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# **ALBANIAN REPORT**

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## **I. INTRODUCTION**

### **I.1 Albania, Government and its people**

The Republic of Albania is a parliamentary democracy with a population of approximately 3.6 million. Legislative authority is vested in the unicameral People's Assembly (parliament), which elects both the prime minister and the president. The prime minister heads the government, while the presidency is a largely ceremonial position with limited executive power.

Albania even during 2008 still remains a country in transition. This year has been marked by positive and negative developments in the area of good governance and respect for human rights.

In February 2007 local elections were held nationwide, with the presence of international election monitors. As the previous elections they were marked with irregularities. In itself the local elections were a test for the policies of the governing party. The new political configuration of the local administration promises to bring change to political participation of all the societal groups. As the country moves ahead with its development, which was stated to be at around 6 percent, continuously shows the lack of politicians to reach to the people who need most the assistance of the Government, especially children, young people, women and elderly.

There was little progress towards constructive consensus between political parties on implementing reforms necessary for progress in the Stabilisation and Association Process. Parliamentary work was often dominated by a short-term political agenda which polarized debate. Parliamentary decisions were often delayed due to disputes focused on narrow party interests or rushed without proper preparation and discussion. This held back reform, particularly in the electoral and judicial fields.<sup>1</sup>

The political instability keeps the development of the country on hold, especially at the local level, where most of the reforms are needed. Poverty is still wide spread in Albania, especially in northern and informal areas of the country. Many people complain that they lack

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<sup>1</sup> European Commission Progress Report 2007 on Albania, see [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/albania\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/albania_progress_reports_en.pdf)

access to the most basic services such as health, employment and education. Although human rights abuses are closely and publicly scrutinised by NGO's and Ombudsman, still is widely known that the respect of human rights is still a challenge for the public institutions in the country. Both European Commission and US State Department continue to criticise Albanian Government for the lack of respect of human rights.

Judicial procedures generally remain slow and lack transparency. Government measures to combat corruption in the judiciary led to continued conflict between the executive and the judiciary, in particular the General Prosecutor. Judicial infrastructure remains poor, especially in the Tirana district court and court of appeal, the country's largest. Courts continue to lack adequate space for courtrooms, archives and equipment. This hinders transparency, with the public unable to attend trials held in judges' offices. Enforcement of court rulings in cases involving state institutions often takes longer than the six months allowed by law. Plans to reform the bailiff system have not yet led to new laws.<sup>2</sup>

Albania aims to become a member of the European Union and NATO. A Stabilisation and Association Agreement (SAA) between Albania and the EU was signed in June 2006 and is currently under implementation. The country often is criticised for high levels of corruption, lack of transparency and cooperation among political parties. By the end of the year, two major parties seem to have found a common language on two major reforms, the justice and electoral one.

The country has maintained high economical growth and has enjoyed macroeconomic stability over the past few years and average real Gross Domestic Product (GDP) growth rates of over five percent – the highest in South-eastern Europe – underpinned by rising exports (albeit from a low base), and continuing improvements in productivity.

Corruption is widespread and constitutes a very serious problem in Albania. The government has drafted a new anti-corruption strategy for 2007-2013. A strategy covering an extended period shows a positive change in approach from short-term solutions to more effective and sustainable measures. Albania has made progress in implementing new public procurement legislation, measures to strengthen the independence and transparency of the Public Procurement Agency and the appointment of a public procurement ombudsman.

Nonetheless, Albania still suffers from a high perceived level of corruption, as several studies and reports indicate. According to the Transparency International 2006 annual survey, Albania ranked 105<sup>th</sup>

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<sup>2</sup> European Commission Progress Report 2007 on Albania

out of 179 countries with a CPI Score of 2.9<sup>3</sup>, when country has made progressive improvement with 0.3 from last year, 2006.

## **I.2 Children rights in Albania**

The collapse of communist regime in 1990 brought many social, economical and political changes that were accompanied by many negative phenomena especially towards children and young people.

Albania has ratified all major UN and European Conventions on human rights. However the situation of children's rights in the country remains fragile and many times major children's rights violations go unreported. NGO's and the Ombudsman have complained on several occasions the lack of improvement of child rights situation, despite the fact that the Government officials have sufficient knowledge about human rights laws and practices.

Regarding children's rights, the government is making efforts to gather the data required to assess needs. New juvenile sections at six district courts should improve treatment of juveniles as regards criminal justice. Further progress on juvenile justice is limited by lack of a specific legal code.

Five new local Child Rights Units have been set up. The Ministry of Education has begun a "second chance" programme to help reintegrate children who have dropped out of school.

Regarding children kept at home and thus deprived of their right of education, the number of children involved in blood feuds decreased from 104 in 2005 to 95 in 2006 and 87 in 2007. However, a draft law on birth registration, which is vital for widening children's access to education and primary healthcare, has still not been adopted by the government.

Government resources are not sufficient to guarantee children their right to education. The child protection mechanism remains relatively weak. The many children not registered at birth, particularly from the Roma community, remain at greater risk from traffickers.

Child labour and exploitation remains widespread, with an estimated 32 percent of children aged between 6 and 17 working. Amendments to the Penal Code concerning exploitation of children through forced labour, sale and pornography have been proposed but not yet approved by parliament.

Child trafficking is one of the most striking phenomena's in the country. Although there have been several positive developments when it comes to fight against child trafficking, such as the preparation of a National Strategy and an Action Plan Against Child Trafficking, several

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<sup>3</sup> The 2007 Transparency International Corruption Perceptions Index. See [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2007](http://www.transparency.org/policy_research/surveys_indices/cpi/2007)

children's NGO's stated that even throughout 2007 the child trafficking continued.

### **I.3 Juvenile delinquency in Albania**

The end of the communist system found Albania without a juvenile justice in place. Even those few structures that existed, after the democratic changes, were paralised or simply closed down for lack of funding. Running a new system of the administration of juvenile justice was not a priority then and for a long time juveniles in conflict with law were left under the case of adult justice system, including pre-trial detention centers and prisons.

Only after 2001, when the numbers of juveniles were on the raise and the national civil society increased the pressure for the establishment of a friendly juvenile justice system, the Government of Albania started to reform its legislation and policies towards juveniles in conflict with the law.

New legislation started to be enacted and several policies, such as National Strategy for Children were approved. This was followed by the establishment of separate rooms in Prison of Vaqar for juveniles and a separate section in Pre-trial 313 in Tirana. In 2007 new Juveniles sections in six courts of Albania were established and with the assistance of EU, SIDA and UNICEF a national programme is being implemented to reform the overall juvenile justice system.

