

# The Hard Prison Regime in Albania: An Evaluation of Its Potential in Countering Organized Crime and Its Ramifications

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In 2018, the Albanian legislature adopted the hard prison regime to respond to organized crime. The regime consists of a temporary suspension of detention protocols for persons in custody believed to be connected with organized criminal groups, based on an order from the Minister of Justice. Through face-to-face interviews with prosecutors, judges, defense attorneys, government officials, civil society representatives, and academics, this study examines the essential characteristics of the regime, its legal basis, its effectiveness in achieving the desired result, and the undesired consequences. The findings reveal diverse perspectives on the regime's effectiveness, with some interviewees acknowledging its potential to sever ties between leaders and criminal organizations. In contrast, others question its limited scope and potential human rights violations. This paper offers insights to inform future legal reforms and policies, emphasizing the need for a balanced approach that upholds human rights while tackling organized crime effectively.

**Keywords:** hard prison regime, policies against organized crime, correction reforms, extreme sanction, criminal justice system, Albania

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## 1 Introduction

For years, the focus of law enforcement, the judiciary, the government, members of the Assembly, and civil society in Albania has been on criminal organizations in Albania and their influence in the legitimate world. Despite continuous attempts through legislative measures and strategies, combatting organized crime has proven to be a persistent challenge. Recognizing organized crime as “a national urgency,” in 2018 the Minister of Justice proposed the hard prison regime to detach leaders of criminal groups caught by the criminal justice system from their peers.

Organized crime in Albania is characterized mainly by organized groups of 3-4 members engaging in various illicit activities, notably drug trafficking, predominantly cannabis, as well as cocaine and heroin, destined for neighboring countries and EU markets (Zhillia & Lamallari, 2015). Additional criminal activities include arms trafficking across borders, extortion, and instances of violence, including assassinations carried out by paid killers, often aimed at eliminating rivals,

gaining territorial control, and rebalancing the criminal landscape. Business-related conflicts have escalated, leading to increased contract killings and extortion cases, while a lack of trust in the justice system and fear of repercussions hinder reporting. Criminal organizations invest in corrupting law enforcement officials and prosecutors, impeding effective investigations. Over time, organized criminal groups in Albania have displayed increasing sophistication and complexity while expanding their collaborative ties with individuals and groups beyond borders (Global Initiative Against Transnational Organized Crime (GIATOC) 2019; Saggars, 2019).

Various legislative measures, international cooperation, intelligence-sharing operations, and institutional reforms have been introduced to tackle organized crime. The criminal legislation underwent amendments in 2017 and 2019, bringing forward novel offenses and specialized investigative techniques (Shala et al., 2021; Xholi, 2017). At present, a revision is underway on the ongoing rewriting of the Criminal Code in Albania (Ministria e Drejtësisë e Republikës së Shqipërisë, n. d.). The adoption of the Law on Whistleblowing and Protection of Whistleblowers (“Ligji për sinjalizimin dhe mbrojtjen e sinjalizuesve”, 2016) and the amendment to the Law on the Safeguarding of Witnesses and Collaborators in the Justice System (“Ligji për mbrojtjen e dëshmitarëve dhe të bashkëpunëtorëve të drejtësisë”, 2011) enhanced the legislative framework aimed at combatting organized crime.

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The agreement on Cooperation between EUROJUST and the Republic of Albania (“Ligji për ratifikimin e marrëveshjes për bashkëpunimin ndërmjet Republikës së Shqipërisë dhe Eurojust-it”, 2018) has extended cooperation between Eurojust and Albania in combatting organized crime and terrorism, and a Liaison Prosecutor to facilitate this cooperation has been seconded to Eurojust (Prokuroria e Përgjithshme e Republikës së Shqipërisë, 2021).

This has increased collaboration between prosecution services in sharing valuable information and increased collaborations in the form of Joint Investigative Teams. At the institutional level, dedicated entities focused on countering organized crime are functional within the police force and specialized force, the National Bureau of Investigation, assisting the Special Prosecution Office. Since December 2019, the Special Prosecution Office and Special Court against Corruption (SPAK) have been established and entrusted with the responsibility to investigate and adjudicate cases involving high-level corruption and organized crime. Despite this, the punishment of organized crime has lagged behind in terms of the low number of prosecutions and confirmations of guilt, and lenient punishments (Zhillia et al., 2017), as well as in terms of tackling it as a phenomenon in general (EUROPOL, 2021; United Nations Office on Drugs and Crime (UNODC), 2020).

In another effort to counter organized crime, the government proposed the adoption of the hard prison regime (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2018). This was an emulation of the Italian Article 41-*bis* of the Italian Penitentiary Act referred to as the “hard prison regime” (ita. *carcere duro*) (“Decreto-Legge Ordinamento Penitenziario”, 2020).

The Article provides for the suspension of standard rules of treatment of the detainee in specific situations deemed serious emergencies or exceptional cases of revolt. The hard prison regime represents a controversial yet very popular initiative in Albania as representatives of civil society, the media, academics, and professionals in the justice system have debated its benefits and negative consequences ever since its implementation. Some observers have suggested that the hard prison regime accomplishes its intended objectives. Others, however, have argued that it fails to meet its original goal and contains various ramifications.

