic means by the citizens to pay the energy, but in many cases it is related to the subculture that was created for the purpose of not paying a commodity that is a common property, as well as to the poor performance of the institutions appointed by law to collect the due obligations, after the privatization of the Power Distribution Operator (OSHEE) (2007). It is a fact that the global financial crisis and the energy import prices put the Albanian energy marked under serious difficulties, which already had large unpaid financial obliga-

tions, caused as a result of grid losses and energy theft. Therefore, putting to a stop to the ruination of such system was accompanied by the application of zero tolerance against the crime of electric power theft.

Fourthly, the increase of criminal prosecutions for illegal constructions (chart no. 2) is not linked to the economic conditions of the people who have constructed, or to the consequences of the financial crisis in Albania, but rather to practices that was tolerated for almost 25 years to construct in the state property or in third party property, without observing the procedures and rights of the property of the others. In most of the cases, this phenomenon was tolerated by the institutions in charge of the territory control and law enforcement, due to the corruption practices, as well as a non-efficient and corrupted judicial system. Until recently, the property protection mechanisms have been weak.³¹ The need of sustainable economic development and urban planning urged the need to apply a severe criminal policy towards environment-related crimes.

Fifthly, narcotic plant cultivation has been a great concern, classifying Albania as a narcotics cultivating country.³² The increase in the number of criminal prosecutions and person arrested for the crime in the area of drugs (chart no.5), as well as the increase in the number of criminal prosecutions for the crime of laundering of the proceeds from crime or criminal activity (chart no. 6) reflects the criminal policy priorities, a better international cooperation, as well as a greater commitment to fulfil one of the requirements placed by the European Union to open membership accession negotiations of Albania in the EU.

The decreasing trends for these crimes during 2015 presents an interest for further qualitative studies. Such trends cannot be exactly explained as long as there are no studies to evaluate which was more ef-

³¹ Shqipëria: 'Gjenerata e Ardhshme, Dignozat sistematike e vendit', World Bank Group, April 2015, cited work, 12-13.

³² *International Narcotics Control Strategy*, United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, Report, Volume I, 'Drug and chemical control', March 2015, p. 99. This was published on the internet and can be found at: <http://www.state.gov/documents/organization/239560.pdf>

fective, the “zero tolerance” policy, or the administrative measures taken for better territory control, or the application of facilitation debt repayment schemes towards the power company, or all the applied measures as a whole. The fact is that, today, the electric energy is being paid and that the level of losses has significantly decreased as compared to two years ago,³³ the constructions without a permit have been stopped and the people follow the administrative procedures at the local bodies to perform reconstructions of new constructions in their property.

The above analysis shows clearly that the analysis of trends for specific types of crimes and the total of crimes needs to be carried out in a macro- and micro-context, as well as by analyzing the political, economic and social developments in the country for a certain period.

Relationship Between the Crime Trends and Imprisonment Sentences

As pointed out above, the rate of the prosecuted and reported crimes depends not only on the criminality situation, but also on the criminal policy guidelines. The number of persons convicted to prison depends on the crime trends and types of penalties provided for in the relevant article.

The number persons convicted in Albania has increased over the years. During the period 2004-2015, the number of those convicted for crimes against property and economic crimes has progressively increased, followed by the number of crimes against state and public order officials, whereas the number of persons convicted for crimes against life has decreased. The number of convicts for domestic violence crimes was increases, in particular after 2012, when the Criminal Code established domestic violence as a separate crime.

Life imprisonment sentence during the period 2008-2015 was applied at more ore less same levels for very serious crimes in society. As of June 2016, in the Albanian prisons there are 159 persons convicted

³³ For more information, see data at the official website of Albanian Power Distribution Operator (OSSHE): <http://oshee.al/>

with life imprisonment.³⁴

Imprisonment sentences were applied for crimes and contraventions. The imprisonment sentence was the most applied penalty until 2009, when probation service was first established,³⁵ which enabled the application of suspension of the execution of an imprisonment sentence and placing the convict on probation. However, imprisonment sentence continues to be widely applied, mainly sentences with terms up to 2, 2-5 years. The application of imprisonment sentences with terms 10-25 years has been decreasing.