Nonetheless the situation remains far from perfect. Children and young people still face several challenges when falling in conflict with the law. Police and prosecutors throughout Albania are not fully trained on CRC and other child rights standards and juveniles' processes take longer. Courts tend to treat the juveniles same as adult offenders and most of the judges prefer to sentence with imprisonment terms the juveniles in conflict with the law.

### **I.4 Juveniles and organised crime**

Compare perhaps with other countries the involvement of juveniles in organised crime is still very low and compare with the overall data of offences, juvenile offences remain still under control. Nonetheless year to year the data shows that more juveniles, but especially children under 14 are committing criminal offences against adults, but also against other children.

There is a short history of organised crime in Albania and this is mainly presented in the forms of child / human trafficking and drugs. However children and young people remain more the victims of these criminal offences, rather than become offenders. This is partially explained by the fact that most of the juveniles commit criminal offences

related to poverty such as theft, rather than become part of a gang group or an organised group of offenders or organisation.

## **II. DEFINITION OF ORGANISED CRIME AND JUVENILE DELINQUENCY**

### **II.1 Definition of the juvenile in conflict with the law**

One characteristic of Albanian legislation is that legal dispositions regarding juveniles are found in many codes, laws and dispositions. There is no comprehensive legislation or “Code” with regard to juvenile justice. There is no unified legal system exclusively for the children. Some laws treat children in a special way, but still fragmentary. Furthermore, juveniles and adults are often treated the same way in those legal documents.<sup>4</sup>

There is no definition in the Constitution regarding categories as “minors”, “juvenile” and “child”. The term “minor” is only used in article 27/ç: « [...] Freedom may not be limited except in the following cases... ç) for the supervision of a minor for purposes of education or for escorting him to a competent organ.» “Child” is mentioned in articles 54 and 59/ ç and “juvenile” in article 54/1.<sup>5</sup>

The same can be said about the Criminal Code and the Criminal Procedure Code of Albania. Both this legal documents do not state specifically or provide on who will be considered a child or a juvenile by the penal legislation.

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<sup>4</sup> A. Mandro, *Juvenile Justice in Albania*. Published by UNICEF / CRCA, Tirana 2007

<sup>5</sup> *Idem*.

### III. CHILDREN AND JUVENILES IN CONFLICT WITH THE LAW IN ALBANIA

#### III.1 Evolution of the juvenile justice system in Albania

During the period 1990 – 2006, the juvenile justice system has undergone a process of continuous reforms. From this analysis, we can draw the conclusion that harmonization has yet to be completed. What the Law or a Convention contains is not always a met standard, or a standard which can be put into practise. There are still elements of concern in the legislation needed to be harmonised. Infrastructures are not fully adapted yet and there is still a need for staff training, qualifications and specialization of human resources. This process of coordination and harmonization of our legislation to international standards on human rights, in order to be effective, should be led by executives who are familiar with legal acts regarding juvenile justice. It is also required that the law and structures to act upon infrastructures that serve human rights executions guaranteed by law and the Constitution. The analysis that follows supports that conclusion.

*Regarding legislation, policies and strategies* it can be said that from 2001 and onward, progress has been at times rapid but at other times insecure. We will outline some important steps related to juvenile-oriented policies and the influence those policies can have.

*The administration of the juvenile justice system.* Police, ministries (especially Justice and Interior), prosecution, court, penitentiary system, system of professionals that offer legal defence are generally reformed to match legal changes made to protect child's best interests, etc. We would like to underline the term "generally" because incompatibilities between what the law says and the existing legal mechanisms and structures are often a problem.

*Training of capacities and professionals* regarding administration of juvenile justice has been a continuous process. Generally, this training has been led by the State and international actors and NGOs as they were concerned with the professionalism and accountability of those involved in the juvenile justice sector. Magistrates school; police academy, law and social sciences schools, the Ministry of Justice and international actors like UNICEF, OSCE, TDH, CoE, European Commission etc. have indeed been and are still focused on vocational training of the actors working in the juvenile justice system, such as judges, prosecutors, police officers, lawyers, penitentiary staff.

#### III.2 Age of legal responsibility

Juvenile is a person that has not yet come of age and consequently has a specific status. This status is also seen in the civil rights field. In the law on education it is stated that children of age 6 – 16 should follow a mandatory 9 year education; sale of alcohol to those under age 18 is prohibited; an individual under age 18 cannot apply for driver's license; cannot vote or get married; etc. As a result, juveniles do not have the same legal responsibilities as adults. Because of this special status found in the Albanian legislation (also found in many other countries), a different system of punishment is to be applied to them. How different is this system from that of adults and how it responds to juveniles

legal status represents a very serious and difficult issue which cannot be fully covered and analyzed through a single research like the one at hand.

Our legislation has paid a particular attention to issues like determination of the age of legal responsibility and its verification and dismissal of legal proceedings in cases when the age of legal responsibility is not reached. The Committee on the Rights of the Child has underlined the fact that the Albanian legislation has clear deficiencies regarding status of children of age 14 –18 (in issues as sexual abuse and the juvenile justice). This can lead to disagreements over the special protection and rights juveniles are entitled to under the CRC. In this context, the adoption of a clear and explicit legislation is a necessity.<sup>6</sup>

**Article 12 of the CC: age of legal responsibility** for crimes begins at age 14 and for contraventions begins at age 16.

**Article 41 of the CPC: Verification of age of the accused.**

1. In any stage and instance of the proceedings, when there are reasons to believe that the defendant is a juvenile, the proceeding authority makes the necessary verifications and, if necessary, orders the expertise.
2. When after verifications, there are still doubts regarding the age of the defendant, he or she is presumed to be a juvenile.

