



## **Response**

### **of the Albanian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Albania**

**from 2 to 9 February 2017**

The Albanian Government has requested the publication of this response. The CPT's report on the February 2017 visit to Albania is set out in document CPT/Inf (2018) 18.

Strasbourg, 24 May 2018

## **Response of the General Directorate of Police on the CPT Report**

**The CPT calls upon the Albanian authorities to take urgent measures at Tirana Police Stations Nos. 1 and 3 and Saranda and Elbasan Police Stations to ensure that custody cells are maintained in a satisfactory state of repair, have sufficient lighting (including access to natural light) and ventilation and are adequately heated during the cold season. Further, persons obliged to stay overnight in police custody should be provided with a clean mattress and clean blankets.**

**Steps should also be taken to ensure that the cells at Tirana Police Stations Nos. 1 and 3 which measure less than 5 m<sup>2</sup> are under no circumstances used as overnight accommodation.**

Funds from the State Budget for the years 2016-2017 have been allocated for the construction or reconstruction of the premises of:

- Local Police Directorate of Elbasan, Dibër and Shkodra, including reconstruction / construction of security rooms, according to the required standards and conditions.
- Detention facilities at police stations no. 1, 2, 3, 4, 5, 6, Kavaja, Rrogozhinë, Vora and Farkë Police Station, at Tirana Local Police Directorate detention facilities at Kurbin Police Station at the Local Police Directorate of Lezha.
- Security rooms for detainees of police stations and Local Police Directorate of Tirana.

The project design process for these facilities has been completed and is ready for implementation.

- The implementation of the project for construction/reconstruction of the Local Police Directorate of Shkodra worth 483 million ALL is foreseen to be implemented in 2018-2019.
- The implementation of the project for construction/reconstruction of the Local Police Directorate of Elbasan worth 396,000,000 ALL is foreseen to be implemented in 2018-2019. - Implementation of the project for the construction of the security rooms for the detainees of the police units of the Local Police Directorate of Tirana, with a value of 301 million ALL foreseen to be implemented in 2018-2019.

Measures are being taken to improve the conditions of accommodation of persons in the premises of security rooms including replacement of sleeping lids, improving the hygiene conditions, access to hot water etc.

The detention and treatment of detained persons is forbidden in security rooms with a surface of less than 5 m<sup>2</sup>, at the police stations no. 1 and no. 3, at the Local Police Directorate of Tirana. Due to the lack of adequate material conditions of the Police Station of Kruja the detained persons through Order no. 875, dated 22.08.2017 are now being held at the Local Police Directorate of Dunes.

### **Detailed information on the results of criminal/disciplinary proceedings against the police officer X.<sup>1</sup>, at the Durrës Police Station.**

By decision no. 42, dated 15.02.2017 of the Director of the Directorate of Professional Standards, police officer X. was suspended from the duty of. In the function of the disciplinary investigation, written evidence was handled such as records, interview, copy of the procedural acts carried out in respect of the arrested Y., copy of the records / books of the meetings etc.

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<sup>1</sup> In accordance with with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

For this event, the Prosecutor's Office of the Dunes Judicial District recorded the criminal proceeding no. 221, dated 10.02.2017, for the criminal offense: "Conduct of Arbitral Actions", provided for in Article 250 of the Criminal Code, in charge of police officer X.

From the information received at the Prosecutor's Office of the Durrës Judicial District, it turns out that the case is still under investigation. The Directorate of Professional Standards has suspended the disciplinary investigation until the criminal prosecution is completed by the prosecutor's office and in its conclusion it will decide on the disciplinary measure to be taken against the police officer.

**The CPT reiterates its recommendation that the Albanian authorities pursue vigorously their efforts to combat all forms of ill-treatment by the police. All police officers should be regularly reminded, including through appropriate training, that any form of ill-treatment of detained persons is illegal and will be punished accordingly. In the context of such training, it must be made clear that the precise aim of questioning criminal suspects should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to secure a confession from someone already presumed, in the eyes of law enforcement officials, to be guilty. In addition, police officers should be regularly reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

For the purpose of preventing, eliminating and punishing cases of violence and ill-treatment the central structures of the State Police have sent to all police structures the following administrative acts:

- Administrative Act no. 4678/1, dated 08.08.2016 "For a better understanding and implementation of the rules concerning the security measures for detainees treated in medical institutions and the rules on the use of force during the arrests";
- Administrative Act no. 3931, dated 19.05.2017 "On the Elimination and Prevention of Ill-treatment against Persons Deprived of Freedom and on the Liability Against Responsible Police Officers";
- Letter no. 5864, dated 08.08.2017 "On the implementation of measures in the protection of public health from the use of tobacco products in the security rooms";
- Letter no. 854, dated 17.08.2017 "On the increase of the security measures against the persons accompanying, detained and arrested in the premises of the police directorates and police stations";
- Administrative Act no. 6826, dated 22.09.2017 "On the Implementation of Obligations for the Administration of Data for Detained I Arrested Persons in the Electronic ADAM System".