As regards the alternative penalties to imprisonment sentence, before 2009 only the suspension of the sentence was applied, but without monitoring, since the probation services was not yet established. During the period 2010-2015, the application of suspension of the sentence in prison and putting the convict on probation has increased, in particular after 2013. In 2015, this penalty was applied four times more compared to 2010.³⁶ Fine penalties have experienced a variable trend, increasing from 2005, reaching the highest level in 2012.

Relationship Between Crime Trends and Imprisonment of the Perpetrators

According to Michael Tonry, there is not necessarily a link between criminality rate and imprisonment rate and that imprisonment can be affected by the criminality rate, but often it is linked with the consequences of the criminal policy followed by public officials.³⁷

³⁴ Situation and classification of prisoners, June 2016. The data are published at: <http://www.dpbsh.gov.al/newweb/?fqëbrenda&mëshfaqart&gjëgj1&aidë613>

³⁵ Decision of Council of Ministers 302, dated 25.03.2009 'On the Approval of the Regulation "On the organization and operation of the probation service and establishment of procedure standards for monitoring the execution of alternative penalties"'.

³⁶ General Prosecutor's Office Report on the criminality situation, 2014, 2015.

³⁷ M. Tonry, 'Punishment policies and patterns in Western countries', Michael Tonry & Richard S. Frase (eds.), *Sentencing and Sanctions in Western Countries*, Oxford, 2001, pp. 3-28.

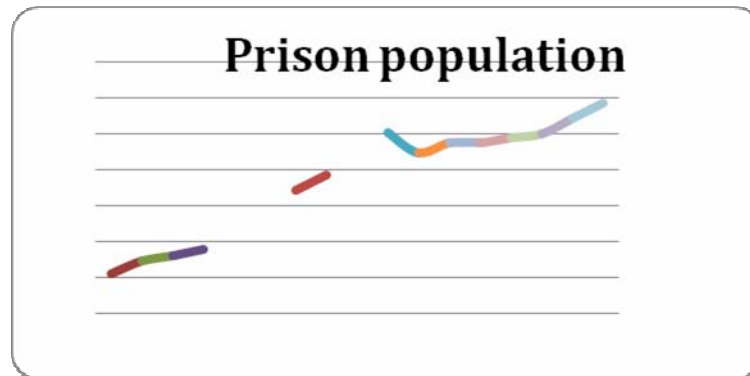


Chart 7: Number of prisoners per 100.000 in habitants (1999-2016)

Source: Council of Europe, Annual Penal Statistics: Prison populations. SPACE 1

As it can be seen from the above chart, the number of prison population has increased over the years, especially since 2009 onwards, reaching the highest level during the period 2014-2015.³⁸ In 1993, the number of prisoners was 33 per 100 000 inhabitants, in 2009, 140.7 per 100 000 inhabitants, and in 2014, this number was 187.8 per 100 000 inhabitants, i.e. 6 times higher than in 1999.³⁹

The increase of prison population rate has not been constant. During 2002-2011, the increase of prison population was 191.2%.⁴⁰ Within this analyzed period, it is noticed that during 2000-2005, this increase was 151.2%,⁴¹ whereas during 2005-2014, it is 71.9%.⁴² The dynamic of

³⁸ Council of Europe Annual Penal Statistics, 2016, published at the website: <http://wp.unil.ch/space/space-i/prison-stock-on-1st-january/prison-stock-on-01-jan-2015-2016/>

³⁹ Council of Europe Annual Penal Statistics, SPACE 1, 2014, published at the website http://wp.unil.ch/space/files/2016/05/SPACE-I-2014-Report_final.1.pdf

⁴⁰ M. F. Aebi & N. Delgrande (2013). *SPACE I – Council of Europe Annual Penal Statistics: Prison populations. Survey 2011*. Strasbourg: Council of Europe, p. 62.