**Article 290 of the CPC: Circumstances that forbid proceedings**

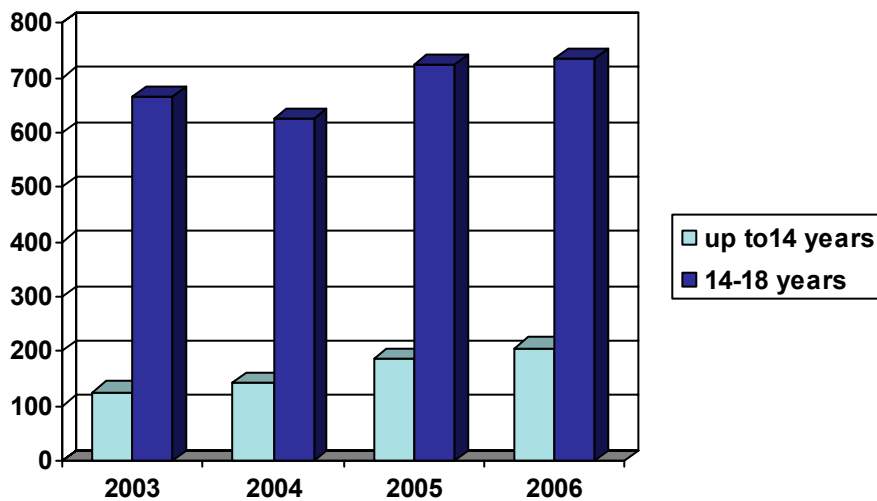
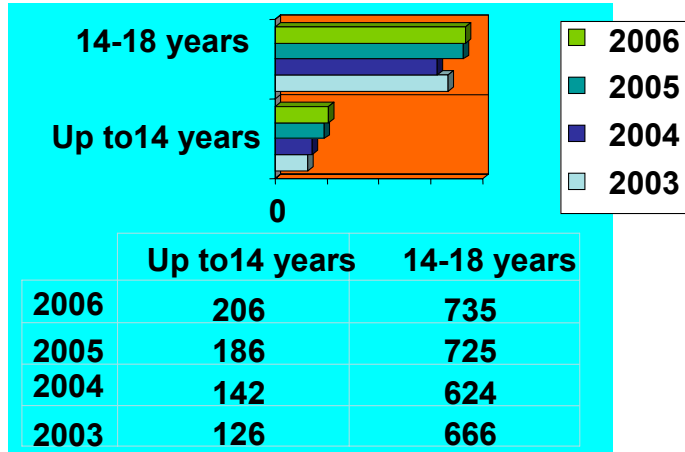
1. Legal proceedings cannot begin or when already begun are to be dismissed when: b-person ....has not reached age of legal responsibility;

The crime rate of young people is taken into account when fixing the age of criminal liability.<sup>7</sup> In terms of our country when crime dynamics has suffered changes and juveniles involvement had various tendencies, researches like this, with the purpose of creating policies for protection of child's bests interest and intending to educate, hold responsible and protect juveniles, is a contribution for the future. Statistics show that juveniles belong to two age groups: up to age 14 and 14 – 18. There are no detailed statistics on age in order to closely state their involvement in delinquencies and consequently age of responsibility that would match their status.

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<sup>6</sup> Final Observations of the Committee on the Rights of the Child: ALBANIA COMMITTEE ON THE RIGHTS OF THE CHILD/C/15/Add.249. 28 January 2005, 38th session.

<sup>7</sup> *Vasilika Hysi* "Criminology" Chapter 7, Tirana, 2005



### III.3 Situation of juvenile delinquency in Albania

Juvenile delinquency appeared and quickly became a serious issue at the beginning of the 90's. Growing concern has existed ever since. Nevertheless, research on the nature, incidence and prevalence of this phenomenon are still deficient today. Gathering data and setting up efficient registration practices has been a difficult task for those involved in research on the topic. Furthermore, a new analytical approach had to be adopted for juvenile delinquency was not as manifest and disturbing in the past. According to records from Ministry of Internal Affairs in 2002 there were 274 juvenile delinquencies, in 2003 there were 308, in 2004 there were 320 and in 2005 there were 289.<sup>8</sup>

<sup>8</sup> E. Haxhiymeri, *Juvenile Delinquency in Albania*. Published by UNICEF / CRCA, 2007.

Sentenced offenders in Albania (2002-2005)<sup>9</sup>

Sentenced offenders in Albania (2002-2005)								
	Year 2002		Year 2003		Year 2004		Year 2005	
	Total	Juveniles	Total	Juveniles	Total	Juveniles	Total	Juveniles
Offences	3614	251	5246	259	4654	313	4733	258
Petty crimes	756	23	1382	49	1725	7	1584	31
Total	4370	274	6628	308	6379	320	6317	289

By comparing the above numbers, one can see that juvenile criminality followed a steady trend from 2002 to 2005. It has increased proportionally with the overall criminality and is mostly seen in the main urban centres of the country.

In Tirana, juvenile delinquency followed this: 56 cases out of 744 registered in total for the year 2002, 36 out of 1505 for 2003, 77 out of 1569 in 2004 and 104 out of 1442 for 2005. Expressed in percentage, the situation in Tirana is as follows:

- For the year 2002 juvenile crime comprises 7.5 percent of cases
- For the year 2003 juvenile crime comprises approximately 2.4 percent of cases
- For the year 2004 juvenile crime comprises approximately 5 percent of cases
- For the year 2005 juvenile crime comprises 7 percent of cases

Vlora, as one of the main urban centres in Albania, has the highest crime rate:

- For the year 2002, out of 323 offences 16 were committed by juveniles, approximately 5 percent
- For the year 2003, out of 263 offences 3 were committed by juveniles, approximately 1.1 percent
- For the year 2004, out of 307 offences 13 were committed by juveniles, approximately 4.2 percent
- For the year 2005, out of 341 offences 5 were committed by juveniles, approximately 5 percent

The above figures for Vlora do not justify the negative perception that is widely spread regarding criminality in general and more specifically juvenile delinquency in this county. In Elbasan, one of the most populated urban centres, juvenile criminality is presented as follows:

<sup>9</sup> Data provided by the Ministry of Justice.

- For the year 2002, out of 208 offences 13 were committed by juveniles, approximately 6 percent
- For the year 2003, out of 310 offences 17 were committed by juveniles, approximately 5.5 percent
- For the year 2004, out of 279 offences 29 were committed by juveniles, approximately 10.4 percent
- For the year 2005, out of 252 offences 6 were committed by juveniles, approximately 2.4 percent

Berat is considered as the city with the highest rate of juvenile delinquency, especially in terms of human trafficking, transportation and distribution of narcotics and offences against other people such as: murder, wounding or unsuccessful attempts. Figures show us this situation:

- For the year 2002, out of 157 offences 5 were committed by juveniles, approximately 3 percent
- For the year 2003, out of 141 offences 18 were committed by juveniles, approximately 12.7 percent
- For the year 2004, out of 246 offences 19 were committed by juveniles, approximately 8 percent
- For the year 2005, out of 209 offences 12 were committed by juveniles, approximately 5.7 percent.

These figures show that juvenile criminality in Berat distressing when compared to other counties. However, the situation is not so different from other big centres even if the situation tends to be more positive in cities with more homogenous population and lower number of inhabitants like Dibra, Bulqiza, Permeti and/or Pogradec.