In light of the developments, this study engages in a comprehensive analysis of the hard prison regime in Albania. This entails exploring pivotal questions that shed light on its multifaceted aspects. Central to this examination is the inquiry into whether the hard prison regime effectively achieves its

intended objective of severing ties between leaders and organized criminal groups. This pertains to the pivotal concern of whether the regime serves as a deterrent, in line with the government’s and the Parliament’s initial intentions in 2018. Furthermore, a critical exploration of the primary benefits arising from the implementation of the hard prison regime is essential. This involves understanding the potential positive outcomes of such an approach, including its capacity to curtail criminal activities and uphold societal order. Simultaneously, it is essential to address the significant negative consequences that may arise due to the adoption of the hard prison regime. This encompasses a nuanced understanding of potential repercussions regarding individual rights and broader societal impacts, which must be weighed against the purported advantages. The overarching question of whether the benefits of the hard prison regime substantially outweigh its negative consequences encapsulates the heart of this inquiry. Delving into this matter involves evaluating the overall efficacy of the regime, considering its potential to contribute positively to crime reduction while managing its potential drawbacks. By engaging with these fundamental questions, this study aims to provide a comprehensive understanding of the intricate dynamics associated with the hard prison regime, offering insights into its effectiveness in addressing organized crime within the Albanian context.

As such, the ultimate goal is to gain insight into the nature of the hard prison regime in Albania and better understand this system’s effectiveness in response to organized crime. We suppose that the hard prison regime measures up to the government’s and Parliament’s intent and is a tool that works in response to organized crime. We address this hypothesis by conducting face-to-face interviews with prosecutors, defense attorneys, judges, Members of Parliament, officials from the Ministry of Justice, civil society, and academia who have dealt with the hard prison regime and organized crime. The following section explores the legal basis and discussions that have shaped Albania’s hard prison regime. Then, we discuss our methodology and sample. Finally, we present and discuss our results by examining the hard prison regime’s benefits and adverse effects.

## 2 Explanation of the Albanian context

### 2.1 The problem with organized crime

Thirty years after the collapse of the communist regime in Albania, a variety of factors, ranging from poverty, lack of the rule of law, weak judicial systems, and open warfare and the collapse of community ties, have created an opportunity for growth and consolidation of organized crime (Trimcević, 2003).

These groups have consolidated their power in the country and expanded operations in international markets, strengthening their position most significantly in the trafficking and distribution of narcotics (Zhillia & Lamallari, 2015). Various legislative and institutional initiatives have been introduced. However, none have been capable of deterring or eradicating offenders involved in organized crime (Nikolli, 2015).<sup>3</sup> The major legal reform in 2014, conducted based on a consensus of both government and opposition parties, resulted in massive legislative and structural changes aimed at improving the efficiency of the justice system, and consolidating the rule of law and fighting organized crime. The legal reform resulted in substantial Constitutional amendments in 2014, where one third of the Constitution was rewritten (“Kushtetuta e Republikës së Shqipërisë”, 2016), and the package of laws covering criminal justice was rewritten, among which the Criminal Code (“Ligji për disa shtesa dhe ndryshime në Kodin Penal të Republikës së Shqipërisë”, 2019), the Criminal Procedure Code (“Ligji për disa shtesa dhe ndryshime në Kodin e Procedurës Penale i Republikës së Shqipërisë”, 2017), Law on Judicial Police (“Ligji për Organizimin dhe Funkcionimin e Policisë Gjyqësore”, 2019), Law on the Organization of Judicial Power (“Ligji për Organizimin e Pushtetit Gjyqësor në Republikën e Shqipërisë”, 2016), Law on the Prosecution Service (“Ligji për Organizimin dhe Funkcionimin e Prokurorisë në Republikën e Shqipërisë”, 2016), are all part of the Package of Legal Reform in Albania (Botim i Qendrës së Botimeve Zyrtare, 2018).

The reform dissolved the former Court of Serious Crimes and Serious Crime Prosecution Office and set up the Special Prosecution Office with its specialized investigative unit, the National Bureau of Investigation, providing the necessary budget, know-how, and capable staff to carry out the investigation and prosecution of organized crime. Part of the 2014 legal reform of Albania was vetting all judges and prosecutors by independent commissions and oversight by international staff, consisting of a detailed evaluation of wealth, professionalism, and integrity—this last criterion aimed to identify and remove from the system justices connected to organized crime.

One of the objectives of the justice reform plan was to review and clarify measures and criteria for criminal punishments for a significant portion of criminal offenses. This included aligning the definitions of crimes and their corresponding sanctions with European standards. However, it was not until 2019 that the Criminal Code underwent the necessary review process (“Ligji për disa shtesa dhe ndryshime në Kodin Penal të Republikës së Shqipërisë”, 2019). According to Zhillia et al. (2017), drug-related crimes exhibited inconsis-

ent sentencing patterns determined by court decisions, with a tendency towards more lenient measures. The study also revealed that certain offenses had minimal ranges for sentencing, thereby limiting the possibility of tailoring the sentence to the case’s circumstances.

Despite being aimed at tackling organized crime, these efforts suffered because they were individualistic in their approach to targeting organized crime and needed a holistic, coordinated overview of organized crime. In time, we shall see if the system and initiatives might stop criminal enterprise and lessen the operation and growth of illegal activities.