⁴¹ *Annual Penal Statistics: Prison populations. Survey 2005*. Strasbourg: Council of Europe 2000-2005 published at the website <http://wp.unil.ch/space/files/2011/>

prison population after 2005 has decreased, due to the increase of opportunities to apply alternative penalties to imprisonment sentence and extension of this service to the entire territory in the country. As it was pointed out above, the alternative penalties applied in 2014 and 2015 were respectively 2-3 times more than in 2011.

The analysis of the persons convicted that are in prison, based on the main crime for which they were convicted, shows that most of the persons are convicted for murder, drug crimes, robbery or robbery leading to death, and theft. The correlation between persons convicted for murder and those in prison for this crime cannot be explained with the increase of such crimes, since, as it was also referred above, crimes of murder and persons convicted for murder decreased, but rather with the duration of time in prison of those people. The official prosecutor's office statistics show that the number of criminal prosecutions for murder has significantly decreased during 2010-2015,⁴³ but the number of the persons convicted for murder and spending time in prison has increased during this period.

In interpreting the correlation between crime trends and imprisonment, it is necessary to evaluate other aspects of criminal policy, such as pardons and amnesty. During the post global crisis period, the Albanian lawmaker has approved 4 amnesties, from which profited convicts of all ages and for a number of crimes. In any case, women and minors, elderly convicts, have profited either by reduction of the sentence duration, or their release from prison, except for specific crimes. From the two amnesties of November 2012, April 2014, persons under investigation have also profited. The explanatory reports of bills "On amnesties" have pointed out the need of humanisation and integration of the convicted persons and that had already completed a part of the term, or that were convicted for crimes of low danger to the society, or

[02/SPACE-1 2005 English.pdf](#)

⁴² *Council of Europe Annual Penal Statistics, SPACE 1, 2011*, published at the website: http://wp.unil.ch/space/files/2011/02/SPACE-1_2003-_English.pdf

⁴³ *General Prosecutor's Office Report on the Criminality Situation, Annual Report, 2014*, pp. 52-60 and 2015, pp. 50-62.

low sentences and the risk of violating the human rights due to overcrowding. In addition, the increase of terms to spend in prison leads to a violence of European⁴⁴ and national standards⁴⁵ of human rights.

Crime Perpetrators, Convicts and Their Social Profile

The study of relationship between the number of offenders and those who are in prison in a post crisis period is of interest for the development and implementation of effective crime prevention programmes. The analysis is based on the data published by the prosecutor office during the period 2010-2015.

The data analysis for the offenders, from the gender aspect, shows that approx. 95% of the defendants are males. Their education level is low; up to 9 years of education, it varies from 55.7% (2015) to 64.35% (2011), with increasing trend of those with a secondary education, but still this number varies between 31.07% (2013) –37.76% (2015) and a slight increase in the number of defendants with higher education in 2015 (5.1%-6.54%). The increase in the number of offenders with secondary or higher education is related to the number of criminal cases for corruption and finance crime.

Based on the social status, most of the offenders are unemployed (64.43%-67.14%). The offenders live in the urban as well as in rural areas, with an increasing trend for the latter. The number of minors offenders has increased, the majority of whom have been accused and

⁴⁴ Recommendation No. R (92) 17 of the Committee of Ministers to member states concerning 'Consistency in sentencing', Adopted by the Committee of Ministers on 19 October 1992 at the 482nd meeting of the Ministers' Deputies. This recommendation can be found at the official website of Council of Europe: <https://wcd.coe.int/com.instranet.InstraServlet?commandwcom.instranet.CmdBlobGet&InstranetImage574891&SecModew1&DocIdw605184&Usagew2>

⁴⁵ Decision no. 9, dated 26. 02 2016 of the Constitutional Court has abrogated as unconstitutional the amendments made in the criminal code in 2015 in relation to the added criminal penalty when the perpetrator commits more than one crime, from which one was committed with a weapon lacking a permit and for the crime of carriage of weapons and monitions, ruling that such amendments violate the principle of proportionality and that of the restriction of rights, set out in Article 171 of the Constitution of the Republic of Albania.

convicted for property theft, inappropriate driving, manufacture and carriage of cold and fire arms, and assaults.