Analyzing records of juveniles delinquency helps us to understand the proportion of juveniles in conflict with the law compared to the overall criminality rates, the centres with the highest juvenile delinquency rate and the reasons for this, the changes in the criminality curve and finally how figures of juvenile delinquency can be disturbing as well as its implications.

From a rapid assessment and comparison of figures it can be seen that juvenile delinquency comprises 6.25 percent of all offences for the year 2002 (out of 4370 offenders, 274 are juveniles).

For 2003 figures seem to be lower, juvenile delinquency comprises 4.2 percent of all offences (out of 6628 offenders, 308 are juveniles).

For the year 2004, the situation seems steady as that of previous year. Out of 6379 offenders, 320 are criminal acts committed by juveniles, which means approximately 5 percent.

Juvenile delinquency for 2005 comprises approximately 4.4 percent of offences in total.

District Courts	Number of court sentences as per District Courts (2002 – 2005)							
	Year 2002		Year 2003		Year 2004		Year 2005	
	Total	Juveniles	Total	Juveniles	Total	Juveniles	Total	Juveniles
Berat	157	5	141	18	246	19	209	12
Bulqizë	34	0	136	-	85	0	53	0
Dibër	70	9	186	-	151	2	57	1
Durrës	507	56	955	102	1244	71	855	67
Elbasan	208	13	310	17	279	29	252	6
Fier	309	16	366	20	314	11	390	2
Gjirokastrë	31	5	78	7	80	5	33	15
Gramsh	129	5	184	4	166	9	139	3
Kavajë	95	3	165	9	151	3	115	5
Kolonjë	17	1	25	-	48	2	39	7
Korçë	268	15	424	16	480	21	359	9
Krujë	131	1	152	-	157	0	150	1
Kukës	175	16	172	12	189	0	169	0
Kurbin	69	0	190	-	222	0	173	0
Lezhë	104	0	159	-	188	0	149	2
Librazhd	41	4	126	5	121	8	57	2
Lushnje	132	18	184	9	153	9	150	10
Mat	87	0	100	3	107	1	66	6
Mirditë	76	5	130	6	101	7	59	5
Përmet	19	1	50	-	55	0	28	3
Pogradec	65	7	82	-	128	3	126	2
Pukë	105	4	108	-	138	0	101	0
Sarandë	59	0	82	-	122	0	118	7
Shkodër	287	10	31	-	46	19	21	3
Skrapar	36	6	320	31	407	4	400	2
Tepelenë	47	0	49	-	69	0	33	5
Tiranë	744	56	1505	36	1529	77	1442	104
Tropojë	45	2	121	5	107	1	117	3
Vlorë	323	16	263	3	307	13	341	5
Severe offences					64	4	116	3

The above tables show a phenomenon that has been mainly stable for the past four years. However, it still remains a concern. Regardless of the decrease in number of offences in general, juvenile delinquency figures remain largely unchanged. Given the fact that juvenile criminality is precursor of high adult criminal tendencies, the phenomenon becomes more distressing.

### **III.4 Dynamics and structure of juvenile delinquency**

According to most studies, juveniles involved in criminal activities tend to keep this habit at adulthood. Juveniles in conflict with the law are 2 to 3 times more prone to get involved in serious, violent and chronic offences than other individuals who get involved in crime at a later stage in their life.<sup>10</sup>

Further juvenile crime figures reveal another feature. Higher rate of juvenile delinquency is concentrated primarily in main urban centres like Tirana, Korça, Durrës, Elbasan, Gjirokastër, Vlorë and Berat. This feature can be interpreted in various ways.

Firstly, these are centres with the highest concentration of population in the country. Number of offences committed by juveniles should be compared to the number of population in general and to young population in particular that resides in these centres.

Secondly, these centres have recently turned into residential areas for newcomers from rural areas. Many of newcomers brought criminal behaviour, previously expressed or acquired because of their difficult living conditions.

Thirdly, these centres are the mainstay of social and economic life and are therefore more likely to generate criminal behaviours such as: trafficking, prostitution, robbery, extortion, narcotics etc. This is supported by the fact that these 3-4 centres with the highest crime rate are also crossing points between cities like: Durrës, Vlorë, Gjirokastër and Korça.

The labelled data will help us understand the type of offences that is most often committed by juveniles.

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<sup>10</sup> Child delinquency, May 2003, pg 1.

## Type of criminal offences committed by juveniles (2004 -2005)

Article of C.C.	Type of the criminal offence	Convicted juveniles (2004)	Convicted juveniles (2005)
76	Murder	6	2
78/1	First degree murder	2	-
79	Murder in other circumstances	2	2
85	Murder out of carelessness	1	1
88	First degree wounding	5	2
88/a	Wounding in a situation of severe psychological trauma	-	1
100/1	Sexual relations with a minor	1	2
108	Infamous acts	1	2
110/2	Illegal imprisonment	7	-
114/a	Prostitution	1	-
134/1	Theft	94	61
134/2	Theft in partnership with or more than once	97	122
139	Violent robbery	12	3
140	Armed robbery	4	10
141	Death as a result of a robbery	2	-
142	Insurance of means for robbery	-	1
143	Fraud	3	3
151	Arson	1	-
156	Destruction of power supply	1	-
164	Collision of long vehicles	2	-
172	Smuggling	1	-
183	Counterfeit money	-	1
174	Trafficking of licensed products	1	-
186	Falsification of documents	3	1
189	Falsification of ID/visas	14	9
190	Falsification of seals	7	9
191	Falsification of acts of civic registrar	1	2
192/a	Elimination and stealing of documents	2	-
236	Resistance to the police	4	1
243	Attack of a family member or a public person	1	-
278/1	Production and illegal arms bearing and ammunition	5	1
278/2	Production and illegal arms bearing and ammunition	15	9
279	Production and illegal arms bearing of cold armor	3	1
283	Production and sale of narcotics	-	4
290	Violation of traffic rules	4	-
298	Assistance on illegal border crossing	-	1
300	Withholding a crime	8	5
301	Obstruction of justice	1	-
305	False statement	1	1
323	Prison escapees – fugitives	-	1
	<b>Total</b>	<b>313</b>	<b>258</b>

As seen in the above table, the most frequent offences committed by juveniles are theft and robbery. In 2004, out of 313 criminal acts, juveniles were responsible for 94 thefts (30 percent of total) and 97 thefts in association and that more than once (30 percent of total). As for 2005, out of 258 criminal acts, juveniles were responsible for 61 robberies (approximately 23 percent of total) and 122 robberies in association (approximately 50 percent of total).