## 2.2 The hard prison regime

The hard prison regime emulates the Italian 41-bis provision of the Italian penitentiary act (“Decreto-Legge Ordinalmento Penitenziario”, 2020). Italy’s Article 41-bis has become emblematic in the fight against organized crime, and the Albanian Minister of Justice explicitly highlighted this emulation during the presentation of the initiative before the Law Committee and subsequent public statements (Dosja, 2019). Italian expertise played a pivotal role in assisting Albanian legislators in shaping this regime (Dosja, 2019).

In Albania, the hard prison regime was set in motion in 2018 through the Law on the Rights and Treatment of Persons in Custody (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2018). This framework was subsequently reinforced with the new Law on the Rights and Treatment of Those in Custody (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020). The determination whether to apply the hard prison regime to an incarcerated individual or an accused party is vested in the authority of the Minister of Justice. This decision stems from a formal request initiated by the Chief Prosecutor of the Special Prosecution Office, necessitating comprehensive consultations involving various pertinent authorities, namely the Minister of Interior, the General Director of the Albanian State Police, the State Information Service, and the Director General of Prisons. Additionally, the Minister can seek guidance from other specialized entities engaged in counteracting organized crime and terrorism by the provisions specified within the Law on the Rights and Treatment of Persons in Custody (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020).

The Minister is empowered to subject any prisoner serving their sentence within a high-security prison to the parameters of the hard prison regime (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020). This classification includes individuals serving sen-

<sup>3</sup> The lack of a holistic vision and coordinated policy response contributes to limited success against organized crime (Nikolli, 2015).

tences exceeding 15 years, those convicted of sexual offenses involving minors, or individuals committing criminal acts within the framework of an organized criminal group, as articulated in Article 16, Paragraph 1 (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020). Authorities are expected to evaluate the risks due to affiliations with criminal organizations or connections with members of organized crime groups, terrorist organizations, or armed factions. Remand prisoners are also subject to the hard prison regime. However, the law limits the application of the regime to only those accused of specific offenses linked with organized criminal groups, criminal organizations, armed gangs, or terrorist organizations (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020). Upon pronouncing a guilty verdict, the Court assumes the authority to direct an individual to a high-security prison. Within the confines of these high-security prison facilities, the rights of convicted individuals are subject to legally defined restrictions, contingent upon specific circumstances and established criteria (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020). However, implementing the hard prison regime enforces even more stringent constraints on these rights. The fundamental tenets of this exacting detention regime encompass authorizing regular monthly visits from designated family members within specified areas. “Family” encompasses firstborn children, additional offspring, spouses, and cohabitants. The entry of individuals or objects into these designated visiting areas is categorically prohibited, with all conversations being recorded through audio and video mediums. In exceptional circumstances, visits from non-family members may be considered, subject to a recommendation from the prison director and subsequent approval from the Minister of Justice. However, in cases involving remand prisoners awaiting trial, interactions with non-family members are permissible solely with the prosecutor’s consent. Notably, this provision does not apply to meetings involving defense attorneys.

The regime allows one monthly telephone call lasting up to ten minutes for imprisoned persons who do not receive scheduled family visits. The content of these calls is recorded, and the permission to engage in such communication is bestowed by the General Director of Prisons for convicts and by the prosecutor for remand prisoners, contingent upon a meticulously reasoned decision. Based on the regime, the utilization of external funds, objects, or other items by imprisoned persons is prohibited by the institution’s internal regulations. The time spent in outdoor spaces is at least one hour daily, and all correspondences, except those with the Ombudsman, are overseen. Furthermore, imprisoned persons subjected to the regime are excluded from participating in representative bodies.

Following a year of detention, the Minister of Justice retains the authority to reevaluate the necessity of upholding the hard prison regime for an imprisoned person. This assessment is initiated upon the request of the concerned individual or the recommendation of the Chief Special Prosecutor. The extension of this assessment is justified in cases where substantial evidence indicates that the imprisoned person maintains connections with criminal organizations, armed gangs, or terrorist entities. Moreover, this decision considers the convict’s criminal history, their role within the criminal organization, the duration of their involvement, any new charges previously unexamined, behavior within the institution, adherence to criminal sentences, and the living conditions of their family members. The Minister of Justice’s decision to initiate or prolong this specialized regime is open to appeal by the inmate, their legal representative, or the Chief of the Special Prosecutor within a 20-day timeframe following the notification of the decision. Such an appeal must be submitted to the Court of First Instance specializing in Corruption and Organized Crime cases, a competent authority to adjudicate the matter. However, it is essential to note that this appeal process does not suspend the implementation of the Minister of Justice’s decision (“Ligji për të drejtat dhe trajtimin e të dënuarve me burgim dhe të paraburgosurve”, 2020).

Albania suffers from overcrowding in prisons. In 2022 there were 175 prisoners per 100,000 inhabitants (Aebi et al., 2023). This rate is notably the highest among countries in South Eastern Europe. Comparatively, Serbia follows with a prison population rate of 152 per 100,000 inhabitants, while North Macedonia and Croatia report prison population rates of 112 and 95 per 100,000 inhabitants. Additionally, Montenegro’s incarceration rate stands at a prison population rate of 88 per 100,000 inhabitants. The prison population rate is more than 25% higher than the European median value (Aebi et al., 2023). The hard prison regime undoubtedly would impose an additional burden on this situation.