**The CPT would like to be provided with the following information, in respect of the period from 1 January 2015 to the present time:**

- (a) the number of complaints about ill-treatment by police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- (b) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by police officers;**
- (c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal/disciplinary sanctions imposed on the police officers concerned (with a breakdown according to the relevant sections of the Criminal Code).**

During the reporting period 1 January 2015-30 September 2017, the Internal Affairs Service and Complaints (IASC) identified mainly cases of arbitrary actions by police officers, actions that have affected and violated citizens' freedoms or that have resulted in other intentional harm that has caused a temporary disability to work. These cases were initiated on the basis of complaints submitted by the persons concerned and being publicated on visual and electronic media, social media, etc.

- 106 complaints have been received and handled by the IASC for ill-treatment by police officers.
- 69 criminal prosecutions against 73 police officers have been carried out.

Only in 4 cases have the police officers been found guilty and convicted while for the other cases investigations have ceased since.

From the structures of the Directorate of Professional Standards, in the General Directorate of State Police, 47 complaints have been filed by various persons, IASC, The Ombudsman, NGO's for ill-treatment, abuses, violations for which the following measures have been taken:

No.	Disciplinary measures	2015	2016	2017
1.	Expulsion from the Police	-	1	-
2.	Decrease with a rank up to 6 months	2	-	-
3.	Suspension without pay up to 30 days	-	-	6
4.	Postponement of the promotion up to 2 years	6	19	6
5.	Light Disciplinary Measures (Warnings)	-	3	2
6.	Preventive (non-disciplinary) measure	-	2	
7.	Conclusion of disciplinary investigation (no disciplinary violation is proven)			
	<b>Total</b>	<b>8</b>	<b>25</b>	<b>14</b>

For the period September 2015 - September 2017, the Professional Standards' Department has initiated disciplinary investigations for ill-treatment in 21 cases and has taken the following measures:

No.	Disciplinary measures	2015	2016	2017
1.	Expulsion from the Police	5		3
2.	Decrease with a rank up to 6 months	-	-	-
3.	Suspension without pay up to 30 days	2	1	2
4.	Postponement of the promotion up to 2 years	-	6	1
5.	Light Disciplinary Measures (Warnings)	-	-	-
6.	Preventive (non-disciplinary) measure	-	-	1
7.	Conclusion of disciplinary investigation (no disciplinary violation is proven)			
	<b>Total</b>	<b>7</b>	<b>7</b>	<b>7</b>

**Increase efforts to ensure that pre-detainees are immediately transferred to detention facilities**

Measures taken:

The situation of overcrowding in security room facilities is only present in the police stations of the Tirana Local Police Directorate for short periods. The reasons for this situation are the increased number of persons detained and arrested by the State Police as a result of the intensification of the fight against criminal activity and over-crowding of detention facilities. As a result of the cooperation of the General Directorate of State Police with the General Directorate of Prisons, the situation improved and the number of persons has been reduced.

**The CPT trusts that the Albanian authorities will make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a relative or another third party of their situation, as from the outset of their deprivation of liberty. Further, detained persons should always be provided with feedback on whether it has been possible to have the fact of their detention notified.**

Measures taken:

In the aforementioned administrative acts police officers and judicial police officers have been asked to take action and fulfil the obligation to respect the right of detained/arrested persons to inform a relative or another third party of their situation, as from the outset of their deprivation of liberty.

**The CPT reiterates its recommendation that the Albanian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty. Further, steps should be taken in consultation with the Bar Association to ensure that state-appointed lawyers perform their functions in a diligent and, more specifically, timely manner.**

Measures taken:

Through the aforementioned administrative acts police officers and judicial police officers have been asked to respect the right of detained/arrested persons to have access to a lawyer. For persons who do not have the financial means to afford one, a state-appointed lawyer has been provided by the Bar Association.