The numbers show an increasing tendency of juveniles to get involved in organized crime. In 2004 they were responsible for 30 percent of acts in association whereas in 2005 the figure was 50 percent. Even if seen as a simple figure, this alone is sufficient to support our already consolidated theses that early incrimination tends to increase further involvement in more sophisticated and organized criminal activities.

Another interesting element to be drawn from table 7 is the fact that despite prejudices of a high juvenile involvement in offences such as murder, wounding etc., the most frequent crime remains theft. Given the fact that a number of juveniles lack the resources to live properly, one should not be surprised of this. Poverty, needs and desire for money, clothes and entertainment, impossibility of ensuring employment and decent activity in the community very soon drive juveniles towards crime like robbery. From their perception, it is the “easy” and “faster” way to obtain the necessary and desired goods.

**Type of petty crimes committed by juveniles (2004-2005)**

Article	Type of the offence	Convicted juveniles (2004)	Convicted juveniles (2005)
84	Threat	2	2
89	Intentional minor wounding	-	2
90	Other intentional damages	-	2
112	Violation of property	-	1
205	Illegal cutting of woods	2	1
239	Insult on the line of duty	-	2
274	Disturbance of public order	-	1
275	Phone abuse	-	1
277	Bloodfeuds	1	2
291	Driving under influence of alcohol	1	4
297/1	Illegal border crossing	-	13
306/1	False statement	1	-
	<b>Total</b>	<b>7</b>	<b>31</b>

Data from table 8 show us an outline of offences committed by juveniles. As seen on the figures they are not so different from those of table 7. From 2004 to 2005 the number of offences committed by

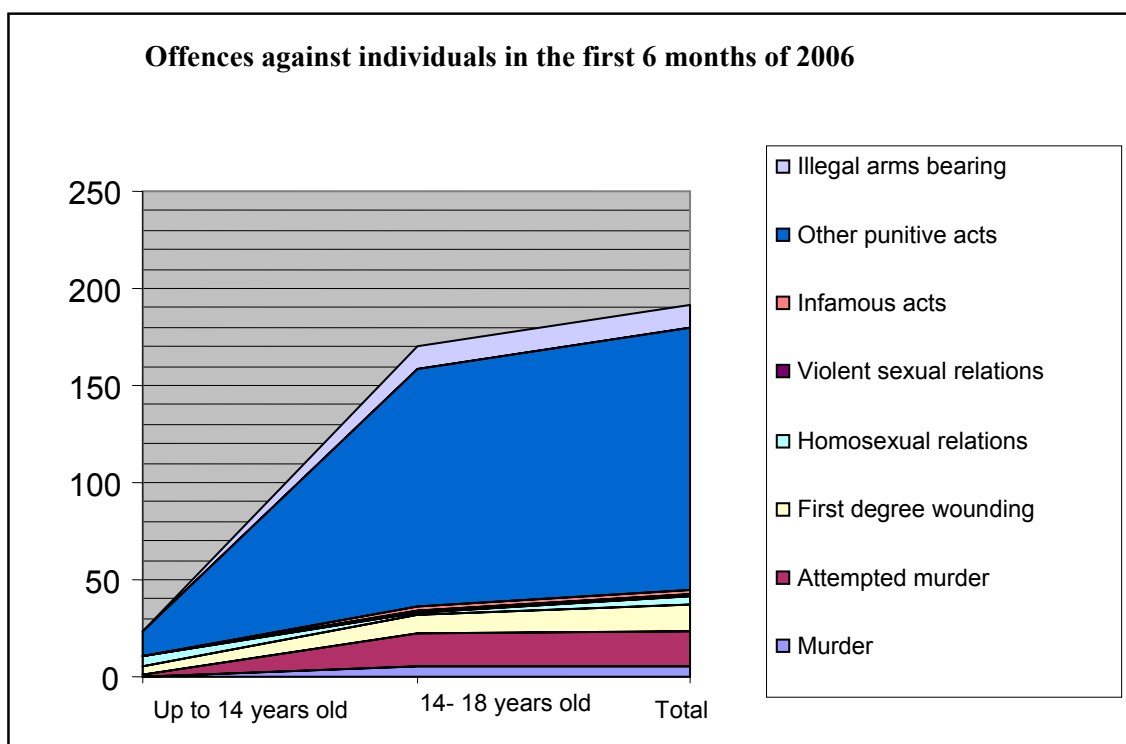
juveniles has quadrupled. Offences can and should be considered as early indicators of juvenile involvement in more serious offences.

The 2005 figures are thus a concern, especially when recalling that out of 31 offences in 2005, 13 of them (or 42 percent of the total) were illegal border crossing, a crime which cannot be considered as a minor offence. Furthermore, it is an indicator that juveniles now tend to be better organized and are capable of committing more serious offences.

Social and political factors – such as governmental turnover - are important when attempting to understand the increasing number of offences between 2004 and 2005. Political and legal vacuums as well as tensions in society create a favourable context for potential juvenile offenders.

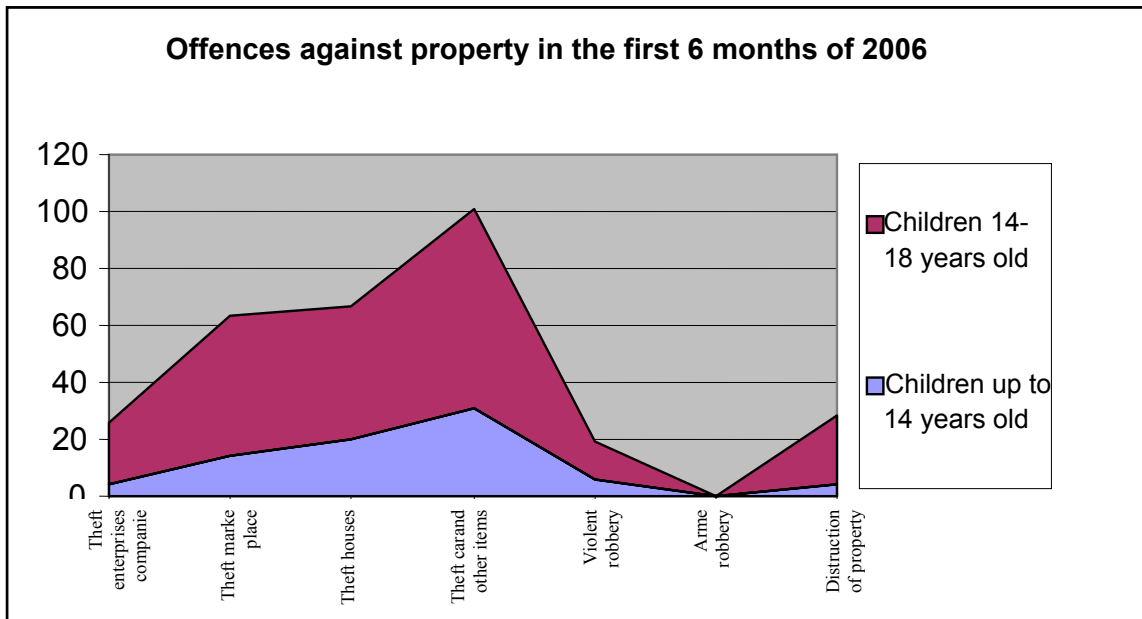
Both graphics outlined below, graphic 1 and 2, present data regarding juvenile criminal acts in the first 6 months of 2006, according to officials of Ministry of Internal Affairs.