With the Albanian prisons keeping 5,063 persons in custody in 2019 (Aebi & Tiago, 2019), the initial plan of the Minister of Justice, made public in 2019, was to place 270 individuals in the hard prison regime (Dosja, 2019), around 5 percent of all those in custody. Eighteen months later, the Minister gave a press conference declaring a smaller number of persons in custody intended to be placed in the hard prison regime, specifically 140 individuals (Gjonaj: Mbikqyrje e veçantë për 140 të dënuar të rrezikshëm, veç “41 bis”! Risi absolute e reformës në burgje, masat për neutralizimin e të burgosurve, 2021). In July 2020, the Minister of Justice signed an Order placing seven individuals on the special regime, of which five were defendants on trial, and two were serving a prison sentence (Prokuroria e Posaçme në Republikën

e Shqipërisë, 2021). In 2022, the Minister extended the application of the hard prison regime to four of the seven individuals in the regime and included in the regime another four defendants (Prokuroria e Posaçme në Republikën e Shqipërisë, 2022). In 2022, the Minister ordered the renewal of the hard prison regime application on four individuals and ordered the inclusion of one prisoner and two remand prisoners (Prokuroria e Posaçme në Republikën e Shqipërisë, 2023). Since the regime's establishment, 14 individuals have been subject to the hard prison regime, four appearing to be in special custody for three years (Table 1).

**Table 1:** The number of individuals in Albania's hard prison regime up until December 2022 (Prokuroria e Posaçme në Republikën e Shqipërisë, 2021, 2022, 2023)

Year	Remand prisoners	Prisoners	Total number of imprisoned persons
2020	5	2	7
2021 (renewals)	2	2	
2021	4	0	8
2022 (renewals)	2	2	
2022	1	2	7

### 3 The present study

#### 3.1 Methodology

This study aims to delve into the understanding of the hard prison regime in Albania by posing a set of crucial questions, primarily, though not exclusively, about this prison regime: 1) Is the hard prison regime effectively facilitating the severance of connections between the leader and the organized criminal group, as was the intention of the government and Parliament in 2018? 2) What are the primary advantages of the hard prison regime? 3) What are the significant drawbacks of the hard prison regime? and 4) Do the positive impacts of this regime considerably surpass its adverse consequences?

To understand this policy's benefits and ramifications, a qualitative research approach was adopted, which allowed for a nuanced understanding of the regime's development, implementation, and outcomes from the perspectives of key stakeholders. The analyzed information was achieved through semi-structured interviews. The authors meticulously crafted a questionnaire with four main questions and eight sub-questions, drawing upon a literature review and expert input. This questionnaire aimed to capture essential insights into the regime's objectives, implementation challenges, benefits,

and limitations. A pilot study was conducted in the initial phase of the research in December 2018 and early January 2019. It involved a small group of legal experts who advised the Assembly on legal initiatives related to criminal justice reforms. The pilot helped us identify ambiguities in the questionnaire and refine and adjust the wording and structure of questions for more clarity and relevance before conducting the main interviews. The pilot study participants were not included in the sample of respondents for the study.

A purposeful sampling strategy was used to select participants with relevant expertise and insights regarding the hard prison regime. The criteria for participant selection focused on individuals closely involved in the legal initiative that led to the regime's establishment. The sample comprised experts and professionals of organized crime and human rights law who were members of the working group engaged in drafting the legal framework and individuals involved in applying the regime. Among the total number of respondents (18), three had served on the Law Committee as Members of Parliament, three had worked in the Ministry of Justice, two were prosecutors, one was a judge, two were defense attorneys, two were from the Ombudsman Institution, and five were legal experts or researchers engaged in discourse through civil society organizations. In-person interviews were conducted using the pre-developed questionnaire, facilitating consistency across responses. The interviews were conducted from January 2019 to June 2022 (Table 2).

**Table 2:** Information on interviews and dates

Number of meetings	Stakeholder	Date of meeting
3	Members of Parliament	1/2019, 4/2019
3	Ministry of Justice representatives	1/2019, 6/2019, 5/2022
2	Prosecutors	5/2022, 6/2022
1	Judge	5/2022
2	Ombudsman Institution	5/2022
2	Defense attorneys	5/2022, 6/2022
5	Legal experts, advisors, researchers/academia	1/2019, 6/2019, 5/2022, 6/2022

Ethical considerations were paramount throughout the research process. Informed consent was obtained from all participants before their involvement; respondents were assured of their anonymity and confidentiality, and their identities were kept confidential in reporting. The research process adhered to ethical guidelines to safeguard the rights and well-being of participants.

A limitation of this study is the small sample based on which we gather information and reach conclusions about the regime. The study’s findings are derived from the perspectives of a specific group of participants closely tied to the development and implementation of the legal initiative. We did not aim for a representative sample but purposefully selected respondents to encompass a comprehensive spectrum of information and perspectives on the regime. As such, we aimed to include individuals with experiences with Albania’s criminal justice system, combatting organized crime, and contributing to developing and implementing the hard prison regime. This limitation hinders the possibility to generalize conclusions to other contexts.