The court and prison statistics do not provide detailed data on the social profile of the convicted persons, according to their type of crime, but only data based on age, gender, crime type and years of the sentence.

Types of alternative penalties	2009–2010	2011	2012	2013	2014	2015
Article 59 of CP, Suspension	2012	1616	2166	1758	3189	4798
Article 59/a of CP, House arrest	43	68	34	36	56	92
Article 64 of CP, Release on bail	283	206	188	146	64	84
Article 63 of CP, Work with public interest	214	226	214	145	694	974
Article 58 of CP, Semi-custodial arrangement	0	1	0	0	0	4
TOTAL	2552	2117	2602	2085	4003	5952

Types of alternative penalties	Jan–July 2016	Total
Article 59 of CP, Suspension	2267	17806
Article 59/a of CP, House arrest	27	356
Article 64 of CP, Release on bail	37	1008
Article 63 of CP, Work with public interest	543	3010
Article 58 of CP, Semi-custodial arrangement		5
TOTAL	2874	22185

Source: General Directory of Probation Service, Ministry of Justice

As the above chart shows, the number of persons who have been

prosecuted and number of prisoners has increased during 2010-2015, but a considerable part of those convicted are not put in prison, but are supervised by the probation service. As of August 2016, there are 2969 persons in prison, from which 7 minors, 118 of age group 18-21 years old, 357 of age group 21-25 years old.⁴⁶ The number of those punished with alternative penalties, in June 2009–July 2016, is 22 185.

Conclusions

The global financial crisis has affected the Albanian economy and its growth rates. With a economy with a low growth rates and brittle finances, the funding of crime prevention programmes through public, non-criminal policies, faces difficulties. On the other hand, specific forms of crime have increased. The study of the relationship between the crime, sentencing and prison population shows that crime trends are related to the consequences of the crisis, in particular to unemployment, low education level of the persons involved in the crime. But, the types of crime that have experienced a significant increase during the recent years are not related so much to the economic conditions, but rather to the priorities of criminal policy. These priorities were established due to the need of preventing some forms of crime, which have an impact on the economy, on the welfare of the country, order and security, but also by as a result of public and media pressure.

The criminalization of specific crimes has had an impact on a better reporting and screening of such crimes, as well as on the change of the crime structure. The implementation of an efficient and proportional criminal policy through the level of seriousness of crime and sentencing, is difficult for an economy which continue to suffer the consequences of the economic and financial crisis. The “zero tolerance” policy against specific crimes brought an increase in the number of criminal prosecutions and convicts. It would be of interest to study the effect of “zero tolerance” policy in the trends of such crimes in a near future.

⁴⁶ Data from General Directorate of Prisons, August 2016.

The empiric analysis, based on official statistics, points out the correlation between crime trends and imprisonment sentence, but the relationship of the number of crimes and imprisonment sentences is rather dictated by the choice of criminal policies, that the real increase of some types of crime.

The execution of imprisonment sentence depends on the legal arrangements and the provisions on their terms. The increase of imprisonment terms, in their minimum and maximum limits, has brought an increase of time spent in prison. A more severe criminal policy towards some specific crimes has affected on the decrease of some crimes, in short-term, but in medium-term and long-term period, it may increase the social and economic costs for prison system in the country.

The relationship between crimes and sentences needs to be analysed also as regards the application of alternative measures to imprisonment. The number of prison population would be larger, if the application of alternative measures would not begin in 2009, and if the courts would not apply more the sentences in their minimum limits provided by law than in the maximum limits.

The study of the relationship between crime and inequality, unemployment, consequences of the crisis on the social arrangement of the society and the application of social programmes to protect the more vulnerable groups in the society, must be the focus of such studies. Albania needs not only quantitative research on crime, but also qualitative ones, its measurement, knowledge of victims and development of crime prevention and control programmes bases on scientific research findings.

Last, but not least, criminological studies must precede the preparation and/or change of criminal policies. Their impact will not be the one needed if the official statistics on crime will not improve, if they do not provide more data on the profile of perpetrators of the crime and their victims. Such studies do not need only funding, but also good scholars and professionals.

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