**Graphic 1. Criminal offences against the person in the first six months of 2006**



The data above show that juvenile delinquency has increased in the first 6 months of 2006. As the figures at the end of this period are very similar from those of the same period of 2005, it shows that juvenile delinquency is a serious and ongoing phenomenon that requires not only research but also intervention.

Graphic 2. Criminal offences against property in the first six months of 2006



Graphic 2 also shows alarming data. The number of robberies committed by juveniles is increasing and the rate is now many times higher than that of the previous two years. Here again data seem to confirm our thesis that juveniles involved early in criminal activities are more likely to do the same when reaching adulthood. If no help or assistance is provided to those at risk, deviant behaviours will be seen as acceptable and juvenile criminality will most likely bloom.

Based on interviews and discussions conducted with police and court specialists, we came to know that in most cases juveniles are used to help to commit offences. Adults take advantage of their vulnerability in order to achieve their own goals. However, this "taking advantage of juvenile" aspect is only part of the problem. Moreover, juveniles are often driven towards criminal activities after adopting deviant behaviour as model in early ages. Such model is then further assimilated and intensifies as the child grows up, thereby making him more prone to enter organized crime groups or gangs in adulthood.

According to data from the Ministry of Internal Affairs, juveniles also seem to be involved - in increasing numbers - in transporting and distribution of narcotics. Only 4.2 percent of such acts were committed by juveniles in 2005 while in the first 6 months of 2006 it amounted to 10.4 percent (13 out of 124 offenders)

Based on figures seen here above, a general conclusion has to be drawn. The number of juveniles involved in criminal activities is increasing. Furthermore, they tend to do so in areas very much similar to those of adults.. Main population centres, heterogeneous population

centres and centres with shortages of living sources are places where juvenile delinquency blooms. On the other hand, small cities with homogenous population and strong and traditional ties are characterized by low rates of juvenile delinquency. As for the type of offences, the most common one is robbery in all its different forms. The distribution and use of narcotics being on the rise, it should also be seriously dealt with. An increasing juvenile delinquency should therefore be seen as a major concern for it is a sign of a growing deviant behaviour.

Social, economic and political changes are responsible for the instability and vacuums that have undermined the Albanian society. The figures displayed above in terms of juvenile delinquency are therefore mainly results of those same problems.

### **III.5 Profile of juveniles in conflict with the law**

After reviewing cases of juveniles in conflict with the law, a socio-economic profile can now be presented:

- They generally commit their first criminal act between the age of 14 and 17. The older they get, the more serious their offences tend to be. They thus usually start by committing robberies, injuring people, getting involved in cases of extortion and by bearing arms, and will then be driven towards acts such as murder, severe wounding etc.
- Studied cases illustrate a dominance of male's presence. No females was charged or convicted for criminal acts.
- All juveniles in conflict with the law exhibit poor education. Furthermore, the poorer the education the graver criminal act is.
- In most cases extreme poverty is a dominant feature. Juveniles' families struggle for survival as parents are unemployed and lack minimum resources Most of them cannot afford a lawyer.
- Apprehended juveniles come from rural, suburban and undeveloped areas or from urban areas where living conditions are very difficult (e.g. in former industrial cities). Crime and intolerance are common features of the environment in which juveniles live.
- Some young offenders are from problematic and dysfunctional families. Single parent, murdered parent, alcoholic and drug consumption problems, lack of communication families with a lot of children, abandoned or orphan children are some examples of such a difficult social environment.

- Juveniles who break the law are characterized by a problematic behaviour which has been modelled in earlier age. By going unnoticed, unresolved and ignored in early stages, those behaviour will likely worsen in time
- Juveniles' offenders are sometimes related to minority groups like Roma or Egyptians.

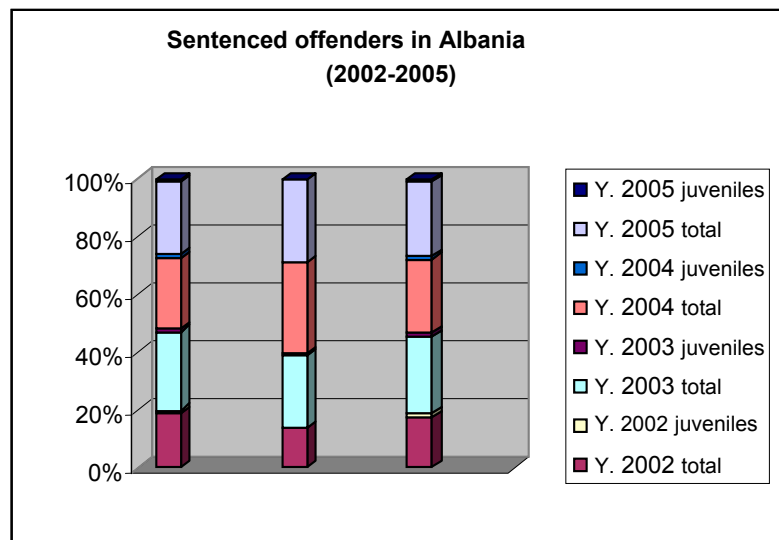
#### IV. CRIMINAL POLICY TOWARDS JUVENILES IN CONFLICT WITH THE LAW IN ALBANIA

##### IV.1 General criminal policy

A country's criminal policy is determined by a number of objective and subjective factors. On one hand, the State tries to help the sentenced offenders to rehabilitate and reintegrate, while on the other hand it attempts to prevent future criminal acts.