#### 4 Findings: Benefits and consequences of the hard prison regime

The hard prison regime is considered a suitable public policy with the potential to combat organized crime in

Albania effectively. All interviewees confirmed that they perceived it as a mechanism imposed on the offender, who poses a risk to society by continuing engagement as part of the organized criminal group rather than as an enhanced form of punishment for those who have committed serious crimes. All respondents perceived that with this policy, the individual’s social danger is considered from the perspective of collective security: *“The hard prison regime is not an additional punishment weighing on the responsible individual for a particular offense committed. This type of treatment is the real prison for crime bosses. It detaches their connections with the outside world, making it impossible for them to give orders and continue business as usual.”* (Interview no. 6, 28.6.2019) Table 3 summarizes the main perspectives and details based on the conducted interviews.

Most (12 out of 18) interviewees acknowledged that the benefits outweigh the consequences. They highlighted the potential positive impact of the regime in combatting organized

**Table 3:** Perspectives on the hard prison regime in Albania.

Perspective	Number of respondents	Nuances and key points
Supportive majority	13 out of 18	The majority of interviewees expressed that the hard prison regime in Albania holds significant potential. They believed it complements existing mechanisms in the fight against organized crime. They cited its effectiveness in breaking the link between arrested individuals and criminal organizations.
Dissenting minority	5 out of 18	Five respondents suggest that alternative, less aggressive measures might achieve similar outcomes in combatting organized crime. They raise concerns about the potential infringement of human rights and dignity, and question the need for such a strict measure.
Government, Parliament and justice institutions officials	Various	Members of Parliament highlighted the complexity of organized crime and the need for effective mechanisms. A judge emphasized the adoption of the prison regime to hinder dangerous criminal activities. Prosecutors noted the regime’s potential to motivate offenders to collaborate with justice.
Ombudsman, scholars and civil society	5 out of 18	Representatives from the Ombudsman, along with scholars, expressed concerns about potential human rights violations due to the regime’s nature. Civil society respondents noted the political appeal of punitive measures but questioned their appropriateness.
Evidence of prisoners’ influence	16 out of 18	Almost all interviewees agreed that the hard prison regime effectively breaks the link between incarcerated individuals and criminal organizations. They cited instances where prisoners continued orchestrating criminal activities from within prison.
Lack of trust	2 out of 18	Two respondents opposed the hard prison regime, citing concerns about human rights and the government’s willingness to challenge organized crime. They questioned the Minister of Justice’s authority in imposing the regime.
Limited deterrence	14 out of 18	A majority of interviewees believed that the current execution of the hard prison regime does not effectively deter criminal activities due to its limited application. They pointed out the regime’s minimal impact on combatting organized crime.
Benefits outweigh deficiencies	12 out of 18	Most of the interviewees acknowledged that the benefits do indeed outweigh the consequences.

crime and acknowledged its effectiveness in breaking the link between the incarcerated individuals and the criminal organizations to which they belonged. These interviewees emphasized that the regime is a powerful tool to induce repentance and collaboration with justice among the prisoners.

The majority (13 out of 18) of the interviewees said the hard prison regime in Albania holds significant potential. At the same time, five respondents disagreed, suggesting that alternative, less aggressive measures could achieve similar outcomes. Apart from the provisions of the Criminal Code, the fight against organized crime is regulated by specific laws with a monetary character, confiscating assets, known as the “Anti-Mafia Law” (“Ligji për Parandalimin dhe Goditjen e Krimin të Organizuar, Trafikimit dhe Korrupsionit nëpërmjet Masave Parandaluese kundër Pasurisë”, 2009); the Regulatory Act of the Council of Ministers with the power of the Law on Preventive Measures within the framework of Strengthening the War against Terrorism, Organized Crime, Serious Crimes and Consolidation of Public Order (“Akti Normativ i Këshillit të Ministrave me fuqinë e Ligjit për Masat Parandaluese në kuadër të Forcimit të Luftës kundër Terrorizmit, Krimin të Organizuar, Krimeve të Rënda dhe Konsolidimit të Rendit e Sigurisë Publike”, 2020) or general preventive role, such as the amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism (“Ligji për Parandalimin e Pastrimit të Parave dhe Financimit të Terrorizmit, i Plotësuar”, 2019) (Table 3).

One of the interviewees, a Member of Parliament, pointed out that the situation with organized crime has become very complex. Hence, the government reasonably opted for the most effective mechanism in response: “*The hard prison regime is yet another tool which complements the existing legal and institutional mechanisms in a zero-tolerance fight against organized crime*” (Interview no. 9, 16.1.2019). The interviewed judge claimed that this prison regime needed to be adopted despite its harsh nature so that it could hinder the activities of those posing an actual danger to society through organized criminal activities (Interview no. 9, 10.5.2022). Similarly, the interviewed prosecutors acknowledged the potential leverage the hard prison regime could provide. They highlighted its ability to motivate offenders to cooperate and collaborate with the justice system. One prosecutor summarized this perspective: “*The hard prison regime can serve as leverage to motivate offenders to repent and collaborate with justice*.” (Interview no. 12, 6.6.2022)