**The CPT reiterates its recommendation that the Albanian authorities take the necessary measures to ensure that the provisions of the Manual dealing with the initial medical examination of detained persons are rigorously applied in practice, taking into account the above remarks.**

Measures taken:

By letter no. 5424/6, dated 13.09.2017 of the Department of Public Safety has notified the local police directorates and police stations, on the situation presented in the CPT report and has required that the following measures be taken:

- a. Implementation of the rules and procedures set out in the Standard Procedure "Treatment of Arrested / Detained Persons in State Police Facilities", approved by Order no. 440/3, dated 27.04.2017 of the General Directorate of the State Police.
- b. The medical staff of the police will subject the detained person to a thorough medical examination that must be completed within 12 hours;
  - Reviewing the statements that are relevant to the medical examination showing the consistency / link between any claims made with objective medical results;

- Description of the medical treatment provided for the injuries and any further proceeding carried out.
- Whenever there are injuries that are related to allegations of ill-treatment the medical record must be brought to the attention of the head of the police unit, the structures of the ICTY and the prosecutor, regardless of the person's request.

**The CPT recommends that the Albanian authorities take steps to ensure that all persons detained by the police - for whatever reason - receive clear verbal information about their basic rights at the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police)**

Measures taken:

The aforementioned administrative acts have been sent to the central and local police structures, requiring the respect and fulfilment of the right of persons deprived of their liberty (accompanied and detained / arrested) to be informed on their rights at the very outset by the police. Likewise, posters with the rights of detained/arrested individuals have been displayed in the premises of police stations.

In addition to the communication and disclosure of their rights, detained persons are given a written form with which is signed by the person and a copy is given to them while they are being held at the police premises.

**The CPT reiterates its recommendation that steps be taken to ensure that all persons who are detained by the police for 24 hours or more be offered at least one hour of outdoor exercise per day.**

Measures taken:

Measures have been taken to implement this recommendation and persons who are detained by the police for 24 hours or more are offered at least one hour of outdoor exercise per day.

## **Response of the General Directorate of Prisons on the CPT Report**

Taking into account the recommendations of the European Committee for the Prevention of Torture and the obligations of the Albanian Government in the framework of European Integration, in collaboration with the former Ministry of Integration, the Ministry of Justice and the General Directorate of Prisons drafted a project for updating the design project, (drafted by the GDP in December 2016 with a state budget of 40,000,000 lekë including VAT), for the construction of a new hospital for the mentally ill citizens with compulsory medication, according to European standards. Within the framework of the 18th WBIF (Western Balkans Investment Framework) round, the former Ministry of Integration on 11.09.2017 submitted the project and applied for a grant for the project revision and further investment. We are awaiting an official response regarding the application of the project.

Until the completion of procedures for the construction of a special institution for the treatment of citizens with of compulsory medication, the General Directorate of Prisons has planned some short-term measures in order to improve the current situation of treatment of this category in the prison system.

In the first ten days of March 2018, a new prison in Shkodra will be in operation, with a capacity of 780 seats.

With the opening of the new prison in Shkodra has been planned to commence the transfer of the convicted offenders of Lezha prison held in two buildings no. 4 and 5 to Shkodra and the adaptation of the premises of the Lezha institution in hospital facilities in which will be accommodated 223 citizens with compulsory medical treatment, currently held in the Kruja Prison and the Prison Hospital. Current capacity of no. 4 and 5 Lezha premises is 280 seats.

**So, in Lezha, 280 seats will be opened as a result of the transfer of two buildings to Shkodra, 4, 5, and 223 citizens with compulsory medical treatment held in IV Kruja and Prison Hospital will be accommodated. Also, 57 vacancies places will remain, in case of increasing the number of citizens with this measure.**

The Sector of Logistics and Projects in GDP has compiled all the technical documentation, project-design for the reconstruction of buildings no. 4 and 5 in the Lezha prison and adaptation to hospital settings. The value of the project investment is 59 million lekë foreseen in the 2018 state budget fund.

In February 2018, has been planned to start the procurement procedures for the reconstruction of two sections in the Lezha penitentiary institution and adaption to hospital facilities and in May 2018 the start of the investment has been foreseen. Transferring procedures of mental ill citizens from Kruja to Lezha have been scheduled to begin in November.

**Fig. 1 Summary of proposed measures for transferring citizens of compulsory medication to Lezha**

Proposed measures	Deadline
1.1 Putting into full operation Shkodra prison	March 2018
1.2 Transfer of convicted offenders from Lezha to Shkodra	March 2018
1.3 Starting of the procedures procurement for the reconstruction of the two sections in Lezha and adaption to hospital premises	February 2018
1.4 Start of the investment	May 2018
1.5 Transfer of the compulsory medication citizens from Kruja and Prison Hospital to Lezha	November 2018