Experts of criminal policy in Albania see the criminal policy in itself as a gathering of criminal and non-criminal measures that aim to prevent criminality as a personal and collective phenomenon at a given time and place.<sup>11</sup>

##### Sentenced adult and juvenile offenders in Albania, 2002-2005



<sup>11</sup> Criminal Policy. E. Elezi dhe V. Hysi, Tirana 2006

According to the above table, the proportion of convicted juveniles in comparison with the total number of total convictions is as follows:

**In 2002:** there were 4370 recorded convictions of which 274 concerned juveniles. It represents 6.2 percent of convicted felons. Juveniles convicted of offences make up to 6.9 percent total convicted for offences and 3 percent for offences.

**In 2003:** there were 6628 recorded convictions of which 308 concerned juveniles. It represents 4.6 percent of convicted felons. Juveniles convicted of offences make up to 4.9 percent total convicted for offences and 0.4 percent for offences.

**In 2004:** there were 6379 recorded convictions of which 320 concerned juveniles. It represents 5 percent of convicted felons. Juveniles convicted of offences make up to 6.7 percent total convicted for offences and 0.4 percent for offences.

**In 2005:** there were 6317 recorded convictions of which 289 concerned juveniles. It represents 4.5 percent of convicted felons. Juveniles convicted of offences make up to 5.4 percent of total convicted for offences and 1.9 percent for offences.

In *Criminal Policy*, I. Elezi and V. Hysi present a detailed analysis of the criminal policy applied by the judicial system in Albania. Among other things, they underline that “[...] one of the principal deficits of the Criminal Code is the lack of specific disposition regarding the understanding and objective of what punishment in democratic societies ought to be”.<sup>12</sup> The authors then comment punishment measures included in the Criminal Code and say “[...] changes in law nr. 8733 of date 24.01.2001 mark few steps back regarding in determination of punishments that is of criminal policy”.<sup>13</sup> (Changes in Law No. 8733 adopted on the 24.01.2001 do not constitute a significant progress towards a clear and understandable criminal policy).

One of the discussions presently in course between representatives and experts of the judicial system deals with the issue of whether justice serves as a constructive tool through sentences for both criminals and victims, or if it is only used for repressive and criminal means. It is certain that high figures of punishments as for adults in years and lesser appliance of alternative measures lead us to believe that courts under pressure of public opinion for a better performance have used sentencing as a punishment measure rather than a justice serving tool for victims and authors of criminal acts.

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<sup>12</sup> *Criminal Policy*. E. Elezi dhe V. Hysi, page 68, Tirana 2006

<sup>13</sup> *Ibid*, page 77.

#### IV.2 Juvenile criminal policy in Albania

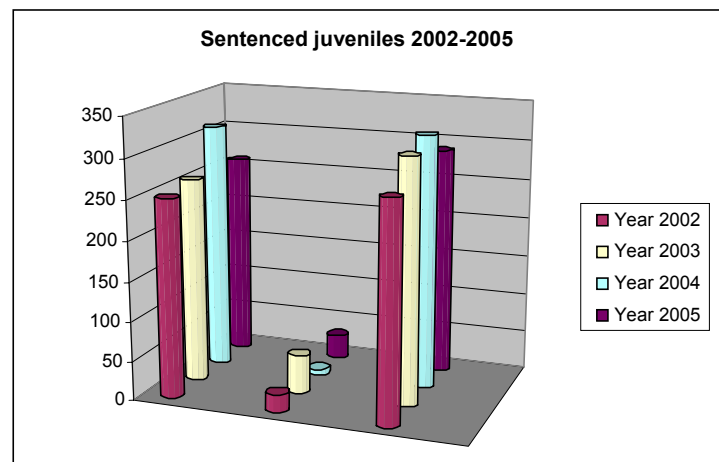
Based on what has just been said, researchers reviewed some records on juvenile offenders viewed this in two aspects. First, they studied cases on the national level before doing so on a local level, more specifically for the Tirana region. Punishment records from first-degree courts on the national level don't show if alternative measures have been used for juveniles whereas records from the Court of Tirana are more detailed in that they contain this kind of specific information.

According to I.Elezi and V. Hysi, "criminal policy applied between 2002 and 2004 shows that the number of people convicted for criminal offences has increased in years. [...] Punishment policy for a juvenile in 2004 has strengthened comparing to that of 2003... numerous problems exist with apprehended juveniles, arrested or sentenced. Law doesn't allow police officers or prosecutors to apply other alternative means beside house arrest, imprisonment or freedom."<sup>14</sup>

Meanwhile, records of Ministry of Interior, below, show the types of offences carried by juveniles during the 2002 – 2005.

##### Sentenced juvenile offenders in Albania (2002-2005)

Sentenced juveniles in Albania (2002-2005)				
No. of convicted juveniles	Year 2002	Year 2003	Year 2004	Year 2005
Offences	251	259	313	258
Contraventions	23	49	7	31
<b>Total</b>	<b>274</b>	<b>308</b>	<b>320</b>	<b>289</b>



<sup>14</sup>Ibid, page 171-173.

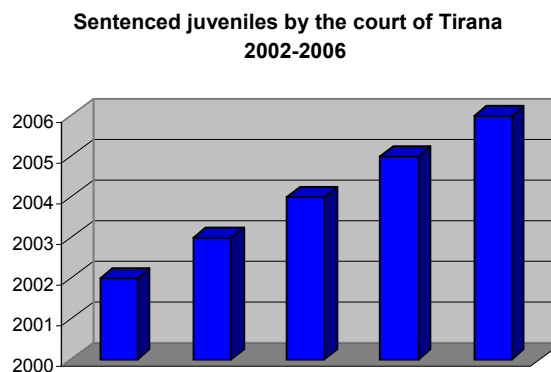
Outlined records show that we have an increase of offences by juveniles between 2002 and 2004, with a small reduction in 2005. However, it should be emphasized that on the national level, integrated data on the type of acts committed by juveniles, their family profile, gender, ethnic origin and causative factors are deficient.