Five respondents raised concerns about implementing the hard prison regime, underscoring its diverse viewpoints, ranging from concerns about human rights and the effectiveness of alternative measures to its potential as a motivational

tool within the justice system. Two representatives from the Ombudsman, two scholars, and a representative from the civil society highlighted why the hard prison regime might not be the most suitable approach. They pointed out that it could infringe upon fundamental human rights and dignity. One Ombudsman representative emphasized: “*The Constitutional commitment to guarantee treatment with dignity must be a priority, and I am unsure if the conditions recognized in the hard prison regime adhere to these Constitutional guarantees*.” (Interview no. 10, 12.5.2022) These respondents also believed that alternative laws and policies targeting organized crime could yield the desired outcomes without resorting to punitive measures. In addition to these concerns, respondents from academia and civil society organizations noted an inherent challenge in addressing organized crime. They articulated that the perception of tackling organized crime required a certain punitive dimension, which could be politically advantageous. One of them stated: “*The hard prison regime is an appealing tool for political constituents who often do not want to convey the message that they are being soft on crime but who lack the interest to ensure that mechanisms best suited for the purpose be adopted*.” (Interview no. 4, 28.6.2019)

One civil society representative questioned the appropriateness of vesting the Minister of Justice with the authority to designate prisoners for the hard prison regime. In the absence of widespread confidence in the government’s intentions, the respondents’ concerns resonated with the assertion that: “*The power of the Minister of Justice to place prisoners in the hard prison regime seems unreasonable*.” (Interviews no. 11 and 15, 9.5.2022 and 27.6.2022) This perspective accentuates the need for checks and balances to ensure that the implementation of such a significant policy aligns with principles of fairness and justice. However, in this case, the role of the Minister is somewhat ceremonial, as the Chief Special Prosecutor collects all the proof and provides reasoned proposals for specific placements. In practice, up to December 2022, the Minister of Justice abruptly approved all requests from the Special Prosecutor for placement in the regime or the continuation of placement in the regime (Table 4). In many situations, individuals in the hard prison regime in Albania have sought to challenge the Minister’s Order, hoping to have it annulled. However, the outcomes of these appeals have consistently been disappointing. For instance, in 2020, six out of seven individuals placed in the hard prison regime appealed the Minister’s Order. The Court of First Instance of Corruption and Organized Crime upheld the stipulated Orders, dismissing their requests (Prokuroria e Posaçme në Republikën e Shqipërisë, 2021). Similarly, in 2021, six out of eight individuals in the hard prison regime pursued appeals, only to have their cases refused by the Court. However, appeals in all these cases were refused (Prokuroria e Posaçme në Republikën e

Shqipërisë, 2022). Even in 2022, when seven convicts and defendants under the regime sought annulment of the Minister’s decision, the Court again confirmed the Minister’s Orders (Prokuroria e Posaçme në Republikën e Shqipërisë, 2023). The repeated rejection of appeals to annul the Minister’s orders raises concerns about the effectiveness of the judicial review process and the extent of judicial oversight in ensuring the proper application of the hard prison regime. One interviewee emphasized that the consistent dismissal of appeals suggests a lack of scrutiny and accountability in the judicial system when reviewing the decisions made under the regime. This raises questions about whether individuals placed under the regime truly have a fair opportunity to challenge the regime’s imposition and have their cases thoroughly examined.

As such, the majority (14 out of 18) of the interviewees asserted that the current execution of the hard prison regime does not effectively deter criminal activities. They pointed out that the limited application of the regime contributes to its limited impact on combatting organized crime. The interviewees showed concern about the limited use of the regime upon its implementation; since the regime has been applied to a very small number of prisoners, this limited application impacts the fight against organized crime very little. Still, the majority (12) deemed that there are reasonable grounds to keep those currently on the regime. The first challenges are structural. The Ombudsman report on the situation of prisons in Albania recommended a reconstruction of the building of one of the prisons foreseen to keep 40 inmates under the hard prison regime (Raport i Avokatit të Popullit mbi

**Table 4:** The number of individuals placed in Albania’s hard prison regime, the number of appeals to annul the decision of the Minister, and the outcome up until December 2022 (Prokuroria e Posaçme në Republikën e Shqipërisë, 2021, 2022, 2023)

Year	Proposals from the Special Prosecutor for placement in the hard prison regime	Confirmation orders from the Minister of Justice	Appeals from those placed in the regime	Court’s approval of requests to declare void orders of the Minister	Court’s dismissal of requests to declare void orders of the Minister
2020	7	7	6	0	6
2021	8	8	6	0	6
2022	7	7	7	0	7

Almost all (16 out of 18) interviewees deemed this policy the most effective instrument to break the link of the arrested person with the criminal organization and to prevent the organization’s leaders from continuing to give orders and participate in the organization’s decisions. Time has shown how those in prison continued running organized criminal activities outside. For example, the “Durrës Gang” continued long after their leaders were imprisoned, and drug trafficking continued while being directed from inside the prison. One of its leaders, Endrit Dokle was sentenced to another 16 years in prison while serving a life sentence (Pas burgimit të përjetshëm Endrit Dokle dënohet edhe 16 vjet burg, 2013). The arrest of three hitmen contracted to kill with a charge from five thousand euros to fifty thousand euros revealed how the team operated through connections with influential inmates, many of whom were serving a life sentence (Zhillla & Lamallari, 2015). Decisions from the Albanian Serious Crimes Court show how a defendant serving a prison sentence recruited individuals he smuggled to Greece, and he trafficked others to Italy (Gjykata për Krimet e Rënda e Republikës së Shqipërisë, 2011). Various confirmations about the power those imprisoned have and the ability to use that to push forward organized criminal activities provide a grounding argument for the necessity of this mechanism in the Albanian context.