**IV.3 Characteristics and tendencies of juvenile delinquency according to court sentences**

According to observed records at the local and national level, one can easily notice that the Albanian judicial system has a tendency to punish juveniles who commit criminal acts or offences rather than to apply alternative measures. This is related to the fact that the Criminal Code does not include control mechanisms for alternative measures even if these measures are indeed included. Likewise, the Criminal Code does not include alternative measures in case of acts which do not threaten society nor does it take into consideration the well being of the child in penalty decisions. To illustrate this, research analysts used records of penalty decisions and measures from the first-degree Court of Tirana.<sup>15</sup>

**Graphic 5: Sentenced juvenile offenders by the court of Tirana (2002-2006)**

Sentenced juveniles by the court of Tirana (2002-2006)	
Years	Imprisonment
2002	9
2003	13
2004	35
2005	42
2006	53

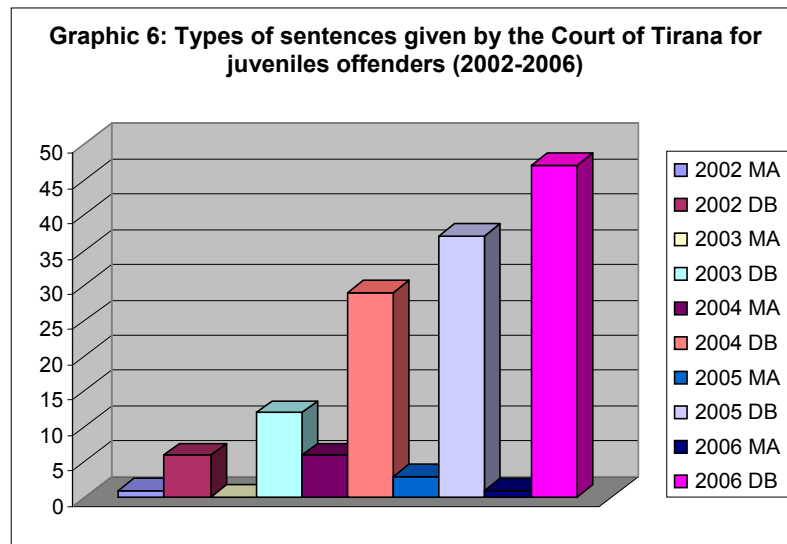


<sup>15</sup> Data from Tirana Magistrates Court (<http://www.gjykatatirana.gov.al/>)

Types of sentences given to juveniles by the Court of Tirana (2002-2006)										
Years	2002		2003		2004		2005		2006	
Type of sentence	AM	IM	AM	IM	AM	IM	AM	IM	AM	IM
Number of Sentence/s	1	6	0	12	6	29	3	37	1	47

abbr: **AM** (alternative measure); **IM** (imprisonment)

Table 14: Sentenced juvenile offenders by the court of Tirana (2002-2006)



As revealed by the tables and graphics, there are two tendencies. First, there is an increasing number of imprisonment sentences coming from the court of Tirana, while the number of criminal acts committed by juveniles is also increasing. On the other hand, one can easily see from the graphic about the type of sentences that alternative measures have been used slightly more from 2002 to 2004, whereas the following two years those measure tend to be left aside. The year 2006 clearly shows that punishing juveniles is a much more ``popular`` mean when dealing with delinquency. In that same year, alternative measures have been used only once.

#### IV.4 Criminal policy towards juveniles in Tirana and developing trends

Tendencies for the development of juvenile delinquency have already been analyzed above in this document. What we would like to address here is the different types of criminal acts for which juveniles

were convicted and sentenced. The first observation to be made is that in most cases, juveniles are convicted. Alternative measures such as fines are only used in rare occasions. Furthermore, in order to analyze tendencies, the years 2002, 2004 and 2006 have been used as comparison points.<sup>16</sup>

Based on available data taken from the above tables, a number of tendencies deserve to be presented:

**Tendency No.1:** If we compare the years 2002, 2004 and 2006, we can clearly see that there is an increasing number of convicted juveniles for criminal offences. If in 2002 there were only 6 convicted juveniles, this figure increased by 322 percent in 2004, and 51 percent in 2006 (a 488 percent increase from 2002 to 2006). These figures reveal that the lack of preventive, alternative and early intervention measures towards deviant behaviour is a main factor contributing to the development of juvenile delinquency. This means that as long as no actual measure is taken in this direction, Tirana County will have increasing tendencies of juvenile involvement in criminal acts.

**Tendency No.2:** Records of penal sentences from the Court of Tirana reveal an increasing tendency of imprisonment sentences compared to alternative measures. This shows that the judicial system in Tirana tends to punish juveniles in those cases. From the 48 juveniles convicted in 2006, 47 were sentenced to imprisonment and only one was fined.

**Tendency No.3:** When comparing records from 2002 to 2006, one can see that there are now more types of criminal acts committed by juveniles. In 2002, there were only 4 types of such acts whereas in 2006, there were 14 of them. We can explain this by the increasing overall juvenile delinquency but also by improvements the court made when gathering information on the topic. The increasing number of violent offences committed by juveniles should also be mentioned.

**Tendency No.4:** As mentioned previously, theft in all its forms is the most encountered criminal act. Besides analyzing factors that push juveniles towards robbery, it is of special interest to observe the number and type of sentences. Of the 38 given by the court, 37 were imprisonment sentences and only one was a fine. This figure suggests that a juvenile committing a robbery has a 97 percent probability to be imprisoned if caught.

**Tendency No.5:** It can be seen that imprisonment is proportional to the increasing number of criminal acts. In 2002, 2004 and 2006, about 100 juvenile cases were brought to the Court of Tirana. In only 2 of them were

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<sup>16</sup> Data from Tirana Magistrates Court (<http://www.gjykatatirana.gov.al/>)

the charges dropped and in only one was the juvenile declared innocent. This means that the other 97 juvenile offenders were all sentenced to imprisonment. This figure suggests that a juvenile committing theft when sentenced has a 97 percent probability to be imprisoned.

**Tendency No.6:** One can see that imprisonment of offenders of criminal acts is ineffective when trying to prevent further criminal behaviour. As juvenile delinquency increased, the court of Tirana responded with more imprisonment sentences. It is needless to say that this does not weaken deviant behaviour. On the contrary, an increasing juvenile delinquency tends to go hand in hand with an increasing use of juvenile imprisonment. Furthermore, court decisions are not supported and coordinated with other necessary services such as community work, obligatory participation in professional training courses, family assistance, family work, etc.

**Tendency No.7:** According to records of sentences from the Court of Tirana, we can observe an increasing tendency of juvenile offenders to collaborate with each other. In 2002, no juvenile was convicted for crime in collaboration whereas in 2004, they were 11 and in 2006, 12 to be convicted for such crime. This should serve as an alarm signal for policy makers and law enforcers because it reveals a tendency of juveniles to affiliate with organized groups, a first step towards further organized crime. This can also mean possible child and juvenile exploitation by adults.

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