Zbatimin e Rekomandimeve të Lëna për Shqipërinë nga Komiteti Europian Për Parandalimin e Torturës dhe Trajtimin Çnjerëzor dhe Degradues, 2022). The interviewees working at the Ombudsman Institution expressed concern about the lack of any activities, such as social, cultural, and library service, with the potential to rehabilitate these individuals.

Despite recognizing the potential benefits of the hard prison regime in combatting organized crime, the interviewees agreed that its use should be exceptional. They stressed the importance of considering the vital needs of every individual and the potential dangers that an excessive and repressive approach to punishment can pose to human dignity. The concept of punishment as a means of re-education and rehabilitation is compromised when the focus shifts solely towards exerting pressure on prisoners to induce collaboration with justice. The interviewees highlighted the need for a delicate balance between safeguarding public safety and respecting the fundamental rights and dignity of individuals subjected to the regime. However, it is essential to note that six respondents expressed their belief that the benefits of the regime do not substantially outweigh the negative consequences. These interviewees raised concerns about the potential infringements of the fundamental rights of prisoners under the regime. They



stressed the significance of protecting the dignity of every individual, ensuring that the principle of re-education and rehabilitation is not compromised, and avoiding an excessive emphasis on punitive measures that may jeopardize the humane treatment of prisoners.

The interviewees emphasized the importance of correctly implementing the hard prison regime. They stressed the need to ensure that the regime is used as an exceptional measure, isolating the prisoner when necessary and considering the specific conditions of the individual, such as their health and psychological well-being. By focusing on these factors, the regime can maximize its potential benefits while minimizing its deficiencies.

## 5 Discussion and conclusion

The introduction of the hard prison regime is a recent development in Albania's legal and institutional framework. Although this is a relatively new development inspired by the Italian practice, it is imperative to subject this criminal justice mechanism against organized crime to scrutiny. This involves assessing its benefits, effectiveness, and associated ramifications—the present study aimed to conduct such analysis.

The hard prison regime was introduced to counter organized crime in Albania. Although the regime's application means subjecting individuals in custody or awaiting trial to rigorous detention conditions, its intent is not to impose additional punitive measures. Instead, it aligns with specific goals related to prevention and social defense (Cifaldi & Scardaccione, 2018). Adopting the hard prison regime has triggered significant debate in Albania, where the need for effective mechanisms against organized crime is evident. In advocating for this initiative, the Minister of Justice deliberately emphasized how this "tough" policy will be applied extensively to ensure disconnection between members of organized criminal groups. Through various statements to the press, the Minister asserted with certainty that a significant number of individuals would be subjected to the regime. This stance raised concerns among scholars, legal experts, and representatives from civil society, who viewed the regime skeptically due to apprehensions about potential misuse and violation of fundamental human rights.

Furthermore, originating from the Minister of Justice, the proposal sought to grant the Minister the authority to designate individuals for placement under the hard prison regime, signifying an additional endeavor by the executive branch in the battle against organized crime. Despite this, the introduction of the hard prison regime in Albania was supported, as

it was associated with the Italian practice. The Italian application of the hard prison regime served as a promising model. The application of the hard prison regime in Italy for a considerable time has proven successful in detaching from their networks essential figures of a wide range of criminal groups, including mafia leaders.

The majority (13 out of 18) of the respondents to our interviews expressed robust endorsement for the introduction and implementation of the hard prison regime in Albania. They asserted that this particular criminal justice policy carries value and offers considerable potential in the nation's battle against organized crime. Notably, they emphasized the crucial role of the regime in effectively severing the connection between imprisoned persons and their affiliations with criminal networks. Studies conducted in Italy about the hard prison regime also corroborate this prevailing support within the Italian framework (Gargiulo, 2021; Siino, 2015).

Legitimate concerns voiced by a minority of respondents regarding the regime's propensity to infringe upon individual human rights are substantiated. The possibility of human rights violations is tangible. Unsurprisingly, the Italian counterpart of this regime has faced persistent challenges before Italian courts and the European Court of Human Rights due to human rights violations. Different forms of isolation in prison settings have demonstrated their capacity to induce psychological alienation and physical harm, tantamount to acts of torture (Jeffreys, 2013; Johnson & Vezzadini, 2015). Scholarship has unveiled the ineffectiveness of this punishment in various recidivism studies, revealing that individuals in Supermax prisons exhibit a faster and more frequent return to criminal activities compared to inmates convicted of the same crime who have not been subjected to the regime (Lovell et al., 2007). Examination of the application of the hard prison regime in Italy, however, has verified its distinct nature, intended for exceptional cases and instances where substantial doubt exists regarding involvement in leading organized criminal groups while within the penitentiary system (Della Bella, 2007; Fiorentin, 2013; Siino, 2015). Such analyses conclude that only cautious and discerning regime application avoids compromising human rights (Puma, 2016; Zunino, 2016). Another argument against introducing the hard prison regime has centered on reinforcing existing mechanisms and the imperative to strengthen their application.

The interviews revealed a divergent pattern of perspectives among respondents. Those affiliated with the executive and legislative branches displayed a more optimistic view of the regime's potential, whereas representatives from the Ombudsman's office, scholars, and individuals engaged with civil society organizations expressed caution. For the latter

group, concerns revolved around the regime's susceptibility to being exploited as a politically expedient tool, and they emphasized apprehensions regarding potential human rights violations arising from the regime's inherent characteristics. Notably, the judiciary, who interviewed prosecutors and judges, favored the regime, recognizing its effectiveness in countering organized crime.

The analysis of the findings underscores the intricate nature of the hard prison regime as a strategy to combat organized crime in Albania. While it holds promise in effectively severing the connection between offenders and criminal organizations, its implementation, scope, and potential to violate human rights present significant challenges. This underscores the need for continuous evaluation and refinement of the regime, ensuring a well-balanced approach that effectively addresses organized crime while upholding the rights and dignity of the individuals subjected to this stringent form of incarceration. While the hard prison regime in Albania displays potential in combatting organized crime, its limited application and potential human rights concerns necessitate careful consideration.

The implementation of the hard prison regime in Albania, though relatively new, has encountered significant challenges. Notably, structural deficiencies have come to light, including the imperative for enhancements in prison infrastructure. Furthermore, apprehensions have arisen due to the absence of rehabilitative initiatives within the regime, prompting uncertainties about the successful reintegration and re-education of individuals subjected to it.

The controversy surrounding the alignment between the declared and actual purpose of the regime underscores the complex ethical considerations inherent in its implementation. These issues necessitate further examination and discussion to ensure that the hard prison regime aligns with the objectives of combatting organized crime and the principles of justice and human rights. The concerns raised by three interviewees centered on the perception that the regime's primary intent is to pressure prisoners into cooperating with justice rather than focusing primarily on the prevention of organized crime. This discrepancy in purpose raises ethical and legal questions about the transparency and underlying motivations behind the regime's implementation. The tension between pursuing justice and ensuring the protection of human rights requires careful consideration and a thorough examination of the regime's objectives. All interviewees agreed that any limitations on the fundamental rights of prisoners within the hard prison regime should only be justified when they are aimed at containing the persistent danger posed by individual prisoners involved in grave crimes and preventing their links with criminal organizations. They emphasized that the regime

should be applied to ensure proportionality and not result in excessive punishment. These limitations should be considered exceptional measures, with the primary goal of safeguarding public safety and preventing further criminal activities.

The sentiments of most respondents converged upon the notion that the advantages presented by the hard prison regime indeed surpass its potential drawbacks. The regime can yield meaningful benefits in addressing organized crime effectively. Our findings contribute to the ongoing discourse on effective measures to address organized crime while upholding fundamental human rights. In this regard, it is important to underscore the significance of adopting a balanced and holistic approach in the fight against organized criminal networks, recognizing the need for targeted interventions, respect for human dignity, and ongoing evaluation to achieve long-term success in combatting organized crime and adherence to human rights standards.

This study is an initial endeavor to shed light on the hard prison regime in Albania. Additional research is essential to assess its long-term implementation comprehensively, address the raised concerns, and evaluate the effectiveness of the hard prison regime in combatting organized crime while upholding human rights.

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## Strog zaporski režim v Albaniji: Evalvacija njegovega potenciala v boju proti organizirani kriminaliteti in njenih posledic

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Leta 2018 je bil v albansko zakonodajo uveden strog zaporski režim kot odgovor na organizirano kriminaliteto. Režim, na podlagi odredbe ministra za pravosodje, obsega začasno suspenzijo pripornih oziroma zapornih protokolov za osebe v priporu oziroma zaporu, ki so povezane z organiziranimi kriminalnimi združbami. Izhajajoč iz osebnih intervjujev s tožilci, sodniki, odvetniki, vladnimi uslužbenci, predstavniki civilne družbe in akademiki ta študija proučuje temeljne značilnosti režima, njegovo pravno podlago in učinkovitost pri doseganju zelenega rezultata in nezaželenih posledic. Ugotovitve so pokazale različne poglede na učinkovitost režima, pri čemer so nekateri intervjuvanci priznavali njegov potencial za pretrganje vezi med voditelji in kriminalnimi združbami. Nasprotno pa drugi dvomijo v omejen obseg režima in izpostavljajo morebitne kršitve človekovih pravic. Prispevek ponuja vpogleda za informiranje prihodnjih pravnih reform in politik, pri čemer poudarja potrebo po uravnoteženem pristopu, ki zagotavlja človekove pravice in se hkrati učinkovito spopada z organizirano kriminaliteto.

**Ključne besede:** strog zaporski režim, politike proti organizirani kriminaliteti, zaporske reforme, ekstremne sankcije, kazensko pravosodje, Albanija

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